United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 107th CONGRESS, FIRST SESSION

Vol. 147 WASHINGTON, TUESDAY, JANUARY 23, 2001 No. 8

House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, January 30, 2001, at 2 p.m.

Senate

TUESDAY, JANUARY 23, 2001

The Senate met at 11:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

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

Dear Father, who has graciously made each of us a never-to-be-repeated miracle of uniqueness, we praise You that we can be ourselves because You love us, we can use our gifts because You gave them to us, and we can grasp the opportunities You provide because You want to surprise us with Your goodness. All that we possess and have become is because of Your providence. The wonder of it all is that it is Your nature to go beyond what You have done or given before. This gives the zest of expectation and excitement to our lives. It also helps us to know that we can come to You with our worries and anxieties, our fears and frustrations, our hopes and hurts.

You know us as we really are and see beneath the shining armor of pretended sufficiency. You know when we are at the end of our tethers and need Your strength; You understand our discouragements and disappointments and renew our hope; You feel our physical and emotional pain and heal us. You have told us that to whom much is given, much will be required. Thank You that You have taught us that of whom much is required, much shall be given. Help us not to be stingy receivers today. You are our Saviour and Lord. Amen.

PLEDGE OF ALLEGIANCE

The Honorable MIKE ENZI, a Senator from the State of Wyoming, 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.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. ENZI). Under the previous order, the leadership time is reserved.

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 12:30 p.m., with Senators permitted to speak therein for up to 10 minutes each and with the time being equally divided in the usual form.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDING OFFICER. The Chair recognizes the Senator from Oklahoma.

SCHEDULE

Mr. NICKLES. Mr. President, today, we will be in a period of morning business until 12:30 p.m. At 12:30, the Senate will recess for the weekly party conferences until 2:15 p.m. It is my hope that prior to the recess, we will reach a consent agreement for the consideration of four of the President's Cabinet nominations. That agreement would allow for a vote or votes shortly after we reconvene at 2:15 today.

Senators can therefore expect rollcall votes later in the day. Additional nominations are scheduled for hearings during Wednesday's session. It is hoped that we can expedite those nominations for full Senate action.

I thank my colleagues for their attention.

MEASURES PLACED ON THE CALENDAR—S. 73, S. 74, S. 75, S. 76, S. 78, AND S. 79

Mr. NICKLES. Mr. President, I understand there are six bills at the desk due for their second reading. I ask that they be read consecutively.

The legislative clerk read as follows:

A bill (S. 73) to prohibit the provision of Federal funds to any State or local educational agency that denies or prevents participation in constitutional prayer in schools.

A bill (S. 74) to prohibit the provision of Federal funds to any State or local educational agency that distributes or provides morning-after pills to schoolchildren.

A bill (S. 75) to protect the lives of unborn human beings.

A bill (S. 76) to make it a violation of a right secured by the Constitution and laws of the United States to perform an abortion with the knowledge that the abortion is being performed solely because of the gender of the fetus.

A bill (S. 78) to amend the Civil Rights Act of 1964 to make preferential treatment an unlawful employment practice, and for other purposes.

A bill (S. 79) to encourage Drug-Free Schools and Safe Schools.

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

Mr. NICKLES. Mr. President, I object en bloc to further proceedings on these bills at this particular time.

The PRESIDING OFFICER. Under the rules, the bills will be placed on the calendar.

The Chair recognizes the Senator from Vermont.

EDUCATION

Mr. JEFFORDS. Mr. President, this morning, I, Senator KENNEDY, Congressman BOEHNER, the Chairman of the House Education and Workforce Committee, and Congressman MILLER, the ranking Democrat of that committee, met with President Bush to discuss his very ambitious education initiative.

The package the President is putting forward today contains several areas where there is general, bipartisan agreement for providing the tools necessary for every child to receive a quality education.

These areas include: strengthening accountability to improve student performance; providing the funds necessary to prepare, recruit, and train high quality teachers; developing reading initiatives to ensure that all students will be able to read by the third grade; strengthening early childhood programs; creating a math/science partnership for states, colleges, and universities to strengthen K through twelve math and science education; providing activities related to technology as a means to boost student achievement; and giving school districts the flexibility to be innovative in implementing reform.

All Americans agree that every child in this country deserves a high quality education. We at the federal level must remember that we do not necessarily have all the answers for making high quality education accessible to all students. It is parents, teachers, principals, superintendents, school personnel, state and local school board officials, and students that have many of the answers.

The proposal outlined by President Bush is a very good framework which will go a long way in providing the assistance that is needed at the state and local level to have a first-rate elementary and secondary educational system.

It is critical that all of us in the Senate and in the House join with the President in making comprehensive education reform our top priority. It is essential to our economic survival.

Almost half of all adults have neither completed high school nor have pursued any type of postsecondary education. Approximately twenty percent of all eighteen year olds do not graduate from high school.

The most recent Third International Mathematics and Science Study indicates that fourth graders performed well in both math and science in comparison to students in other nations. U.S. eighth graders performed near the international average in both math and science, and U.S. twelfth graders scored below the international average and among the lowest of the participating nations in general science knowledge.

It is perhaps this last statistic which has contributed to the fact that half of all college students must take at least one remedial course at an annual cost of one billion dollars to the nation's public universities.

Last fall, Congress passed the American Competitiveness in the 21st Century Act. This initiative raises the cap on the number of H–1B visas to 195,000 a year for the next three years.

The H–1B bill, which passed the Senate by a vote of 96–1, was needed because this nation is lacking a skilled workforce in the areas of high tech and health care.

I hope that the sense of urgency that prevailed regarding the passage of the H–1B bill will lead all of us to pass an education reform package that will help create a workforce with the skills to meet the needs of our local, regional, national, and international economies.

I look forward to working with the President, Secretary of Education, Rod Paige, all members of the Health and Education Committee, all members of this body and our counterparts in the House to develop a bipartisan bill that passes the Congress with a final vote tally similar to the final vote cast on the H–1B bill.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Nevada.

ORDER OF PROCEDURE

Mr. REID. Mr. President, so Members have some idea of what is going to happen, I ask unanimous consent that the Senator from Maine be recognized for 5 minutes, the Senator from New Hampshire, Mr. GREGG, for 5 minutes, and the Senator from Illinois for 15 minutes, and the floor would be obtained by the Senator from Texas, Mrs. HUTCHISON.

Mrs. HUTCHISON. Mr. President, I amend that by asking unanimous consent that the majority leader be recognized immediately following Senator DURBIN.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Under the previous order, the Chair recognizes the Senator from Maine.

EDUCATION REFORM

Ms. COLLINS. Mr. President, I am very pleased that President Bush today has sent forth to the Congress a package of education reforms that carries through on his promise to make improving the education of our children his top priority. I believe the program he has proposed sets forth the basis for a bipartisan reform bill that I hope we will very shortly consider.

Last August, President Bush traveled to Maine with, Roderick Paige, now his Secretary of Education, and met with educators from my State. I was extremely impressed with his heartfelt commitment to improving the education of all the children in America, and with the progress that he has made in the State of Texas on what is perhaps the greatest challenge our country faces; that is, narrowing the achievement gap between disadvantaged, low-income children and their more advantaged peers.

We know today that 70 percent of the fourth graders in the highest poverty schools cannot read at the basic level. That is both shameful and unacceptable, and it is a compelling reason why I so strongly support the President's pledge to leave no child behind. I am particularly pleased that his education package contains two provisions that will be very helpful to my home State of Maine.

I am very proud of Maine's public schools. We do very well in providing a quality education for all of our children. But we, like the Presiding Officer, have many school districts that are very small. They find it very difficult to cope with the rules, redtape and paperwork that apply to literally hundreds of Federal programs. The President's proposal would allow school districts to consolidate many of these programs and use the money for their most pressing needs. One school may need to hire more math and science teachers. Another may need to have computers in the classroom. Still another may need to provide a new program for gifted and talented programs. Yet another may have new construction needs. By allowing more flexibility in the use of Federal funds, President Bush has sent a strong signal that he trusts parents, teachers, and local school boards to know what is best for their students and give them the flexibility they need while holding them strictly accountable for improved student achievement. Isn't that what really counts?

We want to be certain that our children are learning. What we don't need is too much or our educators' attention diverted to whether or not they filled out some Federal form correctly. I am very pleased that is an important focus of President Bush's election package.

I am also delighted that he has included legislation authored by Senator KYL of Arizona and myself that will allow teachers to have a tax deduction of up to $400 to help defray the costs when teachers, out of their own pockets, buy supplies for their classrooms. We all know teachers do this every day. Indeed, according to a study by the National Education Association, the average K–12 teacher spends $408 annually on classroom materials. By enacting our proposal, we can send a message of appreciation to teachers who are so dedicated to their students that they reach deep into their own pockets to buy supplies to enhance

their classrooms. We ought to help these dedicated professionals defray the costs associated with such classroom expenses.

I would like to see that bill broadened to allow all teachers to deduct the costs of professional development courses they undertake at their own expense. I know in the State of Maine we have many dedicated teachers who, at their own expense, pursue their education to make them even better teachers. I think we should help defray those expenses as well.

I look forward to working as a member of the Health, Education, Labor, and Pensions Committee, with the Presiding Officer, Senator JUDD GREGG who has been such a leader on this issue, our distinguished chairman, JIM JEFFORDS, and with many on both sides of the aisle who are committed to the goals and the challenges the President has set forth for us today. The President has challenged us to ensure that every child in America, no matter where she lives or the income level of her family, will have the very best public education possible. I intend to answer the President's challenge.

Thank you, Mr. President. I yield any remaining time of my 5 minutes to Mr. GREGG, the Senator from New Hampshire.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Hampshire.

Mr. GREGG. Mr. President, I thank the Senator from Maine for her courtesy. I also wish to thank the Senator from Illinois for his courtesy in allowing us to go in front of him even though he has been waiting.

I want to join in congratulations of the President for putting forward his education package and fulfilling a promise he made during the election, which was that education would be the President's first legislative initiative. As such, he has put together a package which has many very strong points which will significantly improve our educational system in this country. The package, as I would describe it, can be divided into four elements.

First, it focuses on children. It sees children as the fundamental element of our educational system, which seems only logical but regrettably has not been true over the last few years. In fact, over the past 20 years we have spent over $127 billion on title I, but rather than spending it on children and having it be child focused, it has been institution focused or it has been bureaucracy focused. The President is shifting that title I money towards the child.

Second, the President is proposing much more flexibility to local school districts, to the teachers, to the principals, and, most importantly, flexibility to the parents because they are the folks on the front line who are most concerned about the child's education and who understand how best to do that.

The educational system changes from not only State to State, not only community to community but literally classroom to classroom. The needs within a classroom are different. The needs in one first grade classroom in the community are different from the needs in the first grade classroom in another town in New Hampshire. Flexibility is extremely important. That is a major element of their initiative.

Third, the President has focused on academic achievement. What an important goal. But it is, unfortunately, a goal we have forgotten. In fact, we have forgotten it in such a way that today our low-income children aren't achieving at all. As I mentioned yesterday on the floor, the average fourth grader from a low-income family is reading at a second-grade level, below his peers, even though we have spent literally billions of dollars focused on that low-income child. Academic achievement is critical.

He has pointed to the fact that the academic achievement of the child begins by having the child reach school ready to read. He has committed a huge amount of resources and a number of new programmatic initiatives to make sure that when our children get to school they are ready to read because, as he has pointed out, if you leave a child behind in the first grade, that child never catches up; they fall further behind.

The fourth element is one of the core elements of his proposal. He has talked about accountability. We are no longer going to send funds out to the communities without expecting results. We are no longer going to tolerate a system which leaves children behind, which says to children: We are simply going to shuffle you through the system; we are going to use the money for whatever happens to be the need for the day; but if it doesn't improve the results, we are not going to be held accountable. We will teach new math, and if you don't learn any math, that doesn't matter. If we teach you any methods of reading, and if you don't learn, that doesn't matter; you will shuffle through the system.

The President has said that from now on we are going to expect academic achievement and we are going to hold the systems accountable to results in academic achievement.

Those four goals are the right goals: Focusing the effort on the child, giving flexibility to the people who know how to educate so they can educate well, expecting academic achievement, and holding the school systems and the administrators accountable for academic achievement. I congratulate all those initiatives. This is a huge conceptual package with a lot of different initiatives performed in a variety of different ways.

I also hope we focus on moving down the educational road, the issue of special education, and the fact that we as a Republican Congress have committed our effort to try to fully fund special education. Certainly I hope that will be carried forward. I know this President is committed to that approach, also.

Nothing will free up local dollars more effectively and make more dollars genuinely available for good education than if the Federal Government pays its fair share of special education so the local tax dollars can be used where the local community thinks they can most effective be used.

This package is a call to arms for an improvement in our educational system. It lays out specific guideposts of how to get there. I congratulate the President for putting it forward.

ORDER OF PROCEDURE

The PRESIDING OFFICER. Under the previous order, the Chair recognizes the Senator from Illinois for up to 15 minutes.

Mr. DURBIN. How much time is remaining on the other side of the 30 minutes they were allocated?

The PRESIDING OFFICER. Eleven and one-half minutes.

Mr. DURBIN. It is my understanding I have been recognized for 15 minutes and at the conclusion of the 15 minutes the majority leader will be recognized; then I would like to ask that Senator BINGAMAN be recognized after the majority leader. I make that request.

The PRESIDING OFFICER. Under the previous order, Senator HUTCHISON follows the majority leader.

Following that, Senator BINGAMAN will be recognized.

Mrs. HUTCHISON. I will yield to Senator BINGAMAN in the spirit of going back and forth, but I would like to ask that Senator CRAIG be able to follow Senator BINGAMAN.

The PRESIDING OFFICER. Does the Senator amend his unanimous consent request?

Mr. DURBIN. I want to make sure I understand it. After I speak and the majority leaders speaks, Senator CRAIG would be recognized.

The PRESIDING OFFICER. Senator BINGAMAN would be recognized, then Senator CRAIG.

Mr. DURBIN. After the time for majority leader, Senator HUTCHISON and Senator CRAIG would be within the 11 minutes allocated?

The PRESIDING OFFICER. The majority leader's time is extra.

Mr. DURBIN. Understood.

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

NEW PRIORITIES

Mr. DURBIN. Mr. President, I thank my colleagues for coming together on the floor this morning. All Members who were present on Saturday for the inauguration of the new President realize it was an exciting and historic moment for our Nation. The weather did not cooperate; it was pretty miserable outside. We all felt honored to be there, to see once again this unique part of American history where we transfer power peacefully, even when we have been fighting like cats and dogs between the political parties leading up to the election.

I wish the new President the very best, even from this side of the aisle. We are hopeful his leadership will be successful and that he will bring our Nation together as he has promised.

We on the Democratic side have tried to be cooperative. There was a brief moment which we affectionately refer to as the ''age of enlightenment'' where the Democrats were in charge of the Senate for about 17 days and then the leadership was transferred again on Saturday back to the Republican side.

The President has sent us 13 nominations for the Cabinet which, of course, is his effort to bring his team together as quickly as he can. On Saturday, immediately after the President was sworn in, we approved 7 of those 13. To put that in context, when last we had a Democratic President and a Democratic Congress, on the first day after the swearing in, only three members of the Cabinet were approved.

We are doing our very best on a bipartisan basis to give the President his team. There will be several other nominees for the Cabinet positions who will be considered this week. I assume most of them will be approved by the Senate. There are two or three who are controversial that may take a little longer. We are going to try to move, I am sure, in a reasonable manner to engage any floor debate and to reach a point where the President knows his team will be in place at some close date.

I am happy that President Bush has made education the first issue. I think that was the right choice, the right issue. Time and again when you ask Americans, rich and poor alike, what is the most important issue facing America, the answer is always education. I think it is because the term ''education'' embodies so many ideas and concepts which we value in America. Education means opportunity. Education means giving a person a chance to improve themselves. Education in our culture and economy means that a person of very humble origins can rise to a position where they can be successful in so many different ways. That is why education should be the first issue that we debate.

I am hoping, after listening to the description of the President's education package, there will be a lot of bipartisan agreement when it comes to education. Some of the concepts that have been mentioned this morning are certainly concepts I endorse. I think about my own home State of Illinois and the Chicago public school system. This is a public school system which only a few years ago was written off by the Secretary of Education, Bill Bennett, as the worst in America.

I daresay today what is happening in Chicago is exciting, and in terms of big city school districts, may be one of the most promising programs in the United States of America. The leadership of Mayor Richard Daley, the leadership of the President of the school board, Gary Chico, and the CEO of Chicago schools, Paul Vallas, really took on a major challenge. In the Chicago public school system, 95 percent of the students are minority, 85 percent are below the poverty level. Imagine, if you will, that as your student enrollment.

Consider that you inherit a school system that is almost dead last in America in achievement. In a very short period of time, a few years, they have turned that system around, and they have come a long way by just addressing a few basic principles. The principles are fairly obvious to all of us as parents who have had children who have gone to school.

First is accountability at all levels so the administrators and principals are held responsible for bringing a team of teachers together, and the parents and students, in creating a successful learning environment; accountability for the teachers so they come to the class prepared and are good teachers; accountability for the students and their parents. All of these have come together. They have conceded that at times these experiments have failed.

There have been several occasions now when the Chicago public school system has announced a school has failed and they have basically taken the team of administrators and teachers, brought them in and said: You are finished. You had your chance. We are not going to leave kids in this classroom if they are not learning. This group is disbanded. We will start over. They didn't tear the school down. They didn't close the school. They said: We are going to bring a new group of teachers and administrators to give these kids a chance.

If I am the parent of a student in one of those classrooms, that is exactly what I want to see. It does me no good as a parent to know that the school system is doing well. If my child is not doing well, I have a responsibility as a parent to be part of that, too. So they bring the parents in to be part of this learning process.

So when I hear the question of accountability and President Bush's education package, I endorse it. I think it is a sound idea. It is one that we should include.

I might also say the idea of testing is one that I think is important. I hated tests as a student. Don't most? Most students would rather not take a test. A test is the only objective way in many respects to measure progress. It is not the only way. Some students may not test well but may be learning. We have to make that accommodation. But using testing to measure the progress of a student makes sense.

The big debate around here is whether we have national testing. That is voluntary now in the United States and will probably continue to be. I invite those school districts that believe they are doing the right thing to voluntarily sign up for those tests that Chicago has. We as a nation shouldn't take any comfort in the fact that some school districts are doing well and some not so well. All those students are going to be our citizens and leaders of tomorrow. If they are not equipped and skilled, our Nation will suffer. When we have national testing to determine whether or not the students in Oregon and the students in Oregon, IL, are learning math and learning science, and learning what they need to succeed, I think it gives us a good idea as to whether our approach to education is succeeding as well.

We also, I hope, in the course of this bill, will address some fundamental changes in our vision of a schoolday. Why in the world do we start a schoolday at 8:30 in the morning and end it at 3 in the afternoon? There might have been a time when that made sense, but it doesn't today. The vast majority of kids have their parents working, so these kids get off school at 3 in the afternoon, in many cases without any adult supervision. Ask the police chief in your hometown what happens at 3:30 at the mall or at the shopping center. Ask the people who keep statistics at what period of time are teenage girls most likely to become pregnant. Don't be surprised; it is in that period between 3 o'clock and when the parents finally get home from work.

So when we talk about afterschool programs, it is to provide positive adult supervision so kids can continue their learning experience. It might not be the same learning experience as sitting in a classroom. Perhaps it will be music or art or sports or developing skills on computers. Perhaps it is just supervised time so they can do their homework. But I think afterschool programs should be part of modern America, to make sure parents can be confident their kids are using their time well.

The same thing with the summer school programs. Why do we still have 3 months off in the summer? It is hard to explain. There was a time when kids had to get out of school to go help on the farm. That isn't the big challenge today in most families. I think we ought to have summer school, enrichment programs and tutorial programs so kids can use that time as well.

So I think there are many things we can do in order to make our educational system better. I am glad the President has brought this issue to us. I believe he will find bipartisan support for many of his proposals on education.

There is one thing that was not mentioned on the other side in describing the President's plan, and I hope we can consider it. When the American Society of Civil Engineers assessed the infrastructure of America last year, the schools came in dead last. Our school buildings are old and crumbling. In many respects the schools are in worse shape than our water treatment systems and our sewage treatment systems in America. It suggests to me that school construction is a important part of a challenge to local property taxpayers in school districts and I hope we can include it in this debate.

The other issue that is going to be brought before us very quickly is the whole question of a tax cut. There is nothing more popular for a politician to suggest than: I am going to cut your taxes. Frankly, I believe there should be a tax cut in light of the enormous surpluses which our good economy, as well as the policies and programs of the last few years, is generating. We have created a system where, for the first time, we are paying down the national debt. That has not happened for 30 years. We are dealing with balanced budgets and paying down the debt. But make no mistake, we are still at this point in time dealing with a huge national debt.

I called this morning to the Department of the Treasury to ask them what is our current debt. They gave me the debt of America as of today. When you add that debt together here is what it comes to: $5,728,195,796,181. That is the accumulated debt of America that we currently have to pay off.

How do we pay it off? We reduce it as long as we are running surpluses and don't spend them on something else. But each day in America we collect $1 billion in taxes from wage earners, from families, from businesses, from farmers, and that money is used exclusively to pay interest on the old debt. It does not build a new school. It doesn't educate a child. It does not buy us any tanks or guns or planes. It is used to pay interest on old debt.

Many of us believe, in the discussion of what to do with the surplus, we should not lose sight of the most important single thing we can do, and that is eliminate this debt burden which we are passing on to the next generation. To celebrate a tax cut and ignore this, I think is to ignore the reality of what our children and grandchildren will face. I hope we can have a balanced approach with this surplus.

First be sensible. Don't assume, because some economists can think ahead 4 and 5 years, or even 10, and say, oh, you are going to have a surplus forever, that that is gospel truth. These economists tend to disagree all of the time. We have to be careful that we do not overestimate the projected surplus, be careful in how much money we think we will have. Then, once we have that money, we have to allocate at least a third of it to reducing the national debt so we do not have to collect all these taxes to pay interest on old debts which previous generations have incurred.

Second, we have to make sure we invest enough in Social Security and Medicare so that these systems will not go bankrupt. Mr. President, 40 million-plus Americans depend on these systems to sustain them, and Social Security payments, to make sure they have quality health care—seniors and disabled Americans. If we have a surplus lets make sure we invest from our surplus into Social Security and Medicare for that purpose.

Finally, of course, I support a tax cut. The Democrats and Republicans both support tax cuts. My take on it may be a little different than that of some of my colleagues. I do not believe the tax cuts should go to the wealthiest people in America. I happen to think we ought to focus on struggling working families. I listen to the telephone calls coming into my office in Chicago and Springfield and Marion, IL. I can tell you right now with what families are struggling. They are struggling to pay heating bills. Families have seen a dramatic increase in their heating bills in the Midwest. They have seen a dramatic increase over the last several years in the costs of college education. They are facing ongoing increases in the costs of child care. Any working parent wants to leave that son or daughter in the hands of qualified people. Yet it becomes increasingly expensive for them to pay for day care.

I receive telephone calls and read letters where people say: Senator, I have reached a point where my family is doing well but my parent now is reaching a point where he—or she—needs more and more attention and care. We are glad to give it, but it is expensive. Can you help us with that?

When you are talking about long-term care, when you are talking about child care, when you are talking about the expenses to put someone through college or even the expenses of heating your home, the average working family is struggling to make ends meet. When we talk about a tax cut, let us focus on helping those families first. The wealthiest in America are doing OK. They will continue to do fine. They may have a tax cut but it should not be at the expense of working families.

I yield the floor.

The PRESIDING OFFICER. The time of the Senator has expired.

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

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

The Chair recognizes the Senator from New Mexico.

IMPROVING SCHOOL ACCOUNTABILITY

Mr. BINGAMAN. Mr. President, I rise first to speak about one of the critical pieces of education legislation that the Congress is scheduled to consider this year. I believe we have wide agreement, now, on the need to increase school accountability, with new systems that will put real teeth into improving school performance for all students, and school districts, and for each State.

I have spoken for several years, now, about the need to improve school accountability. I introduced school accountability legislation in 1999. President Bush has spoken frequently about it. His new Secretary of Education, Rod Paige, whom we confirmed on Saturday, has spoken about its importance.

I believe there is strong support from those colleagues, both Democrat and Republican, on the HELP committee. The provisions that we developed this last year to ensure accountability are included in S. 7, which Senator DASCHLE introduced yesterday.

In addition, I am introducing later today a bipartisan bill which contains those same accountability provisions. I am very pleased that my colleague and friend, Senator LUGAR from Indiana, has joined me as a cosponsor of that bill. This will be a bipartisan effort which will demonstrate the bipartisan nature of these proposals.

These accountability provisions demand results of all students so the existing achievement gaps between minority and nonminority students, between poor and wealthier students, between limited English and English-speaking students, are eliminated and they are eliminated at the individual school level, at the school district level, and at the State level.

Mr. President, I do believe there is now widespread consensus on the need for rigorous school accountability in key areas that are addressed in this bill that Senator LUGAR and I are introducing.

The bill establishes aggressive performance objectives for all students that are linked to each school's standards and assessments. It directs resources to the students and objectives most in need. It provides for significant consequences for failure so that States and school districts must take full responsibility for turning around those schools that have chronically failed to adequately educate the students in the schools.

Our bill provides maximum flexibility for educators to develop strategies to meet the basic goals of school improvement, and it ensures that every class have a fully qualified teacher. The bill provides an expanded role for parents. Finally, the bill provides new funding for school improvement strategies that have been proven to work. These are strategies such as the Success for All Program, which Senator LUGAR and I strongly support.

I am very pleased that school accountability is finally getting the attention it deserves in Congress from both sides of the aisle. With widespread agreement now on the need for strong school accountability legislation—and sanctions for schools that do not live up to basic standards—I am very optimistic that this Congress can move quickly to develop a consensus package. I believe this bipartisan bill I referred to can serve as a starting point for working with the White House and with all colleagues on this vital area of meeting the needs of our schoolchildren.

Mr. President, I yield the floor, but I indicate I do want to speak as in morning business at some time after the majority leader speaks to pay tribute to our former colleague, Senator Cranston.

Mrs. HUTCHISON. Mr. President, point of clarification: Senator BINGAMAN was not suggesting that he would speak immediately after Senator LOTT; is that correct?

Mr. BINGAMAN. Mr. President, in deference to the other people who are here and waiting, I will certainly wait until they conclude their statements.

Mrs. HUTCHISON. Thank you, Mr. President.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

Mr. LOTT. I thank the Senator from New Mexico for offering to yield time earlier.

Mr. President, I ask that my time be taken from my leader time so it will not count against the time that was made available for this debate.

The PRESIDING OFFICER. The Senator has that right.

EDUCATION

Mr. LOTT. Mr. President, we have a new President of the United States who has proven in his own State of Texas and in his life—and with the encouragement of his wife—that he really cares about education and that he means it when he says we should leave no child behind.

We need an education system in America that is focused on one thing, and that is children learning. I am convinced he means that. I have had occasion to hear him talk about that in Texas, on the campaign trail, after the election, and even yesterday in the first meeting, when the bicameral Republican leadership met with the President, that was his focus. He made it clear he was going to reach out to the Congress, both Republicans and Democrats, and to outsiders to try to get a consensus as to how we want to move our country. But the issue he focused on was education.

I believe that is going to be well received by the American people. People of all backgrounds, races, creeds, color, regions know that for continued advancement for the American culture, education and improving education is absolutely critical.

He continues to focus on this issue. This morning he met with the leaders of the appropriate committees to talk about his proposal that he is going to send to us today. I have spoken to a couple of those who attended that meeting, including Senator JEFFORDS. A moment ago, when the Senator from Vermont, the chairman of the Health, Education, Labor, and Pensions Committee, spoke, I felt there was an exuberance in him about the fact that this President is opening his administration the way he said he would, and in the Senate we are picking up that mantle. The bill that will carry the number S. 1 is going to be about education.

Today the President of the United States will keep his promise to America's schoolchildren. He will articulate for the Nation a vision of America, a public school system that serves the children and leaves no child behind.

I think it is important also that he is not going to send us a bill drafted with every word, every dot and comma, but he is going to lay out the provisions, the major points he intends to pursue, and he is asking us to pursue it legislatively in the Congress.

Under President Bush, our public schools can and will be doorways to opportunity. In Texas, he has proven that every child, particularly our disadvantaged children, can excel. As President, he will bring that same determination to all of our Nation's children.

The President proposed we apply commonsense principles to promote results. He also has picked an outstanding nominee to be Secretary of Education, and now he is the Secretary of Education, Dr. Rod Paige. By the way, I should note he is a native Mississippian. He grew up with a very blue-collar upbringing. He attended public schools. He got a good education. He was the head coach at Jackson State University in Jackson, MS, a university that has produced some outstanding academic leaders and athletic leaders in this country. Some of the most outstanding football players in the history of this country came out of Jackson State University.

He went beyond that. He got his postgraduate degrees. He got his doctorate, and then he went to the Houston, TX, school system, a school system that had all kinds of problems, that was deteriorating, declining, and he said: We are going to make this place work. We are going to provide different ideas, innovative ideas, and he produced results. Now he is going to be the Nation's Secretary of Education. Here again is a man who has shown the American dream is alive and well. When you look at his humble beginnings and what he did in terms of getting an education in public schools, at Jackson State University, and then getting his postdoctorate degrees and now is Secretary of Education, it is a tremendous testament to what can be done.

Our schools should be measured by what our children learn. I have said on this floor many times that I am the son of a schoolteacher, a lady who taught school for 19 years. I am very proud of it. She still corrects my grammar when I use the wrong word, the wrong tense in my weekly columns or when she hears me speak. If I speak improperly, she will mark my paper in red or chastise me. I am proud of that.

Unfortunately, like a lot of teachers, after 14 years she left and went into bookkeeping and even radio announcing because she could make more money. That is a tragedy, too. At the local and State level, we have to make sure we pay our people a livable wage so they will stay in teaching and not go out into other places and get more money but maybe not much reward in terms of what they actually produce.

I went to public schools all my life. So did my wife and so did my children. I remember distinctly the best teachers I ever had in my life were my teachers in the second, third, and fourth grades at Duck Hill, MS. Those teachers affected my life. They taught me the basics. They taught me to read.

By the way, I stayed in touch with two of the three all my life. One of them now is deceased. One of them I still hear from every now and then. They came from a small poor school, but they made a difference in my whole life, more than my college professors, more than my high school teachers.

We have to make sure we have that for every child in America.

No child—no child—in America should be trapped in failing schools just because they lack the economic means to have a choice or to make sure they do get a good education.

We have to be prepared to think outside the box. What we have been doing is not working in every school. Some schools are fantastic. In my own State, we have some great schools. We have students who make tremendous test scores on the ACT and SAT, and yet we have schools where children are just not getting a quality education. They are not learning. They are not safe. They are in danger from all kinds of things in these schools. So we have to keep the good ones good and make them even better, but we have to make sure those other schools can be brought up. That is a local responsibility, a State responsibility.

But, yes, the Federal Government has a role to play. There are many things we can do to be helpful in that area. The President's proposals will help us address that. The fact that he is willing to put money—and a significant amount of money—into children learning to read, that is a beginning, that is where it all starts.

We have one couple in my State of Mississippi who have been remarkably successful in their lives: Jim Barksdale and his wife Sally, from Jackson, MS. They went to the University of Mississippi. Jim Barksdale worked with FedEx. He worked with McCaw Telephone in Washington State. He is one of the founders of Netscape who made a lot of money, and now he is on the board of AOL Time Warner. He and his wife just gave $100 million—$100 million—of personal money, the two of them, for one thing, and only one thing, in my State—4th grade reading. The State said, OK, can we join in on this? And others said, no, we want this to be focused on teaching those 4th grade students to read. That is the kind of thing happening with individuals in the private sector. They have a responsibility to help with education, too.

So we need to really build on that. Parents have a right to hold schools to high standards and know that their

schools are meeting those high standards. Our children excel when they are exposed to basics, going back to the points I made about reading. Our early childhood programs should focus on reading first, and we should not be afraid to measure those programs to make sure they are succeeding and not merely just good-intentioned programs that do not produce results.

Also, character counts. There is a program called Character Counts in America. I think we need to incorporate that in how we teach. We should never shy away from teaching that basic lesson to our students.

These basic principles work. They have worked in Texas, they have worked in other parts of the country, and they have formed the cornerstone of the President's education initiatives.

Under Governor Bush, African American 4th grade students have made the largest gains in the country in math and science. In fact, they had the highest test scores in their peer group of any State in the Nation. Hispanic students have made similar gains, scoring second highest of Hispanics in all States. We can and should do the same thing for all of America's children.

The President's education plan is based on a simple premise: Those who know our children best—parents, teachers, and principals—should determine how to prioritize our education dollars. The needs in rural America are often left out, and they are quite different from those in our cities. It makes sense that local schools have the freedom to design programs that meet individual needs. The compulsion in Washington has always been to have one size that fits all which they dictate from Washington.

What is needed in Pascagoula, my hometown, is obviously, on its face, different from what they need in Pittsburgh, PA. So we need that local flexibility, that local control, and with accountability that goes along with it. In exchange for that freedom, the President proposes to hold States accountable for the one thing that matters, and that is to make sure our children are learning.

There are many special interests in education. Many of them will raise their voices against the President's plan. They will use tactics to try to distract from what we are trying to accomplish by advocating other things and new programs. I think we need to go with what works and to make sure the only interests that matter are the interests of our children and that they are learning.

I believe this commonsense approach will form the kind of principles that can improve our education in America. I believe we can, in this area, reach bipartisan agreement. We tried mightily last year, and there was a lot of effort across the aisle from our education leaders, good men such as Paul Coverdell, who is not with us, and Slade Gorton, who will not be serving in the Senate. JOE LIEBERMAN was involved in that effort. We can have Republicans and Democrats who can come together on this because what President Bush is proposing is not Republican or Democrat; it is what has worked and what will work.

So I invite my colleagues on both sides of the aisle, let's engage in this issue. Let's move this bill. I hope the HELP Committee will have the necessary hearings to think about what we are going to do, but do not delay. Do not delay. Every day that goes by that we do not act in this area, another child is not getting the education he or she needs. They are in a school that is not safe or a school that is drug infested.

This could be one of the most exciting things we do in the next 2 years. I appreciate the fact that the President has shown his commitment. He is going do be dogged. He is going to be focused. We are going to get this done. And the children will be the beneficiaries now, and the country will be the beneficiaries for years to come.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Chair recognizes the Senator from Idaho.

Mr. CRAIG. Mr. President, let me join in the bipartisan chorus of voices here on the floor this morning speaking about education reform and the package that President Bush will be sending us for our examination and consideration in the coming days. I say a chorus of bipartisan voices. Every Senator who serves in the Senate recognizes and is willing to dedicate time to the importance of education in our Nation, and especially to the improvement of our public educational system.

Are there differences? Sure, there are differences. Historically, many of our colleagues simply wanted to send money, wanted to send it down from the Federal level, arguing that money was the problem; that if enough was sent, it would resolve the issue. A good many of us have said: Now, wait a moment. There has to be some control and some measurement, some evaluation of achievement. Or is the money being spent in the right way? Is enough control being given at the State and local level?

Over the years, while the Federal Government has participated, it really has participated in a fairly limited way in the public education systems of our country. For every dollar that is spent on the ground in Idaho or Mississippi or Texas or Illinois, only about 7 or 8 cents of that dollar has been a Federal amount.

What George Bush brings to us today is an attempt to recognize what most Americans have already recognized and spoke to him about in the campaign. That is that our educational system is in need of improvement and in need of reform. And probably out of opinions from that side of the aisle and this side of the aisle, there is a strong common ground to allow that kind of improvement and reform to go forward.

For the last decade, the chorus has not necessarily been here, but it has been broad and across America where our citizens have been saying: Something is wrong; our children are not achieving at the levels they should. They are not safe in their schools. There is a level of disruption that does not produce the kind of environment where quality education can go forward.

Hopefully, in the days to come, we will be able to craft a package, working with our President, to achieve what most Americans want for their children, recognizing, as all of us do, that in the absence of a high-quality public education system, the very character of our Nation, that must be perpetuated and brought forward from generation to generation, begins to lose. If that happens, America loses. In the end, we are a lesser nation because our children—our young people and our future leaders—are simply not as prepared as they must be to compete amongst themselves and to compete in the world as we know it.

That is the issue George Bush challenges us with today. He speaks of putting money in for reading, but he also speaks of accountability. He turns that accountability back to the States and to the local communities and says: Prove your worth and we will help you. Good schools will improve and bad schools will work to improve, but for bad schools that will not recognize their failing, we will give parents and students the option to move elsewhere.

Now, public education is a monopoly. It always has been one. Many of the educators within that system want to keep it just that way. They do not want to have to measure up against the private sector or another school down the road. If you live in that school district, you are required to attend that school. What George Bush is saying is, not necessarily. So you do not have to be a prisoner within the educational system. If the educational system is going to educate, then the parent and the student—if they are not getting the quality of education they want—ought to be allowed and ought to be given the means to move to another school where that quality education exists.

Of course, there will also be consequences for success, not just for failure. If schools improve overall student achievement, they will be rewarded with special grants and bonuses.

Other key components of this plan will go a long way towards improving our schools. These components include increases in federal funding for literacy programs, the strengthening of math and science education, and the cutting of bureaucracy to make it easier for schools to upgrade their technology.

This bill would also help the States improve education by giving them more freedom in administering federal education dollars.

Federal education programs will be consolidated, thus reducing the red tape and allowing more flexibility at the local level.

President Bush's proposal also expands the amount of money that can be put into tax-free education savings accounts. Parents are a key component of any education reform, and President Bush realizes that without empowering them, little can be done.

In short, the President's plan provides the right blend of parental empowerment, local flexibility, federal funding, and accountability.

If enacted, this plan will go a long way towards giving every child in America a chance to truly succeed.

There are a lot of issues to be dealt with in the coming days. A good deal of compromise is to be made. But I am extremely excited that our President, President Bush, is leading with this issue. Clearly, there is no question in our country it is a major issue, and a major issue of importance for all of us, but most importantly for the future of our country.

Mr. President, other colleagues have come to the floor and wish to speak, and we are operating under a unanimous consent agreement. So let me, with that, conclude my remarks and, in so doing, say I am excited that we have the opportunity to work together on this issue and to prove to Americans that education is the No. 1 priority of the Congress.

The PRESIDING OFFICER. Under the previous order, the Chair recognizes the Senator from Texas.

Mrs. HUTCHISON. Mr. President, I yield 5 minutes to the Senator from Arkansas, who has the great name Senator HUTCHINSON.

PRESIDING OFFICER. The Chair recognizes the Senator from Arkansas for 5 minutes, under the previous order.

Mr. HUTCHINSON. I thank the Chair, and thank the Senator from Texas for her leadership on education, and for having a good name, and for me having a name similar to it.

I applaud President Bush for his commitment to education in unveiling a very serious and comprehensive education reform program today. It is an education package that, if enacted in its entirety, I believe, will ensure that no child in America will be left behind . . . That should be our goal.

One of the wonderful aspects of what President Bush is now doing is to help us redefine what success is in education. For too long, success has been defined by: How much do we spend? President Bush wants to redefine that as to how much children are learning. That should be the criteria for whether or not we are succeeding in education.

His proposals represent an excellent framework for moving forward, and moving forward quickly, on a bipartisan basis, with legislation in Congress. I call on my colleagues to have an open mind on this education package and allow us to work together to achieve these goals.

Among other things, he seeks to address the problem of failing schools. Federal support, under his plan, will be provided, augmenting State funds, to help schools that need improvement. States and districts will be expected to implement serious reforms in schools that continue to fail.

All children in America deserve to have the chance for a quality education. In order to achieve that, there must be real consequences for schools that are persistently dangerous or are not improving after serious reform efforts for 3 years.

Under the Bush plan, if a school cannot achieve success in 3 years, with additional help from the Federal Government, then we ought to give those parents the chance to get those children out of the failing school. No child should be left behind because of where he or she lives or because of the financial standing of his or her parents. So I think this is a wonderful hallmark of the Bush plan.

Under the Bush plan, success is rewarded; failure is sanctioned. States, districts, and schools that narrow the achievement gap and improve overall student achievement will be rewarded, and States that fail to make progress may lose a portion of their administrative funds.

If we are to change education in this country, there must be consequences to failure. We must close that gap between the high achieving and the low achieving. That was the goal of the Elementary and Secondary Education Act. The Bush plan provides a whole new area of flexibility, much less of the prescriptive, top-down categorical grant programs—over 60 of them—that tie the hands of local educators. The Bush plan would reduce that to a few streams of funds and provide new flexibility for local educators.

As you can tell, Mr. President, I am quite enthused about what we have the opportunity to do for the education of American children. As a member of the Senate Health, Education, Labor, and Pensions Committee, I look forward to working with President Bush and with my colleagues in the Senate to pass meaningful education legislation.

This issue is a priority. It is President Bush who deserves the credit for making it a priority. It is time to put partisan politics aside and to work to ensure that every child in America receives a quality education, and that no child is left behind.

Thank you, Mr. President.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that I be recognized for up to 5 minutes.

The PRESIDING OFFICER. The Chair has been and will be very protective of the time on Tuesdays, but since the Senator has been here the entire morning, I will not object.

Without objection, it is so ordered.

Mrs. HUTCHISON. I thank the Chair.

Mr. President, I know this is a difficult time to be presiding, but I did want to finish the discussion of the education proposal that is being put forth by President Bush.

We have had several speakers this morning talk about the importance of addressing education as the first priority of our new President, George W. Bush. I think you can tell from the debate that Congress is ready to go on this issue.

We have been looking for accountability and flexibility in the Federal role in education since I came to Congress, and probably since STROM THURMOND came to Congress, because we know the difference between America and most other countries in the world is that we value every child getting a quality education. So we know that public education is the route that every child must take to succeed in life.

If we fall down in public education, we will see the crumbling of the foundation of democracy in America. That is why President Bush is putting this as a first priority, and why Congress is going to work with him to do it.

I think what President Bush is talking about is exactly the right approach—that we are going to give incentives for creativity, for flexibility, that we are going to go for every child to have the best education that we can potentially give that child.

But we are not going to sit back and say that year after year after year, if a public school fails, we are going to keep pouring money into that failing school and leave those children at risk. That is what we are saying. We are saying if a school fails for 3 straight years, we are going to empower parents and school districts and States to say there is an alternative and we are going to let you look at the options and select another alternative for your child.

That is the bottom line of what we are talking about today. So we are going to put a lot more money from the Federal level into public education. We are going to give our schools every chance to succeed, and we are going to help them succeed. But, Mr. President, this is accountability that we are going to put into the system because we are not going to let a child be left behind because all the bureaucrats and the politicians in Washington are talking about accountability but not deciding what it is. We are going to decide in the next few months what it is and we are going to set a standard and we are going to require that standard be kept.

That is what President Bush is doing. Congress is going to work with him to do it. I applaud the President, and I am anxious to work with him to make sure that every child has the ability to reach his or her full potential with a public education in our country.

Thank you, Mr. President. I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 a.m. having arrived, the Senate stands in recess until the hour of 2:18 p.m.

Thereupon, the Senate, at 12:39 p.m. recessed until 2:18; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. ROBERTS).

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

The PRESIDING OFFICER. Without objection, it is so ordered. The distinguished Senator from North Dakota is recognized.

THE NOMINATION OF MITCHELL E. DANIELS, JR.

Mr. CONRAD. Mr. President, I want to speak briefly about the nomination of Mitch Daniels to be the head of the Office of Management and Budget. First of all, I want to say Mr. Daniels called me when he had been named and we had a brief, frank visit about the responsibilities of the Director of the Office of Management and Budget. I want to indicate that I will vote for his confirmation.

That is not the reason I rose to speak on his nomination. At his confirmation hearing Mr. Daniels indicated, in response to a question, that he would not support giving the same protection to the Medicare trust fund surpluses that we have agreed, on a bipartisan basis, to give to the Social Security trust fund surpluses. I want to indicate my strong disagreement with Mr. Daniels on that position. I think that is the entirely wrong position to take.

In fact, in the U.S. Senate, on a bipartisan basis, we voted overwhelmingly, last year, on a provision I offered to protect both the Social Security trust fund and the Medicare trust fund surpluses, to protect them against raids for other purposes.

Now Mr. Daniels has announced a policy of being willing to protect the Social Security trust fund but not the Medicare trust fund. I hope he will rethink that issue. I hope he will agree with what was a strong bipartisan vote here in the U.S. Senate last year, to protect both the Social Security trust fund and the Medicare trust fund surpluses. We should not permit raids of either one of them. We should not allow those funds to be used for any other purpose. Social Security funds should not be used for other spending. They should not be used for a tax cut. The Medicare trust funds should not be used for other spending. They should not be used for a tax cut. Those funds ought to be reserved for the purposes for which they were raised, which is to support the Social Security Program and the Medicare program.

I was disappointed when Mr. Daniels indicated he would not support protection of the Medicare trust fund. I think that is a profoundly wrong position to take. I hope he will rethink it. I certainly hope he was not speaking for this administration.

Again, I remind him and remind this administration that, on a bipartisan basis, last year on the floor of the Senate, we had 60 votes for the proposition that we ought to protect both the Social Security trust fund and Medicare trust fund. That is a policy supported by the American people that ought to be supported by the Office of Management and Budget. It was supported here on the floor of the Senate and I hope this administration will think very carefully about its position before they conclude they are going to adopt the position of Mr. Daniels.

Mr. REID. Will the Senator yield for a question?

Mr. CONRAD. I am happy to yield.

Mr. REID. The Senator from North Dakota and I, I think the ranking member of the Banking Committee, and others, were part of a debate that took place just a few years ago, where the then majority, the Republicans, were trying to use Social Security surpluses to offset the deficit. Does the Senator recall that?

Mr. CONRAD. I remember it very well. In fact they had what they called a balanced budget amendment to the Constitution but what they were doing to balance the budget was to raid the Social Security trust funds to achieve balance. That would have been an entirely phony balancing of the budget, I believe.

Mr. REID. So, as I hear what the Senator is saying, what he is afraid of is they are trying to use, now, the surpluses from Medicare to spend for other programs. Is that what the Senator is afraid of?

Mr. CONRAD. That is exactly what the new head of the Office of Management and Budget has announced in a hearing before Members of the United States Senate in the Government Affairs Committee. He said he is willing to protect the Social Security trust fund but he is not willing to protect the Medicare trust fund. They both ought to be protected. Neither one of them should be raided.

Mr. REID. I say to my friend from North Dakota, who is the Democrats' leader on the Budget Committee, that, as usual, when it deals with matters of finance—this is my personal opinion—there is no one better than the Senator from North Dakota. I appreciate very much his bringing this to the attention, not only of the Senate but the American people. We cannot let the Social Security trust fund moneys be used for anything other than Social Security. And we cannot let moneys set aside for Medicare be used for anything other than working to solve the terrible problem we have with seniors paying for their medical programs, including that which we want to do dealing with prescription drugs. So I personally appreciate the statement made by the Senator of North Dakota, focusing on this very vital interest.

Mr. CONRAD. I appreciate the comments of my colleague. I want to say we are talking about real money here. The forecast of the Social Security trust fund surpluses over the next 10 years is $2.7 trillion. The forecast of the Medicare trust fund surplus over the next 10 years is $400 billion. We ought to protect them. We ought to wall them off. We ought to prevent anyone from using those funds for any other purpose.

That is why I was so disappointed in the statement of Mr. Daniels, the designee to head the Office of Management and Budget, when he indicated in response to a direct question that he would be willing to protect the Social Security trust fund but he would not be willing to protect the Medicare trust fund. What is the difference? It is just a difference in programs. They are both trust funds. It is not very trustworthy if you raid them and we should not permit any raid on them.

I just want Mr. Daniels and the administration to know that if they have an idea they are going to raid the Medicare trust fund, we on this side are going to oppose them every step of the way.

Mr. REID. I say to my friend, these should be trust funds, not slush funds. I know, being the person he is, monitoring the money for the Democrats in the budget process, and where it should go and should not go, he will be vigilant because he is, in effect, protecting not only the Senate, but the American people.

The PRESIDING OFFICER. The distinguished Senator from Maryland.

THE NOMINATION OF MELQUIADES RAFAEL MARTINEZ

Mr. SARBANES. Mr. President, I understand shortly the nomination of Mel Martinez to be Secretary of the Department of Housing and Urban Development will be before us. I rise in support of this nomination.

Mr. Martinez appeared before the Committee on Banking, Housing and Urban Affairs on January 17, where he made clear his commitment to providing affordable housing and economic opportunity for all Americans, both in his oral testimony and in his response to questions. His nomination was brought to the Senate floor with a recommendation for approval—a unanimous recommendation for approval in the committee.

Mr. Martinez has a compelling life story. His parents sent him to this country at the age of 15, with thousands of other Cuban children, as part of the ''Pedro Pan'' operation, in an effort to security the liberty and opportunity that we enjoy as Americans.

He lived with a foster family, learned English, went to college and law school, practiced law for 25 years, and

became deeply committed to serving his community. I believe this history has instilled in Mr. Martinez an understanding of and empathy for the less fortunate that will serve him well in his new role as Secretary of HUD.

Mr. Martinez most recently served as the county chairman of Orange County, FL. Prior to that, he served on the Orlando Housing Authority Board of Directors for 4 years, including 2 years as its chair in the mid-1980s. He served as vice president of Catholic Social Services in the Diocese in Orlando throughout the 1980s and as president of the Orlando Utilities Commission from 1994 to 1997 and as a lawyer in his own firm. He has served his community in many ways as a volunteer member of numerous organizations.

As chairman of the Orlando Housing Authority, Mr. Martinez worked with his colleagues on the board to pass a measure that took about $1 million of reserve funds to build affordable housing for the elderly, as well as transitional housing for low-income single mothers. He consistently showed a willingness to meet and work with residents of public housing and other low-income residents of distressed neighborhoods in Orlando.

These efforts lead me to believe that as Secretary, Mr. Martinez will make every effort to make good on his promise ''to work hard to ensure that every American has every opportunity to have affordable housing.''

Last year, a number of bipartisan proposals providing for funding the construction of affordable housing were offered in the Congress. I look forward to working with the new Secretary on legislation that will help us achieve the lofty goal he has set out.

As many of my colleagues know, HUD has had a history of being a troubled agency. While many of its programs do a good job of providing decent homes to millions of poor and working families, it has proven to be a difficult department to manage.

In 1994, in fact, HUD was placed on the General Accounting Office's high-risk list, the only agency to be so listed. However, as a result of concentrated efforts by Secretary Cuomo and his top staff, the GAO announced last week that HUD is now off the high-risk list. HUD achieved this result by working tirelessly to correct the problems in financial oversight and procurement systems. It is widely recognized that Secretary Cuomo has devoted significant time and effort to address these managerial issues, and I commend him for his success.

This is by no means to say all of HUD's problems have been solved, but it does mean that Mr. Martinez will take over the Department with a management system in place that is moving HUD in the right direction. In his confirmation hearing, Mr. Martinez made it clear that he understood the progress that has been made while committing himself to continue the efforts to improve the operations of the Department.

I was also encouraged that Mr. Martinez recognized the importance of the Community Reinvestment Act in making housing opportunities more available to all Americans. Several committee hearings have established the fact that CRA is a crucial tool that is needed to make a number of other housing programs effective. The low-income housing tax credit, the community development block grant, and the HOME program all depend, to some extent, on bank credit made available largely because of the CRA.

Finally, I note that this nomination has the support of a wide range of housing groups. A number of letters of support have been sent to the committee which are part of the hearing record. Included among these supporters are a number of industry groups, public housing organizations, and others. I note in particular a very strong letter of support sent to us by our former colleague, Senator Mack, who has high praise for the nominee.

Mr. President, I ask unanimous consent that Senator Mack's letter be printed in the RECORD at the conclusion of these remarks.

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

(See Exhibit 1.)

Mr. SARBANES. Mr. President, Mel Martinez understands the job ahead of him. He has committed to expanding housing opportunities for all Americans. I look forward to working with him, and I commend his nomination to my colleagues for their approval.

Mr. President, I yield the floor.

EXHIBIT 1

WASHINGTON, DC,
January 16, 2001.

Hon. PAUL S. SARBANES,
Chairman, Committee on Banking, Housing, and Urban Affairs, Dirksen Building, U.S. Senate, Washington, DC.

DEAR CHAIRMAN SARBANES: As a former member of this committee, it is an honor and privilege to introduce my friend Mel Martinez, Secretary-designee of the United States Department of Housing and Urban Development.

As a fellow Floridian, I have had the opportunity to know and personally work with Chairman Martinez in his various roles in local county government since the early days of my Senate career. I have found him to be an exceptional individual who has the intelligence, integrity and compassion to guide this agency and serve its constituents.

The Secretary-designee through his life experiences understands the courage, drive and determination it takes to achieve the American dream. As you and I know, very difficult problems can be overcome when individuals work together. Mel Martinez understands what is takes to bring people together with a deep concern for those who are less fortunate and striving for a better future. With his personal perspective and insight, I am sure you could not find a better person to improve the lives of those that look to us for assistance.

Therefore, with complete confidence, I strongly recommend Mel Martinez and urge your favorable consideration of him for Secretary of Housing and Urban Development.

Sincerely,

CONNIE MACK.

The PRESIDING OFFICER. The distinguished majority leader is recognized.

Mr. LOTT. I thank the Chair.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE NOMINATIONS

Mr. LOTT. Mr. President, in executive session, I ask unanimous consent that the Senate now proceed en bloc to the consideration of the following nominations: Executive Calendar No. 7, Mitchell E. Daniels, Jr., to be Director of the Office of Management and Budget; Executive Calendar No. 8, Anthony Principi to be Secretary of Veterans Affairs; Executive Calendar No. 9, Melquiades Rafael Martinez to be Secretary of the Department of Housing and Urban Development.

I also ask unanimous consent that at 2:45 p.m. the Senate proceed to a vote on the nominations en bloc, and further, that one rollcall count for three votes with respect to the nominations. I further ask unanimous consent that the motions to reconsider be laid upon the table and the President be notified of the Senate's action.

I further ask unanimous consent that the Finance Committee be discharged from further consideration of the nomination of Gov. Tommy Thompson, to be Secretary of Health and Human Services, and the Senate proceed to the immediate consideration of the nomination, with the time on the nomination as follows: 60 minutes under the control of Senator WELLSTONE; 40 minutes for the chairman and ranking member of the Finance Committee; 10 minutes under the control of Senator FEINGOLD; 10 minutes under the control of Senator KENNEDY; and that following the use or yielding back of time, the nomination be laid aside and the Senate proceed to a vote on the nomination at 11:30 a.m. on Wednesday, and following the confirmation, the motion to reconsider be laid upon the table, the President be notified of the Senate's action, and the Senate resume legislative session.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object, will the majority leader allow 10 minutes under my control, which may or may not be used, following that of Senator KENNEDY?

Mr. LOTT. I amend the UC to that effect: 10 minutes under the control of Senator REID following Senator KENNEDY.

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

Mr. LOTT. Mr. President, let me reiterate, we will have the one vote now for the three nominees en bloc. We will then have time for debate on the nomination of Gov. Tommy Thompson to be Secretary of HHS. The next recorded vote will be at 11:30 a.m. on Wednesday, and we could have another vote or votes at that time on three additional nominees that will be ready to go at that time.

EXECUTIVE SESSION

NOMINATIONS OF MITCHELL E. DANIELS, JR., TO BE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET; ANTHONY JOSEPH PRINCIPI, TO BE SECRETARY OF VETERANS AFFAIRS; AND MELQUIADES RAFAEL MARTINEZ, TO BE SECRETARY OF HOUSING AND URBAN DEVELOPMENT

The legislative clerk read the nominations of Mitchell E. Daniels, Jr., of Indiana, to be Director of the Office of Management and Budget; Anthony Joseph Principi, of California, to be Secretary of Veterans Affairs; and Melquiades Rafael Martinez, of Florida, to be Secretary of Housing and Urban Development.

Mr. DOMENICI. Mr. President, Mel Martinez has a great story. He is a self-made man who is destined to do great things. At age 15 he fled Cuba during the airlift of children known as Operation Pedro Pan. Although, he was alone, he would soon begin his American Dream.

A graduate of Florida State University College of Law in 1973, Martinez joined an Orlando firm and practiced personal injury law. During his 25 years of law practice in Orlando, he was very involved in a variety of community activities. In 1984, he was appointed chairman of the Orlando Housing Authority by the mayor. He held this post for two years, later serving as president of the Orlando Utilities Commission.

He also served as Chairman of Governor Jeb Bush's Growth Management Commission, declaring a moratorium on new residential projects in already-crowded school districts.

In 1998, he was elected Orange County chairman. As the Chief Executive of a government, he was responsible for providing complete urban services to over 860,000 people. In this mayoral-like role, he advocated home ownership programs for low-income families and lowered property taxes. He concentrated on programs emphasizing public safety, growth management, the needs of children and families, clean neighborhoods, improved transportation, and the streamlining of government.

As Secretary of HUD, Mr. Martinez, assumes the $30 billion budget, which faces a critical shortage of low-income properties and mid-income rentals. According to a recent HUD report, 5.4 million families pay more than 50 percent of their gross income for rent.

Mr. President, I believe that Mel Martinez will be a great asset for HUD. Because of his life story, he will be able to handle the sensitive issues faced by this department. His story speaks for itself. From a child fleeing from Cuba, to a successful Chairman, he has created his success.

Mr. President, it is with honor that I support Mel Martinez as Secretary of Housing and Urban Development.

Mr. DODD. Mr. President, I rise today to voice my strong support for the confirmation of Mel Martinez to be Secretary of the Department of Housing and Urban Development. I am impressed by his background and his commitment to providing safe, affordable housing to all Americans. Based on my review of the Mr. Martinez's record as a public official in Orlando and Orange County and his expressed dedication to the mission of the Department of Housing and Urban Development, I believe he will make a superb Secretary of Housing and Urban Development. I support his nomination and urge my colleagues to do the same.

Mel Martinez has an extraordinary story. At the age of 15, he fled Castro's Cuba to come to the United States without his family. He stayed with a foster family for four years before the rest of his family could join him in Orlando. After earning a law degree from Florida State University, Mr. Martinez entered private practice, but also served on numerous public boards and committees. He served on the Board of Directors for the Orlando Public Housing Authority from 1982 to 1986. He was the Chair of the Orlando Affordable Housing Task Force in 1984, and President of the Orlando Utilities Commission from 1994 to 1997.

Since 1998, Mr. Martinez has served as the Chief Elected Official of Orange County, Florida. He has a reputation for championing ''Smart Growth'' and for understanding the need to ensure affordable housing for all citizens. He even established a commission to identify new ways to provide affordable housing.

Assuming that Mr. Martinez will be confirmed, he comes to HUD at a good time. Clearly, the nadir of HUD's existence was during the 1980s when the Department was riven by mismanagement and even worse. Jack Kemp deserves credit for his commitment to reform and improving housing opportunities for the people served by HUD. He worked hard and achieved significant progress.

The last eight years have seen a continuation of reform and a realization of many of the goals of reform. The home-ownership rate is now the highest in history—67.7% of all American families, nearly seven out of every ten families, own their own home. Nine million households have been added to the ranks of homeowners since 1993. We've also seen record high levels of home-ownership for urban-center African-American and Hispanic families. The volume of Federal Housing Administration (FHA) loans has doubled in recent years. FHA now has about 6.7 million mortgages in its portfolio. FHA has gone from a $2.7 billion deficit to a current value of more than $16 billion. HUD has also recognized the changing needs of our aging population by producing a Housing Security Plan for Older Americans.

HUD has made progress, but there is still much work to be done. There is still a pressing need to meet the continuing challenge of helping all Americans achieve the dream of homeownership and the promise first made over half a century ago in the National Housing Act: a safe and affordable place to live for all Americans.

One of the most troubling paradoxes of our recent prosperity is that despite the fact that incomes have risen for people in every income category, safe and affordable housing is more elusive than ever for many low- and moderate-income families. That is because the cost of housing has outpaced the increase in wages in many of our urban centers, including areas of Connecticut that now rank among some of the most expensive housing markets in the country.

We are losing public housing units in our country at an alarming rate. In some parts of the country, like the Northeast, the age of public housing units has necessitated the demolition of many units that have become too deteriorated to be rehabilitated. Federal policy has tried to provide public housing residents with housing vouchers, but frankly, there just aren't enough of those vouchers to go around. Further, in high-cost housing markets vouchers haven't always been useful to low-income families because they can't always find landlords who are willing to accept the vouchers. And even with vouchers, many find rent to be all but out of reach.

We need more vouchers. We also need to invest in capital maintenance, and rehabilitation funding to ensure that public housing units remain habitable. And if we have dilapidated public housing, then we need to put money into building replacement units. While vouchers work in some places under some circumstances, they don't work everywhere under all circumstances.

I also believe that the Federal government needs to think ahead to address issues that will arise as our elderly population continues to grow. We should consider creating tax and other incentives for construction of privately-owned assisted living units. The time has also come for HUD to consider developing new standards or approaches to ensure that senior citizens who live in public housing can stay in their homes and not be forced prematurely into expensive and less independent institutional care facilities.

These are not trivial matters. They are tough problems. But from what I have been able to discern, Mel Martinez is up to the task. He has the knowledge, the energy, and the commitment to lead HUD as the agency begins to address these matters.

I look forward to working with Mr. Martinez. I have already invited Mr. Martinez up to Connecticut. Connecticut has some of the oldest housing in the country, but we also have some of the country's most successful affordable housing projects. I welcome the opportunity to show him our state and, again, to work with him on behalf of

all Americans seeking a good home for themselves and their families.

Mr. THURMOND. Mr. President, I rise today in support of the nomination of Anthony J. Principi to be Secretary of Veterans Affairs. I am pleased that President Bush has selected a person of experience and ability for this important position.

Mr. Principi has a strong background and association with the military community. He is a veteran of the United States Navy, a graduate from the U.S. Naval Academy, and a highly decorated Vietnam veteran. He also served in the Navy's Judge Advocate General Corps.

Mr. Principi is well qualified for this position, having previously served as Acting Secretary of Veterans Affairs and Deputy Secretary of the VA. I personally know him to be a capable and dedicated public servant. In 1993, I called upon Mr. Principi to be my Staff Director for the Senate Armed Services Committee. Later, as Chairman, I appointed him to a Congressional Commission on Military Servicemembers and Veterans Transition. He subsequently was elected by his colleagues as Chairman of that Commission. In each of these instances, his performance was exceptional.

There are a number of important issues facing the Department of Veterans Affairs which affect veterans, their families, and employees of the Department. I will mention a few of these issues to emphasize my own concern and to stress to Mr. Principi that he must aggressively address these matters.

The first issue I hope Secretary Principi strongly addresses is that of Veterans Benefits. It takes too long now to get initial decisions and the review process can take years. I hope Secretary Principi will work with the Under Secretary for Benefits to improve the VA benefit review process.

Second, I am concerned about the status of veterans health care. The Congress and the VA have enacted and implemented a number of reforms. The challenge now is to ensure that the availability, delivery and quality of health care improves.

A third concern I have relates to the Veterans Equitable Resource Allocation, VERA, process. A few years ago, Congress passed a bill that requires the VA to allocate resources according to veteran population and use of VA medical facilities. This legislation generally has shifted some resources from the Northeast to the South and West. I trust Secretary Principi will continue to support this important reform despite political pressures to do otherwise.

I congratulate Mr. Principi on his nomination. As a member of the Senate Committee on Veterans' Affairs, I look forward to working with the Secretary as we address the needs and concerns of the men and women who have given much for our Nation.

Mr. ROCKEFELLER. Mr. President, as the ranking member of the Committee on Veterans' Affairs, I am pleased to support the nomination of Anthony J. Principi to be Secretary of Veterans Affairs. If confirmed, Mr. Principi will have the responsibility of steering the Department of Veterans Affairs through a period of great transformation.

I recently had the chance to meet with Mr. Principi and to discuss the many challenges he will face in guiding the VA through this critical period. I have also had the opportunity to read his answers to prehearing questions and to hear his testimony at the January 18, 2001, hearing of the Senate Committee on Veterans' Affairs on his nomination. Mr. Principi has expressed his belief that our veterans deserve access to quality health care and swift and accurate decisions about disability benefits. I wholeheartedly agree and believe feel that Mr. Principi has the experience and the commitment to maintain this special obligation to our Nation's veterans.

I know that with his years of service to veterans—at VA, here in the Senate, and as chair of the Commission on Servicemembers and Veterans Transition (the so-called Transition Commission)—Mr. Principi is familiar with the importance of the leadership role he will soon assume at the VA. Because of his long history and experience, we have great expectations for his success, and we expect him to hit the ground running to tackle the VA's many challenges.

We have all heard the President speak about the need to revamp the VA health care system. But what exactly does that mean to veterans who depend upon the VA? Yes, we have made many sweeping changes in the delivery of VA health care. Veterans' health care is now very often provided in different settings, which are frequently not the traditional hospital site. Outpatient clinics cover the VA landscape and provide new access points to many veterans. And veterans—unlike many other groups—now have improved coverage of their long-term care needs, although VA has been embarrassingly slow in implementing some of these programs.

But while the past decade has brought tremendous transformation to the VA health care system, we may be approaching the most challenging period of all. The VA medical system offers programs of enormous value, especially for veterans who are blind or have spinal cord injuries, who need prosthetic devices or dependable mental health care. We must retain these specialized services, offered nowhere else in the U.S. healthcare landscape, which have made the VA great.

Mr. Principi understands that, if confirmed, he will be expected to be a steward and protector of this very special health care system. America's veterans will accept no less.

The Veterans Benefits Administration is in crisis. Last year, Chairman SPECTER chaired a hearing on the benefits adjudication system, and we were greatly disturbed by what we heard about the lack of quality and timeliness in VBA decisionmaking. At that hearing, a Vietnam combat veteran from my state of West Virginia, suffering with post-traumatic stress disorder, testified that it took a full five years for his VA disability claim to be approved. The documented chronology of events over that five-year period paints a clear picture of a benefits system that needs a great deal of work. This is just one example of the many cases my staff hear about daily.

We continue to be dismayed by the delays in making eligibility determinations. And despite efforts by hardworking, dedicated VBA employees, which have yielded some gains in customer service, the problems with VA claims' processing seem to be getting worse. In fact, the backlog has increased by 50,000 claims just since we held that hearing last July.

You know the old saying: ''Justice delayed is justice denied.'' Our aging veterans population cannot afford to wait. We look to Mr. Principi for innovative approaches so that VBA can absorb changes in law and new business processes without always going into a tailspin. We must do better than this.

Mr. President, in my view, Mr. Principi is well qualified for this important position. He would bring to it his many experiences as an advocate for veterans' needs, as well as his sincere commitment to their well-being. I urge my colleagues to approve this nomination.

Mr. WARNER. Mr. President, I rise today to give my strongest recommendation for the confirmation of the nomination of Anthony Principi to be Secretary of Veterans Affairs.

On January 5, 2001, then President-elect Bush announced his intention to nominate former-Deputy Secretary of Veterans Affairs Tony Principi, a man I have known for more than 20 years, to be his Secretary of Veterans Affairs. I support this nomination, and I am pleased that the President decided to recommend him for this important position.

Tony Principi served as Deputy Secretary of Veterans Affairs and as Acting Secretary of Veterans Affairs for President Bush from 1989 to 1993. I am confident that he will, once again, be a competent, trustworthy, effective Secretary of Veterans Affairs.

Tony Principi is a graduate of the United States Naval Academy and a decorated Vietnam Veteran. He earned a law degree from Seton Hall University in 1975. He was a professional staff member, Counsel and later Staff Director for both the Senate Armed Services Committee and the Senate Veterans Affairs Committee.

In 1996, Tony was named as the Chairman of the Military Servicemembers and Veterans Transition Assistance Commission. This Congressional Commission reviewed the adequacy and effectiveness of the services and benefits available to active

duty service members and veterans. A number of the Commission's recommendations fall under the cognizance of the Armed Services Committee. I have carefully reviewed the recommendations and have initiated action to implement many of the improvements and efficiencies recommended by the Commission. As Chairman of this important Congressional Commission, Tony did a superb job with a very difficult task.

Tony's father is a veteran of World War II. His wife, Elizabeth is a veteran of 30 years of service as a Naval officer and his two sons are serving on active duty in the Air Force today.

Tony's personal experiences in a family of veterans as well as a midshipman, Naval officer give him an excellent perspective on the issues facing veterans. His experience as a staff member on the Armed Services and Veterans Affairs Committees and as a Cabinet official in the Department of Veterans Affairs makes Tony uniquely qualified to address the many issues he will face as the Secretary of Veterans Affairs.

Mr. President, I had the opportunity to meet with Tony in my office the day prior to his confirmation hearing before the Veterans Affairs Committee. During our discussions, he assured me that he would take timely and positive action to ensure that employees of the Department of Veterans Affairs will assist veterans in applying for benefits and filing claims for reimbursement and payments. This was an important issue on which the Armed Services Committee took a leading role during consideration of the National Defense Authorization Act for Fiscal Year 2001. I was pleased that Tony agreed that it is a duty of the Department of Veterans Affairs personnel to assist veterans in successfully navigating the difficult claims processes. We also discussed opportunities for increased cooperation between the Department of Defense and the Department of Veterans Affairs in the health care arena. I look forward to working with Tony on these and other important issues concerning active duty military personnel and veterans.

I support this nomination. I urge my colleagues to support the nomination as well. Secretary Principi will be a crucial part of the great team that President Bush has assembled.

Mr. DOMENICI. Mr. President, I rise today in strong support of M. Anthony Principi as Secretary of Veterans Affairs.

Our Nation's veterans are important to all of us. From time and memorial, the men and women of our country's Armed Services have dedicated themselves to freedom and democracy. They have done far more than representing freedom, they have given themselves to the cause, fighting for those inalienable rights that many of us take for granted.

There are 24.8 million veterans in the United States, 165,000 of which are in my own state of New Mexico. This means that all of us know a veteran. In fact, one out of every four men in the United States is a veteran, and there are 1.2 million female veterans. We must continue to work for the continued well-being of our veterans, as they are our mothers, fathers, grandmothers, and sons.

Health care is important to all of us, and veterans are no exception. I have worked with other members of Congress to dramatically increase funding for veterans' health care. I know that more needs to be done for veterans and pledge myself to work for their interests.

The head of the Department of Veterans Affairs will be presented with unique challenges. The Secretary must be pro-active and must have a comprehensive understanding of veterans' issues.

In that vein, I am confident that Mr. Principi is the best person for the job. As a decorated Vietnam War veteran, Mr. Principi can intimately relate to veterans' special needs.

Furthermore, he can fully appreciate the Department of Veterans Affairs after serving as Secretary and Deputy Secretary of the Department under the previous Bush Administration. Mr. Principi applied his pro-active attitude and experience when he ordered the creation of a registry to track medical conditions of Gulf War veterans.

Furthermore, Mr. Principi chaired the bipartisan Congressional Commission on Military Service Members and Veterans Assistance under the previous Administration.

The Department of Veterans Affairs has put forth significant effort in moving towards a ''One V–A'' in attempting to deliver seamless service to veterans. Yet, coordinating VA's various missions as technology advances remains just one challenge that Mr. Principi must address.

Mr. Principi is a veteran. He has spent his life working for veterans. Mr. President, Anthony Principi is the best person to head the Department of Veterans Affairs.

As Secretary of the Department of Veterans Affairs, Mr. Principi will surely be tested. I am confident that he will ace the test.

Mr. MURKOWSKI. Mr. President, I rise in strong support of Tony Principi's confirmation as Secretary of Veterans Affairs. I have known him for many years both as a staffer and a friend. He was my staff director when I was chairman of the Veterans' Affairs Committee many years ago. Since then I have come to value his advice and expertise about our nation's veterans as much as I have come to value his friendship. His experience both within the government and the private sector, along with his desire to give veterans the kind of services they deserve, makes Tony the best man for the job. I support his confirmation and urge my colleagues to do the same.

Mr. LOTT. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nominations of Mitchell E. Daniels, Jr., to be Director of the Office of Management and Budget; Anthony Joseph Principi, to be Secretary of Veterans Affairs; and Melquiades Rafael Martinez, to be Secretary of Housing and Urban Development?

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 100, nays 0, as follows:

[Rollcall Vote Nos. 1, 2, 3 Ex.]

YEAS—100

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

The nominations were confirmed.

NOMINATION OF TOMMY G. THOMPSON, OF WISCONSIN, TO BE SECRETARY OF HEALTH AND HUMAN SERVICES

The PRESIDING OFFICER (Mr. KYL). The clerk will report the next nomination.

The legislative clerk read the nomination of Tommy G. Thompson, of Wisconsin, to be Secretary of Health and Human Services.

The PRESIDING OFFICER. Under the previous order, the debate will include 60 minutes of time under the control of Senator WELLSTONE, with 40 minutes for the chairman and ranking minority member of the Finance Committee and 10 minutes each for Senators FEINGOLD, KENNEDY, and REID of Nevada.

Who yields time?

Mr. GRASSLEY. Mr. President, I yield myself such time as I might consume.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I had the privilege of hearing Gov. Tommy Thompson, the designee for Secretary of Health and Human Services, when he came before our committee which the distinguished Senator from Montana chaired last week. We had a very good hearing.

I want to compliment Senator BAUCUS for putting together a good hearing and, more importantly, for his cooperation in helping President Bush move many of his nominees through the Senate as quickly as possible, and Senator BAUCUS was responsible for doing that in the case of Secretary of the Treasury O'Neill, and now Secretary of Health and Human Services Governor Thompson.

Last week, we invited then-Governor Thompson to testify. I have to say it was a very refreshing hearing. It became so apparent that the qualities that have made Governor Thompson so successful in Wisconsin are what will also make him very successful as a Secretary of the Department of Health and Human Services. This is a very ideal choice that President Bush has made.

First and foremost, Governor Thompson is a problem solver, focused on improving the lives of real people. As Senators of both parties noted during our hearing last week, Governor Thompson has made remarkable progress in addressing the health care needs of families in Wisconsin. Successful programs such as Badger Care and family care reflect his ability to reach consensus and implement concrete solutions. In addition, Governor Thompson is a true innovator. On issues such as Welfare reform he has shown that he is willing to cast away old, tired approaches. He reaches out for new ideas and develops creative solutions to tough problems.

Governor Thompson has also been an effective administrator and manager of his State, expertise that will be critical as he oversees important programs such as Medicare, Medicaid and the State children's health insurance program. Coming from being a Governor of a State, I think he has appreciation that one size doesn't fit all in our great country. A mold poured in Washington, DC, doesn't necessarily solve the problems of New York City or Madison, WI, with the same effectiveness as if we would give some leeway to the Governor of the State of New York and the Governor of the State of Wisconsin leeway in solving those problems that are unique to their respective States and, hence, deserve a unique solution.

I can say from the standpoint of his work on welfare reform that he did not wait for the Federal Government to pass welfare reform before he started working within Federal law with what he could do to improve the system. When we were working on this in 1996, he was able to come to Washington and discuss the expenses and what needed to be done with Federal law to allow each State to have some leeway to help people move from welfare to work, to give people a chance, to move people from the fringe of our society to the mainstream of our society in order to be in that mainstream and to have the opportunities for advancement and progress as those in the mainstream.

I think he is flexible. That flexibility that he has will serve well not only our Federal policies, but it will also help Governors and State and local administrators do a better job as they have some leeway. Also, as there are some changes in programs that will be suggested by President Bush we in the Congress will work on, as well. It gives citizens an opportunity to have right here in this town, full time, a person who has had the experience of being a Governor—where the rubber meets the road—on Federal programs to make sure that we are able to make the best policy to fit a country that is as geographically vast as ours, with heterogeneous population.

Lastly—and I hope this responds to some of the cynicism of people about Washington being too partisan sometimes I am pleased to report, as Governor Thompson has been successful in his State, he has done it because he has been able to reach across party lines because he himself has followed the same principle of bipartisanship to find successful solutions in his home State by reaching across party lines. That bipartisanship and how it has been successful is shown in the fact he was warmly introduced to our committee by Senator Dole, a Republican, Senator KOHL and Senator FEINGOLD, who are Democrats, and by Secretary Shalala from the present administration, who worked closely with Governor Thompson when she was chancellor of the University of Wisconsin.

This support from party leaders on both sides of the aisle speaks for itself. I hope we in Washington will apply the Governor's bipartisan approach in Congress. I think we will.

As I noted at the hearing, we are in a unique situation in the Senate. Bipartisanship can no longer be a hobby for a few; instead, it needs to be a way of life for all. The American people demand it. We must respond. I think hopefully when we look back at this year and even more so after 2 years of this 107th Congress, we will be able to say that the fact that the Senate was split 50/50 was good because it brought people closer together.

For my part, I respond to the initiatives and the ideas that Governor Thompson brings and to an evenly divided Finance Committee, hoping we will seize the opportunity to solve the real problems we face—modernizing Medicare and improving access to prescription drugs for seniors, reducing the number of 43.5 million uninsured, improving health care in rural communities. That is something that Senator BAUCUS and I have worked closely on over a long period of time, improving long-term care. These are priorities for me, but I am sure they are not just my priorities. They are priorities for many in this Congress, and particularly those that serve on the Senate Finance Committee.

I look forward to working closely on these priorities, not only with my colleagues, but with Governor Thompson in his new position as secretary HHS. Governor Thompson deserves not only our votes but our thanks for his willingness to serve our country even though it means leaving both a job and a State he loves. I am also grateful to President Bush for choosing such a qualified Senate. He sends a clear signal for his desire for problem solving, effective management, and bipartisanship.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, first, I note the presence of the new Finance Committee chairman. This is the first appearance of our new chairman of the Senate Finance Committee. I know all Senators agree with me in saying we look forward to a very long, prosperous, productive period, and eagerly seek to work with the chairman in a bipartisan nature, noting the 50/50 composition of the Senate. It is a terrific opportunity we have. I know I speak for the chairman in saying he also shares my desire to do the same.

I rise to give my enthusiastic support to the nomination of Governor Tommy Thompson of Wisconsin to be our nation's 19th Secretary of Health and Human Services. I think he will be a great Secretary. He has the energy, the spirit, creativity, enthusiasm, and he takes a bipartisanship approach. He is quite a guy. He has the spirit of his predecessor, another Badger, if I can use that term. Secretary Shalala also had a lot of energy and spirit. I think Governor Thompson, when he does retire from that job and looks back upon his term, will find that he feels good about his achievements, and the rest of the country will as well.

In saying so, I do not mean to imply that I expect to agree with every position of our about-to-be-Secretary. There are clearly going to be some issues on which we disagree—for example, a woman's right to choose and some aspects of the upcoming Medicare debate.

With that said, I think Mr. Thompson is the right person for a very tough job. It is not an easy job. But he is more than up to the task. He is known for many things, probably best of all for his work on welfare reform. He is the nation's leader on this issue, as Governor of Wisconsin where he took the lead on their welfare reform. In many ways, his efforts helped the Senate pass welfare reform legislation. And I was an early supporter of these efforts. Welfare reform has affected our nation very significantly, most particularly in my State of Montana. I credit Governor Thompson. I salute him for taking that initiative.

Just as important, he has provided resources to the programs that are necessary to make Federal reform work

for needy families. If we are going to have welfare reform, certainly the families on welfare need these resources. And he didn't call it welfare reform, but a workfare program. It was obviously the correct approach.

Governor Thompson has also been a leader on health care issues. He has found innovative ways to ensure health care coverage for the working poor. We have heard reference to BadgerCare, a combination of increases in Medicaid and the CHIP program. I teased him a bit in the hearing when I was talking about the BadgerCare program. It is obviously named after the mascot of the University of Wisconsin. The mascot of the University of Montana is the grizzly. I am not so sure ''grizzly care'' makes much sense in Montana, but I mentioned that to him. Frankly, I am not sure BadgerCare really is that warm and comfortable either, but it gives Wisconsin a deep sense of pride.

Governor Thompson has a reputation for work in other areas: Expanded job training, reform of Wisconsin law to allow women on welfare to keep more of the child support payments they receive. Those of us who know Governor Thompson and who are getting to know him better see him as someone with a reputation who is very honest, who tells you where he stands. An innovator, a risk taker. Perhaps most important of all, as my good friend Chairman GRASSLEY said, he is someone who worked with both Republicans and Democrats to find bipartisan solutions. As the chairman mentioned during the confirmation hearings last week when Governor Thompson appeared before the Finance Committee, he was introduced not only by former majority leader Bob Dole, but also by his two Senators and by Secretary Shalala.

Senator KOHL told us that Governor Thompson's ''methods reach across the aisle and his successes reach across the board.''

Senator FEINGOLD said that he ''values innovation above partisan gridlock.''

And outgoing Secretary Shalala said that Thompson is a ''consensus builder'' rather than an ideologue.

That, to my mind, is precisely what we need. A consensus builder, because the next Secretary faces challenges that defy partisan solutions.

First and foremost, Congress must address the pressing need for Medicare to cover prescription drugs. The practice of medicine has changed dramatically since Medicare was created in 1965. Today, prescription drug therapies play a vital role in medical care.

As we all know, drug prices are rising fast, and our seniors who do not have insurance coverage for prescription drugs pay the highest prices of anyone in the world.

We need to fill this glaring gap in the Medicare program.

Accordingly, it is my sincere hope that we can work together to enact a prescription drug program for all seniors, not just low-income seniors, and that we can do so quickly.

In addition, we need to improve the Medicaid program and the CHIP program for low-income kids. We need to find ways to lend a hand to the 43 million Americans who do not have health insurance. We all call that a national disgrace, that so many Americans do not have health insurance. There is no other country in the modern industrialized world that has such a large percentage of people uninsured. We Americans have to fill that gap quickly.

On each of these issues, I look forward to working with Secretary Thompson to find innovative and bipartisan solutions that improve the delivery of health and human services.

He has my full support, and I urge colleagues to vote to confirm his nomination.

The PRESIDING OFFICER. Who yields time? The Senator from Minnesota? The Senator from Montana.

Mr. BAUCUS. Mr. President, I ask my good friend from Minnesota if this is a time he wishes to make his longer statement or to withhold. I ask that because the Senator from Delaware asked me some time ago to speak for about 5 minutes.

Mr. WELLSTONE. Mr. President, as it turns out, I will be brief, too. It turns out I will take only about 10 minutes, 15 at the most.

Mr. BAUCUS. I might say, if that is all right with the Senator from Delaware because he did ask me earlier if he could speak next.

Mr. WELLSTONE. I apologize. I thought I had some time reserved.

The PRESIDING OFFICER. The Senator from Minnesota does have 60 minutes. Without objection, he is recognized.

Mr. WELLSTONE. Mr. President, first let me make it clear I am going to support Governor Thompson to be Secretary of Health and Human Services. I do not intend to oppose him, and I look forward to working with him.

When he appeared before the HELP Committee, we had a spirited discussion. I think there are many areas where we can work together. The Secretary of Health and Human Services is very important and there are a lot of areas that are critical to the lives of people in Minnesota where this Secretary is going to be in a key role.

I talked to Governor Thompson, soon to be Secretary Thompson, about having some parity in ending the discrimination in mental health coverage. We talked also about trying to end discrimination when it comes to substance abuse coverage. We talked about the importance of the strong support that Secretary Shalala showed for the Violence Against Women Act and the steps we need to take to reduce that violence.

I think Senator HARKIN asked the question about stem cell research, how important it is not only for people struggling with Parkinson's but for people struggling with other diseases. I thought we covered a lot of issues that are extremely important. I believe Secretary-to-be Thompson will be an important leader in these areas.

I want to talk about one area of disagreement, though not a lot, which is why I want to take some time on the floor. It is an appeal to Governor Thompson. It is an appeal to colleagues. It is something I intend to be vigilant about as a Senator from Minnesota. It has to do with TANF or what we call welfare reform.

As my colleague pointed out, Montana has been viewed as a State which is a leader in welfare reform—as a model, by some, for welfare reform. But what troubles me is that all too often we define reform as reduction of the caseload. None of us ever intended that welfare reform should be equated, ipso facto, with just the number of people who no longer receive welfare. The question was whether or not these families, almost all of them headed by women with children, all of them low-income, were able to move from welfare to economic self-sufficiency.

It just does not suffice to say that in Wisconsin or Minnesota or Delaware or Montana or anywhere in the country, TANF has been a huge success because we have cut the rolls by 50, 70, or 80 percent. The question is whether or not we have reduced the poverty. I raised these figures during our hearing. It is not really just about Wisconsin, which is a State I dearly love, and not to talk about a Governor in the negative who, frankly, has put more investment into child care and job training and health coverage than many Governors have, but it is interesting and important and I asked the Governor about this.

When it comes to infant mortality, in 1996–1998 Wisconsin had the highest Hispanic infant mortality rate in the country and the fourth highest black infant mortality rate in the United States of America.

I believe the figures in the early 1990s were different. Wisconsin really ranked well. They did well compared with other States in the country. When it comes to neonatal mortality rates, in 1989–1991 Wisconsin had the seventh best black infant neonatality rate. By 1997–1998, it had the fifth worst neonatal infant mortality rate in the United States. Wisconsin lagged dead last in the country for Hispanic neonatal infant mortality—double the U.S. average in 1996–1998.

Why do I say this? Not to bash away at this Governor, who has been one of the leaders and has been willing to make more of the up-front investment, but to point out to colleagues that when you ask this Governor and other Governors—there is at least one former Governor here who might disagree with me—about welfare reform, they will say it has been a great success. Then you ask: Do you have the empirical data? Can you tell me where are these families? Do the mothers have jobs? Are they living wage jobs? What is the child care situation? Or, in the United States of America post-1996, do you know that there has been a 30-percent

decline in food stamp participation, which is the major safety net program for poor children in America, to make sure they do not go without food? Ask what has happened.

What has happened is we have become so anti-welfare that we are neglecting to tell people they are eligible for some of these benefits.

So I want to make the case today not against Governor Thompson, but that even in Wisconsin, which is recognized as a State where you had a Governor who was willing to make more of the up-front investment, you have had a situation where there is some troubling data when it comes to the infant mortality rate, especially for children of color.

I will tell you something. I believe all of us have been guilty of not wanting to look at the data. Sometimes we do not know what we do not want to know. What I want to know and what I want to know from this administration is, as the TANF bill, welfare, comes up to reauthorization: Have we just dramatically reduced the rolls or have we really reduced the poverty?

I can go through studies that will tell you that, in the majority of cases, these women do not have living-wage jobs. I can tell you too many of these families have lost medical assistance. I can tell you, based upon a Berkeley-Yale study, that the child care situation is really quite dangerous and inadequate. And I can tell you that just because you have single parents and just because they have children and just because they are scapegoated and just because it is easy to be anti-welfare, we better make sure in this reauthorization that we do it right.

That is why I speak because this Governor, this Secretary to be, is going to be playing a critical role.

I will just conclude, since I do not have a lot of time, by showing a couple of charts which I have which make my point. I asked the Governor about this, I say to my colleague from Montana, during the hearing. If you look at President Bush's proposed tax cut, which ultimately we are talking about $1.6 trillion in tax cuts over the next 10 years, and you add to that interest, and you add to that Pentagon expenditures, and you add to that what we must put into the Social Security trust fund, and you add to that what we must spend for Medicare, do you know how much money you are going to have for children, for job training, for child care, for education and all the rest? Zero dollars.

So I would say to Governor Thompson, and I say to this administration: How are we going to do welfare reform right so we do make sure that women and poor children do not pay the price? Where is the investment in child care going to be? Where is the investment in education going to be? Where is the investment in job training going to be? I do not see any dollars for it. That is what I am worried about.

We all say we care so much about the elderly. I have two parents I desperately wanted to stay at home and not be in a nursing home. They both had Parkinson's disease. Where is the money going to come from for the investment to make sure our parents and grandparents can live at home in normal circumstances with dignity, with $1.6 trillion in tax cuts.

Finally—and this goes way beyond Governor Thompson—no child left behind? This is President Bush's education reform. I have heard some language about this on the floor today. Here is where we are heading in my not, I will admit, so humble opinion.

Putting vouchers aside, which is a nonstarter, you are going to have mandatory testing in every State when it comes to title I children, low-income children, low-income neighborhoods, low-income schools. In the school districts, they are going to hire consultants to teach teachers how to teach for the tests. The kids are going to have consultants to teach them how to take the tests. It is going to be drill education. It is going to be educationally deadening. That is what is going on in the country. And do you know something else? We are setting up all these kids and all these teachers—I have two children to teach—and we are going to set up all these schools for failure because the accountability does not stop at the school door. What about us, Democrats and Republicans, and what about President Bush? How can you leave no child behind when you have $1.6 trillion in tax cuts which erodes the revenue base and makes it impossible to expand funding for Head Start, child care, the title I program, and the IDEA program, which is nowhere fully funded.

This is not a step forward. It is a great leap sideways. This is a great leap backwards. Fannie Lou Hamer, a great civil rights leader, once uttered the immortal words:

I'm sick and tired of being sick and tired.

I am going to make a fairly angry statement today: I am sick and tired of playing symbolic politics with children's lives. If you want to have children pass these tests, first, do not rely on one standardized test; have multiple measures. Then you make the investment in these children so every child has an opportunity to achieve, do well, and pass tests.

This cannot be done. You cannot ''leave no child behind'' on a tin-cup budget. I want to know whether this administration is serious about these investments. I will wait to see the budget, and I hope Democrats, if this administration wants to govern at the center of children's lives, and it wants to make this investment so these kids come to kindergarten ready to learn, I say to the Presiding Officer, I am willing to work together. If this administration does not do that and just have these tests, then all we have done is set these children, these teachers, and these schools up for failure.

It will be cynical, it will be counterproductive, and as a Senator from Minnesota, I will draw the line, and I hope other Senators will as well. I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield now to a new Senator. I look forward to hearing from the former Governor of the State of Delaware, Mr. CARPER.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Mr. President, I thank the Senator for yielding and for the opportunity to speak today.

For the last 8 years, I served as Governor of Delaware and a colleague of Governor Thompson. During that period of time, my family was fortunate enough to be a guest in his home. We have eaten at his table. There were times over the last 8 years when we crossed swords—rarely. But there have been many more times when we found there was common ground and the opportunity to work together for the good of Wisconsin, Delaware, and the other 48 States.

He was chairman of the National Governors' Association for a year. He was also the chairman for our Center for Best Practices within the National Governors' Association. In those roles, I found him to be, first of all, pragmatic; secondly, I found him to be innovative.

I found Governor Thompson to be someone who is civil, who really does not just talk about bipartisanship, but he actually means it and lives it. I found in Governor Thompson someone who really tries to treat his colleagues the way he would want to be treated.

I want to pause for a moment and direct my thoughts and attention to welfare reform. Some people think it is possible to do welfare reform on the cheap and we simply set time limits and push people off a cliff at the end of that period of time. Governor Thompson does not approach welfare reform that way, nor do I, nor do most of our Governors.

When welfare was actually created over 60 years ago, we set up a system with the best of intentions, but a system that unwittingly turned out to encourage people to get on welfare and have children out of wedlock, have them early, and for fathers to walk away from those responsibilities and for people to be better off by staying on welfare.

What Governor Thompson has done and what Governors across the country have done is to say maybe we should change the incentives we set up over the last 60 years so people are better off when they go to work, not by staying on welfare.

For Gov. Tommy Thompson, it has meant spending more money on child care, not less.

For Gov. Tommy Thompson, it has been spending more money on health care to make sure when people leave welfare they do not also lose health care for themselves and their families.

For Gov. Tommy Thompson, it has been providing transportation so people have the opportunity to take a job

and actually have a way of getting there.

For Gov. Tommy Thompson, and for the rest of us, it has meant changing our tax policies as well so people are not penalized for the first dollar they make when they go to work but actually are able to realize and keep that purchasing power they have earned.

He does not believe in welfare reform on the cheap. He has a good, realistic, tough-love approach. Sure, there is a toughness to it, but there is also real love and compassion, and I believe he will take those same qualities to his new post as Secretary if we confirm him, which I hope we will.

Another way I got to know him, believe it or not, is through Amtrak. The President historically appoints one Governor to serve on the Amtrak board. He was on the Amtrak board before me. President Clinton appointed me to serve for 4 years, and at the end of my service, I recommended the President appoint Governor Thompson again. Not only that, he ended up serving as the chairman of the board for Amtrak. In that capacity, he has helped to focus, spread, and expand passenger rail service, to improve the quality of that passenger rail service, to find ways to reduce Amtrak's operating budget deficit, to invest in the infrastructure of passenger rail service, and to try to be fair to not just the customers but the folks who work for Amtrak.

In closing, I am delighted to be able to stand here before you today to say this is somebody I know, somebody I have known for a long time. This is someone of whom the people of Wisconsin can be proud. This is someone I am proud to express my support for today and to encourage my colleagues to support his nomination.

I thank the Chair. I yield back my time.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I thank Senator CARPER for those warm remarks about the Secretary-to-be, Governor Thompson. I say to the Senator—he may not know this—when Governor Thompson and the Amtrak board were trying to negotiate further funding for Amtrak, there was a proposal to take certain funds out of the highway trust fund. I had a somewhat tense meeting in the office of the Senator's predecessor, Senator Roth, with Governor Thompson and many others on how to handle all this.

Frankly, I was adamant that money not come out of the trust fund. My point being, very much to his credit and to the Senator from Delaware, we worked out another solution as the bonding authority to provide resources to Amtrak. I am very grateful and appreciative of the way in which Governor Thompson handled that issue; that is, we both wanted to accomplish the same goals and objectives: Further funding for Amtrak, but not at the expense of the highway trust fund, money motorists paid in gasoline taxes which should go back to the States for highways. Rather, we saw another way and both sides were happy. I commend the Senator from Delaware, as well as Governor Thompson. This is an early example of this is a guy with whom we can work, who is straight, pragmatic, and looks for solutions. That made a positive impression upon me.

Mr. President, I reserve the remainder of my time. The Senator from Wisconsin seeks the floor.

The PRESIDING OFFICER. Under the previous agreement, the Senator from Wisconsin is recognized for 10 minutes.

Mr. FEINGOLD. Mr. President, while the distinguished Senator certainly has it right, he knows what it is like to watch Tommy Thompson in action and to watch him try to solve a problem. His assessment is right and so is the assessment of the former Governor and now new Senator from Delaware who, as so many other Governors, has told me how much they have enjoyed and benefitted from working with Governor Thompson. It is uniform.

That is also the experience we have had in Wisconsin. I think I speak for myself, as well as for the senior Senator, Mr. KOHL. We are the two Senators who have worked with Tommy Thompson throughout the 14 years he has been the Governor of our State. No one in the long history of our great State has served as Governor longer, and he is a very popular Governor.

For me, I marvel at him. I used to listen to older legislators talk about having known a person for many years and worked with them for many years. I am getting there with this one. I started working with Governor Thompson, then State representative Tommy Thompson, when I was in my twenties. Now 18 years later, I can tell you it has been an excellent relationship. Our roles have changed over the years, but consistently I have found it a pleasure to work with Governor Thompson, and I think you will find it the same when he becomes Secretary.

We worked together on a wide range of issues—increasing access to home- and community-based services for the elderly and the disabled, and expanding health care for children and their families.

I want to mention a couple things.

Everybody talks about, of course, the signature issue of Governor Thompson—welfare reform. It is probably the most well-known example of his can-do attitude.

We in Wisconsin can be proud that our State was the first in the Nation to submit a welfare plan under the 1996 law that created the temporary services to needy families, or the TANF program. In fact, I am very proud of our Governor on this. The Wisconsin plan was submitted on the very day that President Clinton signed the TANF program into law.

Tommy Thompson has also been very devoted to the issue of child care. Because of his record, Wisconsin is also proud of its rating among the top 10 States in the Nation for the quality of child care by Working Mother magazine. The national recognition is a testament to the unprecedented investments Wisconsin continues to make in safe, affordable child care.

In the area of research, which is so very important across the country, and especially to those of us in Wisconsin and those of us who take such pride in our great university and its research abilities, this man, as Governor, has been a great supporter of medical research. He has been a vocal advocate of funding research at the University of Wisconsin, setting up an incubator for transferring that technology to the private sector. The Governor proposed a $317 million initiative to build a series of state-of-the-art research centers at the University of Wisconsin, Madison campus.

With regard to what we like to call BadgerCare, Tommy Thompson has worked with both Republicans and Democrats in Wisconsin to enact BadgerCare, Wisconsin's program to expand health care coverage opportunities to children and their families. He has tirelessly promoted BadgerCare's ideals—the idea that children have a much better chance of being healthy and doing well in school when they have a chance to live in a healthy family.

When BadgerCare took effect on July 1, 1999, again, as has been so often the case under Governor Thompson, Wisconsin became the first State in the Nation with a health insurance program that supports parents as well as children. This program has had a number of successes. According to the most recent statistics, more than 74,000 children and their families are now covered under BadgerCare.

Finally, I want to say a word about something on which Tommy Thompson and I worked together for many years, and that is our so-called Community Options Program in Wisconsin. We worked together, on a bipartisan basis, to support efforts to expand what we call the Community Options Program, which, better than any other State in the country, in my view, provides cost-effective home- and community-based, long-term care alternatives to institutions and nursing homes.

Wisconsin was already on this issue and working effectively to find alternatives in the late 1970s, but there has been significant growth, on a bipartisan basis, on this issue ever since Governor Thompson became Governor in 1986. I think we all recognize that a lot more needs to be done to reform our long-term care system. It is one of my highest priorities.

I noticed, when I had the honor of introducing Governor Thompson to the HELP Committee, that many of the members mentioned long-term care. Perhaps the most mentioned issue was either home- and community-based care or home health care. Governor

Thompson is the right person to work on this issue. I believe he will use his experience as an innovator to make it easier for States such as Wisconsin to pursue their own reforms, such as making Federal long-term waivers more flexible and making it easier for States to apply for those waivers.

So after 18 years, I can talk about a lot of other very positive reasons we are lucky to have Tommy Thompson as our new Secretary of Health and Human Services. But let me say, all of us in Wisconsin are very proud, and it will take some getting used to having a different Governor just because it seems as though Tommy Thompson has been our Governor forever. Of course, he has been very popular in that regard. But I think it will be a good opportunity for the country to see firsthand what it is like to have a person who has a ''can-do'' attitude, a person who really enjoys simply solving problems rather than trying to divide people. I think that has been a hallmark of his role as our Governor. I think it will be a hallmark of his role as the Secretary of Health and Human Services.

I thank the ranking member and thank the Chair.

Mr. President, I yield the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS. Mr. President, I do not know of any others on our side who wish to speak on this nomination. It is my understanding that there are no other Senators on the other side of the aisle who wish to speak on this nomination as well. I do not see other Senators who have special orders to speak.

The PRESIDING OFFICER. The Chair would advise the Senator from Montana, both Senator KENNEDY and Senator REID also asked to speak for 10 minutes pursuant to the agreement.

Mr. BAUCUS. Right.

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. ENZI. 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 Wyoming is recognized.

Mr. ENZI. I thank the Chair.

(The remarks of Mr. ENZI pertaining to the introduction of S. 149 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. ENZI. 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. HOLLINGS. 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. HOLLINGS. I ask to speak as in morning business for 8 minutes.

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

THE BUDGET

Mr. HOLLINGS. Mr. President, I am worried. I expressed this concern before the inauguration, and I hoped that cooler heads would prevail after the inauguration. Specifically, as I said at that time, surplus, surplus, everywhere a man cries surplus, and there is no surplus.

Right to the point, I have been looking for a surplus since we had one in 1968 and 1969, almost 32 years ago. I worked with George Mahon, then chairman of the Appropriations Committee. We called over to the Capitol, and we asked Marvin Watson to check with President Johnson to see if we could cut another $5 billion from the budget. I think it was around December of 1968, and, at that particular time, there was no Budget Committee. The fiscal year used to run from July to the end of June the following year. We were given permission. We cut the budget. The entire budget amounted to some $178 billion. Now remember, that was guns and butter, the war in Vietnam, and domestic needs.

Now, here we are, facing $362 billion just in interest costs—almost $1 billion a day. The government is spending more in interest costs than it spent for the entire budget in 1968 and 69—far more, more than double the amount, for nothing. Then I look at the record, and I follow it very closely because back in 1997, when we passed the so-called Balanced Budget Act, I was on the floor with my distinguished colleague from New Mexico, the chairman of the Budget Committee. I said if that Balanced Budget Act works, I will jump off the Capitol dome.

Mr. President, around the fall of last year, I was looking up the price of a parachute because we were getting pretty close to a surplus. When President George Bush left town, the deficit was $403.6 billion. In other words, we were spending over $400 billion more than we were taking in. Of course, we have done that for 30 years. There has been no surplus in the entire 30-year-period since our last surplus. We ended fiscal year 2000 with a deficit of $23 billion. As of September 30th, the year 2000, almost 4 months ago, it was $23 billion.

I carry around, in a similar fashion as my distinguished friend from West Virginia—he carries around the Constitution, and I carry around a little sheet, as much as I can keep it up to date, called ''The Public Debt To The Penny.''

Mr. President, I ask unanimous consent to have this sheet printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE PUBLIC DEBT TO THE PENNY

	Amount
Current: January 22, 2001	$5,728,195,796,181.57
Current month:	
January 19, 2001	5,727,776,738,304.64
January 18, 2001	5,725,695,166,475.90
January 17, 2001	5,718,517,343,351.92
January 16, 2001	5,711,790,291,567.40
January 12, 2001	5,735,197,779,458.19
January 11, 2001	5,734,110,648,665.41
January 10, 2001	5,724,315,917,828.49
January 9, 2001	5,725,066,298,944.04
January 8, 2001	5,719,910,230,364.19
January 5, 2001	5,722,338,254,319.31
January 4, 2001	5,719,452,925,490.54
January 3, 2001	5,723,237,439,563.59
January 2, 2001	5,728,739,508,558.96
Prior months:	
December 29, 2000	5,662,216,013,697.37
November 30, 2000	5,709,669,281,427.00
October 31, 2000	5,657,327,531,667.14
Pror fiscal years:	
September 29, 2000	5,674,178,209,886.86
September 30, 1999	5,656,270,901,615.43
September 30, 1998	5,526,193,008,897.62
September 30, 1997	5,413,146,011,397.34
September 30, 1996	5,224,810,939,135.73
September 29, 1995	4,973,982,900,709.39
September 30, 1994	4,692,749,910,013.32
September 30, 1993	4,411,488,883,139.38
September 30, 1992	4,064,620,655,521.66
September 30, 1991	3,665,303,351,697.03
September 28, 1990	3,233,313,451,777.25
September 29, 1989	2,857,430,960,187.32
September 30, 1988	2,602,337,712,041.16
September 30, 1987	2,350,276,890,953.00

Source: Bureau of the Public Debt.

Mr. HOLLINGS. Mr. President, everyone in this land and those out in China and anywhere else can look up the public debt to the penny on the Internet.

Yes, if the deficit or debt went up some $23 billion in fiscal year 2000, and they are claiming a surplus, let's see where it was cut in the last 3½ months. I look and, instead, to my dismay but not to my surprise, the debt ended up at some $5.674 trillion in the last fiscal year. I look today, and, as of 1/22/2001, the public debt was $5.728 trillion. So you can subtract these two figures, and you can see that the debt has gone up some $54 billion.

While we are heading toward enlarging deficits and debts, everywhere man cries ''Surplus!''—even those with the best of credibility. I worked with the distinguished Senator from Texas, Mr. GRAMM, on Gramm-Rudman-Hollings. Incidentally, if you want to have political anonymity, cosponsor a bill with my distinguished friend from Texas. They've called it Gramm-Rudman from then on—which suits me.

Today, I picked up the morning paper. And right down on page A2, it says, ''right now our surplus has never been greater.'' He thinks the surplus has never been greater, yet we still have rising debt.

Instead, I wish everybody would turn to the ''Tax-Cut Mania'' article on page A17 of today's Washington Post.

I ask unanimous consent this article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TAX-CUT MANIA

(By Steven Rattner)

With the economy visibly weakening, the preelection debate over the Bush tax cut has nearly turned into a post-election stampede. But even if the economy tips modestly into recession, that still shouldn't panic us into full-sized tax cuts.

Haven't we learned anything about economic policy in the past eight years? Nothing has contributed more to our current

prosperity than having gotten our fiscal house in order.

Bringing down the deficit allowed the Federal Reserve to lower interest rates, and lower interest rates played a key role in creating the greatest investment boom in history. Even after adjusting for inflation, investment has risen from $630 billion in 1992 to nearly $1.5 trillion last year, and that investment has, in turn, been a critical part of the productivity surge associated with the New Economy (which remains very much with us, recession or no recession).

Meanwhile, consumers have stopped saving. Without those savings available as investment capital for business, the size of the federal deficit or surplus becomes even more important. Whatever the federal government doesn't borrow to finance deficits (or produces as surplus) becomes available for business investment.

Tax cuts also bring international repercussions. The lack of savings has contributed meaningfully to our massively negative current account position as we ingest foreign capital to finance the investment boom. A tax cut compounds this problem.

While we've made progress with the federal budget, voting a sizable tax cut today would mean committing to spend money we may not have, a significant step backward in the march toward fiscal order. In truth, we're only just balancing the budget. Don't forget that the current year's projected surplus of $256 billion consists mostly of surpluses in the Social Security and Medicare trust funds, surpluses that both presidential candidates agreed should go into a lockbox.

And even the $71 billion of true surplus must be viewed in the proper framework: the understandable desire of the Bush administration to propose new spending initiatives for education, defense and other pressing needs, the propensity of Congress to spend on its own agenda (and pork), the eventual adverse impact of slower growth on tax revenues, and the fact that even with the lockbox we haven't truly saved Social Security and Medicare, which will both still run out of money sometime before mid-century.

Kept within our means, tax cuts are an important part of holding the size of government to sensible proportions and of redressing inequities, such as the marriage penalty. To paraphrase President Bush's original justification for the tax cut: Genuine surpluses should be returned to the people. So, less tax relief now but perhaps more later as significant surpluses begin to kick in.

In the meantime, we need to develop a plan that we can afford and also one less oriented toward helping the wealthy through rate cuts and an end to the estate tax, probably the most progressive tax in our system.

But what about the ''recession''? At least until there's evidence of a truly dramatic slowdown, leave that to the Federal Reserve, which has already signaled that still lower rates may be forthcoming. Interest rate cuts can be the quickest and most effective form of fax reduction, particularly when much of the ailment is weak capital markets. Indeed, the Fed's half-point reduction three weeks ago has already succeeded in stabilizing nervous financial markets.

Apart from a more quiescent Nasdaq, important indicators such as the interest rate difference between corporate and government borrowings have begun to turn down—a positive signal—after relentlessly rising through the fall. Some, particularly in the Bush camp, have chosen to read the Fed's dramatic action on Jan. 3 as another vote for a quick and large tax cut. Just the opposite. If the Fed is prepared to move quickly and aggressively to combat slowdown, that's all the more reason why we shouldn't abandon our fiscal discipline.

Under more extreme circumstances, a tax cut to fight recession can make economic sense, but the slowdown we're experiencing is hardly of Great Depression scale. Even Morgan Stanley Dean Witter, whose early January recession call set off a particularly loud alarm bell, projects the mildest of recessions, and positive economic growth for this year as a whole. The recession may be over while Congress is still chewing over the tax cut.

Part of today's tax-cut mania is politics—a new administration eager to paint its economic inheritance in negative terms and to justify an ill-advised campaign platform—and part is the fact that after a decade of unbroken prosperity, we've become too easily traumatized by the occasional bump in the economic road. In fact, recessions are not only inevitable but necessary to cleanse the economy of imbalances that have built up.

That's particularly true with today's stresses, particularly in the financial markets. We've seen this movie before. In late stages of an economic expansion, lenders relax their guard and investors fall in love with all manner of the next new thing. Before we wheel out too much anti-recession artillery, bear in mind that no tax cut can help the fact that at 5000, the Nasdaq was wildly overvalued and that we have many companies—not just dot-coms but companies in telecom and other sectors—with truly bad business plans that need to be allowed to disappear quietly into the night.

Nor can a tax cut help the fact that one cause of this slowdown and cleansing is a reversal of the ''wealth effect,'' the propensity of consumers to spend and business to invest when markets are robust. An injection of reality into irrational and unrequited optimism about corporate profits brought down the stock market; what should we do—pump the Nasdaq back up to 5000?

When the Clinton administration arrived in 1993, it too proposed a short-term stimulus package. Happily for the economy, cooler heads prevailed. The stimulus was abandoned, deficit reduction was passed, and we've had the longest economic boom in American history. Sounds like a pretty good plan.

Mr. HOLLINGS. I'd like you to read Steven Rattner, and if you read the Financial Times, the article by John Plender—I ask unanimous consent that his article, ''A Sharp Adjustment'' be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

A SHARP ADJUSTMENT

(By John Plender)

Bond markets have rallied since the Federal Reserve's surprise interest rate cut. But there are plenty of other directions a financial shock could come from * * *

For several months, the tightness of credit in global markets has suggested that the current economic cycle could end in financial crisis. A financial stress index devised by the Montreal-based Bank Credit Analyst Research Group—based on factors such as the degree of leverage in financial markets, bank share prices and the shape of yield curves—has dropped into dangerous territory.

Yet the Federal Reserve's half-point cut in interest rates on January 3 has put a dramatically different complexion on events. The question is whether this surprise move will take the financial sting out of the slowdown in the US and the world economy.

Confidence has returned triumphantly to the US bond market. In spite of warnings from rating agencies of a big rise in defaults, junk bonds have been selling like hot cakes since the start of the year. January has also seen an exceptionally high volume of investment-grade bond issues.

In Europe the successful sale last week of nearly £10bn ($9.5bn) of bonds by British Telecommunications was reckoned by some analysts to be a turning point for telecom debt. Credit conditions generally have eased. And financial flashpoints in emerging market economies such as Argentina and Turkey have been successfully addressed by the International Monetary Fund. To those who responded to the rate cut by asking ''what does Alan Greenspan, the Fed chairman, know that we don't?'' the bond markets are saying ''who cares?''.

Yet it is possible, that the doubters were looking for the wrong kind of financial crisis. The last economic cycle came to an end with a banking debacle followed by recession. In the U.S., Japan and much of Europe, commercial banks had over-extended themselves in property. In the present cycle bankerly exuberance threatened to unleash a downturn when the over-borrowed Long-Term Capital Management hedge fund came close to collapse in 1998.

The Fed's efforts to head off a systemic disaster by cutting interest rates had the effect of prolonging the economic cycle. It also provided a friendly environment for a high-technology bubble. The result is that the cycle is ending untypically, although in a way that would have looked familiar to a 19th-century businessman. Over-investment prompted by an artificially low cost of capital, together with increased global competition, have prevented businesses from passing on rising labour and energy costs in higher prices.

There is thus a shock to the real economy that is reflected in an autonomous slowdown and a profits squeeze instead of a full-scale financial shock. The high-tech bubble was, after all, substantially financed by equity, not debt. And in place of the overheating in junk bonds that characterised the end of the 1980s, we have seen manic investment in venture capital.

The banking system has a number of discrete problems—the Californian energy crisis, bad debts in telecoms, financial fragility in emerging market economies and the rest. So far they remain non-contagious. But there must be a risk that the cumulative impact could start to pose systemic problems.

This, says a central banker, could be difficult to manage. When a crisis has a single focus as with property or Latin American debt, he points out, ''you can put someone in charge of the hospital ship and then focus on strategy to get out of the mess. If the problems are spread across the whole loan portfolio, it's harder to do this.''

U.S. commercial banks have greatly enlarged their capital since the last seizure in 1990. So while asset quality has deteriorated and charge-offs have risen Alan Greenspan felt able to argue last month that the problems ''remain historically modest relative to assets and capital''.

Yet the economy does remain vulnerable to financial shocks, of which the most worrying concerns the link between the stock market and the U.S. private sector's balance sheet. One consequence of the Fed's interest rate cuts after the LTCM crisis was that it gave the private sector an opportunity to spend and accumulate more debt. Since the start of the bull market, U.S. household debt has gone from less than 65 per cent to more than 95 per cent of personal disposable income, while the savings ratio has fallen to zero.

When households are already so heavily indebted they may respond less readily to the Fed's interest-rate invitation to go on another spending binge. But the debt also needs

to be seen in the context of the overall household balance sheet, in which the asset side carries an unprecedented amount of stock market investments. About 45 per cent of the population is reckoned to have exposure to equities either directly or via defined contribution pension plans.

Stock market capitalization has fallen from about 180 percent of gross domestic product at its peak last March to 164 percent last week. There has been no collapse in residential property. But if that sounds reassuring, note that the stock market's earlier peaks in August 1929 and December 1972 were well below these levels, at 81 percent and 78 percent of GDP.

The scope for an adverse valuation adjustment on the basis of changing expectations is far from negligible. The Bank Credit Analyst argues that the era of super-normal equity returns is over. Between 1982 and 1999, it points out, the Standard & Poor's 500 index generated average annual total returns after inflation of 16 percent, or twice the average during the previous half-century. The average returns in future, it argues, are likely to be no more than 8 percent before inflation.

If that is right and if private individuals have yet to downgrade their expectations fully, there would be room for a very sharp balance sheet adjustment as disillusioned households rebuilt their depleted savings by investing in non-equity assets.

Also relevant is the distribution of household debt. A lesson of the late 1980s boom in the US and the UK was that only a small proportion of the borrowing population has to be in difficulty to put big downward pressure on asset prices and create a bust.

Nor would the impact of a stock market shock be restricted to negative wealth effects, as people responded to falling asset values by spending less. It could exacerbate problems in banking.

If overstretched telecoms operators find that sliding equity and bond markets are no longer willing to offer them fresh funds, the banks may be asked to increase their exposure to their least creditworthy customers, causing a decline in asset quality.

And any weaknesses among the investment banks, which have enormous leverage on and off the balance sheet, both through borrowing and exposure to derivatives, would be ruthlessly exposed.

There are other possible shocks. In the bond market, investors' perceptions may become more cautious, with fallout for equities. The risk, says David Hale of Zurich Financial Services, is that the new Bush administration may forge consensus by embracing more of the Democrats' spending proposals. If the economy is weak, he adds, Republicans will feel even less inhibited as they worry about the mid-term elections in 2002.

The dollar is another source of vulnerability, given the financing challenge of a current account deficit of 4 percent of GDP. Weakness against the euro would be helpful in rebalancing global economic growth. But a collapse would be another matter given the inflationary consequences.

Whether these vulnerabilities turn into shocks is inherently unpredictable. But as Barton Biggs, Morgan Stanley Dean Witter's investment guru, told Barron's magazine last week, ''it still boggles my imagination that everybody thinks we can come through the biggest bubble in the history of the world and certainly the longest boom the US has ever had, and get out of it with a very, very mild recession''.

His is not the only imagination that remains boggled.

Mr. HOLLINGS. That is Tuesday, January 23—today. You will understand my grave misgivings about all of these tax cuts. Everybody loves a tax cut. But we have to act responsibly and look at whether or not, in essence, instead of cutting taxes, we are increasing taxes, namely, increasing interest costs on the national debt.

One of my colleagues, in cosponsoring President Bush's tax cut package, said, ''You have to starve the beast.'' We heard about starving the beast from President Ronald Reagan. It was first Kemp-Roth; and Senator Dole, then the head of our Finance Committee, had his comments about that. Better than all of them was former President Bush. He called it voodoo economics. President Reagan turned Kemp-Roth into Reaganomics, and we are supposed to starve the beast, to cut all the taxes.

What did we do? We increased the biggest waste in the history of Government; namely, the interest cost that is gone, where it was at the time we balanced the budget at $16 billion, it has now increased to $362 billion—$362 billion for absolutely nothing, just for past profligacy, just for ''starving the beast.''

Come on, there is no education in the second kick of a mule. Don't come around here saying, ''We are going to starve the beast and reduce the taxes of the people. You know those Washington folks, they are going to spend it. Get it out of the hands of the politicians.'' That is big political nonsense.

You talk about campaign finance, the biggest campaign finance abuse is not soft money. Oh no, the biggest abuse is how the politicians—namely we Senators and Congressmen—use the Federal budget to get ourselves reelected. If we can run around and give tax cuts, then, as President Reagan said, ''The government is not the solution to the problem, the government is the problem.

We have had 20 years of that nonsense. We have to sober up, and we have to start paying our bills. I am going to be coming from time to time to explain that we do not have a surplus—I wish we did—and I am going to caution the Members that when they start giving tax cuts, they are only increasing the interest costs of the debt. We know President Bush is going to increase defense. He has already said we ought to have an increase in military pay. We gave a pay raise last year, but we are going to give another increase, he says.

We know, according to Secretary Colin Powell, we are going to increase funding for the State Department.

We know we are going to increase funding for the Department of Agriculture. If he doesn't increase agriculture funding, Bush will be the first President who has not.

We know we are going to increase energy funding. Look at the situation out on the west coast.

We know we are going to increase education funding. President Bush has a proposal in right now. If you are going to test everybody, you are going to have accountability. I hear it costs $10 just at the elementary level and $50 at the higher levels for testing. This is going to cost into the millions, perhaps billions.

So everybody is talking about increasing spending or increasing the debt and cutting out the revenues, increasing the debt. Somewhere, somehow, somebody will stand in front of this stampede and talk sense to the American people. Hopefully, the message will come through.

How is this even called a surplus with any face whatever? There is another little sheet that is put out that says, ''Who Holds The Public Debt?''

I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WHO HOLDS THE PUBLIC DEBT?

	Held by the Government	Owed to the Public	Total
January 22, 2001	2,360,076,279,493.13	3,368,119,516,688.44	5,728,195,796,181
Current month:			
January 19, 2001	2,357,882,242,116.78	3,369,894,496,187.86	5,727,776,738,304
January 18, 2001	2,355,790,659,744.32	3,369,904,506,731.58	5,725,695,166,475
January 17, 2001	2,353,911,893,744.32	3,364,605,449,607.60	5,718,517,343,351
January 16, 2001	2,347,016,197,744.32	3,364,774,093,823.08	5,711,790,291,567
January 12, 2001	2,345,618,832,394.32	3,389,578,947,063.87	5,735,197,779,458
January 11, 2001	2,344,827,431,394.32	3,389,283,217,271.09	5,734,110,648,665
January 10, 2001	2,339,375,524,394.32	3,384,940,393,434.17	5,724,315,917,828
January 9, 2001	2,340,337,733,394.32	3,384,728,565,549.72	5,725,066,298,944
January 8, 2001	2,335,546,095,679.32	3,384,364,134,684.87	5,719,910,230,364
January 5, 2001	2,338,430,377,679.32	3,383,907,876,639.99	5,722,338,254,319
January 4, 2001	2,335,477,560,394.32	3,383,975,365,096.22	5,719,452,925,490
January 3, 2001	2,334,486,285,394.32	3,388,751,154,169.27	5,723,237,439,563
January 2, 2001	2,339,900,249,630.66	3,388,839,258,928.30	5,728,739,508,558
Prior months:			
December 29, 2000	2,281,817,734,158.99	3,380,398,279,538.38	5,662,216,013,697
November 30, 2000	2,292,297,737,420.18	3,417,401,544,006.82	5,709,699,281,427
October 31, 2000	2,282,350,804,469.35	3,374,976,727,197.79	5,657,327,531,667
September 29, 2000	2,268,874,719,665.66	3,405,303,490,221.20	5,674,178,209,886
September 30, 1999	2,020,166,307,131.62	3,636,104,594,501.81	5,656,270,901,633

WHO HOLDS THE PUBLIC DEBT?—Continued

	Held by the Government	Owed to the Public	Total
September 30, 1998	1,792,328,536,734.09	3,733,864,472,163.53	5,526,193,008,897
September 30, 1997	1,623,478,464,547.74	3,789,667,546,849.60	5,413,146,011,397

Mr. HOLLINGS. Mr. President, that sheet breaks down the deficit and debt as debt held by the Government and debt owed to the public. You can see the debt owed to the public has been reduced $37 billion. But then the debt held by the Government has gone up $91 billion. So what happens? Yes, we have now an increase in the debt of $54 billion.

This accounting is like using your Visa card to pay off your MasterCard. You still owe the same amount of money under the Visa card; the debt is on the Visa rather than on the MasterCard. It is tomfoolery. It is outrageous nonsense. We only have one Government, and it is public. That is why they call it the public debt. So let's not get that ''owe the public.'' We are the custodians of the public. And we are spending Social Security, Medicare, Civil Service retirement, military retirement, unemployment compensation, all of these other funds, and saying we are balancing the budget.

Now they are into a mumbo-jumbo, saving Social Security mode. All you have to do to save Social Security is not spend it. They continue to spend it.

If you did not spend the Social Security moneys, you would have between $2.4 and $2.7 trillion in the next 10 years. How about putting $2.7 trillion back into the Social Security kitty rather than taking it out, whereby we owe $1.9 trillion to Social Security alone this minute.

The same case applies with Medicare. We have been using those moneys. We talk and say we are not going to do it. In fact, we passed a law, section 13–301 of the Budget Act: Thou shalt not, you Congress, or you President—calculate Social Security moneys in your budget. But they do. They do. And they separate it out, and then they spend it later on. If they have a lockbox and somebody says they put in a bill on the lockbox—I am going to put in a true lockbox. Ken Apfel, the Administrator of Social Security, helped me draft it, whereby each month we remit the amount of T-bills we purchase or give to the public. So we will keep that in the fund and have a true lockbox and not a section 201 as the Social Security Act requires, just put it in Treasury bills.

There it is. We have this sheet. That is the game being played. Yes, campaign finance, McCain-Feingold. I voted for that bill five times already; I will vote for it again. That bill deals with soft money. Aspects of this bill are constitutionally questionable, and I have, in the past, introduced a constitutional amendment that says the Congress is hereby allowed to regulate or control spending in Federal elections. My bill received a majority vote in the Senate but never did get the 67 votes needed to send it to the States. They would ratify it in a snap. I can tell my colleagues that right now.

We play games with the American public, and the people who keep us honest play the games along with us; namely, the free press of America. They are the only ones who can stop this game. I cannot do it. No one Senator or Congressman or group of them can do it. We have tried.

I will put a budget freeze in the budget again this year: Just take this year's budget for next year. That is the kind of economic situation described by Rattner and Plender in their articles. We not only have a fiscal deficit, but we have a current account deficit in the balance of trade of some $366 billion.

As those dollars continue to go overseas and decrease in value, we are going to have to raise interest rates in order to attract foreign investment. And if we raise that interest rate to get that foreign investment, we are going in the opposite direction of Chairman Greenspan's recommendations.

Chairman Greenspan needs to come forth the day after tomorrow, as he is scheduled to testify before the Budget Committee, and say categorically—without being political about it—but say that what we did in 1993 needs to be done: Proceed very cautiously; do not rely on these ten-year projected surpluses.

The ten-year budget projection has been the evil in trying to balance the budget. When we had just the Appropriations Committee and not the Budget Committee, we had a one year budget. Then we got three year budget projections. Then with Gramm-Rudman-Hollings, we got 5-year budget projections. Recently, we played the game of 10-year budget projections until President Clinton said we could do away with the public debt in twelve years. He neglected to say, however, that in those 12 years we could transfer the public debt all back into the Government account and still owe the same amount of money. In fact, we can do that tomorrow morning. Just put in a little bill and say that the public debt shall be paid, and we will transfer it all over to the Government debt and all go home and get reelected. That nonsense has to stop.

If anybody can find a surplus in the Government account, namely, in the national debt owed by the United States of America, please tell me, and I will be glad to jump off that dome. But unless and until that happens, Mr. President, old HOLLINGS is going to stand here and berate them and nag them and fuss at them.

This whole charade is just totally irresponsible. Senator THURMOND and I are going to get on; we are not going to have to pay for this, but our children and grandchildren are going to have to pay for it. Some of these esteemed Senators who are voting so boldly and introducing bills to ''starve the beast'' are going to learn the hard way that they are going to be spending nothing but interest costs. They are really going to be increasing the worst kind of tax on the American people—interest costs for which they get absolutely nothing.

We are spending that amount of money. When President Clinton gave his State of the Union Address last January, it was said by one distinguished Senator that that gentleman is costing us $1 billion a minute. President Clinton then talked for 90 minutes, an hour and a half. President Bush now wants to give a $90 billion-a-year tax cut. Those two equal $180 billion. If we really had been paying the bill and had a true surplus, we could give both President Bush and President Clinton their programs of either spending increases or tax cuts and still have $182 billion. The truth is, instead of spending $362 billion, $1 billion a day, on carrying charges, we would have another $182 billion from the $180 billion with which we could easily increase research at the National Institutes of Health, pay for the military, State Department—all of these other budgets.

We would be tickled to death to increase all of them. We are spending the money but not getting anything for it. Somewhere, sometime we all have to start talking out of the same book, and that is the book put out by the U.S. Treasury itself. Every day they put out the public debt to the penny. When we pay down the public debt, rather than increasing it by some $54 billion, then let's all get together and talk about tax cuts.

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

The PRESIDING OFFICER (Mr. SMITH of Oregon). Without objection, it is so ordered.

GERARD LOUGEE MEMORIAL

Mr. LOTT. Mr. President, earlier this month the U.S. Senate lost another member of its family. Gerard Lougee passed away on January 6th at the Washington Hospital Center. Gerard worked in the Senate post office as a mail carrier for the past eighteen years. He was a graduate of Cardoza High School and attended the National Presbyterian Church in Washington

D.C. He began work in the Senate in 1982 after working in the White House mail room. During his career in the Senate post office Gerard was recognized for his perfect attendance record, as well as numerous other performance awards. Many of our Senate staff will remember Gerard as he traveled the corridors of Congress delivering the mail with diligence and pride. He will be sorely missed not only by his mail room colleagues but by all of the Senate family. On behalf of the Senate I thank Gerard for his service and dedication and express our condolences to his family.

BUSH ADMINISTRATION DECISION ON INTERNATIONAL FAMILY PLANNING

Mrs. FEINSTEIN. Mr. President, I rise today to express my disappointment that President Bush chose yesterday to announce that as his first major policy action since becoming President he is reinstating the ''global gag rule'' restricting United States assistance to international family planning organizations.

There have been few issues in recent years that have been more debated, with people of good intention on both sides of the issue, and I am dismayed that the President has opted to start his Administration with such a divisive action.

The world now has more than 6 billion people. The United Nations estimates this figure could be 12 billion by the year 2050. Almost all of this growth will occur in the places least able to bear up under the pressures of massive population increases. The brunt of this decision will be felt not in the United States but in developing countries lacking the resources needed to provide basic health or education services.

If women are to be able to better their own lives and the lives of their families, they must have access to the educational and medical resources needed to control their reproductive destinies and their health.

In fact, international family planning programs reduce poverty, improve health and raise living standards around the world; they enhance the ability of couples and individuals to determine the number and spacing of their children.

Under the leadership of both Democratic and Republican Presidents, and under Congresses controlled by Democrats and Republicans alike, the United States has established a long and distinguished record of world leadership on international family planning and reproductive health issues.

Unfortunately, in recent years these programs have come under increasing partisan attack by the anti-choice wing of the Republican party—despite the fact that no U.S. international family planning funds are spent on international abortion.

I do not expect President Bush to change his mind. He is the President, and, under legislation passed by the last Congress it is now his prerogative to determine how U.S. international family planning assistance will be used.

But I would ask him, and his advisors, to think long and hard about this decision, about how this decision squares with ''humble'' U.S. leadership of the international community and our commitment to help those around the world who need and want our help and assistance.

I would ask the women of America, as they consider their own reproductive rights, to consider the aim and intent of a policy in which the reproductive rights of American women are approached one way, and those of women in the developing world another.

And I would ask my colleagues on both sides of the aisle who feel as strongly about this issue as I do to consider what legislative remedies and options we may have available to address this decision.

Mr. President, it had been my sincere hope that under President Bush international family planning would have been an issue that Republicans and Democrats, the Administration and Congress, could have worked on together, in a bipartisan fashion.

It is with no small amount of regret that I say that that no longer appears to be the case.

TRIBUTE TO MARY NIELSEN

Mr. BURNS. Mr. President, I rise today in tribute to the memory of a lady who lived in northeastern Montana who just passed away. She was a reliable adviser to me and a wonderful person, although not being born of the land or even in that part of the country. She was a native of England and had moved to northeastern Montana many years ago.

Mary Nielsen was one of those unique persons, living in a very remote end of this country, the northeastern corner of Montana, isolated and 150 miles from the nearest major airport—which is not really major. And for those of us who enjoy pasta—affordable pasta, that is, nowadays—the main crop in that part of the world is durum wheat.

She served in a group called WIFE, Women Involved In Farm Economics. She took those responsibilities very seriously and, of course, with great purpose. She became a valuable resource to me and my staff on transportation issues.

When I first met her, I was a farm broadcaster. My programs were aired on the radio station in Plentywood, MT. This was at a time when the big railroads were in the business of abandonments, wanting to close the spur lines that were not very profitable to the big railroads. And that was the case on the Opheim spur up in that part of the country that was originally a part of the Great Northern Railway. We fought hard on that issue because we did not want to see that line abandoned, because up there rail transportation is very important in moving our crops to market.

So she took it on. It was one of those unselfish things people do, leaders do. And you find out that in these small places, in some of these remote places, we have great minds and great leadership.

She and others formed an organization called ABLE, the Association for Branch Line Equity, which became a model in this country for opposing abandonments of railway lines in agricultural country.

She was also a shining star in the political arena. She was passionate and articulate. In fact, she received international recognition when she was elected to the office of Sheridan County Assessor. She ran on a campaign slogan of ''If elected, I will resign'' in an effort to save taxpayers the cost of paying for a county officer after the office was left on the ballot even though all duties had been absorbed by the State of Montana. She was elected and she resigned, and the office went with her.

Mary was a great vocal advocate for agriculture. That is what she will be remembered as. She was politically informed and active. She was a mentor to all who knew her. She was one of those rare people who, as an activist, fought with grace and dignity for what she really believed in.

It is with great sadness that we see her slip into history. Our prayers go out to her and her husband Ove and, of course, their family. She was a great lady, with grace, who represented a great, great industry.

Mr. President, I yield the floor.

NOMINATIONS

NOMINATION OF SPENCER ABRAHAM

Mr. DOMENICI. Mr. President, I'm very pleased to have strongly supported the nomination of Senator Spencer Abraham as Secretary of the Department of Energy.

As all my colleagues are well aware, Senator Abraham has a distinguished record of leadership here in the Senate. He has demonstrated his initiative and willingness to pursue complex issues on countless occasions during his years of service in this body.

Senator Abraham and I served together on the Senate Budget Committee, and I came to appreciate his insightful approach to the challenging tasks we faced in crafting the nation's budget. Through his work on the Budget Committee, Senator Abraham deserves a share of the credit for the wonderful progress towards balancing the federal budgets.

From his public service in the State of Michigan, Senator Abraham has an in-depth understanding of the issues facing manufacturers and consumers, including their dependence on reliable, clean energy sources. He appreciates the immense role of the transportation sector in influencing significant parts

of our energy policy. He has been one of the Senate's most knowledgeable members on subjects related to high-technology policies and the contributions that this important sector makes to America's economy and global success.

While Senator Abraham has expressed concerns about the role of the Department of Energy in the past, I'm pleased to note that he carefully addressed his current views in his statement to the Energy and Natural Resources Committee. In that statement, he emphasized his support for the many important missions that comprise the portfolio of the Department of Energy.

Service as the nation's Secretary of the Department of Energy is a challenge for any individual. The Department has a diverse set of missions, that sometimes seem to lack a coordinating thread. Management of this Department is truly a daunting assignment.

National security and energy policy will present some of his largest challenges. In the national security area, he and Undersecretary John Gordon, Administrator of the National Nuclear Security Administration are responsible for all aspects of our nuclear stockpile and a wide range of non-proliferation programs. These two dimensions represent the two different major approaches to improved national security, minimizing threats that could jeopardize our peace and prosperity and insuring our ability to protect ourselves if necessary.

Among many important areas, the NNSA must strive to rebuild morale at the weapons laboratories, develop a major infrastructure improvement initiative across the weapons complex, and address serious congressional concerns associated with faulty program management that has led in the recent past to large construction overruns such as the experience on the National Ignition Facility. In the non-proliferation area, transparency and accountability will remain serious issues as Congress evaluates the advisability of future funding for these vital programs.

A comprehensive energy policy is urgently needed, although recovery from our current energy crisis will be anything but overnight. First we need the policy, then we need years of careful support to implement that policy—only then can we approach a greater degree of energy security than we face today. As I've outlined now on several occasions, I urge the President to create a multi-Agency approach to national energy policy, so that several key agencies evaluate their decisions in light of assuring our nation of energy security.

And finally, the Secretary is responsible for a large fraction of the federal support for science and technology. The nation's scientific and engineering talents, and the high technology advances they've generated, are responsible for a large fraction of our economic strength. In recent years, Congress has started to increase funding in key areas of science and technology. The Secretary of the Department of Energy must organize his scientific programs to maximize their outputs and their contributions to our scientific understanding and economic security.

His past experiences have prepared him very well for these fresh challenges. I look forward to working with Senator Spencer Abraham in this new role as Secretary of the Department of Energy and encourage all of my colleagues to do likewise.

Mr. CONRAD. Mr. President, I am pleased to have supported the nomination of Spencer Abraham to be Secretary of Energy.

As Secretary, Senator Abraham will face a number of important and difficult challenges. Clearly, we must address our dependence on foreign sources of energy and the current spike in fuel prices that is driving transportation and heating costs to unacceptably high levels. In my state of North Dakota, home heating costs are painfully high for many families. And this spring farmers will face high input costs as they head into their fields. I do not think developing a comprehensive and effective long-term answer will be easy, but the strength of our economy will depend, in part, on our success in controlling energy price hikes.

In addition, our most populous state, California, is in the middle of an electricity crisis. Again, this has potential implications for our economy. Finally, the security problems at our national labs will present a difficult challenge for our next Secretary of Energy.

Senator Abraham has been a capable and dedicated colleague for the past six years. As he noted in his confirmation hearing, his views have evolved since he was first elected to this body. Then, he called for the abolition of the Department of Energy. Now he looks forward to service as our next Secretary of Energy. As one who believes the Energy Department plays a critical role in setting policies that profoundly impact our economy and our national security, I welcome this change of heart and wish him well as he enters into this next chapter in his service to our Nation.

NOMINATION OF DR. ROD PAIGE

Mr. DOMENICI. Mr. President, I rise today in strong support of Dr. Rod Paige, Secretary of Education.

President George W. Bush has repeatedly emphasized the importance of education being a linchpin of America's future. Moreover, he has linked increased spending on education with real accountability that actually produces results.

I think Ben Franklin may have put it best when he said, ''An investment in knowledge always pays the best interest.'' I believe this because even on its best day the Federal government can never be a replacement for local administrators, educators, and parents.

It is with this in mind that I am so pleased the nomination of Dr. Rod Paige is before us to be the next Secretary of Education. Dr. Paige is not a Washington bureaucrat, rather he is an accomplished educator and administrator who has actually served in the education trenches.

Dr. Paige's recent tenure as the Superintendent of the Houston Independent School District provides him with the unique perspective of what is actually involved in running a local school district. Unfortunately, that is all too often not the case because Washington bureaucrats make the decisions affecting our students instead of local administrators.

However, I would submit the practice of implementing a Washington based one size fits all approach is about to come to an end.

As a former Superintendent, Dr. Paige, actually understands that every school district does not face the same set of problems and Washington does not know what is best. Rather it is the local parents, teachers, and administrators who know what the problems are as well as the solutions.

I think it also interesting to note the breadth of Dr. Paige's experience in the field of education. Not only was he a school superintendent, but prior to assuming that role he served as a member and then later the president of the Houston School Board.

Lest we forget the importance of higher education, Dr. Paige has also spent time as an administrator and teacher at Utica Junior College, Jackson State, and Texas Southern University. In fact, Dr. Paige served as the dean of the College of Education at Texas Southern prior to serving on the Houston School Board.

I would also like to touch upon one final aspect of Dr. Paige's career and that is his time as a football coach. While the head football coach at Utica Junior College and Jackson State he was still a teacher of students, but instead of desks and a chalkboard he used the gridiron as his classroom.

In closing, I think we all begin the 107th Congress with unlimited opportunities to improve our nation's educational system and among those opportunities is the reauthorization of the Elementary and Secondary Education Act (ESEA).

I think there is a lot of agreement on the need for education reform conditioned upon accountability and I look forward to working with Secretary Paige to achieve those goals.

Mr. CONRAD. Mr. President, I am pleased to have supported the nomination of Dr. Roderick Paige to be Secretary of Education. I believe that his commitment to the improvement of public schools and his diverse education experience will bring him success in this challenging and rewarding position. I am looking forward to working with him to address the critical issues associated with our nation's educational system.

I am encouraged by Dr. Paige's accomplishments in Houston. The Houston Independent School District has seen dramatic changes under the leadership of Dr. Paige, including a decrease in the dropout rate and an increase in test scores. He has worked hard to foster partnerships between public schools and businesses and to encourage community involvement. Dr. Paige's seven year tenure as superintendent has shown him to be capable, creative, and committed to his students.

As we enter a new Administration, it is important that we make the greatest effort to secure our public schools by providing them with the support they need. Whether it be through school modernization and class size reduction programs, or through increased financial aid for higher education, it is critical that we recognize the role of affordable, high quality public education for our children.

Dr. Paige said, ''I think the public is where we need to begin our work. This is a public system, it is for the public's benefit, it is a public good, and the public must bring itself together and work hard to achieve it.'' I agree with him and believe that through hard work together, we will be able to achieve many good things for our schools, our children, and our Nation.

NOMINATION OF DONALD RUMSFELD

Mr. CONRAD. Mr. President, as was apparent to all who attended Mr. Rumsfeld's confirmation hearing before the Senate Armed Services Committee, our new President has made a good choice for Secretary of Defense, one of the nations most important offices. Mr. Rumsfeld held this senior position during the Ford administration, a time when some Members of Congress were just getting their start in public service. Decades of experience, respect from both sides of the aisle, thoughtfulness, and a strong commitment to this nation make Donald Rumsfeld well qualified to again serve as Secretary of Defense.

As ranking member of the Budget Committee in this equally divided Senate, I look forward to working closely with Mr. Rumsfeld to craft a defense budget that strengthens our nation's defense and makes sense in the context of our national fiscal priorities. In light of the fact that both the status quo within our armed forces and massive increases in defense spending are untenable, I am interested in talking with the new Secretary about a sustainable defense budget and making policy and procedural changes at the Pentagon that might enable us to retool for the information age and get more for our defense dollar.

As the new administration begins to review our nation's approach to arms control, missile defense, and proliferation of weapons of mass destruction, I would urge Mr. Rumsfeld to avoid preoccupation with specific numbers and keep efforts focused on a central objective: increasing strategic stability and nuclear safety. Toward that end, I hope the new Defense Secretary will support and expand the Nunn-Lugar Cooperative Threat Reduction program, broaden shared early warning initiatives, encourage more military-to-military contacts with Russia, address the particular threats associated with Russia's enormous tactical nuclear stockpile, resist de-alerting initiatives which could increase strategic uncertainty in a crisis, and ensure that the U.S. retains a robust and balanced triad of strategic nuclear forces.

I want the record to reflect that I have been concerned by some of this nominee's statements regarding arms control. As my colleagues are aware, Mr. Rumsfeld suggested during his confirmation hearing that the ABM Treaty is an outdated relic of the cold war, and has discussed abandoning the process of arms control and sizing our strategic forces unilaterally. I urge Mr. Rumsfeld to reconsider these views. No arms accord is perfect, but over the past several decades the arms control process has produced momentum toward more inspections, transparency, reciprocity, and confidence-building between former cold war rivals.

This momentum toward greater stability and trust was hard-won and should not be abandoned. One need look no farther than Russia's failure to fully implement the 1991 Bush-Gorbachev handshake agreement on tactical nuclear reductions to see the folly of unilateralism in arms control. In the view of this Senator, any further strategic force reductions would best be undertaken in the context of a new START accord, one built upon recognition that the ABM Treaty is the cornerstone of strategic stability and can allow the limited, effective, affordable national missile defense we need to counter emerging rogue-state threats.

Finally, I look forward to talking with the new Defense Secretary about the importance of Defense Department compliance with statutes directing that the entire B–52H bomber force be funded. Billions of dollars of upgrades and the world's most advanced precision weapons have transformed these airframes into airborne arsenal ships which today represent the fast, sharp end of the spear in our conventional deterrent force.

Mr. President, Donald Rumsfeld has an impressive record. He is qualified to be Secretary of Defense. I congratulate him on his confirmation and wish him the very best.

NOMINATION OF COLIN L. POWELL

Mr. CONRAD. Mr. President, I am honored to have supported the nomination of Colin Powell to be our next Secretary of State. Few individuals submitted to the Senate for confirmation have the credentials, experience, values, and respect of the Nation that Colin Powell has.

Colin Powell has served our Nation with distinction in both civilian and military capacities. Powell served the Carter Administration as an executive assistant in both the Energy and Defense Departments. During the Reagan Administration, Powell was chosen as a senior adviser to Defense Secretary Caspar Weinberger, and later held his first Cabinet post as National Security Advisor to President Reagan. During the Bush Administration, Colin Powell was nominated to serve as Chairman of the Joint Chiefs of Staff. Most Americans, however, remember Colin Powell's role as the architect of Operation Desert Storm, and his unique skills in developing critical global alliances to defeat the Iraqis forces in 1991.

Colin Powell, however, represents more than a distinguished military leader. His life and those values that he has encouraged our young citizens to follow, are an inspiration to us all. During the decade since Operation Desert Storm, I have admired Colin Powell's efforts to reach out to America's youth, encouraging our younger citizens to continue their education, and to aspire to higher goals in life. For Powell, the challenge was to make sure that every child in America understands that he or she is important, and that we, as leaders and parents, are going to make certain that every one of them achieves success in life. To achieve this goal, Colin Powell urged Americans to step forward as mentors for our youth, and to make certain that young people have access to computers and the Internet. In my opinion, no challenge, and no effort is more important than the education of our youth.

Few individuals that have served in this capacity have faced the extraordinary challenges and threats around the world. Relations with China, Russia, the Balkans and the Middle East, as well as the continued nuclear threat and terrorism will demand his immediate attention and skills. I am confident of his abilities to handle these challenges, and I am honored to work with Secretary of State Powell on these most difficult issues.

Not long ago, Colin Powell was asked during an interview on Scholastic.com ''what do you believe history will say about you?'' His response: ''my only request of history is that history books say that I was a good soldier and served the nation well.'' Mr. President, Colin Powell has already achieved that goal. I am confident of his continued outstanding service to our Nation during the next four years, and perhaps most importantly, as a wonderful example to the youth of America.

NOMINATION OF DONALD EVANS

Mr. CONRAD. Mr. President, I supported the nomination of Donald Evans to be Secretary of Commerce. Don Evans has a distinguished background in private business as head of a large, independent energy firm. In addition, his experience as chairman of the Bush campaign and as Chairman of the Board of Regents of the University of Texas system have helped prepare him for overseeing the wide-ranging programs of the Department of Commerce.

As Secretary, Don Evans' first mission will be to promote U.S. exports. With a record trade deficit of more than $300 billion last year, I can think of few tasks more urgent than this one. As he takes on this responsibility, I urge him to remember the critical role that small businesses and agriculture play in our export successes and not concentrate solely on the role of the largest corporations. We also cannot forget the other side of the ledger. Mr. Evans will also be charged with enforcing our trade laws, another vital task to ensure that U.S. farmers and businesses are not competing against unfair imports.

I am also very concerned about the so-called digital divide in the development of the communications infrastructure and the new e-economy. As Senator for one of the most rural states in the nation, it is critically important to me that our next Secretary aggressively work to close this digital divide to make sure rural North Dakotans get full access to the benefits of information technology.

Finally, I would note that the Department of Commerce is responsible for collecting a range of statistics on our population and economy that are critical to informing the choices that we, as elected officials must make. The accuracy and accessibility of this data are essential to making the right choices for America's future.

In short, Don Evans faces a host of challenges. I am confident that he will approach them with the same vigor and success with which he ran the Bush campaign, and I look forward to working with him in the months and years ahead.

NOMINATION OF ANN VENEMAN

Mr. CONRAD. Mr. President, I look forward to working with Ann Veneman as Secretary of Agriculture. For North Dakota, there is no Cabinet position more important than this one.

American agriculture faces a serious crisis that threatens the economic livelihood of North Dakota farmers and rural communities. Our next Secretary of Agriculture faces the challenge and responsibility of coming up with a new farm policy that addresses this crisis as well as the competitive challenges we face from overseas. Ms. Veneman has a long record on agricultural issues and will bring a depth of experience and commitment to the leadership of the Department of Agriculture.

However, I must say her track record causes me some concern. Ms. Veneman was a cheerleader for the failed Freedom to Farm policy that has been such a disaster for North Dakota farmers. In fact, we've had to write economic disaster bills in each of the last three years to deal with the consequences of that disastrous legislation. Beyond that, Ms. Veneman was heavily involved in negotiating the Canadian Free Trade Agreement, which was another disaster for North Dakota. Nevertheless, I wish her well, and I'll do everything I can to work with her to change these policies.

I think the first priority must be to rewrite the current federal farm policy. This is not working and it's very clear to everyone that it's not working. Prices are at record lows. Farmers are leaving the land. And rural main street businesses are suffering.

Next, we must re-invigorate our agricultural trade policy. We've got to be engaged in world trade but it's got to be on a fair, competitive basis. I think we've got to level the playing field with our major competitors—the Europeans—who are outspending us 10 to one in terms of providing support for their producers. Leveling the playing field is one of my highest priorities, so we get farm income up and so our farmers have a fair chance to succeed.

As a senior member of the Agriculture Committee, I look forward to working with Ms. Veneman as we take on these challenges.

ADDITIONAL STATEMENTS

THE PASSING OF JOHN C. ''JACK'' RENNIE

● Mr. KERRY. Mr. President, I speak today to pay tribute to the life of one of Massachusetts most prominent citizens and small business advocates, John C. ''Jack'' Rennie, who passed away last Monday, January 15th, at the age of 63. Jack was truly an extraordinary figure who changed the way American business looked at education, and the way education worked in Massachusetts.

Born in Boston in May of 1937, Jack attended and graduated from the U.S. Naval Academy and Harvard School of Business. He later went on to earn a master's degree from Northeastern University.

Using the skills he learned while serving in the Navy as a test pilot, and putting his business education and experience to good use, he founded Pacer Systems in 1968. Pacer Systems provided systems integration and product services for the Department of Defense (DoD). Pacer was later to become AverStar and expand its systems integration work beyond DoD to other Federal agencies. Jack served as Vice Chairman of AverStar from 1998 until his retirement in June of last year.

His entrepreneurial spirit was not limited to his own company. In the mid-1970s, Jack was the driving force behind the creation of National Small Business United (NSBU), the nation's oldest bipartisan trade association for small businesses. In the early 1980s, Jack served as the President of the Small Business Association of New England (SBANE), and in 1983, he led the first all small business trade mission to the People's Republic of China. In 1983, he was also named the Small Business Person of the Year for Massachusetts and New England by then President Ronald Reagan.

But despite all of these noteworthy accomplishments, Jack's most lasting achievements came in the area of education reform.

As a business leader and entrepreneur, Jack was alarmed at the problems facing the public education system in Massachusetts and the nation. He knew that the businesses of tomorrow would demand a higher caliber of education from its employees, and that education was an integral part of America's future prosperity.

Not one to sit on the sidelines, Jack combined his business expertise with his natural leadership abilities to found the Massachusetts Business Alliance for Education in 1988, which successfully led a five-year effort to reform Massachusetts' K–12 education system. His organization's 1991 report, ''Every Child a Winner,'' was the impetus for the Massachusetts Education and Reform Act in 1993. This legislation led to new state-wide testing and accountability standards, as well as increased funding for education.

Prominent small businessman, and executive, Navy veteran, education reformer and community leader, Jack Rennie's passing leaves a void few people are qualified to fill, and even fewer would attempt to try. On behalf of the citizens of Massachusetts, I would like to express our sincere condolences to Jack's family and friends.●

RECOGNIZING FRANK HEMINGWAY

● Mr. DOMENICI. Mr. President, recently Frank Hemingway came to Washington, D.C. to be a part of the 2001 Inaugural activities. A student from Onate High School in Las Cruces, New Mexico, he was the winner of the Character Counts Task Force Contest for area high school students. To win this contest, Mr. Hemingway was required to write an essay dealing with his experience with one of the Pillars of Character Counts.

Character Counts is a grassroots effort in New Mexico and on the national front. The Character Counts initiative strives to promote, in all aspects of American life, six basic pillars of good character: Trustworthiness, Respect, Responsibility, Fairness, Caring, and Citizenship. I have actively worked to support New Mexico schools and communities that have embraced this initiative.

Mr. Hemingway chose to write his on the Responsibility Pillar, and how being responsible has changed his life. I commend Frank for his smart choices and hard word.

Mr. President, I ask that his essay be printed in the RECORD following my remarks.

The material was ordered to be printed in the RECORD.

HOW RESPONSIBILITY CHANGED MY LIFE

(By Frank Hemingway)

''Hey bud! want to go to the movies tonight? I've got some girls from across town going—I know I can get you a date.''

''No, maybe later,'' I answered to a typical offer from one of my closest friends, ''It's a school night and I've got a report that I need

to do before the big meet this weekend,'' I replied.

Being responsible isn't always easy, but anything that's worth while rarely is. However, I know from experience that responsibility pays off.

Responsibility is an active character trait—it is something that must be demonstrated rather than just an attribute that a person possesses. Being responsible means putting impulsive actions on hold and making good decisions based on sound judgment while keeping one's long term goals in mind and acting accordingly. Following this approach to responsibility has helped me maintain outstanding grades and become an emerging leader to my team and classmates. Everyone can and should be responsible to a certain degree and accountable for their actions. A responsible person is dependable, reliable, and trustworthy. Living with these traits has opened up numerous possibilities for me and helped me to further mature and become even more responsible.

As a captain of my cross country team, I am responsible for my teammates to a certain extent although they are still responsible for themselves and we are all held accountable by our coach. For example, I am responsible for locking up the locker room and making sure that everyone knows about all practice times. I must be dependable and reliable to fulfill these duties and trustworthy so as not to abuse my authority. These actions, in turn, allow me to set a good example and be looked up to by my teammates as a positive role model. I have become confident in myself as a result of being responsible and have become able to handle additional responsibilities.

I have increased my responsibility in my community resulting from my experiences in a team setting. I am often asked by my neighbors to take care of their houses and pets while they are on vacation. I have done this for time periods of up to five weeks! Doing this task takes discipline and self control in making sure that the necessary duties are completed without fail and whether or not I am in the mood for the job.

Successful instances of responsibility within my community have led me to seek responsibility to my country. Having recently turned eighteen years old, I upheld my national responsibility to register with the Selective Service System and was eager in becoming a registered voter. I have learned that the significance of responsibility is that it grows proportionally in that small responsibilities soon lead to larger responsibilities, which is an essential part of growing up. The circumstances in life are always changing, by responsibility is always a good choice and responsibility has continually changed my life for the better.●

MEASURES PLACED ON THE CALENDAR

The following bills were read the second time and placed on the calendar:

S. 73. A bill to prohibit the provision of Federal funds to any State or local educational agency that denies or prevents participation in constitutional prayer in schools; read the first time.

S. 74. A bill to prohibit the provision of Federal funds to any State or local educational agency that distributes or provides morning-after pills to schoolchildren; read the first time.

S. 75. A bill to protect the lives of unborn human beings; read the first time.

S. 76. A bill to make it a violation of a right secured by the Constitution and laws of the United States to perform an abortion with the knowledge that the abortion is being performed solely because of the gender of the fetus; read the first time.

S. 78. A bill to amend the Civil Rights Act of 1964 to make preferential treatment an unlawful employment practice, and for other purposes; read the first time.

S. 79. A bill to encourage drug-free and safe schools; read the first time.

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–298. A communication from the Under Secretary of Policy, Department of Defense, transmitting, pursuant to law, a report related to the Taiwan Relations Act and PRC-Taiwan military balance; to the Committee on Armed Services.

EC–299. A communication from the Under Secretary of Acquisition, Technology and Logistics, Department of Defense, transmitting, pursuant to law, a report related to outsourcing and privatization initiatives; to the Committee on Armed Services.

EC–300. A communication from the Assistant Secretary of Legislative Affairs, Department of Defense, transmitting, pursuant to law, the annual report for the year 2001; to the Committee on Armed Services.

EC–301. A communication from the Assistant General Counsel for Regulatory Law, Office of Procurement and Assistance Policy, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''Department of Energy Acquisition Regulation; Rewrite of Regulations Governing Management and Operating Contracts'' ((RIN1991–AB46)(1991–AB49)) received on January 10, 2001; to the Committee on Energy and Natural Resources.

EC–302. A communication from the Acting Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''New Mexico Regulatory Program'' (NM–041–FOR) received on January 12, 2001; to the Committee on Energy and Natural Resources.

EC–303. A communication from the Acting Chair of the Federal Subsistence Board, Fish and Wildlife Services, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Subsistence Management Regulations for Public Lands in Alaska, Subpart C and D—2001 Subsistence Taking of Fish and Wildlife Regulations'' (RIN1018–AF91) received on January 17, 2001; to the Committee on Energy and Natural Resources.

EC–304. A communication from the Deputy Assistant Administrator of the Office of Diversion Control, Drug Enforcement Administration, Department of Justice, transmitting, pursuant to law, the report of a rule entitled ''Schedule II Control of Dihydroetorphine Under the Controlled Substances Act (CSA)'' received on January 10, 2001; to the Committee on the Judiciary.

EC–305. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting , pursuant to law, a report relating to cost estimate for pay-as-you-go calculations dated January 8, 2001; to the Committee on Appropriations.

EC–306. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, Presidential Determination 2001–06 regarding a six-month suspension of limitations; to the Committee on Foreign Relations.

EC–307. A communication from the Administrator of the Agency for International Development, transmitting, pursuant to law, a report for the period July 1 through September 30, 2000; to the Committee on Foreign Relations.

EC–308. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, the annual report relating to contributions to international organizations for fiscal year 2000; to the Committee on Foreign Relations.

EC–309. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC–310. A communication from the Public Printer, transmitting, pursuant to law, the Semiannual Report of the Office of the Inspector General for the period April 1 through September 30, 2000; to the Committee on Governmental Affairs.

EC–311. A communication from the Director of the Office of Transition Administration, Panama Canal Commission, transmitting, pursuant to law, a report relative to accounting systems and administrative controls for calander year 2000; to the Committee on Governmental Affairs.

EC–312. A communication from the Chairman of the Securities and Exchange Commission, transmitting, pursuant to law, the annual report relating to internal accounting and administrative systems for the fiscal year 2000; to the Committee on Governmental Affairs.

EC–313. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the semiannual report of the Office of Inspector General for the period April 1 through September 30, 2000; to the Committee on Governmental Affairs.

EC–314. A communication from the Federal Co-Chairman of the Appalachian Regional Commission, transmitting, pursuant to law, the semiannual report of the Inspector General for the period April 1 through September 30, 2000; to the Committee on Governmental Affairs.

EC–315. A communication from the Chair and Chief Executive Officer of the Armed Forces Retirement Home Board, transmitting, a report on commercial activities inventory for the year 2000; to the Committee on Governmental Affairs.

EC–316. A communication from the President of the Institute of Peace, transmitting, pursuant to law, a report relating to financial statements and additional information for the fiscal years 1998 and 1999; to the Committee on Governmental Affairs.

EC–317. A communication from the Chairman of the African Development Foundation, transmitting, pursuant to law, the annual report on the internal controls and accounting system for the calander year 2000; to the Committee on Governmental Affairs.

EC–318. A communication from the Director of Investigations Service, Office of Personnel Management, transmitting, pursuant to law , the report of a rule entitled ''Suitability'' (RIN3206–AC19) received on January 10, 2001; to the Committee on Governmental Affairs.

EC–319. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to the Inspector General Act Amendments of 1988, the report of the Inspector General for the period April 1 through September 30, 2000; to the Committee on Governmental Affairs.

EC–320. A communication from the President's Pay Agent, Office of Personnel Management, transmitting, pursuant to law, a

report related to the extension of locality-based comparability payments; to the Committee on Governmental Affairs.

EC–321. A communication from the Attorney General, transmitting, pursuant to law, the semiannual report of the Inspector General for the period April 1 through September 30, 2000; to the Committee on Governmental Affairs.

EC–322. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report relating to the cost of care for the mentally retarded and disabled; to the Committee on Governmental Affairs.

EC–323. A communication from the Secretary of Transportation, transmitting, pursuant to law, the semiannual report of the Office of Inspector General for the period April 1 through September 30, 2000; to the Committee on Governmental Affairs.

EC–324. A communication from the Chairman of the Board of Governors, United States Postal Service, transmitting, pursuant to law , the annual report under the Government in the Sunshine Act for calender year 2000; to the Committee on Governmental Affairs.

EC–325. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report relating to the commercial activities inventory for the year 1999; to the Committee on Governmental Affairs.

EC–326. A communication from the Acting Assistant Secretary, Pension and Welfare Benefits Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled ''National Medical Support Notice'' (RIN1210–AA72) received on January 5, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–327. A communication from the Director of the Office of Wage Determinations, Employment Standards Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled ''Service Contract Act; Labor Standards for Federal Service Contracts'' (RIN1215–AB26) received on January 17, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–328. A communication from the Acting Assistant General Counsel for Regulations, Office of Special Education and Rehabilitative Services, Department of Education, transmitting, pursuant to law, the report of a rule entitled ''State Vocational Rehabilitation Services Program'' (RIN1820–AB50) received on January 17, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–329. A communication from the Executive Secretariat, Bureau of Indian Affairs, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Trust Management Reform: Leasing/Permitting, Grazing, Probate and Funds Held in Trust'' (RIN1076–AE00) received on January 12, 2001; to the Committee on Indian Affairs.

EC–330. A communication from the Counsel for Legislation and Regulations, Office of Public and Indian Housing, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled ''Revision to the Application Process for Community Development Block Grants for Indian Tribes and Alaska Native Villages'' (RIN2557–AC22) received on January 17, 2001; to the Committee on Indian Affairs.

EC–331. A communication from the President of the United States, transmitting, pursuant to law, a report relating to the modification of duty-free treatment under the generalized system of preferences for Sub-Saharan African Countries; to the Committee on Finance.

EC–332. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''EP/EO user fees'' (Revenue Procedure 2001–8) received on January 5, 2001; to the Committee on Finance.

EC–333. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''BLS—LIFO Department Store Indexes—November 2000'' (Rev. Rul. 2001–5) received on January 5, 2001; to the Committee on Finance.

EC–334. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Weighted Average Interest Rate Update'' (Notice 2001–3) received on January 5, 2001; to the Committee on Finance.

EC–335. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''EP/EO Letter Rulings'' (Revenue Procedure 2001–4) received on January 5, 2001; to the Committee on Finance.

EC–336. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Annual Section 415(d) Cost-of-Living Adjustments'' (Notice 2000–66) received on January 5, 2001; to the Committee on Finance.

EC–337. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Extension of Relief from Nondiscrimination Rules to Certain Governmental Plans and Church Plans'' (Notice 2001–9) received on January 5, 2001; to the Committee on Finance.

EC–338. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Notice 2001–11'' (SPR–131860–00) received on January 5, 2001; to the Committee on Finance.

EC–339. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Revenue Procedure 2001–2: Technical Advice'' (RP–116164–00) received on January 5, 2001; to the Committee on Finance.

EC–340. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Revenue Procedure 2001–1: Letter Rulings, Determination Letters, and Information Letters'' (RP–116162–00) received on January 5, 2001; to the Committee on Finance.

EC–341. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Definition of Hyperinflationary Currency for Purposes of Section 988'' ((RIN1545–AX67)(TD8914)) received on January 5, 2001; to the Committee on Finance.

EC–342. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Application of Section 904 to Income Subject to Separate Limitations and Section 864(e) Affiliated Group Expense Allocation and Apportionment Rules'' ((RIN1545–AY29)(TD8916)) received on January 5, 2001; to the Committee on Finance.

EC–343. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''EP Determination Letters'' (Revenue Procedure 2001–6) received on January 5, 2001; to the Committee on Finance.

EC–344. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''EP/EO Technical Advice Procedures'' (Revenue Procedure 2001–5) received on January 5, 2001; to the Committee on Finance.

EC–345. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Liabilities Assumed in Certain Corporate Transaction'' (RIN1545–AY63) received on January 8, 2001; to the Committee on Finance.

EC–346. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''October—December 2000 Bond Factor Amounts'' (Revenue Ruling 2001–2) received on January 8, 2001; to the Committee on Finance.

EC–347. A communication from the Regulations Officer of the Social Security Administration, transmitting, pursuant to law, the report of a rule entitled ''Testimony By Employees and the Production of Records—Information in Legal Proceedings'' (RIN0960–AE95) received on January 11, 2001; to the Committee on Finance.

EC–348. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''The GUST Remedial Amendment Period for Employers Who Use M&P or Volume Submitter Specimen Plans'' (Announcement 2001–6) received on January 12, 2001; to the Committee on Finance.

EC–349. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Definition of Last Known Address'' ((RIN1545–AX13)(TD8939)) received on January 12, 2001; to the Committee on Finance.

EC–350. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Reopenings of Treasury Securities and Other Debt Instruments; Original Issue Discount'' ((RIN1545–AX60)(TD8934)) received on January 12, 2001; to the Committee on Finance.

EC–351. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Annual Update of the Service's No-Rule Revenue Procedures'' (Revenue Procedures 2001–3 and 2001–1) received on January 12, 2001; to the Committee on Finance.

EC–352. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Change of Address Request'' (Revenue Procedure 2001–18) received on January 17, 2001; to the Committee on Finance.

EC–353. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Obligations of States and Political Subdivisions'' ((RIN1545–AX87)(TD8941)) received on January 17, 2001; to the Committee on Finance.

EC–354. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Notice to Interested Parties'' (RIN1545–AY68) received on January 17, 2001; to the Committee on Finance.

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. CLELAND:

S. 144. A bill to require country of origin labeling of peanuts and peanut products and to establish penalties for violations of the labeling requirements; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. THURMOND:

S. 145. A bill to amend title 10, United States Code, to increase to parity with other surviving spouses the basic annuity that is provided under the uniformed services Survivor Benefit Plan for surviving spouses who are at least 62 years of age, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. LUGAR:

S. 146. A bill to amend part S of title I of the Omnibus Crime Control and Safe Streets Act of 1968 to permit the use of certain amounts for assistance to jail-based substance treatment programs, and for other purposes; to the Committee on the Judiciary.

By Mrs. FEINSTEIN (for herself, Mrs. HUTCHISON, Mr. KYL, Mr. BINGAMAN, Mrs. BOXER, and Mr. DOMENICI):

S. 147. A bill to provide for the appointment of additional Federal district judges, and for other purposes; to the Committee on the Judiciary.

By Mr. CRAIG (for himself, Ms. LANDRIEU, Mr. JOHNSON, and Mr. STEVENS):

S. 148. A bill to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; to the Committee on Finance.

By Mr. ENZI (for himself, Mr. GRAMM, Mr. SARBANES, Mr. JOHNSON, Mr. HAGEL, Mr. ROBERTS, and Ms. STABENOW):

S. 149. A bill to provide authority to control exports, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. KERRY:

S. 150. A bill to amend the Internal Revenue Code of 1986 to provide an incentive to ensure that all Americans gain timely and equitable access to the Internet over current and future generations of broadband capability; to the Committee on Finance.

By Mr. THOMAS (for himself and Mr. ENZI):

S. 151. A bill for the Relief of Ashley Ross Fuller; to the Committee on the Judiciary.

By Mr. GRASSLEY (for himself and Mr. BAUCUS):

S. 152. A bill to amend the Internal Revenue Code of 1986 to eliminate the 60-month limit and increase the income limitation on the student loan interest deduction; to the Committee on Finance.

By Mr. HATCH:

S. 153. A bill to amend title XVIII of the Social Security Act to provide for State accreditation of diabetes self-management training programs under the medicare program; to the Committee on Finance.

By Mr. SHELBY:

S. 154. A bill to amend the Uniformed and Overseas Citizens Absentee Voting Act to ensure uniform treatment by States of Federal overseas absentee ballots, to amend titles 10 and 18, United States Code, and the Revised Statutes to remove the uncertainty regarding the authority of the Department of Defense to permit buildings located on military installations and reserve component facilities to be used as polling places in Federal, State, and elections for public office, and for other purposes; to the Committee on Rules and Administration.

By Mr. BINGAMAN:

S. 155. A bill to amend title 5, United States Code, to eliminate an inequity in the applicability of early retirement eligibility requirements to military reserve technicians; to the Committee on Governmental Affairs.

By Mrs. BOXER:

S. 156. A bill to improve academic and social outcomes for students and reduce both juvenile crime and the risk that youth will become victims of crime by providing productive activities during after school hours; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. BOXER:

S. 157. A bill to establish a program to help States expand the existing education system to include at least 1 year of early education preceding the year a child enters kindergarten; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BINGAMAN (for himself and Mr. LUGAR):

S. 158. A bill to improve schools; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. BOXER:

S. 159. A bill to elevate the Environmental Protection Agency to a cabinet level department, to redesignate the Environmental Protection Agency as the Department of Environmental Protection Affairs, and for other purposes; to the Committee on Governmental Affairs.

By Mrs. BOXER:

S. 160. A bill to provide assistance to States to expand and establish drug abuse treatment programs to enable such programs to provide services to individuals who voluntarily seek treatment for drug abuse; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CLELAND (for himself and Mr. MILLER):

S. Res. 14. A resolution commending the Georgia Southern University Eagles football team for winning the 2000 NCAA Division I–AA football championship; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CLELAND:

S. 144. A bill to require country of origin labeling of peanuts and peanut products and to establish penalties for violations of the labeling requirements; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. CLELAND. Mr. President, today I am re-introducing the Peanut Labeling Act. This bill will require country of origin labeling for all peanut and peanut products sold in the United States; specifically, it will require consumers to be notified whether the peanuts are grown in the United States or in another country. The main purpose of this bill is to provide American consumers with information about where the peanuts they purchase are grown. This bill will allow consumers to make informed food choices and support American farmers in the best way that they can—with their food dollar.

By providing country of origin labels, consumers can determine if peanuts are from a country that has had pesticide or other problems which may be harmful to their health. This is true particularly during a period when food imports are increasing, and will continue to increase in the wake of new trade agreements such as the WTO and GATT.

The growth of biotechnology in the food arena necessitates more information in the marketplace. Research is being conducted today on new peanut varieties. These research efforts include seeds that might deter peanut allergies, tolerate more drought, and be more resistant to disease. As various countries use differing technologies, consumers need to be made aware of the source of the product they are purchasing. GAO recently pointed out that FDA only inspected 1.7 percent of 2.7 million shipments of fruit, vegetables, seafood and processed foods under its jurisdiction. Inspections for peanuts can be assumed to be in this range or less. This lack of inspection does not provide consumers of these products with a great deal of assurance.

Polls have shown that consumers in America want to know the origin of the products they buy. And, contrary to the arguments given by opponents of labeling measures that such requirements would drive prices up, consumers have indicated that they would be willing to pay extra for easy access to such information. I believe that this is a pro-consumer bill that will have wide support.

I am also very pleased that peanut growers in America strongly support my proposal. In fact, the Peanut Labeling Act has been endorsed by the Georgia Peanut Commission, the National Peanut Growers Group, the Southern Peanut Farmers Federation, the Alabama Peanut Producers Association, and the Florida Peanut Producers Association.

In conclusion, as my colleagues know, we live in a global economy which creates an international marketplace for our food products. I strongly believe that by providing country of origin labeling for agricultural products, such as peanuts, we not only provide consumers with information they need to make informed choices about the quality of food being served to their family but we also allow American farmers to showcase the time and effort they put into producing the safest and finest food products in the world. I believe this bill represents these principles and I ask my colleagues for their support.

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:

S. 144

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 ''Peanut Labeling Act of 2001''.

SEC. 2. INDICATION OF COUNTRY OF ORIGIN OF PEANUTS AND PEANUT PRODUCTS.

(a) DEFINITIONS.—In this section:

(1) PEANUT PRODUCT.—The term ''peanut product'' means any product more than 3 percent of the retail value of which is derived from peanuts contained in the product.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(b) NOTICE OF COUNTRY OF ORIGIN REQUIRED.—

(1) IN GENERAL.—Subject to paragraph (2), a retailer of peanuts or peanut products produced in, or imported into, the United States (including any peanut product that contains peanuts that are not produced in the United States) shall inform consumers, at the final point of sale to consumers, of the country of origin of the peanuts or peanut products.

(2) WAIVER.—The Secretary may waive the application of paragraph (1) to a retailer of peanuts or peanut products if the retailer demonstrates to the Secretary it is impracticable for the retailer to determine the country of origin of the peanuts or peanut products.

(c) METHOD OF NOTIFICATION.—

(1) IN GENERAL.—The information required by subsection (b) may be provided to consumers by means of a label, stamp, mark, placard, or other clear and visible sign on the peanuts or peanut products or on the package, display, holding unit, or bin containing the peanuts or peanut products at the final point of sale to consumers.

(2) EXISTING LABELING.—If the peanuts or peanut products are already labeled regarding country of origin by the packer, importer, or another person, the retailer shall not be required to provide any additional information in order to comply with this section.

(d) VIOLATIONS.—If a retailer fails to indicate the country of origin of peanuts or peanut products as required by subsection (b), the Secretary may impose a civil penalty on the retailer in an amount not to exceed—

(1) $1,000 for the first day on which the violation occurs; and

(2) $250 for each day on which the violation continues.

(e) DEPOSIT OF FUNDS.—Amounts collected under subsection (d) shall be deposited in the Treasury of the United States as miscellaneous receipts.

(f) APPLICATION.—This section shall apply with respect to peanuts and peanut products produced in, or imported into, the United States after the date that is 180 days after the date of enactment of this Act.

By Mr. THURMOND:

S. 145. A bill to amend title 10, United States Code, to increase to parity with other surviving spouses the basic annuity that is provided under the uniformed services Survivor Benefit Plan for surviving spouses who are at least 62 years of age; and for other purposes; to the Committee on Veterans' Affairs.

Mr. THURMOND. Mr. President, today, I am again introducing legislation that would correct the long-standing injustice to the widows or widowers of our military retirees. The proposed legislation would immediately increase for surviving spouses over the age 62 the minimum Survivor Benefit Plan (SBP) annuity from 35 percent to 40 percent of the SBP covered retired pay. The bill would provide a further increase to 45 percent of covered retired pay as of October 1, 2004 and to 55 percent as of September 2011.

As I outlined in my many statements in support of this important legislation the Survivor Benefit Plan advertises, that if the service member elects to joint the Plan, his survivor will receive 55 percent of the member's retirement pay. Unfortunately, that is not so. The reason that they do not receive the 55 percent of retired pay is that current law mandates that at age 62 this amount be reduced either by the amount of the Survivors Social Security benefit or to 35 percent of the SBP. This law is especially irksome to those retirees who joined the plan when it was first offered in 1972. These service members were never informed of the age-62 reduction until they had made an irrevocable decision to participate. Many retirees and their spouses, as our constituent mail attests, believed their premium payments would guarantee 55 percent of retired pay for the life of the survivor. It is not hard to imagine the shock and financial disadvantage these men and women who so loyally served the Nation for many years experience when they learn of the annuity reduction.

Uniformed services retirees pay too much for the available SBP benefit both, compared to what we promised and what we offer other federal retirees. When the Survivor Benefit Plan was enacted in 1972, the Congress intended that the government would pay 40 percent of the cost to parallel the government subsidy of the Federal civilian survivor benefit plan. That was short-lived. Over time, the government's cost sharing has declined to about 26 percent. In other words, the retiree's premiums now cover 74 percent of expected long-term program costs versus the intended 60 percent. Contrast this with the federal civilian SBP, which has a 42 percent subsidy for those personnel under the Federal Employees Retirement System and a 50 percent subsidy for those under the Civil Service Retirement System. Further, Federal civilian survivors receive 50 percent of retired pay with no offset at age 62. Although Federal civilian premiums are 10 percent retired pay compared to 6.5 percent for military retirees, the difference in the percent of contribution is offset by the fact that our service personnel retire at a much younger age than the civil servant and, therefore pay premiums much longer than the federal civilian retiree.

Mr. President, although the House conferees thwarted my previous efforts to enact this legislation into law, I am ever optimistic that this year we will prevail. I base my optimism on the fact that the National Defense Authorization Act for Fiscal Year 2001 included a Sense of the Congress on increasing Survivor Benefit Plan annuities for surviving spouses age 62 or older. The sense of the Congress reflects the concern addressed by the legislation I am introducing again today. I urge my colleagues to support this bill and now ask that the bill be sent to the desk.

By Mr. LUGAR:

S. 146. A bill to amend part S of title I of the Omnibus Crime Control and Safe Streets Act of 1968 to permit the use of certain amounts for assistance to jail-based substance treatment programs, and for other purposes; to the Committee on the Judiciary.

Mr. LUGAR. Mr. President, I rise today to offer legislation amending the Residential Substance Abuse Treatment program, known as R–SAT, to enable jurisdictions below the state level to realize greater benefits from the program. The R–SAT program allows the Attorney General to make grants for the establishment of treatment programs within local correctional facilities, but only a few jurisdictions have been able to take advantage of these grants.

The legislation that I am offering today will address this problem by establishing a separate Jail-Based Substance Abuse Treatment Program, or J–SAT. Under this new program, states will be explicitly authorized to devote up to 10 percent of the funds they receive under R–SAT to qualifying J–SAT programs.

This legislation will provide matching funds to jail-based treatment programs that meet several criteria. First, the program must be at least three months in length. This is the minimum amount of time for a treatment program to have the desired effect. To qualify for funding, a program must also have been in existence for at least two years. This criterion is intended to ensure that jurisdictions that already have demonstrated a commitment to treatment programs at the local level receive first priority for funding. It also ensures that scarce treatment resources are allocated to programs with a demonstrated track record of success. The third criterion for programs seeking J–SAT funding is that the treatment regimen must include regular drug testing. This is necessary to ensure that an objective measure of the program's success is available. Grant recipients also are encouraged to provide the widest range of aftercare services possible, including job training, education and self-help programs. These steps are necessary to leverage the resources devoted to solving the problem of substance abuse, and to give individuals involved in treatment the best possible chance for successful rehabilitation.

This legislation passed the Senate during the 106th Congress, and I am offering the J–SAT bill again because substance abuse and problems arising from it continue to put a severe strain on the resources of local jurisdictions throughout the nation. The Office of National Drug Control Policy indicates

that approximately three-fourths of prison inmates—and over half of those in jails or on probation—are substance abusers, yet only a small percentage of inmates participate in treatment programs while they are incarcerated. The time during which drug-using offenders are in custody or under post-release correctional supervision—whether at a state or local level—presents a unique opportunity to reduce drug use and crime through effective drug testing and treatment programs.

Research indicates that programs like J–SAT can help to reduce the strain on our communities by cutting drug use in half, by reducing the criminal activity that results from drug habits, and by reducing arrests for all crimes by up to 64 percent.

Jail-based treatment programs are cost effective. The Office of National Drug Control Policy states that treatment while in prison and under post-incarceration supervision can reduce recidivism by roughly 50 percent. Moreover, former Assistant Health Secretary Philip Lee has estimated that every dollar invested in treatment can save $7 in social and medical costs.

For these reasons, I ask my colleagues to support the Jail-Based Substance Abuse Treatment legislation that I am introducing today. I also ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 146

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled

SECTION 1. JAIL-BASED SUBSTANCE ABUSE TREATMENT PROGRAMS.

(a) USE OF RESIDENTIAL SUBSTANCE ABUSE TREATMENT GRANTS TO PROVIDE AFTERCARE SERVICES.—Section 1901 of part S of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ff–1) is amended by adding at the end the following:

''(f) USE OF GRANT AMOUNTS FOR NONRESIDENTIAL AFTERCARE SERVICES.—A State may use amounts received under this part to provide nonresidential substance abuse treatment aftercare services for inmates or former inmates that meet the requirements of subsection (c), if the chief executive officer of the State certifies to the Attorney General that the State is providing, and will continue to provide, an adequate level of residential treatment services.''.

(b) JAIL-BASED SUBSTANCE ABUSE TREATMENT.—Part S of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ff et seq.) is amended by adding at the end the following:

''SEC. 1906. JAIL-BASED SUBSTANCE ABUSE TREATMENT.

''(a) DEFINITIONS.—In this section:

''(1) JAIL-BASED SUBSTANCE ABUSE TREATMENT PROGRAM.—The term 'jail-based substance abuse treatment program' means a course of individual and group activities, lasting for a period of not less than 3 months, in an area of a correctional facility set apart from the general population of the correctional facility, if those activities are—

''(A) directed at the substance abuse problems of prisoners; and

''(B) intended to develop the cognitive, behavioral, social, vocational, and other skills of prisoners in order to address the substance abuse and related problems of prisoners.

''(2) LOCAL CORRECTIONAL FACILITY.—The term 'local correctional facility' means any correctional facility operated by a unit of local government.

''(b) AUTHORIZATION.—

''(1) IN GENERAL.—Not less than 10 percent of the total amount made available to a State under section 1904(a) for any fiscal year may be used by the State to make grants to local correctional facilities in the State for the purpose of assisting jail-based substance abuse treatment programs established by those local correctional facilities.

''(2) FEDERAL SHARE.—The Federal share of a grant made by a State under this section to a local correctional facility may not exceed 75 percent of the total cost of the jail-based substance abuse treatment program described in the application submitted under subsection (c) for the fiscal year for which the program receives assistance under this section.

''(c) APPLICATIONS.—

''(1) IN GENERAL.—To be eligible to receive a grant from a State under this section for a jail-based substance abuse treatment program, the chief executive of a local correctional facility shall submit to the State, in such form and containing such information as the State may reasonably require, an application that meets the requirements of paragraph (2).

''(2) APPLICATION REQUIREMENTS.—Each application submitted under paragraph (1) shall include—

''(A) with respect to the jail-based substance abuse treatment program for which assistance is sought, a description of the program and a written certification that—

''(i) the program has been in effect for not less than 2 consecutive years before the date on which the application is submitted; and

''(ii) the local correctional facility will—

''(I) coordinate the design and implementation of the program between local correctional facility representatives and the appropriate State and local alcohol and substance abuse agencies;

''(II) implement (or continue to require) urinalysis or other proven reliable forms of substance abuse testing of individuals participating in the program, including the testing of individuals released from the jail-based substance abuse treatment program who remain in the custody of the local correctional facility; and

''(III) carry out the program in accordance with guidelines, which shall be established by the State, in order to guarantee each participant in the program access to consistent, continual care if transferred to a different local correctional facility within the State;

''(B) written assurances that Federal funds received by the local correctional facility from the State under this section will be used to supplement, and not to supplant, non-Federal funds that would otherwise be available for jail-based substance abuse treatment programs assisted with amounts made available to the local correctional facility under this section; and

''(C) a description of the manner in which amounts received by the local correctional facility from the State under this section will be coordinated with Federal assistance for substance abuse treatment and aftercare services provided to the local correctional facility by the Substance Abuse and Mental Health Services Administration of the Department of Health and Human Services.

''(d) REVIEW OF APPLICATIONS.—

''(1) IN GENERAL.—Upon receipt of an application under subsection (c), the State shall—

''(A) review the application to ensure that the application, and the jail-based residential substance abuse treatment program for which a grant under this section is sought, meet the requirements of this section; and

''(B) if the requirements of this section are met, make an affirmative finding in writing that the jail-based substance abuse treatment program for which assistance is sought meets the requirements of this section.

''(2) APPROVAL.—Based on the review conducted under paragraph (1), not later than 90 days after the date on which an application is submitted under subsection (c), the State shall—

''(A) approve the application, disapprove the application, or request a continued evaluation of the application for an additional period of 90 days; and

''(B) notify the applicant of the action taken under subparagraph (A) and, with respect to any denial of an application under subparagraph (A), afford the applicant an opportunity for reconsideration.

''(3) ELIGIBILITY FOR PREFERENCE WITH AFTERCARE COMPONENT.—

''(A) IN GENERAL.—In making grants under this section, a State shall give preference to applications from local correctional facilities that ensure that each participant in the jail-based substance abuse treatment program for which a grant under this section is sought, is required to participate in an aftercare services program that meets the requirements of subparagraph (B), for a period of not less than 1 year following the earlier of—

''(i) the date on which the participant completes the jail-based substance abuse treatment program; or

''(ii) the date on which the participant is released from the correctional facility at the end of the sentence of the participant or is released on parole.

''(B) AFTERCARE SERVICES PROGRAM REQUIREMENTS.—For purposes of subparagraph (A), an aftercare services program meets the requirements of this paragraph if the program—

''(i) in selecting individuals for participation in the program, gives priority to individuals who have completed a jail-based substance abuse treatment program;

''(ii) requires each participant in the program to submit to periodic substance abuse testing; and

''(iii) involves the coordination between the jail-based substance abuse treatment program and other human service and rehabilitation programs that may assist in the rehabilitation of program participants, such as—

''(I) educational and job training programs;

''(II) parole supervision programs;

''(III) half-way house programs; and

''(IV) participation in self-help and peer group programs; and

''(iv) assists in placing jail-based substance abuse treatment program participants with appropriate community substance abuse treatment facilities upon release from the correctional facility at the end of a sentence or on parole.

''(e) COORDINATION AND CONSULTATION.—

''(1) COORDINATION.—Each State that makes 1 or more grants under this section in any fiscal year shall, to the maximum extent practicable, implement a statewide communications network with the capacity to track the participants in jail-based substance abuse treatment programs established by local correctional facilities in the State as those participants move between local correctional facilities within the State.

''(2) CONSULTATION.—Each State described in paragraph (1) shall consult with the Attorney General and the Secretary of Health and Human Services to ensure that each jail-based substance abuse treatment program assisted with a grant made by the State under this section incorporates applicable

components of comprehensive approaches, including relapse prevention and aftercare services.

''(f) USE OF GRANT AMOUNTS.—

''(1) IN GENERAL.—Each local correctional facility that receives a grant under this section shall use the grant amount solely for the purpose of carrying out the jail-based substance abuse treatment program described in the application submitted under subsection (c).

''(2) ADMINISTRATION.—Each local correctional facility that receives a grant under this section shall carry out all activities relating to the administration of the grant amount, including reviewing the manner in which the amount is expended, processing, monitoring the progress of the program assisted, financial reporting, technical assistance, grant adjustments, accounting, auditing, and fund disbursement.

''(3) RESTRICTION.—A local correctional facility may not use any amount of a grant under this section for land acquisition or a construction project.

''(g) REPORTING REQUIREMENT; PERFORMANCE REVIEW.—

''(1) REPORTING REQUIREMENT.—Not later than March 1 of each year, each local correctional facility that receives a grant under this section shall submit to the Attorney General, through the State, a description and evaluation of the jail-based substance abuse treatment program carried out by the local correctional facility with the grant amount, in such form and containing such information as the Attorney General may reasonably require.

''(2) PERFORMANCE REVIEW.—The Attorney General shall conduct an annual review of each jail-based substance abuse treatment program assisted under this section, in order to verify the compliance of local correctional facilities with the requirements of this section.

''(h) NO EFFECT ON STATE ALLOCATION.—Nothing in this section shall be construed to affect the allocation of amounts to States under section 1904(a).''.

(c) TECHNICAL AMENDMENT.—The table of contents for title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended, in the matter relating to part S, by adding at the end the following:

''1906. Jail-based substance abuse treatment.''.

Mrs. FEINSTEIN (for herself, Mrs. HUTCHISON, Mr. KYL, Mr. BINGAMAN, and Mrs. BOXER):

S. 147. A bill to provide for the appointment of additional Federal district judges, and for other purposes; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President. I rise, along with Senators HUTCHINSON of Texas, Senator KYL of Arizona, and Senator BINGAMAN of New Mexico, to introduce the Southwest Border Judgeship Act of 2001.

This legislation would enact the United States Judicial Conference recommendation of nine permanent and nine temporary judgeships for the five Southwestern border districts of Southern California, Arizona, New Mexico, Western Texas, and Southern Texas.

The judicial districts on the Southwestern Border are facing an unparalleled surge of cases, and lack the resources to handle them.

From March 1994 through March 1999, criminal case filings in Southwestern border courts increased by 125 percent (from 6,460 to 14,517), drug prosecutions in these same districts increased by 189 percent (from 2,864 to 5,414), and immigration prosecutions by 431 percent (from 1,056 to 5,614).

The Five ''Border Courts'' (Southern California, Arizona, New Mexico, West Texas, Southern Texas) now handle 26 percent of all federal court criminal filings in the United States, and are projected to handle one-third within two years. The 89 other district courts handle the other 74 percent of criminal filings.

All five border courts currently are among the top ten most burdened districts in the country in terms of weighted caseload.

While these courts have faced an ever rising caseload, their resources have remained stagnant. The Southern District of California, for example, has not been authorized a new judgeship since 1990.

Nowhere is the judicial crisis greater than in the Southern District of California. On October 30, 2000, the district took the unprecedented step of declaring a ''judicial emergency.'' The Southern district had a weighted caseload of 978 cases per judgeship in Fiscal year 2000. That's nearly two and a half times the national standard of 430 cases per judgeship.

The court's criminal caseload is the heaviest in the nation, with 55 trials per judge for the year 2000. In civil case, many judges no longer hear oral arguments; they base their opinions solely on written briefs.

The Chief Judge in San Diego, Marilyn Huff, has resorted to desperate measures to hold back this tide of cases, including asking seven retired judges to return to the bench. Two of these judges, Judge Edward Schwartz and Judge Leland Nielsen, have recently died.

The Southern District of California and other border districts cannot continue to function effectively with a skeleton crew of judges. The crisis in San Diego, in particular, has reached a point where citizen access to justice is being threatened. It is imperative that Congress act proactively to address this shortage of resources.

The Southwest Border Judges Act would authorize nine permanent judgeships (5 judgeships for the Southern District of California, 1 judgeship for the district of New Mexico, 1 judgeship for the Southern District of Texas, and 2 judgeships for the western district of Texas) and nine temporary judgeships (four for Arizona, 3 for the Southern District of California, 1 for New Mexico, and 1 for the Western district of Texas).

I look forward to working with my colleagues to enact this urgent legislation.

Mr. KYL. Mr. President, I rise in support of Senator FEINSTEIN's bill to add judgeships to the states along U.S.-Mexico border. I agree with Senator FEINSTEIN that, due to the growing population and caseload, additional judgeships are solely needed.

This bill seeks to enact a recommendation of the Judicial Conference of the United States. The bill would authorize nine permanent and nine temporary judgeships. I favor a different approach. I believe that all the judgeships in the bill should be permanent judgeships because the growth in population and resulting caseload is expected to continue. I have agreed to cosponsor the bill because I agree that additional judgeships are needed and I believe that the bill provides a sound basis for discussions.

I look forward to working with Senator FEINSTEIN and the other Senators along the southwest border, as well as Senators HATCH and LEAHY and the chair and ranking member of the Subcommittee on Courts and Administrative Oversight.

Mr. CRAIG (for himself, Mr. LANDRIEU, Mr. JOHNSON, and Mr. STEVENS):

S. 148. A bill to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; to the Committee on Finance.

Mr. CRAIG. Mr. President, there is some very important unfinished business from the last Congress that requires our early attention this year: renewing the adoption tax credit.

As many of our colleagues know, this credit was enacted in 1996 to help families with the extraordinary costs of adoption. Forming a family through adoption is challenging for a number of reasons, but the financial burden puts it out of reach altogether for too many Americans. Legal fees, medical bills, travel, and other expenses can push the cost into the tens of thousands of dollars, over and above the normal cost of raising a child. Congress enacted the adoption tax credit to enable families to keep a little more of their own hard-earned dollars to use for these expenses, on a one-time basis.

That tax credit has been very helpful to the families who have opened their homes and hearts to children in need. However, it is due to expire at the end of this year, along with another adoption-related tax provision that excludes employer-provided adoption benefits from income, for tax purposes.

We cannot wait until the end of the year to renew these tax measures. Today, families are making decisions about whether they can afford to embark on the long journey to bring a child home through adoption. Today, they cannot count on those tax benefits being available. This Congress must move swiftly to reassure America's adoptive families that we will continue to support this modest assistance.

That is why I am reintroducing the Hope For Children Act, which many of my colleagues will remember from the last Congress. I am delighted to be joined in this effort by Senator MARY LANDRIEU, who with me co-chairs the

bicameral, nonpartisan Congressional Coalition on Adoption, as well as our colleagues, the Senator from Alaska Mr. STEVENS, and the Senator from South Dakota Mr. JOHNSON.

Our legislation will extend, increase, and simplify these important tax measures. Specifically, the Hope For Children Act would remove the current sunset on both the adoption tax credit and the exclusion for employer-provided adoption benefits. It would also increase the benefit and exclusion from $5,000 (or in the case of an adoption of a child with special needs, $6,000) to $10,000, and adjust them for inflation. It would lift the cap on income eligibility for receiving the full benefit of these tax measures from $75,000 gross income to $150,000.

Also, the bill includes a provision that the Senate has passed more than once, liberalizing the tax credit for families adopting children with special needs. It would also make a similar adjustment in the exclusion as it relates to these families. Instead of being limited to the adoption expenses that the Internal Revenue Service decides are allowable, these families would be entitled to the full credit and exclusion. This change is necessary, because the financial challenges facing these families tend to fall outside or after the adoption process itself—for instance, they may include a wheelchair or special van for an adopted child with a physical disability, or home construction work to make it possible to adopt a sibling group, or counseling services for the family to cope with the extraordinary challenges of a child with special needs.

It is important to remember that the costs involved in such adoptions are truly staggering. Even with the increases we want to provide through the Hope For Children Act, the adoption tax credit and exclusion only offer a boost, not a subsidy, to families who are willing to open their hearts and homes to a child with special needs.

Mr. President, there are thousands and thousands of children in America who are waiting to be adopted. The adoption tax credit and exclusion are humane, measured, effective policies that truly help these children find safe, loving, permanent homes. Let's send a strong message of support to these children and their families by renewing these policies, through early passage of the Hope For Children Act.

I ask unanimous consent that a copy of the bill be printed in the CONGRESSIONAL RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 148

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 ''Hope for Children Act''.

SEC. 2. EXPANSION OF ADOPTION CREDIT AND ADOPTION ASSISTANCE PROGRAMS.

(a) IN GENERAL.—

(1) ADOPTION CREDIT.—Section 23(a)(1) of the Internal Revenue Code of 1986 (relating to allowance of credit) is amended to read as follows:

''(1) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter—

''(A) in the case of an adoption of a child other than a child with special needs, the amount of the qualified adoption expenses paid or incurred by the taxpayer, and

''(B) in the case of an adoption of a child with special needs, $10,000.''.

(2) ADOPTION ASSISTANCE PROGRAMS.—Section 137(a) of such Code (relating to adoption assistance programs) is amended to read as follows:

''(a) IN GENERAL.—Gross income of an employee does not include amounts paid or expenses incurred by the employer for adoption expenses in connection with the adoption of a child by an employee if such amounts are furnished pursuant to an adoption assistance program. The amount of the exclusion shall be—

''(1) in the case of an adoption of a child other than a child with special needs, the amount of the qualified adoption expenses paid or incurred by the taxpayer, and

''(2) in the case of an adoption of a child with special needs, $10,000.''.

(b) DOLLAR LIMITATIONS.—

(1) DOLLAR AMOUNT OF ALLOWED EXPENSES.—

(A) ADOPTION EXPENSES.—Section 23(b)(1) of the Internal Revenue Code of 1986 (relating to allowance of credit) is amended—

(i) by striking ''$5,000'' and inserting ''$10,000'',

(ii) by striking ''($6,000, in the case of a child with special needs)'', and

(iii) by striking ''subsection (a)'' and inserting ''subsection (a)(1)(A)''.

(B) ADOPTION ASSISTANCE PROGRAMS.—Section 137(b)(1) of such Code (relating to dollar limitations for adoption assistance programs) is amended—

(i) by striking ''$5,000'' and inserting ''$10,000'', and

(ii) by striking ''($6,000, in the case of a child with special needs)'', and

(iii) by striking ''subsection (a)'' and inserting ''subsection (a)(1)''.

(2) PHASE-OUT LIMITATION.—

(A) ADOPTION EXPENSES.—Clause (i) of section 23(b)(2)(A) of such Code (relating to income limitation) is amended by striking ''$75,000'' and inserting ''$150,000''.

(B) ADOPTION ASSISTANCE PROGRAMS.—Section 137(b)(2)(A) of such Code (relating to income limitation) is amended by striking ''$75,000'' and inserting ''$150,000''.

(c) YEAR CREDIT ALLOWED.—Section 23(a)(2) of the Internal Revenue Code of 1986 (relating to year credit allowed) is amended by adding at the end the following new flush sentence:

''In the case of the adoption of a child with special needs, the credit allowed under paragraph (1) shall be allowed for the taxable year in which the adoption becomes final.''.

(d) REPEAL OF SUNSET PROVISIONS.—

(1) CHILDREN WITHOUT SPECIAL NEEDS.—Paragraph (2) of section 23(d) of the Internal Revenue Code of 1986 (relating to definition of eligible child) is amended to read as follows:

''(2) ELIGIBLE CHILD.—The term 'eligible child' means any individual who—

''(A) has not attained age 18, or

''(B) is physically or mentally incapable of caring for himself.''.

(2) ADOPTION ASSISTANCE PROGRAMS.—Section 137 of such Code (relating to adoption assistance programs) is amended by striking subsection (f).

(e) ADJUSTMENT OF DOLLAR AND INCOME LIMITATIONS FOR INFLATION.—

(1) ADOPTION CREDIT.—Section 23 of the Internal Revenue Code of 1986 (relating to adoption expenses) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

''(h) ADJUSTMENTS FOR INFLATION.—In the case of a taxable year beginning after December 31, 2002, each of the dollar amounts in subsection (a)(1)(B) and paragraphs (1) and (2)(A)(i) of subsection (b) shall be increased by an amount equal to—

''(1) such dollar amount, multiplied by

''(2) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2001' for 'calendar year 1992' in subparagraph (B) thereof.''.

(2) ADOPTION ASSISTANCE PROGRAMS.—Section 137 of such Code (relating to adoption assistance programs), as amended by subsection (d), is amended by adding at the end the following new subsection:

''(f) ADJUSTMENTS FOR INFLATION.—In the case of a taxable year beginning after December 31, 2002, each of the dollar amounts in subsection (a)(2) and paragraphs (1) and (2)(A) of subsection (b) shall be increased by an amount equal to—

''(1) such dollar amount, multiplied by

''(2) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2001' for 'calendar year 1992' in subparagraph (B) thereof.''.

(f) LIMITATION BASED ON AMOUNT OF TAX.—

(1) IN GENERAL.—Section 23(c) of the Internal Revenue Code of 1986 (relating to carryforwards of unused credit) is amended by striking ''the limitation imposed'' and all that follows through ''1400C)'' and inserting ''the applicable tax limitation''.

(2) APPLICABLE TAX LIMITATION.—Section 23(d) of such Code (relating to definitions) is amended by adding at the end the following new paragraph:

''(4) APPLICABLE TAX LIMITATION.—The term 'applicable tax limitation' means the sum of—

''(A) the taxpayer's regular tax liability for the taxable year, reduced (but not below zero) by the sum of the credits allowed by sections 21, 22, 24 (other than the amount of the increase under subsection (d) thereof), 25, and 25A, and

''(B) the tax imposed by section 55 for such taxable year.''.

(3) CONFORMING AMENDMENTS.—

(A) Section 26(a) of such Code (relating to limitation based on amount of tax) is amended by inserting ''(other than section 23)'' after ''allowed by this subpart''.

(B) Section 53(b)(1) of such Code (relating to minimum tax credit) is amended by inserting ''reduced by the aggregate amount taken into account under section 23(d)(3)(B) for all such prior taxable years,'' after ''1986,''.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

By Mr. ENZI (for himself, Mr. GRAMM, Mr. SARBANES, Mr. JOHNSON, Mr. HAGEL, Mr. ROBERTS, and Ms. STABENOW):

S. 149. A bill to provide authority to control exports, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. ENZI. Mr. President, I rise today to introduce the Export Administration Act of 2001. I am joined by my distinguished colleague, Senator GRAMM

of Texas, Senator SARBANES of Maryland, Senator JOHNSON of South Dakota, Senator HAGEL of Nebraska, and Senator ROBERTS of Kansas. I thank each of them for their help in drafting and supporting this bipartisan bill. I believe it can be one of the first bipartisan accomplishments of the 107th Congress and President Bush. The EAA of 2001 would eliminate trade barriers while focusing control on those items most sensitive to our national security.

Let me begin by emphasizing the need to reauthorize and reform the EAA of 1979.

The EAA provides export control authority for commercial or dual-use items—things that can be used in more than one way. For 6 years the Congress has failed to update and reauthorize this important act, with the exception of a 1-year reauthorization of the outdated Export Administration Act of 1979. As a result, our export control laws have been inadequately governed by either the EAA of 1979 or, more often than not, by emergency Presidential authority under the International Emergency Economic Powers Act. This situation has effectively allowed the administration, instead of Congress, to set the export control policies of the United States.

The bill introduced today would place our export control system on firm statutory grounds and establish a modernized framework to recognize the rapid pace of economic innovation and the realities of globalization.

The Export Administration Act of 2001 is a reasonable and balanced bill that will put up higher fences around the most sensitive areas and focus our enforcement efforts on restricting all technology exports to all the true bad actors. At the same time, it takes into account the realities of today's economy, incorporating the concept that items such as computers are very difficult to control.

The bill recognizes that items available from foreign sources or available in mass market quantities cannot be effectively controlled. At the same time, we recognize that the President may, in exceptional cases, want to control a very sensitive item even when that item is available from the foreign source or in mass marketed quantities. Therefore, we include a provision to provide the President with this authority.

The Export Administration Act of 2001 also strengthens national security in other areas. It enhances the role of the Department of Defense and other agencies by requiring the concurrence of the Secretary of Defense for items included on the control list as well as allowing licensing decisions to be appealed to the next level of review at the request of any participating agency representative. Licensing decisions would be made in part through the use of ''country-tiering'', grouping countries and items according to their assessed risk. The bill would also target end-use checks on those items that pose the greatest risk to national security.

The EAA of 2001 provides tough new criminal and civil penalties for export control violations. For example, criminal penalties for individuals could be up to $1 million, or ten times the value of the export per violation. Criminal penalties for corporations could be up to $10 million or ten times the export value of the export per violation. It also authorizes a wording of up to 25 percent of the penalties imposed to a person providing information concerning an export control violation. The increase in penalties, which also include potential jail time and enhancement of enforcement provisions, will provide an effective deterrent to the violations of the act.

A number of reviews of technology transfer and export controls were unanimous in their statements that an important requirement for an effective export control program is appropriate authorizing legislation.

The Cox committee on technology transfer to China, the joint Inspector General's interagency review of the export licensing processes for dual-use commodities and munitions, and the Commission to Assess the Organization of the Federal Government to Combat the Proliferation of Weapons of Mass Destruction, have all strongly recommended the authorization of the EAA. The bipartisan Export Administration Act of 2001 would accomplish this while balancing the national security and economic interests of the United States.

S. 1712, which was the EAA reauthorization bill of last session that unanimously passed the Senate Banking Committee last year, was strongly supported by Republicans and Democrats, as well as both large and small exporters.

The Clinton administration supported the bill. Even President Bush endorsed the bill in campaign statements that he made. It was prevented from coming up last year because of a crowded floor agenda, but now is the time to replace the current outdated export control system and pass the Export Administration Act of 2001. We have an opportunity. We have an obligation to make sure that we increase exports while we protect national security.

The bill was expired for six years. There have been 12 attempts to reauthorize the bill. The biggest reason that it has not been reauthorized is the complexity of detail of the licensing and appeal process. Fortunately, the Cox commission brought to light the need to reauthorize this important piece of legislation.

Last year, we passed it through committee by a 20–0 vote. After 12 failures, that is fairly significant. In fact, it is always significant around here when you have something Bipartisan enough that it passes on a unanimous vote.

We have worked hard on the bill. We have listened to industry. We have listened to our colleagues. We have listened to the administration. We have listened to those people over past administrations who have worked on the same issue. We have a bill that updates the process for the post-cold war so that the provisions in this will work today and into the future. This is the new version that needs to be passed in this session of Congress. It needs to be passed early.

The current extension we got on the bill only extended it until August 20. That is coming up soon, particularly with our legislative calendar needs. I ask my colleagues to work promptly on this bill. We will be talking to everyone who has an interest in it, and coming back to the floor with debate and discussion and a vote that will put this in front of the President for signature so we can have the proper national security and increase in national exports.

I thank my colleagues for their support of this most important piece of legislation and look forward to working with my colleagues to reauthorize the EAA during the coming months.

I ask unanimous consent that the bill be printed.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 149

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Export Administration Act of 2001''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—GENERAL AUTHORITY

Sec. 101. Commerce Control List.
Sec. 102. Delegation of authority.
Sec. 103. Public information; consultation requirements.
Sec. 104. Right of export.
Sec. 105. Export control advisory committees.
Sec. 106. President's Technology Export Council.
Sec. 107. Prohibition on charging fees.

TITLE II—NATIONAL SECURITY EXPORT CONTROLS

Subtitle A—Authority and Procedures

Sec. 201. Authority for national security export controls.
Sec. 202. National Security Control List.
Sec. 203. Country tiers.
Sec. 204. Incorporated parts and components.
Sec. 205. Petition process for modifying export status.

Subtitle B—Foreign Availability and Mass-Market Status

Sec. 211. Determination of foreign availability and mass-market status.
Sec. 212. Presidential set-aside of foreign availability determination.
Sec. 213. Presidential set-aside of mass-market status determination.
Sec. 214. Office of Technology Evaluation.

TITLE III—FOREIGN POLICY EXPORT CONTROLS

Sec. 301. Authority for foreign policy export controls.

Sec. 302. Procedures for imposing controls.
Sec. 303. Criteria for foreign policy export controls.
Sec. 304. Presidential report before imposition of control.
Sec. 305. Imposition of controls.
Sec. 306. Deferral authority.
Sec. 307. Review, renewal, and termination.
Sec. 308. Termination of controls under this title.
Sec. 309. Compliance with international obligations.
Sec. 310. Designation of countries supporting international terrorism.
TITLE IV—EXEMPTION FOR AGRICULTURAL COMMODITIES, MEDICINE, AND MEDICAL SUPPLIES
Sec. 401. Exemption for agricultural commodities, medicine, and medical supplies.
Sec. 402. Termination of export controls required by law.
Sec. 403. Exclusions.
TITLE V—PROCEDURES FOR EXPORT LICENSES AND INTERAGENCY DISPUTE RESOLUTION
Sec. 501. Export license procedures.
Sec. 502. Interagency dispute resolution process.
TITLE VI—INTERNATIONAL ARRANGEMENTS; FOREIGN BOYCOTTS; SANCTIONS; AND ENFORCEMENT
Sec. 601. International arrangements.
Sec. 602. Foreign boycotts.
Sec. 603. Penalties.
Sec. 604. Multilateral export control regime violation sanctions.
Sec. 605. Missile proliferation control violations.
Sec. 606. Chemical and biological weapons proliferation sanctions.
Sec. 607. Enforcement.
Sec. 608. Administrative procedure.
TITLE VII—EXPORT CONTROL AUTHORITY AND REGULATIONS
Sec. 701. Export control authority and regulations.
Sec. 702. Confidentiality of information.
TITLE VIII—MISCELLANEOUS PROVISIONS
Sec. 801. Annual and periodic reports.
Sec. 802. Technical and conforming amendments.
Sec. 803. Savings provisions.

SEC. 2. DEFINITIONS.

In this Act:

(1) AFFILIATE.—The term ''affiliate'' includes both governmental entities and commercial entities that are controlled in fact by the government of a country.

(2) AGRICULTURE COMMODITY.—The term ''agriculture commodity'' means any agricultural commodity, food, fiber, or livestock (including livestock, as defined in section 602(2) of the Emergency Livestock Feed Assistance Act of 1988 (title VI of the Agricultural Act of 1949 (7 U.S.C. 1471(2))), and including insects), and any product thereof.

(3) CONTROL OR CONTROLLED.—The terms ''control'' and ''controlled'' mean any requirement, condition, authorization, or prohibition on the export or reexport of an item.

(4) CONTROL LIST.—The term ''Control List'' means the Commerce Control List established under section 101.

(5) CONTROLLED COUNTRY.—The term ''controlled country'' means a country with respect to which exports are controlled under section 201 or 301.

(6) CONTROLLED ITEM.—The term ''controlled item'' means an item the export of which is controlled under this Act.

(7) COUNTRY.—The term ''country'' means a sovereign country or an autonomous customs territory.

(8) COUNTRY SUPPORTING INTERNATIONAL TERRORISM.—The term ''country supporting international terrorism'' means a country designated by the Secretary of State pursuant to section 310.

(9) DEPARTMENT.—The term ''Department'' means the Department of Commerce.

(10) EXPORT.—

(A) The term ''export'' means—

(i) an actual shipment, transfer, or transmission of an item out of the United States;

(ii) a transfer to any person of an item either within the United States or outside of the United States with the knowledge or intent that the item will be shipped, transferred, or transmitted to an unauthorized recipient outside the United States; or

(iii) a transfer of an item in the United States to an embassy or affiliate of a country, which shall be considered an export to that country.

(B) The term includes a reexport.

(11) FOREIGN AVAILABILITY STATUS.—The term ''foreign availability status'' means the status described in section 211(d)(1).

(12) FOREIGN PERSON.—The term ''foreign person'' means—

(A) an individual who is not—

(i) a United States citizen;

(ii) an alien lawfully admitted for permanent residence to the United States; or

(iii) a protected individual as defined in section 274B(a)(3) of the Immigration and Nationality Act. (8 U.S.C. 1324b(a)(3));

(B) any corporation, partnership, business association, society, trust, organization, or other nongovernmental entity created or organized under the laws of a foreign country or that has its principal place of business outside the United States; and

(C) any governmental entity of a foreign country.

(13) ITEM.—

(A) IN GENERAL.—The term ''item'' means any good, technology, or service.

(B) OTHER DEFINITIONS.—In this paragraph:

(i) GOOD.—The term ''good'' means any article, natural or manmade substance, material, supply or manufactured product, including inspection and test equipment, including source code, and excluding technical data.

(ii) TECHNOLOGY.—The term ''technology'' means specific information that is necessary for the development, production, or use of an item, and takes the form of technical data or technical assistance.

(iii) SERVICE.—The term ''service'' means any act of assistance, help or aid.

(14) MASS-MARKET STATUS.—The term ''mass-market status'' means the status described in section 211(d)(2).

(15) MULTILATERAL EXPORT CONTROL REGIME.—The term ''multilateral export control regime'' means an international agreement or arrangement among two or more countries, including the United States, a purpose of which is to coordinate national export control policies of its members regarding certain items. The term includes regimes such as the Australia Group, the Wassenaar Arrangement, the Missile Technology Control Regime (MTCR), and the Nuclear Suppliers' Group Dual Use Arrangement.

(16) NATIONAL SECURITY CONTROL LIST.—The term ''National Security Control List'' means the list established under section 202(a).

(17) PERSON.—The term ''person'' includes—

(A) any individual, or partnership, corporation, business association, society, trust, organization, or any other group created or organized under the laws of a country; and

(B) any government, or any governmental entity, including any governmental entity operating as a business enterprise.

(18) REEXPORT.—The term ''reexport'' means the shipment, transfer, transshipment, or diversion of items from one foreign country to another.

(19) SECRETARY.—The term ''Secretary'' means the Secretary of Commerce.

(20) UNITED STATES.—The term ''United States'' means the States of the United States, the District of Columbia, and any commonwealth, territory, dependency, or possession of the United States, and includes the outer Continental Shelf, as defined in section 2(a) of the Outer Continental Shelf Lands Act (42 U.S.C. 1331(a)).

(21) UNITED STATES PERSON.—The term ''United States person'' means—

(A) any United States citizen, resident, or national (other than an individual resident outside the United States who is employed by a person other than a United States person);

(B) any domestic concern (including any permanent domestic establishment of any foreign concern); and

(C) any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern which is controlled in fact by such domestic concern, as determined under regulations prescribed by the President.

TITLE I—GENERAL AUTHORITY

SEC. 101. COMMERCE CONTROL LIST.

(a) IN GENERAL.—Under such conditions as the Secretary may impose, consistent with the provisions of this Act, the Secretary—

(1) shall establish and maintain a Commerce Control List (in this Act referred to as the ''Control List'') consisting of items the export of which are subject to licensing or other authorization or requirement; and

(2) may require any type of license, or other authorization, including recordkeeping and reporting, appropriate to the effective and efficient implementation of this Act with respect to the export of an item on the Control List or otherwise subject to control under title II or III of this Act.

(b) TYPES OF LICENSE OR OTHER AUTHORIZATION.—The types of license or other authorization referred to in subsection (a)(2) include the following:

(1) SPECIFIC EXPORTS.—A license that authorizes a specific export.

(2) MULTIPLE EXPORTS.—A license that authorizes multiple exports in lieu of a license for each such export.

(3) NOTIFICATION IN LIEU OF LICENSE.— A notification in lieu of a license that authorizes a specific export or multiple exports subject to the condition that the exporter file with the Department advance notification of the intent to export in accordance with regulations prescribed by the Secretary.

(4) LICENSE EXCEPTION.—Authority to export an item on the Control List without prior license or notification in lieu of a license.

(c) AFTER-MARKET SERVICE AND REPLACEMENT PARTS.—A license to export an item under this Act shall not be required for an exporter to provide after-market service or replacement parts, to replace on a one-for-one basis parts that were in an item that was lawfully exported from the United States, unless—

(1) the Secretary determines that such license is required to export such parts; or

(2) the after-market service or replacement parts would materially enhance the capability of an item which was the basis for the item being controlled.

(d) INCIDENTAL TECHNOLOGY.—A license or other authorization to export an item under this Act includes authorization to export technology related to the item, if the level of the technology does not exceed the minimum necessary to install, repair, maintain, inspect, operate, or use the item.

(e) REGULATIONS.—The Secretary may prescribe such regulations as are necessary to carry out the provisions of this Act.

SEC. 102. DELEGATION OF AUTHORITY.

(a) IN GENERAL.—Except as provided in subsection (b) and subject to the provisions of this Act, the President may delegate the power, authority, and discretion conferred upon the President by this Act to such departments, agencies, and officials of the Government as the President considers appropriate.

(b) EXCEPTIONS.—

(1) DELEGATION TO APPOINTEES CONFIRMED BY SENATE.—No authority delegated to the President under this Act may be delegated by the President to, or exercised by, any official of any department or agency the head of which is not appointed by the President, by and with the advice and consent of the Senate.

(2) OTHER LIMITATIONS.—The President may not delegate or transfer the President's power, authority, or discretion to overrule or modify any recommendation or decision made by the Secretary, the Secretary of Defense, or the Secretary of State under this Act.

SEC. 103. PUBLIC INFORMATION; CONSULTATION REQUIREMENTS.

(a) PUBLIC INFORMATION.—The Secretary shall keep the public fully informed of changes in export control policy and procedures instituted in conformity with this Act.

(b) CONSULTATION WITH PERSONS AFFECTED.—The Secretary shall consult regularly with representatives of a broad spectrum of enterprises, labor organizations, and citizens interested in or affected by export controls in order to obtain their views on United States export control policy and the foreign availability or mass-market status of controlled items.

SEC. 104. RIGHT OF EXPORT.

No license or other authorization to export may be required under this Act, or under regulations issued under this Act, except to carry out the provisions of this Act.

SEC. 105. EXPORT CONTROL ADVISORY COMMITTEES.

(a) APPOINTMENT.—Upon the Secretary's own initiative or upon the written request of representatives of a substantial segment of any industry which produces any items subject to export controls under this Act or under the International Emergency Economic Powers Act, or being considered for such controls, the Secretary may appoint export control advisory committees with respect to any such items. Each such committee shall consist of representatives of United States industry and Government officials, including officials from the Departments of Commerce, Defense, and State, and other appropriate departments and agencies of the Government. The Secretary shall permit the widest possible participation by the business community on the export control advisory committees.

(b) FUNCTIONS.—

(1) IN GENERAL.—Export control advisory committees appointed under subsection (a) shall advise and assist the Secretary, and any other department, agency, or official of the Government carrying out functions under this Act, on actions (including all aspects of controls imposed or proposed) designed to carry out the provisions of this Act concerning the items with respect to which such export control advisory committees were appointed.

(2) OTHER CONSULTATIONS.—Nothing in paragraph (1) shall prevent the United States Government from consulting, at any time, with any person representing an industry or the general public, regardless of whether such person is a member of an export control advisory committee. Members of the public shall be given a reasonable opportunity, pursuant to regulations prescribed by the Secretary, to present information to such committees.

(c) REIMBURSEMENT OF EXPENSES.—Upon the request of any member of any export control advisory committee appointed under subsection (a), the Secretary may, if the Secretary determines it to be appropriate, reimburse such member for travel, subsistence, and other necessary expenses incurred by such member in connection with the duties of such member.

(d) CHAIRPERSON.—Each export control advisory committee appointed under subsection (a) shall elect a chairperson, and shall meet at least every 3 months at the call of the chairperson, unless the chairperson determines, in consultation with the other members of the committee, that such a meeting is not necessary to achieve the purposes of this section. Each such committee shall be terminated after a period of 2 years, unless extended by the Secretary for additional periods of 2 years each. The Secretary shall consult with each such committee on such termination or extension of that committee.

(e) ACCESS TO INFORMATION.—To facilitate the work of the export control advisory committees appointed under subsection (a), the Secretary, in conjunction with other departments and agencies participating in the administration of this Act, shall disclose to each such committee adequate information, consistent with national security, pertaining to the reasons for the export controls which are in effect or contemplated for the items or policies for which that committee furnishes advice. Information provided by the export control advisory committees shall not be subject to disclosure under section 552 of title 5, United States Code, and such information shall not be published or disclosed unless the Secretary determines that the withholding thereof is contrary to the national interest.

SEC. 106. PRESIDENT'S TECHNOLOGY EXPORT COUNCIL.

The President may establish a President's Technology Export Council to advise the President on the implementation, operation, and effectiveness of this Act.

SEC. 107. PROHIBITION ON CHARGING FEES.

No fee may be charged in connection with the submission or processing of an application for an export license under this Act.

TITLE II—NATIONAL SECURITY EXPORT CONTROLS

Subtitle A—Authority and Procedures

SEC. 201. AUTHORITY FOR NATIONAL SECURITY EXPORT CONTROLS.

(a) AUTHORITY.—

(1) IN GENERAL.—In order to carry out the purposes set forth in subsection (b), the President may, in accordance with the provisions of this Act, prohibit, curtail, or require a license, or other authorization for the export of any item subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States. The President may also require recordkeeping and reporting with respect to the export of such item.

(2) EXERCISE OF AUTHORITY.—The authority contained in this subsection shall be exercised by the Secretary, in consultation with the Secretary of Defense, the intelligence agencies, and such other departments and agencies as the Secretary considers appropriate.

(b) PURPOSES.—The purposes of national security export controls are the following:

(1) To restrict the export of items that would contribute to the military potential of countries so as to prove detrimental to the national security of the United States, its allies or countries sharing common strategic objectives with the United States.

(2) To stem the proliferation of weapons of mass destruction, and the means to deliver them, and other significant military capabilities by—

(A) leading international efforts to control the proliferation of chemical and biological weapons, nuclear explosive devices, missile delivery systems, key-enabling technologies, and other significant military capabilities;

(B) controlling involvement of United States persons in, and contributions by United States persons to, foreign programs intended to develop weapons of mass destruction, missiles, and other significant military capabilities, and the means to design, test, develop, produce, stockpile, or use them; and

(C) implementing international treaties or other agreements or arrangements concerning controls on exports of designated items, reports on the production, processing, consumption, and exports and imports of such items, and compliance with verification programs.

(3) To deter acts of international terrorism.

(c) END USE AND END USER CONTROLS.—Notwithstanding any other provision of this title, controls may be imposed, based on the end use or end user, on the export of any item, that could materially contribute to the proliferation of weapons of mass destruction or the means to deliver them.

(d) ENHANCED CONTROLS.—Notwithstanding any other provisions of this title, the President may determine that applying the provisions of section 204(b) or section 211 with respect to an item on the National Security Control List would constitute a significant threat to the national security of the United States and that such item requires enhanced control. If the President determines that enhanced control should apply to such item, it shall be excluded from the provisions of section 204(b), section 211, or both, until such time as the President shall determine that such enhanced control should no longer apply to such item. The President may not delegate the authority provided for in this subsection.

SEC. 202. NATIONAL SECURITY CONTROL LIST.

(a) ESTABLISHMENT OF LIST.—

(1) ESTABLISHMENT.—The Secretary shall establish and maintain a National Security Control List as part of the Control List.

(2) CONTENTS.—The National Security Control List shall be composed of a list of items the export of which is controlled for national security purposes under this title.

(3) IDENTIFICATION OF ITEMS FOR NATIONAL SECURITY CONTROL LIST.—The Secretary, with the concurrence of the Secretary of Defense and in consultation with the head of any other department or agency of the United States that the Secretary considers appropriate, shall identify the items to be included on the National Security Control List provided that the National Security Control List shall, on the date of enactment of this Act, include all of the items on the Commerce Control List controlled on the day before the date of enactment of this Act to protect the national security of the United States, to prevent the proliferation of weapons of mass destruction and the means to deliver them, and to deter acts of international terrorism. The Secretary shall periodically review and, with the concurrence of the Secretary of Defense and in consultation with the head of any other department or agency of the United States that the Secretary considers appropriate, adjust the National Security Control List to add items that require control under this section and to remove items that no longer warrant control under this section.

(b) RISK ASSESSMENT.—

(1) REQUIREMENT.—In establishing and maintaining the National Security Control List, the risk factors set forth in paragraph (2) shall be considered, weighing national security concerns and economic costs.

(2) RISK FACTORS.—The risk factors referred to in paragraph (1), with respect to each item, are as follows:

(A) The characteristics of the item.

(B) The threat, if any, to the United States or the national security interest of the United States from the misuse or diversion of such item.

(C) The effectiveness of controlling the item for national security purposes of the United States, taking into account mass-market status, foreign availability, and other relevant factors.

(D) The threat to the national security interests of the United States if the item is not controlled.

(E) Any other appropriate risk factors.

(c) REPORT ON CONTROL LIST.—Not later than 90 days after the date of enactment of this Act, the Secretary shall submit a report to Congress which lists all items on the Commerce Control List controlled on the day before the date of enactment of this Act to protect the national security of the United States, to prevent the proliferation of weapons of mass destruction and the means to deliver them, and to deter acts of international terrorism, not included on the National Security Control List pursuant to the provisions of this Act.

SEC. 203. COUNTRY TIERS.

(a) IN GENERAL.—

(1) ESTABLISHMENT AND ASSIGNMENT.—In administering export controls for national security purposes under this title, the President shall, not later than 120 days after the date of enactment of this Act—

(A) establish and maintain a country tiering system in accordance with subsection (b); and

(B) based on the assessments required under subsection (c), assign each country to an appropriate tier for each item or group of items the export of which is controlled for national security purposes under this title.

(2) CONSULTATION.—The establishment and assignment of country tiers under this section shall be made after consultation with the Secretary, the Secretary of Defense, the Secretary of State, the intelligence agencies, and such other departments and agencies as the President considers appropriate.

(3) REDETERMINATION AND REVIEW OF ASSIGNMENTS.—The President may redetermine the assignment of a country to a particular tier at any time and shall review and, as the President considers appropriate, reassign country tiers on an on-going basis. The Secretary shall provide notice of any such reassignment to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives.

(4) EFFECTIVE DATE OF TIER ASSIGNMENT.—An assignment of a country to a particular tier shall take effect on the date on which notice of the assignment is published in the Federal Register.

(b) TIERS.—

(1) IN GENERAL.—The President shall establish a country tiering system consisting of 5 tiers for purposes of this section, ranging from tier 1 through tier 5.

(2) RANGE.—Countries that represent the lowest risk of diversion or misuse of an item on the National Security Control List shall be assigned to tier 1. Countries that represent the highest risk of diversion or misuse of an item on the National Security Control List shall be assigned to tier 5.

(3) OTHER COUNTRIES.—Countries that fall between the lowest and highest risk to the national security interest of the United States with respect to the risk of diversion or misuse of an item on the National Security Control List shall be assigned to tier 2, 3, or 4, respectively, based on the assessments required under subsection (c).

(c) ASSESSMENTS.—The President shall make an assessment of each country in assigning a country tier taking into consideration risk factors including the following:

(1) The present and potential relationship of the country with the United States.

(2) The present and potential relationship of the country with countries friendly to the United States and with countries hostile to the United States.

(3) The country's capabilities regarding chemical, biological, and nuclear weapons and the country's membership in, and level of compliance with, relevant multilateral export control regimes.

(4) The country's capabilities regarding missile systems and the country's membership in, and level of compliance with, relevant multilateral export control regimes.

(5) Whether the country, if a NATO or major non-NATO ally with whom the United States has entered into a free trade agreement as of January 1, 1986, controls exports in accordance with the criteria and standards of a multilateral export control regime as defined in section 2(15) pursuant to an international agreement to which the United States is a party.

(6) The country's other military capabilities and the potential threat posed by the country to the United States or its allies.

(7) The effectiveness of the country's export control system.

(8) The level of the country's cooperation with United States export control enforcement and other efforts.

(9) The risk of export diversion by the country to a higher tier country.

(10) The designation of the country as a country supporting international terrorism under section 310.

(d) TIER APPLICATION.—The country tiering system shall be used in the determination of license requirements pursuant to section 201(a)(1).

SEC. 204. INCORPORATED PARTS AND COMPONENTS.

(a) EXPORT OF ITEMS CONTAINING CONTROLLED PARTS AND COMPONENTS.—Controls may not be imposed under this title or any other provision of law on an item solely because the item contains parts or components subject to export controls under this title, if the parts or components—

(1) are essential to the functioning of the item,

(2) are customarily included in sales of the item in countries other than controlled countries, and

(3) comprise 25 percent or less of the total value of the item,

unless the item itself, if exported, would by virtue of the functional characteristics of the item as a whole make a significant contribution to the military or proliferation potential of a controlled country or end user which would prove detrimental to the national security of the United States, or unless failure to control the item would be contrary to the provisions of section 201(c), section 201(d), or section 309 of this Act.

(b) REEXPORTS OF FOREIGN-MADE ITEMS INCORPORATING UNITED STATES CONTROLLED CONTENT.—

(1) IN GENERAL.—No authority or permission may be required under this title to reexport to a country (other than a country designated as a country supporting international terrorism pursuant to section 310) an item that is produced in a country other than the United States and incorporates parts or components that are subject to the jurisdiction of the United States, if the value of the controlled United States content of the item produced in such other country is 25 percent or less of the total value of the item.

(2) DEFINITION OF CONTROLLED UNITED STATES CONTENT.—For purposes of this paragraph, the term ''controlled United States content'' of an item means those parts or components that—

(A) are subject to the jurisdiction of the United States;

(B) are incorporated into the item; and

(C) would, at the time of the reexport, require a license under this title if exported from the United States to a country to which the item is to be reexported.

SEC. 205. PETITION PROCESS FOR MODIFYING EXPORT STATUS.

(a) ESTABLISHMENT.—The Secretary shall establish a process for interested persons to petition the Secretary to change the status of an item on the National Security Control List.

(b) EVALUATIONS AND DETERMINATIONS.—Evaluations and determinations with respect to a petition filed pursuant to this section shall be made in accordance with section 202.

Subtitle B—Foreign Availability and Mass-Market Status

SEC. 211. DETERMINATION OF FOREIGN AVAILABILITY AND MASS-MARKET STATUS.

(a) IN GENERAL.—The Secretary shall—

(1) on a continuing basis,

(2) upon a request from the Office of Technology Evaluation, or

(3) upon receipt of a petition filed by an interested party,

review and determine the foreign availability and the mass-market status of any item the export of which is controlled under this title.

(b) PETITION AND CONSULTATION.—

(1) IN GENERAL.—The Secretary shall establish a process for an interested party to petition the Secretary for a determination that an item has a foreign availability or mass-market status. In evaluating and making a determination with respect to a petition filed under this section, the Secretary shall consult with the Secretary of Defense, Secretary of State, and other appropriate Government agencies and with the Office of Technology Evaluation (established pursuant to section 214).

(2) TIME FOR MAKING DETERMINATION.—The Secretary shall, within 6 months after receiving a petition described in subsection (a)(3), determine whether the item that is the subject of the petition has foreign availability or mass-market status and shall notify the petitioner of the determination.

(c) RESULT OF DETERMINATION.—In any case in which the Secretary determines, in accordance with procedures and criteria which the Secretary shall by regulation establish, that an item described in subsection (a) has—

(1) a foreign availability status, or

(2) a mass-market status,

the Secretary shall notify the President (and other appropriate departments and agencies) and publish the notice of the determination in the Federal Register. The Secretary's determination shall become final 30 days after the date the notice is published, the item shall be removed from the National Security Control List, and a license or other authorization shall not be required under this title or under section 1211 of the National Defense Authorization Act of Fiscal Year 1998 with respect to the item, unless the President makes a determination described in section 212 or 213, or takes action under section 309, with respect to the item in that 30-day period.

(d) CRITERIA FOR DETERMINING FOREIGN AVAILABILITY AND MASS-MARKET STATUS.—

(1) FOREIGN AVAILABILITY STATUS.—The Secretary shall determine that an item has foreign availability status under this subtitle, if the item (or a substantially identical or directly competitive item)—

(A) is available to controlled countries from sources outside the United States, including countries that participate with the United States in multilateral export controls;

(B) can be acquired at a price that is not excessive when compared to the price at which a controlled country could acquire such item from sources within the United States in the absence of export controls; and

(C) is available in sufficient quantity so that the requirement of a license or other authorization with respect to the export of such item is or would be ineffective.

(2) MASS-MARKET STATUS.—

(A) IN GENERAL.—In determining whether an item has mass-market status under this subtitle, the Secretary shall consider the following criteria with respect to the item (or a substantially identical or directly competitive item):

(i) The production and availability for sale in a large volume to multiple potential purchasers.

(ii) The widespread distribution through normal commercial channels, such as retail stores, direct marketing catalogues, electronic commerce, and other channels.

(iii) The conduciveness to shipment and delivery by generally accepted commercial means of transport.

(iv) The use for the item's normal intended purpose without substantial and specialized service provided by the manufacturer, distributor, or other third party.

(B) DETERMINATION BY SECRETARY.—If the Secretary finds that the item (or a substantially identical or directly competitive item) meets the criteria set forth in subparagraph (A), the Secretary shall determine that the item has mass-market status.

(3) SPECIAL RULES.—For purposes of this subtitle—

(A) SUBSTANTIALLY IDENTICAL ITEM.—The determination of whether an item in relation to another item is a substantially identical item shall include a fair assessment of end-uses, the properties, nature, and quality of the item.

(B) DIRECTLY COMPETITIVE ITEM.—

(i) IN GENERAL.—The determination of whether an item in relation to another item is a directly competitive item shall include a fair assessment of whether the item, although not substantially identical in its intrinsic or inherent characteristics, is substantially equivalent for commercial purposes and may be adapted for substantially the same uses.

(ii) EXCEPTION.—An item is not directly competitive with a controlled item if the item is substantially inferior to the controlled item with respect to characteristics that resulted in the export of the item being controlled.

SEC. 212. PRESIDENTIAL SET-ASIDE OF FOREIGN AVAILABILITY DETERMINATION.

(a) CRITERIA FOR PRESIDENTIAL SET-ASIDE.—

(1) GENERAL CRITERIA.—

(A) IN GENERAL.—If the President determines that—

(i)(I) decontrolling or failing to control an item constitutes a threat to the national security of the United States, and export controls on the item would advance the national security interests of the United States, and

(II) there is a high probability that the foreign availability of an item will be eliminated through international negotiations within a reasonable period of time taking into account the characteristics of the item, or

(ii) failure to control an item would be contrary to the provisions of section 309,

the President may set aside the Secretary's determination of foreign availability status with respect to the item.

(B) NONDELEGATION.—The President may not delegate the authority provided for in this paragraph.

(2) REPORT TO CONGRESS.—The President shall promptly—

(A) report any set-aside determination described in paragraph (1), along with the specific reasons why the determination was made, to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives; and

(B) publish the determination in the Federal Register.

(b) PRESIDENTIAL ACTION IN CASE OF SET-ASIDE.—

(1) IN GENERAL.—

(A) NEGOTIATIONS.—In any case in which export controls are maintained on an item because the President has made a determination under subsection (a), the President shall actively pursue negotiations with the governments of the appropriate foreign countries for the purpose of eliminating such availability.

(B) REPORT TO CONGRESS.—Not later than the date the President begins negotiations, the President shall notify in writing the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives that the President has begun such negotiations and why the President believes it is important to the national security that export controls on the item involved be maintained.

(2) PERIODIC REVIEW OF DETERMINATION.—The President shall review a determination described in subsection (a) at least every 6 months. Promptly after each review is completed, the Secretary shall submit to the committees of Congress referred to in paragraph (1)(B) a report on the results of the review, together with the status of international negotiations to eliminate the foreign availability of the item.

(3) EXPIRATION OF PRESIDENTIAL SET-ASIDE.—A determination by the President described in subsection (a)(1)(A) shall cease to apply with respect to an item on the earlier of—

(A) the date that is 6 months after the date on which the determination is made under subsection (a), if the President has not commenced international negotiations to eliminate the foreign availability of the item within that 6-month period;

(B) the date on which the negotiations described in paragraph (1) have terminated without achieving an agreement to eliminate foreign availability;

(C) the date on which the President determines that there is not a high probability of eliminating foreign availability of the item through negotiation; or

(D) the date that is 18 months after the date on which the determination described in subsection (a)(1)(A) is made if the President has been unable to achieve an agreement to eliminate foreign availability within that 18-month period.

(4) ACTION ON EXPIRATION OF PRESIDENTIAL SET-ASIDE.—Upon the expiration of a Presidential set-aside under paragraph (3) with respect to an item, the Secretary shall not require a license or other authorization to export the item.

SEC. 213. PRESIDENTIAL SET-ASIDE OF MASS-MARKET STATUS DETERMINATION.

(a) CRITERIA FOR PRESIDENTIAL SET-ASIDE.—

(1) GENERAL CRITERIA.—If the President determines that—

(A)(i) decontrolling or failing to control an item constitutes a serious threat to the national security of the United States, and

(ii) export controls on the item would advance the national security interests of the United States, or

(B) failure to control an item would be contrary to the provisions of section 309,

the President may set aside the Secretary's determination of mass-market status with respect to the item.

(2) NONDELEGATION.—The President may not delegate the authority provided for in this subsection.

(b) PRESIDENTIAL ACTION IN CASE OF SET-ASIDE.—

(1) IN GENERAL.—In any case in which export controls are maintained on an item because the President has made a determination under subsection (a), the President shall report the determination, along with the specific reasons why the determination was made, to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives, and shall publish notice of the determination in the Federal Register not later than 30 days after the Secretary publishes notice of the Secretary's determination that an item has mass-market status.

(2) PERIODIC REVIEW OF DETERMINATION.—The President shall review a determination made under subsection (a) at least every 6 months. Promptly after each review is completed, the Secretary shall submit a report on the results of the review to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives.

SEC. 214. OFFICE OF TECHNOLOGY EVALUATION.

(a) IN GENERAL.—

(1) ESTABLISHMENT OF OFFICE.—The Secretary shall establish in the Department of Commerce an Office of Technology Evaluation (in this subtitle referred to as the ''Office''), which shall be under the direction of the Secretary. The Office shall be responsible for gathering, coordinating, and analyzing all the necessary information in order for the Secretary to make determinations of foreign availability and mass-market status under this Act.

(2) STAFF.—The Secretary shall ensure that the Office include persons with the training, expertise and experience in economic analysis, the defense industrial base, technological developments, national security, and foreign policy export controls to carry out the responsibilities set forth in subsection (b) of this section. In addition to employees of the Department of Commerce, the Secretary may accept on nonreimbursable detail to the Office, employees of the Departments of Defense, State, and Energy and other departments and agencies as appropriate.

(b) RESPONSIBILITIES.—The Office shall be responsible for—

(1) conducting foreign availability assessments to determine whether a controlled item is available to controlled countries and whether requiring a license, or denial of a license for the export of such item, is or would be ineffective;

(2) conducting mass-market assessments to determine whether a controlled item is available to controlled countries because of the mass-market status of the item;

(3) monitoring and evaluating worldwide technological developments in industry sectors critical to the national security interests of the United States to determine foreign availability and mass-market status of controlled items;

(4) monitoring and evaluating multilateral export control regimes and foreign government export control policies and practices that affect the national security interests of the United States;

(5) conducting assessments of United States industrial sectors critical to the United States defense industrial base and how the sectors are affected by technological developments, technology transfers, and foreign competition; and

(6) conducting assessments of the impact of United States export control policies on—

(A) United States industrial sectors critical to the national security interests of the United States; and

(B) the United States economy in general.

(c) REPORTS TO CONGRESS.—The Secretary shall make available to the Committee on International Relations of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate as part of the Secretary's annual report required under section 801 information on the operations of the Office, and on improvements in the Government's ability to assess foreign availability and mass-market status, during the fiscal year preceding the report, including information on the training of personnel, and the use of Commercial Service Officers of the United States and Foreign Commercial Service to assist in making determinations. The information shall also include a description of determinations made under this Act during the preceding fiscal year that foreign availability or mass-market status did or did not exist (as the case may be), together with an explanation of the determinations.

(d) SHARING OF INFORMATION.—Each department or agency of the United States, including any intelligence agency, and all contractors with any such department or agency, shall, consistent with the need to protect intelligence sources and methods, furnish information to the Office concerning foreign availability and the mass-market status of items subject to export controls under this Act.

TITLE III—FOREIGN POLICY EXPORT CONTROLS

SEC. 301. AUTHORITY FOR FOREIGN POLICY EXPORT CONTROLS.

(a) AUTHORITY.—

(1) IN GENERAL.—In order to carry out the purposes set forth in subsection (b), the President may, in accordance with the provisions of this Act, prohibit, curtail, or require a license, other authorization, recordkeeping, or reporting for the export of any item subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States.

(2) EXERCISE OF AUTHORITY.—The authority contained in this subsection shall be exercised by the Secretary, in consultation with the Secretary of State and such other departments and agencies as the Secretary considers appropriate.

(b) PURPOSES.—The purposes of foreign policy export controls are the following:

(1) To promote the foreign policy objectives of the United States, consistent with the purposes of this section and the provisions of this Act.

(2) To promote international peace, stability, and respect for fundamental human rights.

(3) To use export controls to deter and punish acts of international terrorism and to encourage other countries to take immediate steps to prevent the use of their territories or resources to aid, encourage, or give sanctuary to those persons involved in directing, supporting, or participating in acts of international terrorism.

(c) EXCEPTION.—The President may not control under this title the export from a foreign country (whether or not by a United States person) of any item produced or originating in a foreign country that contains parts or components produced or originating in the United States.

(d) CONTRACT SANCTITY.—

(1) IN GENERAL.—The President may not prohibit the export of any item under this title if that item is to be exported—

(A) in performance of a binding contract, agreement, or other contractual commitment entered into before the date on which the President reports to Congress the President's intention to impose controls on that item under this title; or

(B) under a license or other authorization issued under this Act before the earlier of the date on which the control is initially imposed or the date on which the President reports to Congress the President's intention to impose controls under this title.

(2) EXCEPTION.—The prohibition contained in paragraph (1) shall not apply in any case in which the President determines and certifies to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives that—

(A) there is a serious threat to a foreign policy interest of the United States;

(B) the prohibition of exports under each binding contract, agreement, commitment, license, or authorization will be instrumental in remedying the situation posing the serious threat; and

(C) the export controls will be in effect only as long as the serious threat exists.

SEC. 302. PROCEDURES FOR IMPOSING CONTROLS.

(a) NOTICE.—

(1) INTENT TO IMPOSE FOREIGN POLICY EXPORT CONTROL.—Except as provided in section 306, not later than 45 days before imposing or implementing an export control under this title, the President shall publish in the Federal Register—

(A) a notice of intent to do so; and

(B) provide for a period of not less than 30 days for any interested person to submit comments on the export control proposed under this title.

(2) PURPOSES OF NOTICE.—The purposes of the notice are—

(A) to provide an opportunity for the formulation of an effective export control policy under this title that advances United States economic and foreign policy interests; and

(B) to provide an opportunity for negotiations to achieve the purposes set forth in section 301(b).

(b) NEGOTIATIONS.—During the 45-day period that begins on the date of notice described in subsection (a), the President may negotiate with the government of the foreign country against which the export control is proposed in order to resolve the reasons underlying the proposed export control.

(c) CONSULTATION.—

(1) REQUIREMENT.—The President shall consult with the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives regarding any export control proposed under this title and the efforts to achieve or increase multilateral cooperation on the issues or problems underlying the proposed export control.

(2) CLASSIFIED CONSULTATION.—The consultations described in paragraph (1) may be conducted on a classified basis if the Secretary considers it necessary.

SEC. 303. CRITERIA FOR FOREIGN POLICY EXPORT CONTROLS.

Each export control imposed by the President under this title shall—

(1) have clearly stated and specific United States foreign policy objectives;

(2) have objective standards for evaluating the success or failure of the export control;

(3) include an assessment by the President that—

(A) the export control is likely to achieve such objectives and the expected time for achieving the objectives; and

(B) the achievement of the objectives of the export control outweighs any potential costs of the export control to other United States economic, foreign policy, humanitarian, or national security interests;

(4) be targeted narrowly; and

(5) seek to minimize any adverse impact on the humanitarian activities of United States and foreign nongovernmental organizations in the country subject to the export control.

SEC. 304. PRESIDENTIAL REPORT BEFORE IMPOSITION OF CONTROL.

(a) REQUIREMENT.—Before imposing an export control under this title, the President shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives a report on the proposed export control. The report may be provided on a classified basis if the Secretary considers it necessary.

(b) CONTENT.—The report shall contain a description and assessment of each of the criteria described in section 303. In addition, the report shall contain a description and assessment of—

(1) any diplomatic and other steps that the United States has taken to accomplish the intended objective of the proposed export control;

(2) unilateral export controls imposed, and other measures taken, by other countries to achieve the intended objective of the proposed export control;

(3) the likelihood of multilateral adoption of comparable export controls;

(4) alternative measures to promote the same objectives and the likelihood of their potential success;

(5) any United States obligations under international trade agreements, treaties, or other international arrangements, with which the proposed export control may conflict;

(6) the likelihood that the proposed export control could lead to retaliation against United States interests;

(7) the likely economic impact of the proposed export control on the United States economy, United States international trade and investment, and United States agricultural interests, commercial interests, and employment; and

(8) a conclusion that the probable achievement of the objectives of the proposed export control outweighs any likely costs to United States economic, foreign policy, humanitarian, or national security interests, including any potential harm to the United States agricultural and business firms and to the international reputation of the United States as a reliable supplier of goods, services, or technology.

SEC. 305. IMPOSITION OF CONTROLS.

The President may impose an export control under this title after the submission of the report required under section 304 and publication in the Federal Register of a notice of the imposition of the export control .

SEC. 306. DEFERRAL AUTHORITY.

(a) AUTHORITY.—The President may defer compliance with any requirement contained in section 302(a), 304, or 305 in the case of a proposed export control if—

(1) the President determines that a deferral of compliance with the requirement is in the national interest of the United States; and

(2) the requirement is satisfied not later than 60 days after the date on which the export control is imposed under this title.

(b) TERMINATION OF CONTROL.—An export control with respect to which a deferral has been made under subsection (a) shall terminate 60 days after the date the export control is imposed unless all requirements have been satisfied before the expiration of the 60-day period.

SEC. 307. REVIEW, RENEWAL, AND TERMINATION.

(a) RENEWAL AND TERMINATION.—

(1) IN GENERAL.—Any export control imposed under this title shall terminate on March 31 of each renewal year unless the President renews the export control on or before such date. For purposes of this section, the term ''renewal year'' means 2003 and every 2 years thereafter.

(2) EXCEPTION.—This section shall not apply to an export control imposed under this title that—

(A) is required by law;

(B) is targeted against any country designated as a country supporting international terrorism pursuant to section 310; or

(C) has been in effect for less than 1 year as of February 1 of a renewal year.

(b) REVIEW.—

(1) IN GENERAL.—Not later than February 1 of each renewal year, the President shall review all export controls in effect under this title.

(2) CONSULTATION.—

(A) REQUIREMENT.—Before completing a review under paragraph (1), the President shall consult with the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representative regarding each export control that is being reviewed.

(B) CLASSIFIED CONSULTATION.—The consultations may be conducted on a classified basis if the Secretary considers it necessary.

(3) PUBLIC COMMENT.—In conducting the review of each export control under paragraph (1), the President shall provide a period of not less than 30 days for any interested person to submit comments on renewal of the export control. The President shall publish notice of the opportunity for public comment in the Federal Register not less than 45 days before the review is required to be completed.

(c) REPORT TO CONGRESS.—

(1) REQUIREMENT.—Before renewing an export control imposed under this title, the President shall submit to the committees of Congress referred to in subsection (b)(2)(A) a report on each export control that the President intends to renew.

(2) FORM AND CONTENT OF REPORT.—The report may be provided on a classified basis if the Secretary considers it necessary. Each report shall contain the following:

(A) A clearly stated explanation of the specific United States foreign policy objective that the existing export control was intended to achieve.

(B) An assessment of—

(i) the extent to which the existing export control achieved its objectives before renewal based on the objective criteria established for evaluating the export control; and

(ii) the reasons why the existing export control has failed to fully achieve its objectives and, if renewed, how the export control will achieve that objective before the next renewal year.

(C) An updated description and assessment of—

(i) each of the criteria described in section 303, and

(ii) each matter required to be reported under section 304(b) (1) through (8).

(3) RENEWAL OF EXPORT CONTROL.—The President may renew an export control under this title after submission of the report described in paragraph (2) and publication of notice of renewal in the Federal Register.

SEC. 308. TERMINATION OF CONTROLS UNDER THIS TITLE.

(a) IN GENERAL.—Notwithstanding any other provision of law, the President—

(1) shall terminate any export control imposed under this title if the President determines that the control has substantially achieved the objective for which it was imposed; and

(2) may terminate any export control imposed under this title that is not required by law at any time.

(b) EXCEPTION.—Paragraphs (1) and (2) of subsection (a) do not apply to any export control imposed under this title that is targeted against any country designated as a country supporting international terrorism pursuant to section 310.

(c) EFFECTIVE DATE OF TERMINATION.—The termination of an export control pursuant to this section shall take effect on the date notice of the termination is published in the Federal Register.

SEC. 309. COMPLIANCE WITH INTERNATIONAL OBLIGATIONS.

Notwithstanding any other provision of this Act setting forth limitations on authority to control exports and except as provided in section 304, the President may impose controls on exports to a particular country or countries in order to fulfill obligations or commitments of the United States under resolutions of the United Nations and under treaties, or other international agreements and arrangements, to which the United States is a party.

SEC. 310. DESIGNATION OF COUNTRIES SUPPORTING INTERNATIONAL TERRORISM.

(a) LICENSE REQUIRED.—A license shall be required for the export of an item to a country if the Secretary of State has determined that—

(1) the government of such country has repeatedly provided support for acts of international terrorism; and

(2) the export of the item could make a significant contribution to the military potential of such country, including its military logistics capability, or could enhance the ability of such country to support acts of international terrorism.

(b) NOTIFICATION.—The Secretary and the Secretary of State shall notify the Committee on International Relations of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations of the Senate at least 30 days before issuing any license required by subsection (a).

(c) DETERMINATIONS REGARDING REPEATED SUPPORT.—Each determination of the Secretary of State under subsection (a)(1), including each determination in effect on the date of the enactment of the Antiterrorism and Arms Export Amendments Act of 1989, shall be published in the Federal Register.

(d) LIMITATIONS ON RESCINDING DETERMINATION.—A determination made by the Secretary of State under subsection (a)(1) may not be rescinded unless the President submits to the Speaker of the House of Representatives and the Chairman of the Committee on Banking, Housing, and Urban Affairs and the Chairman of the Committee on Foreign Relations of the Senate—

(1) before the proposed rescission would take effect, a report certifying that—

(A) there has been a fundamental change in the leadership and policies of the government of the country concerned;

(B) that government is not supporting acts of international terrorism; and

(C) that government has provided assurances that it will not support acts of international terrorism in the future; or

(2) at least 45 days before the proposed rescission would take effect, a report justifying the rescission and certifying that—

(A) the government concerned has not provided any support for international terrorism during the preceding 6-month period; and

(B) the government concerned has provided assurances that it will not support acts of international terrorism in the future.

(e) INFORMATION TO BE INCLUDED IN NOTIFICATION.—The Secretary and the Secretary of State shall include in the notification required by subsection (b)—

(1) a detailed description of the item to be offered, including a brief description of the capabilities of any item for which a license to export is sought;

(2) the reasons why the foreign country or international organization to which the export or transfer is proposed to be made needs the item which is the subject of such export or transfer and a description of the manner in which such country or organization intends to use the item;

(3) the reasons why the proposed export or transfer is in the national interest of the United States;

(4) an analysis of the impact of the proposed export or transfer on the military capabilities of the foreign country or international organization to which such export or transfer would be made;

(5) an analysis of the manner in which the proposed export would affect the relative military strengths of countries in the region to which the item which is the subject of such export would be delivered and whether other countries in the region have comparable kinds and amounts of the item; and

(6) an analysis of the impact of the proposed export or transfer on the United States relations with the countries in the region to which the item which is the subject of such export would be delivered.

TITLE IV—EXEMPTION FOR AGRICULTURAL COMMODITIES, MEDICINE, AND MEDICAL SUPPLIES

SEC. 401. EXEMPTION FOR AGRICULTURAL COMMODITIES, MEDICINE, AND MEDICAL SUPPLIES.

Notwithstanding any other provision of law, the export controls imposed on items under title III shall not apply to agricultural commodities, medicine, and medical supplies.

SEC. 402. TERMINATION OF EXPORT CONTROLS REQUIRED BY LAW.

Notwithstanding any other provision of law, the President shall terminate any export control mandated by law on agricultural commodities, medicine, and medical supplies upon the date of enactment of this Act except for a control that is specifically reimposed by law.

SEC. 403. EXCLUSIONS.

Sections 401 and 402 do not apply to the following:

(1) The export of agricultural commodities, medicine, and medical supplies that are subject to national security export controls under title II or are listed on the United States Munitions List established under section 38 of the Arms Export Control Act (22 U.S.C. 2778).

(2) The export of agricultural commodities, medicine, and medical supplies to a country against which an embargo is in effect under the Trading With the Enemy Act.

TITLE V—PROCEDURES FOR EXPORT LICENSES AND INTERAGENCY DISPUTE RESOLUTION

SEC. 501. EXPORT LICENSE PROCEDURES.

(a) RESPONSIBILITY OF THE SECRETARY.—

(1) IN GENERAL.—All applications for a license or other authorization to export a controlled item shall be filed in such manner

and include such information as the Secretary may, by regulation, prescribe.

(2) PROCEDURES.—In guidance and regulations that implement this section, the Secretary shall describe the procedures required by this section, the responsibilities of the Secretary and of other departments and agencies in reviewing applications, the rights of the applicant, and other relevant matters affecting the review of license applications.

(3) CALCULATION OF PROCESSING TIMES.—In calculating the processing times set forth in this title, the Secretary shall use calendar days, except that if the final day for a required action falls on a weekend or holiday, that action shall be taken no later than the following business day.

(4) CRITERIA FOR EVALUATING APPLICATIONS.—In determining whether to grant an application to export a controlled item under this Act, the following criteria shall be considered:

(A) The characteristics of the controlled item.

(B) The threat to—

(i) the national security interests of the United States from items controlled under title II of this Act; or

(ii) the foreign policy of the United States from items controlled under title III of this Act.

(C) The country tier designation of the country to which a controlled item is to be exported pursuant to section 203.

(D) The risk of export diversion or misuse by—

(i) the exporter;

(ii) the method of export;

(iii) the end-user;

(iv) the country where the end-user is located; and

(v) the end-use.

(E) Risk mitigating factors including, but not limited to—

(i) changing the characteristics of the controlled item;

(ii) after-market monitoring by the exporter; and

(iii) post-shipment verification.

(b) INITIAL SCREENING.—

(1) UPON RECEIPT OF APPLICATION.—Upon receipt of an export license application, the Secretary shall enter and maintain in the records of the Department information regarding the receipt and status of the application.

(2) INITIAL PROCEDURES.—

(A) IN GENERAL.—Not later than 9 days after receiving any license application, the Secretary shall—

(i) contact the applicant if the application is improperly completed or if additional information is required, and hold the application for a reasonable time while the applicant provides the necessary corrections or information, and such time shall not be included in calculating the time periods prescribed in this title;

(ii) refer the application, through the use of a common data base or other means, and all information submitted by the applicant, and all necessary recommendations and analyses by the Secretary to the Secretary of Defense, the Secretary of State, and the heads of and other departments and agencies the Secretary considers appropriate;

(iii) ensure that the classification stated on the application for the export items is correct; and

(iv) return the application if a license is not required.

(B) REFERRAL NOT REQUIRED.—In the event that the head of a department or agency determines that certain types of applications need not be referred to the department or agency, such department or agency head shall notify the Secretary of the specific types of such applications that the department or agency does not wish to review.

(3) WITHDRAWAL OF APPLICATION.—An applicant may, by written notice to the Secretary, withdraw an application at any time before final action.

(c) ACTION BY OTHER DEPARTMENTS AND AGENCIES.—

(1) REFERRAL TO OTHER AGENCIES.—The Secretary shall promptly refer a license application to the departments and agencies under subsection (b) to make recommendations and provide information to the Secretary.

(2) RESPONSIBILITY OF REFERRAL DEPARTMENTS AND AGENCIES.—The Secretary of Defense, the Secretary of State, and the heads of other reviewing departments and agencies shall take all necessary actions in a prompt and responsible manner on an application. Each department or agency reviewing an application under this section shall establish and maintain records properly identifying and monitoring the status of the matter referred to the department or agency.

(3) ADDITIONAL INFORMATION REQUESTS.—Each department or agency to which a license application is referred shall specify to the Secretary any information that is not in the application that would be required for the department or agency to make a determination with respect to the application, and the Secretary shall promptly request such information from the applicant. The time that may elapse between the date the information is requested by that department or agency and the date the information is received by that department or agency shall not be included in calculating the time periods prescribed in this title.

(4) TIME PERIOD FOR ACTION BY REFERRAL DEPARTMENTS AND AGENCIES.—Within 30 days after the Secretary refers an application under this section, each department or agency to which an application has been referred shall provide the Secretary with a recommendation either to approve the license or to deny the license. A recommendation that the Secretary deny a license shall include a statement of reasons for the recommendation that are consistent with the provisions of this title, and shall cite both the specific statutory and regulatory basis for the recommendation. A department or agency that fails to provide a recommendation in accordance with this paragraph within that 30-day period shall be deemed to have no objection to the decision of the Secretary on the application.

(d) ACTION BY THE SECRETARY.—Not later than 30 days after the date the application is referred, the Secretary shall—

(1) if there is agreement among the referral departments and agencies to issue or deny the license—

(A) issue the license and ensure all appropriate personnel in the Department (including the Office of Export Enforcement) are notified of all approved license applications; or

(B) notify the applicant of the intention to deny the license; or

(2) if there is no agreement among the referral departments and agencies, notify the applicant that the application is subject to the interagency dispute resolution process provided for in section 502.

(e) CONSEQUENCES OF APPLICATION DENIAL.—

(1) IN GENERAL.—If a determination is made to deny a license, the applicant shall be informed in writing by the Secretary of—

(A) the determination;

(B) the specific statutory and regulatory bases for the proposed denial;

(C) what, if any, modifications to, or restrictions on, the items for which the license was sought would allow such export to be compatible with export controls imposed under this Act, and which officer or employee of the Department would be in a position to discuss modifications or restrictions with the applicant and the specific statutory and regulatory bases for imposing such modifications or restrictions;

(D) to the extent consistent with the national security and foreign policy interests of the United States, the specific considerations that led to the determination to deny the application; and

(E) the availability of appeal procedures.

(2) PERIOD FOR APPLICANT TO RESPOND.—The applicant shall have 20 days from the date of the notice of intent to deny the application to respond in a manner that addresses and corrects the reasons for the denial. If the applicant does not adequately address or correct the reasons for denial or does not respond, the license shall be denied. If the applicant does address or correct the reasons for denial, the application shall receive consideration in a timely manner.

(f) APPEALS AND OTHER ACTIONS BY APPLICANT.—

(1) IN GENERAL.—The Secretary shall establish appropriate procedures for an applicant to appeal to the Secretary the denial of an application or other administrative action under this Act. In any case in which the Secretary proposes to reverse the decision with respect to the application, the appeal under this subsection shall be handled in accordance with the interagency dispute resolution process provided for in section 502(b)(3).

(2) ENFORCEMENT OF TIME LIMITS.—

(A) IN GENERAL.—In any case in which an action prescribed in this section is not taken on an application within the time period established by this section (except in the case of a time period extended under subsection (g) of which the applicant is notified), the applicant may file a petition with the Secretary requesting compliance with the requirements of this section. When such petition is filed, the Secretary shall take immediate steps to correct the situation giving rise to the petition and shall immediately notify the applicant of such steps.

(B) BRINGING COURT ACTION.—If, within 20 days after a petition is filed under subparagraph (A), the processing of the application has not been brought into conformity with the requirements of this section, or the processing of the application has been brought into conformity with such requirements but the Secretary has not so notified the applicant, the applicant may bring an action in an appropriate United States district court for an order requiring compliance with the time periods required by this section.

(g) EXCEPTIONS FROM REQUIRED TIME PERIODS.—The following actions related to processing an application shall not be included in calculating the time periods prescribed in this section:

(1) AGREEMENT OF THE APPLICANT.—Delays upon which the Secretary and the applicant mutually agree.

(2) PRELICENSE CHECKS.—A prelicense check (for a period not to exceed 60 days) that may be required to establish the identity and reliability of the recipient of items controlled under this Act, if—

(A) the need for the prelicense check is determined by the Secretary or by another department or agency in any case in which the request for the prelicense check is made by such department or agency;

(B) the request for the prelicense check is initiated by the Secretary within 5 days after the determination that the prelicense check is required; and

(C) the analysis of the result of the prelicense check is completed by the Secretary within 5 days.

(3) REQUESTS FOR GOVERNMENT-TO-GOVERNMENT ASSURANCES.—Any request by the Secretary or another department or agency for government-to-government assurances of suitable end-uses of items approved for export, when failure to obtain such assurances would result in rejection of the application, if—

(A) the request for such assurances is sent to the Secretary of State within 5 days after the determination that the assurances are required;

(B) the Secretary of State initiates the request of the relevant government within 10 days thereafter; and

(C) the license is issued within 5 days after the Secretary receives the requested assurances.

(4) EXCEPTION.—Whenever a prelicense check described in paragraph (2) or assurances described in paragraph (3) are not requested within the time periods set forth therein, then the time expended for such prelicense check or assurances shall be included in calculating the time periods established by this section.

(5) MULTILATERAL REVIEW.—Multilateral review of a license application to the extent that such multilateral review is required by a relevant multilateral regime.

(6) CONGRESSIONAL NOTIFICATION.—Such time as is required for mandatory congressional notifications under this Act.

(7) CONSULTATIONS.—Consultation with foreign governments, if such consultation is provided for by a relevant multilateral regime as a precondition for approving a license.

(h) CLASSIFICATION REQUESTS AND OTHER INQUIRIES.—

(1) CLASSIFICATION REQUESTS.—In any case in which the Secretary receives a written request asking for the proper classification of an item on the Control List or the applicability of licensing requirements under this title, the Secretary shall promptly notify the Secretary of Defense and other departments and agencies the Secretary considers appropriate. The Secretary shall, within 14 days after receiving the request, inform the person making the request of the proper classification.

(2) OTHER INQUIRIES.—In any case in which the Secretary receives a written request for information under this Act, the Secretary shall, within 30 days after receiving the request, reply with that information to the person making the request.

SEC. 502. INTERAGENCY DISPUTE RESOLUTION PROCESS.

(a) IN GENERAL.—All license applications on which agreement cannot be reached shall be referred to the interagency dispute resolution process for decision.

(b) INTERAGENCY DISPUTE RESOLUTION PROCESS.—

(1) INITIAL RESOLUTION.—The Secretary shall establish, select the chairperson of, and determine procedures for an interagency committee to review initially all license applications described in subsection (a) with respect to which the Secretary and any of the referral departments and agencies are not in agreement. The chairperson shall consider the positions of all the referral departments and agencies (which shall be included in the minutes described subsection (c)(2)) and make a decision on the license application, including appropriate revisions or conditions thereto.

(2) INTELLIGENCE COMMUNITY.—The analytic product of the intelligence community should be fully considered with respect to any proposed license under this title.

(3) FURTHER RESOLUTION.—The President shall establish additional levels for review or appeal of any matter that cannot be resolved pursuant to the process described in paragraph (1). Each such review shall—

(A) provide for decision-making based on the majority vote of the participating departments and agencies;

(B) provide that a department or agency that fails to take a timely position, citing the specific statutory and regulatory bases for a denial, shall be deemed to have no objection to the pending decision;

(C) provide that any decision of an interagency committee established under paragraph (1) or interagency dispute resolution process established under this paragraph may be escalated to the next higher level of review at the request of any representative of a department or agency that participated in the interagency committee or dispute resolution process that made the decision; and

(D) ensure that matters are resolved or referred to the President not later than 90 days after the date the completed license application is referred by the Secretary.

(c) FINAL ACTION.—

(1) IN GENERAL.—Once a final decision is made under subsection (b), the Secretary shall promptly—

(A) issue the license and ensure that all appropriate personnel in the Department (including the Office of Export Enforcement) are notified of all approved license applications; or

(B) notify the applicant of the intention to deny the application.

(2) MINUTES.—The interagency committee and each level of the interagency dispute resolution process shall keep reasonably detailed minutes of all meetings. On each matter before the interagency committee or before any other level of the interagency dispute resolution process in which members disagree, each member shall clearly state the reasons for the member's position and the reasons shall be entered in the minutes.

TITLE VI—INTERNATIONAL ARRANGEMENTS; FOREIGN BOYCOTTS; SANCTIONS; AND ENFORCEMENT

SEC. 601. INTERNATIONAL ARRANGEMENTS.

(a) MULTILATERAL EXPORT CONTROL REGIMES.—

(1) POLICY.—It is the policy of the United States to seek multilateral arrangements that support the national security objectives of the United States (as described in title II) and that establish fairer and more predictable competitive opportunities for United States exporters.

(2) PARTICIPATION IN EXISTING REGIMES.—Congress encourages the United States to continue its active participation in and to strengthen existing multilateral export control regimes.

(3) PARTICIPATION IN NEW REGIMES.—It is the policy of the United States to participate in additional multilateral export control regimes if such participation would serve the national security interests of the United States.

(b) ANNUAL REPORT ON MULTILATERAL EXPORT CONTROL REGIMES.—Not later than February 1 of each year, the President shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives a report evaluating the effectiveness of each multilateral export control regime, including an assessment of the steps undertaken pursuant to subsections (c) and (d). The report, or any part of this report, may be submitted in classified form to the extent the Secretary considers necessary.

(c) STANDARDS FOR MULTILATERAL EXPORT CONTROL REGIMES.—The President shall take steps to establish the following features in any multilateral export control regime in which the United States is participating or may participate:

(1) FULL MEMBERSHIP.—All supplier countries are members of the regime, and the policies and activities of the members are consistent with the objectives and membership criteria of the multilateral export control regime.

(2) EFFECTIVE ENFORCEMENT AND COMPLIANCE.—The regime promotes enforcement and compliance with the regime's rules and guidelines.

(3) PUBLIC UNDERSTANDING.—The regime makes an effort to enhance public understanding of the purpose and procedures of the multilateral export control regime.

(4) EFFECTIVE IMPLEMENTATION PROCEDURES.—The multilateral export control regime has procedures for the implementation of its rules and guidelines through uniform and consistent interpretations of its export controls.

(5) ENHANCED COOPERATION WITH REGIME NONMEMBERS.—There is agreement among the members of the multilateral export control regime to—

(A) cooperate with governments outside the regime to restrict the export of items controlled by such regime; and

(B) establish an ongoing mechanism in the regime to coordinate planning and implementation of export control measures related to such cooperation.

(6) PERIODIC HIGH-LEVEL MEETINGS.—There are regular periodic meetings of high-level representatives of the governments of members of the multilateral export control regime for the purpose of coordinating export control policies and issuing policy guidance to members of the regime.

(7) COMMON LIST OF CONTROLLED ITEMS.—There is agreement on a common list of items controlled by the multilateral export control regime.

(8) REGULAR UPDATES OF COMMON LIST.—There is a procedure for removing items from the list of controlled items when the control of such items no longer serves the objectives of the members of the multilateral export control regime.

(9) TREATMENT OF CERTAIN COUNTRIES.—There is agreement to prevent the export or diversion of the most sensitive items to countries whose activities are threatening to the national security of the United States or its allies.

(10) HARMONIZATION OF LICENSE APPROVAL PROCEDURES.—There is harmonization among the members of the regime of their national export license approval procedures and practices.

(11) UNDERCUTTING.—There is a limit with respect to when members of a multilateral export control regime—

(A) grant export licenses for any item that is substantially identical to or directly competitive with an item controlled pursuant to the regime, where the United States has denied an export license for such item, or

(B) approve exports to a particular end user to which the United States has denied export license for a similar item.

(d) STANDARDS FOR NATIONAL EXPORT CONTROL SYSTEMS.—The President shall take steps to attain the cooperation of members of each regime in implementing effective national export control systems containing the following features:

(1) EXPORT CONTROL LAW.—Enforcement authority, civil and criminal penalties, and statutes of limitations are sufficient to deter potential violations and punish violators under the member's export control law.

(2) LICENSE APPROVAL PROCESS.—The system for evaluating export license applications includes sufficient technical expertise to assess the licensing status of exports and ensure the reliability of end users.

(3) ENFORCEMENT.—The enforcement mechanism provides authority for trained enforcement officers to investigate and prevent illegal exports.

(4) DOCUMENTATION.—There is a system of export control documentation and verification with respect to controlled items.

(5) INFORMATION.—There are procedures for the coordination and exchange of information concerning licensing, end users, and enforcement with other members of the multilateral export control regime.

(6) RESOURCES.—The member has devoted adequate resources to administer effectively the authorities, systems, mechanisms, and procedures described in paragraphs (1) through (5).

(e) OBJECTIVES REGARDING MULTILATERAL EXPORT CONTROL REGIMES.—The President shall seek to achieve the following objectives with regard to multilateral export control regimes:

(1) STRENGTHEN EXISTING REGIMES.—Strengthen existing multilateral export control regimes—

(A) by creating a requirement to share information about export license applications among members before a member approves an export license; and

(B) harmonizing national export license approval procedures and practices, including the elimination of undercutting.

(2) REVIEW AND UPDATE.—Review and update multilateral regime export control lists with other members, taking into account—

(A) national security concerns;

(B) the controllability of items; and

(C) the costs and benefits of controls.

(3) ENCOURAGE COMPLIANCE BY NONMEMBERS.—Encourage nonmembers of the multilateral export control regime—

(A) to strengthen their national export control regimes and improve enforcement;

(B) to adhere to the appropriate multilateral export control regime; and

(C) not to undermine an existing multilateral export control regime by exporting controlled items in a manner inconsistent with the guidelines of the regime.

(f) TRANSPARENCY OF MULTILATERAL EXPORT CONTROL REGIMES.—

(1) PUBLICATION OF INFORMATION ON EACH EXISTING REGIME.—Not later than 120 days after the date of enactment of this Act, the Secretary shall, for each multilateral export control regime (to the extent that it is not inconsistent with the arrangements of that regime or with the national interest), publish in the Federal Register and post on the Department of Commerce website the following information with respect to the regime:

(A) The purposes of the regime.

(B) The members of the regime.

(C) The export licensing policy of the regime.

(D) The items that are subject to export controls under the regime, together with all public notes, understandings, and other aspects of the agreement of the regime, and all changes thereto.

(E) Any countries, end uses, or end users that are subject to the export controls of the regime.

(F) Rules of interpretation.

(G) Major policy actions.

(H) The rules and procedures of the regime for establishing and modifying any matter described in subparagraphs (A) through (G) and for reviewing export license applications.

(2) NEW REGIMES.—Not later than 60 days after the United States joins or organizes a new multilateral export control regime, the Secretary shall, to the extent not inconsistent with arrangements under the regime or with the national interest, publish in the Federal Register and post on the Department of Commerce website the information described in subparagraphs (A) through (H) of paragraph (1) with respect to the regime.

(3) PUBLICATION OF CHANGES.—Not later than 60 days after a multilateral export control regime adopts any change in the information published under this subsection, the Secretary shall, to the extent not inconsistent with the arrangements under the regime or the national interest, publish such changes in the Federal Register and post such changes on the Department of Commerce website.

(g) SUPPORT OF OTHER COUNTRIES' EXPORT CONTROL SYSTEMS.—The Secretary is encouraged to continue to—

(1) participate in training of, and provide training to, officials of other countries on the principles and procedures for implementing effective export controls; and

(2) participate in any such training provided by other departments and agencies of the United States.

SEC. 602. FOREIGN BOYCOTTS.

(a) PURPOSES.—The purposes of this section are as follows:

(1) To counteract restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries friendly to the United States or against any United States person.

(2) To encourage and, in specified cases, require United States persons engaged in the export of items to refuse to take actions, including furnishing information or entering into or implementing agreements, which have the effect of furthering or supporting the restrictive trade practices or boycotts fostered or imposed by any foreign country against a country friendly to the United States or against any United States person.

(b) PROHIBITIONS AND EXCEPTIONS.—

(1) PROHIBITIONS.—In order to carry out the purposes set forth in subsection (a), the President shall issue regulations prohibiting any United States person, with respect to that person's activities in the interstate or foreign commerce of the United States, from taking or knowingly agreeing to take any of the following actions with intent to comply with, further, or support any boycott fostered or imposed by a foreign country against a country that is friendly to the United States and is not itself the object of any form of boycott pursuant to United States law or regulation:

(A) Refusing, or requiring any other person to refuse, to do business with or in the boycotted country, with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person, pursuant to an agreement with, or requirement of, or a request from or on behalf of the boycotting country (subject to the condition that the intent required to be associated with such an act in order to constitute a violation of the prohibition is not indicated solely by the mere absence of a business relationship with or in the boycotted country, with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person).

(B) Refusing, or requiring any other person to refuse, to employ or otherwise discriminate against any United States person on the basis of the race, religion, sex, or national origin of that person or of any owner, officer, director, or employee of such person.

(C) Furnishing information with respect to the race, religion, sex, or national origin of any United States person or of any owner, officer, director, or employee of such person.

(D) Furnishing information (other than furnishing normal business information in a commercial context, as defined by the Secretary) about whether any person has, has had, or proposes to have any business relationship (including a relationship by way of sale, purchase, legal or commercial representation, shipping or other transport, insurance, investment, or supply) with or in the boycotted country, with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person that is known or believed to be restricted from having any business relationship with or in the boycotting country.

(E) Furnishing information about whether any person is a member of, has made a contribution to, or is otherwise associated with or involved in the activities of any charitable or fraternal organization which supports the boycotted country.

(F) Paying, honoring, confirming, or otherwise implementing a letter of credit which contains any condition or requirement the compliance with which is prohibited by regulations issued pursuant to this paragraph, and no United States person shall, as a result of the application of this paragraph, be obligated to pay or otherwise honor or implement such letter of credit.

(2) EXCEPTIONS.—Regulations issued pursuant to paragraph (1) shall provide exceptions for—

(A) compliance, or agreement to comply, with requirements—

(i) prohibiting the import of items from the boycotted country or items produced or provided, by any business concern organized under the laws of the boycotted country or by nationals or residents of the boycotted country; or

(ii) prohibiting the shipment of items to the boycotting country on a carrier of the boycotted country or by a route other than that prescribed by the boycotting country or the recipient of the shipment;

(B) compliance, or agreement to comply, with import and shipping document requirements with respect to the country of origin, the name of the carrier and route of shipment, the name of the supplier of the shipment, or the name of the provider of other services, except that, for purposes of applying any exception under this subparagraph, no information knowingly furnished or conveyed in response to such requirements may be stated in negative, blacklisting, or similar exclusionary terms, other than with respect to carriers or route of shipment as may be permitted by such regulations in order to comply with precautionary requirements protecting against war risks and confiscation;

(C) compliance, or agreement to comply, in the normal course of business with the unilateral and specific selection by a boycotting country, or a national or resident thereof, or carriers, insurers, suppliers of services to be performed within the boycotting country, or specific items which, in the normal course of business, are identifiable by source when imported into the boycotting country;

(D) compliance, or agreement to comply, with export requirements of the boycotting country relating to shipment or transshipment of exports to the boycotted country, to any business concern of or organized under the laws of the boycotted country, or to any national or resident of the boycotted country;

(E) compliance by an individual, or agreement by an individual to comply, with the immigration or passport requirements of any country with respect to such individual or any member of such individual's family or with requests for information regarding requirements of employment of such individual within the boycotting country; and

(F) compliance by a United States person resident in a foreign country, or agreement

by such a person to comply, with the laws of the country with respect to the person's activities exclusively therein, and such regulations may contain exceptions for such resident complying with the laws or regulations of the foreign country governing imports into such country of trademarked, tradenamed, or similarly specifically identifiable products, or components of products for such person's own use, including the performance of contractual services within that country.

(3) LIMITATION ON EXCEPTIONS.—Regulations issued pursuant to paragraphs (2)(C) and (2)(F) shall not provide exceptions from paragraphs (1)(B) and (1)(C).

(4) ANTITRUST AND CIVIL RIGHTS LAWS NOT AFFECTED.—Nothing in this subsection may be construed to supersede or limit the operation of the antitrust or civil rights laws of the United States.

(5) EVASION.—This section applies to any transaction or activity undertaken by or through a United States person or any other person with intent to evade the provisions of this section or the regulations issued pursuant to this subsection. The regulations issued pursuant to this section shall expressly provide that the exceptions set forth in paragraph (2) do not permit activities or agreements (expressed or implied by a course of conduct, including a pattern of responses) that are otherwise prohibited, pursuant to the intent of such exceptions.

(c) ADDITIONAL REGULATIONS AND REPORTS.—

(1) REGULATIONS.—In addition to the regulations issued pursuant to subsection (b), regulations issued pursuant to title III shall implement the purposes set forth in subsection (a).

(2) REPORTS BY UNITED STATES PERSONS.—The regulations shall require that any United States person receiving a request to furnish information, enter into or implement an agreement, or take any other action referred to in subsection (a) shall report that request to the Secretary, together with any other information concerning the request that the Secretary determines appropriate. The person shall also submit to the Secretary a statement regarding whether the person intends to comply, and whether the person has complied, with the request. Any report filed pursuant to this paragraph shall be made available promptly for public inspection and copying, except that information regarding the quantity, description, and value of any item to which such report relates may be treated as confidential if the Secretary determines that disclosure of that information would place the United States person involved at a competitive disadvantage. The Secretary shall periodically transmit summaries of the information contained in the reports to the Secretary of State for such action as the Secretary of State, in consultation with the Secretary, considers appropriate to carry out the purposes set forth in subsection (a).

(d) PREEMPTION.—The provisions of this section and the regulations issued under this section shall preempt any law, rule, or regulation that—

(1) is a law, rule, or regulation of any of the several States or the District of Columbia, or any of the territories or possessions of the United States, or of any governmental subdivision thereof; and

(2) pertains to participation in, compliance with, implementation of, or the furnishing of information regarding restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries.

SEC. 603. PENALTIES.

(a) CRIMINAL PENALTIES.—

(1) VIOLATIONS BY AN INDIVIDUAL.—Any individual who knowingly violates, conspires to violate, or attempts to violate any provision of this Act or any regulation, license, or order issued under this Act shall be fined up to 10 times the value of the exports involved or $1,000,000, whichever is greater, imprisoned for not more than 10 years, or both, for each violation, except that the term of imprisonment may be increased to life for multiple violations or aggravated circumstances.

(2) VIOLATIONS BY A PERSON OTHER THAN AN INDIVIDUAL.—Any person other than an individual who knowingly violates, conspires to violate, or attempts to violate any provision of this Act or any regulation, license, or order issued under this Act shall be fined up to 10 times the value of the exports involved or $10,000,000, whichever is greater, for each violation.

(b) FORFEITURE OF PROPERTY INTEREST AND PROCEEDS.—

(1) FORFEITURE.—Any person who is convicted under paragraph (1) or (2) of subsection (a) shall, in addition to any other penalty, forfeit to the United States—

(A) any of that person's security or other interest in, claim against, or property or contractual rights of any kind in the tangible items that were the subject of the violation;

(B) any of that person's security or other interest in, claim against, or property or contractual rights of any kind in the tangible property that was used in the export or attempt to export that was the subject of the violation; and

(C) any of that person's property constituting, or derived from, any proceeds obtained directly or indirectly as a result of the violation.

(2) PROCEDURES.—The procedures in any forfeiture under this subsection, and the duties and authority of the courts of the United States and the Attorney General with respect to any forfeiture action under this subsection, or with respect to any property that may be subject to forfeiture under this subsection, shall be governed by the provisions of chapter 46 of title 18, United States Code, to the same extent as property subject to forfeiture under that chapter.

(c) CIVIL PENALTIES; ADMINISTRATIVE SANCTIONS.—

(1) CIVIL PENALTIES.—The Secretary may impose a civil penalty of up to $1,000,000 for each violation of a provision of this Act or any regulation, license, or order issued under this Act. A civil penalty under this paragraph may be in addition to, or in lieu of, any other liability or penalty which may be imposed for such a violation.

(2) DENIAL OF EXPORT PRIVILEGES.—The Secretary may deny the export privileges of any person, including the suspension or revocation of the authority of such person to export or receive United States-origin items subject to this Act, for a violation of a provision of this Act or any regulation, license, or order issued under this Act.

(3) EXCLUSION FROM PRACTICE.—The Secretary may exclude any person acting as an attorney, accountant, consultant, freight forwarder, or in any other representative capacity from participating before the Department with respect to a license application or any other matter under this Act.

(d) PAYMENT OF CIVIL PENALTIES.—

(1) PAYMENT AS CONDITION OF FURTHER EXPORT PRIVILEGES.—The payment of a civil penalty imposed under subsection (c) may be made a condition for the granting, restoration, or continuing validity of any export license, permission, or privilege granted or to be granted to the person upon whom such penalty is imposed. The period for which the payment of a penalty may be made such a condition may not exceed 1 year after the date on which the payment is due.

(2) DEFERRAL OR SUSPENSION.—

(A) IN GENERAL.—The payment of a civil penalty imposed under subsection (c) may be deferred or suspended in whole or in part for a period no longer than any probation period (which may exceed 1 year) that may be imposed upon the person on whom the penalty is imposed.

(B) NO BAR TO COLLECTION OF PENALTY.—A deferral or suspension under subparagraph (A) shall not operate as a bar to the collection of the penalty concerned in the event that the conditions of the suspension, deferral, or probation are not fulfilled.

(3) TREATMENT OF PAYMENTS.—Any amount paid in satisfaction of a civil penalty imposed under subsection (c) shall be covered into the Treasury as miscellaneous receipts except as set forth in section 607(h).

(e) REFUNDS.—

(1) AUTHORITY.—

(A) IN GENERAL.—The Secretary may, in the Secretary's discretion, refund any civil penalty imposed under subsection (c) on the ground of a material error of fact or law in imposition of the penalty.

(B) LIMITATION.—A civil penalty may not be refunded under subparagraph (A) later than 2 years after payment of the penalty.

(2) PROHIBITION ON ACTIONS FOR REFUND.—Notwithstanding section 1346(a) of title 28, United States Code, no action for the refund of any civil penalty referred to in paragraph (1) may be maintained in any court.

(f) EFFECT OF OTHER CONVICTIONS.—

(1) DENIAL OF EXPORT PRIVILEGES.—Any person convicted of a violation of—

(A) a provision of this Act or the Export Administration Act of 1979,

(B) a provision of the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.),

(C) section 793, 794, or 798 of title 18, United States Code,

(D) section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)),

(E) section 38 of the Arms Export Control Act (22 U.S.C. 2778),

(F) section 16 of the Trading with the Enemy Act (50 U.S.C. App. 16),

(G) any regulation, license, or order issued under any provision of law listed in subparagraph (A), (B), (C), (D), (E), or (F),

(H) section 371 or 1001 of title 18, United States Code, if in connection with the export of controlled items under this Act or any regulation, license, or order issued under the International Emergency Economic Powers Act, or the export of items controlled under the Arms Export Control Act,

(I) section 175 of title 18, United States Code,

(J) a provision of the Atomic Energy Act (42 U.S.C. 201 et seq.),

(K) section 831 of title 18, United States Code, or

(L) section 2332a of title 18, United States Code,

may, at the discretion of the Secretary, be denied export privileges under this Act for a period not to exceed 10 years from the date of the conviction. The Secretary may also revoke any export license under this Act in which such person had an interest at the time of the conviction.

(2) RELATED PERSONS.—The Secretary may exercise the authority under paragraph (1) with respect to any person related through affiliation, ownership, control, or position of responsibility to a person convicted of any violation of a law set forth in paragraph (1) upon a showing of such relationship with the convicted person. The Secretary shall make such showing only after providing notice and opportunity for a hearing.

(g) STATUTE OF LIMITATIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), a proceeding in which a civil

penalty or other administrative sanction (other than a temporary denial order) is sought under subsection (c) may not be instituted more than 5 years after the later of the date of the alleged violation or the date of discovery of the alleged violation.

(2) EXCEPTION.—

(A) TOLLING.—In any case in which a criminal indictment alleging a violation under subsection (a) is returned within the time limits prescribed by law for the institution of such action, the limitation under paragraph (1) for bringing a proceeding to impose a civil penalty or other administrative sanction under this section shall, upon the return of the criminal indictment, be tolled against all persons named as a defendant.

(B) DURATION.—The tolling of the limitation with respect to a defendant under subparagraph (A) as a result of a criminal indictment shall continue for a period of 6 months from the date on which the conviction of the defendant becomes final, the indictment against the defendant is dismissed, or the criminal action has concluded.

(h) VIOLATIONS DEFINED BY REGULATION.—Nothing in this section shall limit the authority of the Secretary to define by regulation violations under this Act.

(i) CONSTRUCTION.—Nothing in subsection (c), (d), (e), (f), or (g) limits—

(1) the availability of other administrative or judicial remedies with respect to a violation of a provision of this Act, or any regulation, order, or license issued under this Act;

(2) the authority to compromise and settle administrative proceedings brought with respect to any such violation; or

(3) the authority to compromise, remit, or mitigate seizures and forfeitures pursuant to section 1(b) of title VI of the Act of June 15, 1917 (22 U.S.C. 401(b)).

SEC. 604. MULTILATERAL EXPORT CONTROL REGIME VIOLATION SANCTIONS.

(a) IMPOSITION OF SANCTIONS.—

(1) IN GENERAL.—The President, subject to subsection (c), shall apply sanctions under subsection (b) for a period of not less than 2 years and not more than 5 years, if the President determines that—

(A) a foreign person has violated any regulation issued by a country to control exports for national security purposes pursuant to a multilateral export control regime; and

(B) such violation has substantially aided a country in—

(i) acquiring military significant capabilities or weapons, if the country is an actual or potential adversary of the United States;

(ii) acquiring nuclear weapons provided such country is other than the declared nuclear states of the People's Republic China, the Republic of France, the Russian Federation, the United Kingdom, and the United States;

(iii) acquiring biological or chemical weapons; or

(iv) acquiring missiles.

(2) NOTIFICATION OF CONGRESS.—The President shall notify Congress of each action taken under this section.

(b) APPLICABILITY AND FORMS OF SANCTIONS.—The sanctions referred to in subsection (a) shall apply to the foreign person committing the violation, as well as to any parent, affiliate, subsidiary, and successor entity of the foreign person, and, except as provided in subsection (c), are as follows:

(1) A prohibition on contracting with, and the procurement of products and services from, a sanctioned person, by any department, agency, or instrumentality of the United States Government.

(2) A prohibition on the importation into the United States of all items produced by a sanctioned person.

(c) EXCEPTIONS.—The President shall not apply sanctions under this section—

(1) in the case of procurement of defense items—

(A) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy United States operational military requirements;

(B) if the President determines that the foreign person or other entity to which the sanctions would otherwise be applied is a sole source supplier of essential defense items and no alternative supplier can be identified; or

(C) if the President determines that such items are essential to the national security under defense coproduction agreements;

(2) in any case in which such sanctions would violate United States international obligations including treaties, agreements, or understandings; or

(3) to—

(A) items provided under contracts or other binding agreements (as such terms are defined by the President in regulations) entered into before the date on which the President notifies Congress of the intention to impose the sanctions;

(B) after-market service and replacement parts including upgrades;

(C) component parts, but not finished products, essential to United States products or productions; or

(D) information and technology.

(d) EXCLUSION.—The President shall not apply sanctions under this section to a parent, affiliate, subsidiary, and successor entity of a foreign person if the President determines that—

(1) the parent, affiliate, subsidiary, or successor entity (as the case may be) has not knowingly violated the export control regulation violated by the foreign person; and

(2) the government of the country with jurisdiction over the parent, affiliate, subsidiary, or successor entity had in effect, at the time of the violation by the foreign person, an effective export control system consistent with principles set forth in section 601(b)(2).

(e) SUBSEQUENT MODIFICATIONS OF SANCTIONS.—The President may, after consultation with the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives, limit the scope of sanctions applied to a parent, affiliate, subsidiary, or successor entity of the foreign person determined to have committed the violation on account of which the sanctions were imposed, if the President determines that—

(1) the parent, affiliate, subsidiary, or successor entity (as the case may be) has not, on the basis of evidence available to the United States, itself violated the export control regulation involved, either directly or through a course of conduct;

(2) the government with jurisdiction over the parent, affiliate, subsidiary, or successor entity has improved its export control system as measured by the criteria set forth in section 601(b)(2); and

(3) the parent, affiliate, subsidiary, or successor entity, has instituted improvements in internal controls sufficient to detect and prevent violations of the multilateral export control regime.

SEC. 605. MISSILE PROLIFERATION CONTROL VIOLATIONS.

(a) VIOLATIONS BY UNITED STATES PERSONS.—

(1) SANCTIONS.—

(A) IN GENERAL.—If the President determines that a United States person knowingly—

(i) exports, transfers, or otherwise engages in the trade of any item on the MTCR Annex, in violation of the provisions of section 38 (22 U.S.C. 2778) or chapter 7 of the Arms Export Control Act, title II or III of this Act, or any regulations or orders issued under any such provisions,

(ii) conspires to or attempts to engage in such export, transfer, or trade, or

(iii) facilitates such export, transfer, or trade by any other person,

then the President shall impose the applicable sanctions described in subparagraph (B).

(B) SANCTIONS DESCRIBED.—The sanctions which apply to a United States person under subparagraph (A) are the following:

(i) If the item on the MTCR Annex involved in the export, transfer, or trade is missile equipment or technology within category II of the MTCR Annex, then the President shall deny to such United States person, for a period of 2 years, licenses for the transfer of missile equipment or technology controlled under this Act.

(ii) If the item on the MTCR Annex involved in the export, transfer, or trade is missile equipment or technology within category I of the MTCR Annex, then the President shall deny to such United States person, for a period of not less than 2 years, all licenses for items the export of which is controlled under this Act.

(2) DISCRETIONARY SANCTIONS.—In the case of any determination referred to in paragraph (1), the Secretary may pursue any other appropriate penalties under section 603.

(3) WAIVER.—The President may waive the imposition of sanctions under paragraph (1) on a person with respect to an item if the President certifies to Congress that—

(A) the item is essential to the national security of the United States; and

(B) such person is a sole source supplier of the item, the item is not available from any alternative reliable supplier, and the need for the item cannot be met in a timely manner by improved manufacturing processes or technological developments.

(b) TRANSFERS OF MISSILE EQUIPMENT OR TECHNOLOGY BY FOREIGN PERSONS.—

(1) SANCTIONS.—

(A) IN GENERAL.—Subject to paragraphs (3) through (7), if the President determines that a foreign person, after the date of enactment of this section, knowingly—

(i) exports, transfers, or otherwise engages in the trade of any MTCR equipment or technology that contributes to the design, development, or production of missiles in a country that is not an MTCR adherent and would be, if it were United States-origin equipment or technology, subject to the jurisdiction of the United States under this Act,

(ii) conspires to or attempts to engage in such export, transfer, or trade, or

(iii) facilitates such export, transfer, or trade by any other person,

or if the President has made a determination with respect to a foreign person under section 73(a) of the Arms Export Control Act, then the President shall impose on that foreign person the applicable sanctions under subparagraph (B).

(B) SANCTIONS DESCRIBED.—The sanctions which apply to a foreign person under subparagraph (A) are the following:

(i) If the item involved in the export, transfer, or trade is within category II of the MTCR Annex, then the President shall deny, for a period of 2 years, licenses for the transfer to such foreign person of missile equipment or technology the export of which is controlled under this Act.

(ii) If the item involved in the export, transfer, or trade is within category I of the MTCR Annex, then the President shall deny, for a period of not less than 2 years, licenses for the transfer to such foreign person of items the export of which is controlled under this Act.

(iii) If, in addition to actions taken under clauses (i) and (ii), the President determines that the export, transfer, or trade has substantially contributed to the design, development, or production of missiles in a country that is not an MTCR adherent, then the President shall prohibit, for a period of not less than 2 years, the importation into the United States of products produced by that foreign person.

(2) INAPPLICABILITY WITH RESPECT TO MTCR ADHERENTS.—Paragraph (1) does not apply with respect to—

(A) any export, transfer, or trading activity that is authorized by the laws of an MTCR adherent, if such authorization is not obtained by misrepresentation or fraud; or

(B) any export, transfer, or trade of an item to an end user in a country that is an MTCR adherent.

(3) EFFECT OF ENFORCEMENT ACTIONS BY MTCR ADHERENTS.—Sanctions set forth in paragraph (1) may not be imposed under this subsection on a person with respect to acts described in such paragraph or, if such sanctions are in effect against a person on account of such acts, such sanctions shall be terminated, if an MTCR adherent is taking judicial or other enforcement action against that person with respect to such acts, or that person has been found by the government of an MTCR adherent to be innocent of wrongdoing with respect to such acts.

(4) ADVISORY OPINIONS.—The Secretary, in consultation with the Secretary of State and the Secretary of Defense, may, upon the request of any person, issue an advisory opinion to that person as to whether a proposed activity by that person would subject that person to sanctions under this subsection. Any person who relies in good faith on such an advisory opinion which states that the proposed activity would not subject a person to such sanctions, and any person who thereafter engages in such activity, may not be made subject to such sanctions on account of such activity.

(5) WAIVER AND REPORT TO CONGRESS.—

(A) WAIVER.—In any case other than one in which an advisory opinion has been issued under paragraph (4) stating that a proposed activity would not subject a person to sanctions under this subsection, the President may waive the application of paragraph (1) to a foreign person if the President determines that such waiver is essential to the national security of the United States.

(B) REPORT TO CONGRESS.—In the event that the President decides to apply the waiver described in subparagraph (A), the President shall so notify Congress not less than 20 working days before issuing the waiver. Such notification shall include a report fully articulating the rationale and circumstances which led the President to apply the waiver.

(6) ADDITIONAL WAIVER.—The President may waive the imposition of sanctions under paragraph (1) on a person with respect to a product or service if the President certifies to the Congress that—

(A) the product or service is essential to the national security of the United States; and

(B) such person is a sole source supplier of the product or service, the product or service is not available from any alternative reliable supplier, and the need for the product or service cannot be met in a timely manner by improved manufacturing processes or technological developments.

(7) EXCEPTIONS.—The President shall not apply the sanction under this subsection prohibiting the importation of the products of a foreign person—

(A) in the case of procurement of defense articles or defense services—

(i) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy requirements essential to the national security of the United States;

(ii) if the President determines that the person to which the sanctions would be applied is a sole source supplier of the defense articles and services, that the defense articles or services are essential to the national security of the United States, and that alternative sources are not readily or reasonably available; or

(iii) if the President determines that such articles or services are essential to the national security of the United States under defense coproduction agreements or NATO Programs of Cooperation;

(B) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose the sanctions; or

(C) to—

(i) spare parts,

(ii) component parts, but not finished products, essential to United States products or production,

(iii) routine services and maintenance of products, to the extent that alternative sources are not readily or reasonably available, or

(iv) information and technology essential to United States products or production.

(c) DEFINITIONS.—In this section:

(1) MISSILE.—The term ''missile'' means a category I system as defined in the MTCR Annex, and any other unmanned delivery system of similar capability, as well as the specially designed production facilities for these systems.

(2) MISSILE TECHNOLOGY CONTROL REGIME; MTCR.—The term ''Missile Technology Control Regime'' or ''MTCR'' means the policy statement, between the United States, the United Kingdom, the Federal Republic of Germany, France, Italy, Canada, and Japan, announced on April 16, 1987, to restrict sensitive missile-relevant transfers based on the MTCR Annex, and any amendments thereto.

(3) MTCR ADHERENT.—The term ''MTCR adherent'' means a country that participates in the MTCR or that, pursuant to an international understanding to which the United States is a party, controls MTCR equipment or technology in accordance with the criteria and standards set forth in the MTCR.

(4) MTCR ANNEX.—The term ''MTCR Annex'' means the Guidelines and Equipment and Technology Annex of the MTCR, and any amendments thereto.

(5) MISSILE EQUIPMENT OR TECHNOLOGY; MTCR EQUIPMENT OR TECHNOLOGY.—The terms ''missile equipment or technology'' and ''MTCR equipment or technology'' mean those items listed in category I or category II of the MTCR Annex.

(6) FOREIGN PERSON.—The term ''foreign person'' means any person other than a United States person.

(7) PERSON.—

(A) IN GENERAL.—The term ''person'' means a natural person as well as a corporation, business association, partnership, society, trust, any other nongovernmental entity, organization, or group, and any governmental entity operating as a business enterprise, and any successor of any such entity.

(B) IDENTIFICATION IN CERTAIN CASES.—In the case of countries where it may be impossible to identify a specific governmental entity referred to in subparagraph (A), the term ''person'' means—

(i) all activities of that government relating to the development or production of any missile equipment or technology; and

(ii) all activities of that government affecting the development or production of aircraft, electronics, and space systems or equipment.

(8) OTHERWISE ENGAGED IN THE TRADE OF.—The term ''otherwise engaged in the trade of'' means, with respect to a particular export or transfer, to be a freight forwarder or designated exporting agent, or a consignee or end user of the item to be exported or transferred.

SEC. 606. CHEMICAL AND BIOLOGICAL WEAPONS PROLIFERATION SANCTIONS.

(a) IMPOSITION OF SANCTIONS.—

(1) DETERMINATION BY THE PRESIDENT.—Except as provided in subsection (b)(2), the President shall impose both of the sanctions described in subsection (c) if the President determines that a foreign person, on or after the date of enactment of this section, has knowingly and materially contributed—

(A) through the export from the United States of any item that is subject to the jurisdiction of the United States under this Act, or

(B) through the export from any other country of any item that would be, if it were a United States item, subject to the jurisdiction of the United States under this Act,

to the efforts by any foreign country, project, or entity described in paragraph (2) to use, develop, produce, stockpile, or otherwise acquire chemical or biological weapons.

(2) COUNTRIES, PROJECTS, OR ENTITIES RECEIVING ASSISTANCE.—Paragraph (1) applies in the case of—

(A) any foreign country that the President determines has, at any time after the date of enactment of this Act—

(i) used chemical or biological weapons in violation of international law;

(ii) used lethal chemical or biological weapons against its own nationals; or

(iii) made substantial preparations to engage in the activities described in clause (i) or (ii);

(B) any foreign country whose government is determined for purposes of section 310 to be a government that has repeatedly provided support for acts of international terrorism; or

(C) any other foreign country, project, or entity designated by the President for purposes of this section.

(3) PERSONS AGAINST WHICH SANCTIONS ARE TO BE IMPOSED.—Sanctions shall be imposed pursuant to paragraph (1) on—

(A) the foreign person with respect to which the President makes the determination described in that paragraph;

(B) any successor entity to that foreign person;

(C) any foreign person that is a parent or subsidiary of that foreign person if that parent or subsidiary knowingly assisted in the activities which were the basis of that determination; and

(D) any foreign person that is an affiliate of that foreign person if that affiliate knowingly assisted in the activities which were the basis of that determination and if that affiliate is controlled in fact by that foreign person.

(b) CONSULTATIONS WITH AND ACTIONS BY FOREIGN GOVERNMENT OF JURISDICTION.—

(1) CONSULTATIONS.—If the President makes the determinations described in subsection (a)(1) with respect to a foreign person, Congress urges the President to initiate consultations immediately with the government with primary jurisdiction over that foreign person with respect to the imposition of sanctions pursuant to this section.

(2) ACTIONS BY GOVERNMENT OF JURISDICTION.—In order to pursue such consultations with that government, the President may delay imposition of sanctions pursuant to this section for a period of up to 90 days. Following the consultations, the President shall

impose sanctions unless the President determines and certifies to Congress that government has taken specific and effective actions, including appropriate penalties, to terminate the involvement of the foreign person in the activities described in subsection (a)(1). The President may delay imposition of sanctions for an additional period of up to 90 days if the President determines and certifies to Congress that government is in the process of taking the actions described in the preceding sentence.

(3) REPORT TO CONGRESS.—The President shall report to Congress, not later than 90 days after making a determination under subsection (a)(1), on the status of consultations with the appropriate government under this subsection, and the basis for any determination under paragraph (2) of this subsection that such government has taken specific corrective actions.

(c) SANCTIONS.—

(1) DESCRIPTION OF SANCTIONS.—The sanctions to be imposed pursuant to subsection (a)(1) are, except as provided in paragraph (2) of this subsection, the following:

(A) PROCUREMENT SANCTION.—The United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from any person described in subsection (a)(3).

(B) IMPORT SANCTIONS.—The importation into the United States of products produced by any person described in subsection (a)(3) shall be prohibited.

(2) EXCEPTIONS.—The President shall not be required to apply or maintain sanctions under this section—

(A) in the case of procurement of defense articles or defense services—

(i) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy United States operational military requirements;

(ii) if the President determines that the person or other entity to which the sanctions would otherwise be applied is a sole source supplier of the defense articles or services, that the defense articles or services are essential, and that alternative sources are not readily or reasonably available; or

(iii) if the President determines that such articles or services are essential to the national security under defense coproduction agreements;

(B) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose sanctions;

(C) to—

(i) spare parts,

(ii) component parts, but not finished products, essential to United States products or production, or

(iii) routine servicing and maintenance of products, to the extent that alternative sources are not readily or reasonably available;

(D) to information and technology essential to United States products or production; or

(E) to medical or other humanitarian items.

(d) TERMINATION OF SANCTIONS.—The sanctions imposed pursuant to this section shall apply for a period of at least 12 months following the imposition of sanctions and shall cease to apply thereafter only if the President determines and certifies to the Congress that reliable information indicates that the foreign person with respect to which the determination was made under subsection (a)(1) has ceased to aid or abet any foreign government, project, or entity in its efforts to acquire chemical or biological weapons capability as described in that subsection.

(e) WAIVER.—

(1) CRITERION FOR WAIVER.—The President may waive the application of any sanction imposed on any person pursuant to this section, after the end of the 12-month period beginning on the date on which that sanction was imposed on that person, if the President determines and certifies to Congress that such waiver is important to the national security interests of the United States.

(2) NOTIFICATION OF AND REPORT TO CONGRESS.—If the President decides to exercise the waiver authority provided in paragraph (1), the President shall so notify the Congress not less than 20 days before the waiver takes effect. Such notification shall include a report fully articulating the rationale and circumstances which led the President to exercise the waiver authority.

(f) DEFINITION OF FOREIGN PERSON.—For the purposes of this section, the term ''foreign person'' means—

(1) an individual who is not a citizen of the United States or an alien admitted for permanent residence to the United States; or

(2) a corporation, partnership, or other entity which is created or organized under the laws of a foreign country or which has its principal place of business outside the United States.

SEC. 607. ENFORCEMENT.

(a) GENERAL AUTHORITY AND DESIGNATION.—

(1) POLICY GUIDANCE ON ENFORCEMENT.—The Secretary, in consultation with the Secretary of the Treasury and the heads of other departments and agencies that the Secretary considers appropriate, shall be responsible for providing policy guidance on the enforcement of this Act.

(2) GENERAL AUTHORITIES.—

(A) EXERCISE OF AUTHORITY.—To the extent necessary or appropriate to the enforcement of this Act, officers or employees of the Department designated by the Secretary, officers and employees of the United States Customs Service designated by the Commissioner of Customs, and officers and employees of any other department or agency designated by the head of a department or agency exercising functions under this Act, may exercise the enforcement authority under paragraph (3).

(B) CUSTOMS SERVICE.—In carrying out enforcement authority under paragraph (3), the Commissioner of Customs and employees of the United States Customs Services designated by the Commissioner may make investigations within or outside the United States and at ports of entry into or exit from the United States where officers of the United States Customs Service are authorized by law to carry out law enforcement responsibilities. Subject to paragraph (3), the United States Customs Service is authorized, in the enforcement of this Act, to search, detain (after search), and seize commodities or technology at the ports of entry into or exit from the United States where officers of the United States Customs Service are authorized by law to conduct searches, detentions, and seizures, and at the places outside the United States where the United States Customs Service, pursuant to agreement or other arrangement with other countries, is authorized to perform enforcement activities.

(C) OTHER EMPLOYEES.—In carrying out enforcement authority under paragraph (3), the Secretary and officers and employees of the Department designated by the Secretary may make investigations within the United States, and may conduct, outside the United States, pre-license and post-shipment verifications of controlled items and investigations in the enforcement of section 602. The Secretary and officers and employees of the Department designated by the Secretary are authorized to search, detain (after search), and seize items at places within the United States other than ports referred to in subparagraph (B). The search, detention (after search), or seizure of items at the ports and places referred to in subparagraph (B) may be conducted by officers and employees of the Department only with the concurrence of the Commissioner of Customs or a person designated by the Commissioner.

(D) AGREEMENTS AND ARRANGEMENTS.—The Secretary and the Commissioner of Customs may enter into agreements and arrangements for the enforcement of this Act, including foreign investigations and information exchange.

(3) SPECIFIC AUTHORITIES.—

(A) ACTIONS BY ANY DESIGNATED PERSONNEL.—Any officer or employee designated under paragraph (2), in carrying out the enforcement authority under this Act, may do the following:

(i) Make investigations of, obtain information from, make inspection of any books, records, or reports (including any writings required to be kept by the Secretary), premises, or property of, and take the sworn testimony of, any person.

(ii) Administer oaths or affirmations, and by subpoena require any person to appear and testify or to appear and produce books, records, and other writings, or both. In the case of contumacy by, or refusal to obey a subpoena issued to, any such person, a district court of the United States, on request of the Attorney General and after notice to any such person and a hearing, shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce books, records, and other writings, or both. Any failure to obey such order of the court may be punished by such court as a contempt thereof. The attendance of witnesses and the production of documents provided for in this clause may be required from any State, the District of Columbia, or in any territory of the United States at any designated place. Witnesses subpoenaed under this subsection shall be paid the same fees and mileage allowance as paid witnesses in the district courts of the United States.

(B) ACTIONS BY OFFICE OF EXPORT ENFORCEMENT AND CUSTOMS SERVICE PERSONNEL.—

(i) OFFICE OF EXPORT ENFORCEMENT AND CUSTOMS SERVICE PERSONNEL.—Any officer or employee of the Office of Export Enforcement of the Department of Commerce (in this Act referred to as ''OEE'') who is designated by the Secretary under paragraph (2), and any officer or employee of the United States Customs Service who is designated by the Commissioner of Customs under paragraph (2), may do the following in carrying out the enforcement authority under this Act:

(I) Execute any warrant or other process issued by a court or officer of competent jurisdiction with respect to the enforcement of this Act.

(II) Make arrests without warrant for any violation of this Act committed in his or her presence or view, or if the officer or employee has probable cause to believe that the person to be arrested has committed, is committing, or is about to commit such a violation.

(III) Carry firearms.

(ii) OEE PERSONNEL.—Any officer and employee of the OEE designated by the Secretary under paragraph (2) shall exercise the authority set forth in clause (i) pursuant to guidelines approved by the Attorney General.

(C) OTHER ACTIONS BY CUSTOMS SERVICE PERSONNEL.—Any officer or employee of the United States Customs Service designated by

the Commissioner of Customs under paragraph (2) may do the following in carrying out the enforcement authority under this Act:

(i) Stop, search, and examine a vehicle, vessel, aircraft, or person on which or whom the officer or employee has reasonable cause to suspect there is any item that has been, is being, or is about to be exported from or transited through the United States in violation of this Act.

(ii) Detain and search any package or container in which the officer or employee has reasonable cause to suspect there is any item that has been, is being, or is about to be exported from or transited through the United States in violation of this Act.

(iii) Detain (after search) or seize any item, for purposes of securing for trial or forfeiture to the United States, on or about such vehicle, vessel, aircraft, or person or in such package or container, if the officer or employee has probable cause to believe the item has been, is being, or is about to be exported from or transited through the United States in violation of this Act.

(4) OTHER AUTHORITIES NOT AFFECTED.—The authorities conferred by this section are in addition to any authorities conferred under other laws.

(b) FORFEITURE.—

(1) IN GENERAL.—Any tangible items lawfully seized under subsection (a) by designated officers or employees shall be subject to forfeiture to the United States.

(2) APPLICABLE LAWS.—Those provisions of law relating to—

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

(B) the disposition of such property or the proceeds from the sale thereof;

(C) the remission or mitigation of such forfeitures; and

(D) the compromise of claims,

shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this subsection, insofar as applicable and not inconsistent with this Act.

(3) FORFEITURES UNDER CUSTOMS LAWS.—Duties that are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws may be performed with respect to seizures and forfeitures of property under this subsection by the Secretary or any officer or employee of the Department that may be authorized or designated for that purpose by the Secretary, or, upon the request of the Secretary, by any other agency that has authority to manage and dispose of seized property.

(c) REFERRAL OF CASES.—All cases involving violations of this Act shall be referred to the Secretary for purposes of determining civil penalties and administrative sanctions under section 603 or to the Attorney General for criminal action in accordance with this Act or to both the Secretary and the Attorney General.

(d) UNDERCOVER INVESTIGATION OPERATIONS.—

(1) USE OF FUNDS.—With respect to any undercover investigative operation conducted by the OEE that is necessary for the detection and prosecution of violations of this Act—

(A) funds made available for export enforcement under this Act may be used to purchase property, buildings, and other facilities, and to lease equipment, conveyances, and space within the United States, without regard to sections 1341 and 3324 of title 31, United States Code, the third undesignated paragraph under the heading of ''miscellaneous'' of the Act of March 3, 1877, (40 U.S.C. 34), sections 3732(a) and 3741 of the Revised Statutes of the United States (41 U.S.C. 11(a) and 22), subsections (a) and (c) of section 304 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254 (a) and (c)), and section 305 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 255);

(B) funds made available for export enforcement under this Act may be used to establish or to acquire proprietary corporations or business entities as part of an undercover operation, and to operate such corporations or business entities on a commercial basis, without regard to sections 1341, 3324, and 9102 of title 31, United States Code;

(C) funds made available for export enforcement under this Act and the proceeds from undercover operations may be deposited in banks or other financial institutions without regard to the provisions of section 648 of title 18, United States Code, and section 3302 of title 31, United States Code; and

(D) the proceeds from undercover operations may be used to offset necessary and reasonable expenses incurred in such operations without regard to the provisions of section 3302 of title 31, United States Code,

if the Director of OEE (or an officer or employee designated by the Director) certifies, in writing, that the action authorized by subparagraph (A), (B), (C), or (D) for which the funds would be used is necessary for the conduct of the undercover operation.

(2) DISPOSITION OF BUSINESS ENTITIES.—If a corporation or business entity established or acquired as part of an undercover operation has a net value of more than $250,000 and is to be liquidated, sold, or otherwise disposed of, the Director of OEE shall report the circumstances to the Secretary and the Comptroller General of the United States as much in advance of such disposition as the Director of the OEE (or the Director's designee) determines is practicable. The proceeds of the liquidation, sale, or other disposition, after obligations incurred by the corporation or business enterprise are met, shall be deposited in the Treasury of the United States as miscellaneous receipts. Any property or equipment purchased pursuant to paragraph (1) may be retained for subsequent use in undercover operations under this section. When such property or equipment is no longer needed, it shall be considered surplus and disposed of as surplus government property.

(3) DEPOSIT OF PROCEEDS.—As soon as the proceeds from an OEE undercover investigative operation with respect to which an action is authorized and carried out under this subsection are no longer needed for the conduct of such operation, the proceeds or the balance of the proceeds remaining at the time shall be deposited into the Treasury of the United States as miscellaneous receipts.

(4) AUDIT AND REPORT.—

(A) AUDIT.—The Director of OEE shall conduct a detailed financial audit of each closed OEE undercover investigative operation and shall submit the results of the audit in writing to the Secretary. Not later than 180 days after an undercover operation is closed, the Secretary shall submit to Congress a report on the results of the audit.

(B) REPORT.—The Secretary shall submit annually to Congress a report, which may be included in the annual report under section 801, specifying the following information:

(i) The number of undercover investigative operations pending as of the end of the period for which such report is submitted.

(ii) The number of undercover investigative operations commenced in the 1-year period preceding the period for which such report is submitted.

(iii) The number of undercover investigative operations closed in the 1-year period preceding the period for which such report is submitted and, with respect to each such closed undercover operation, the results obtained and any civil claims made with respect to the operation.

(5) DEFINITIONS.—For purposes of paragraph (4)—

(A) the term ''closed'', with respect to an undercover investigative operation, refers to the earliest point in time at which all criminal proceedings (other than appeals) pursuant to the investigative operation are concluded, or covert activities pursuant to such operation are concluded, whichever occurs later; and

(B) the terms ''undercover investigative operation'' and ''undercover operation'' mean any undercover investigative operation conducted by the OEE—

(i) in which the gross receipts (excluding interest earned) exceed $25,000, or expenditures (other than expenditures for salaries of employees) exceed $75,000, and

(ii) which is exempt from section 3302 or 9102 of title 31, United States Code, except that clauses (i) and (ii) shall not apply with respect to the report to Congress required by paragraph (4)(B).

(e) WIRETAPS.—

(1) AUTHORITY.—Interceptions of communications in accordance with section 2516 of title 18, United States Code, are authorized to further the enforcement of this Act.

(2) CONFORMING AMENDMENT.—Section 2516(1) of title 18, United States Code, is amended by adding at the end the following: ''(q)(i) any violation of, or conspiracy to violate, the Export Administration Act of 2001 or the Export Administration Act of 1979.''.

(f) POST-SHIPMENT VERIFICATION.—

(1) IN GENERAL.—The Secretary shall target post-shipment verifications to exports involving the greatest risk to national security including, but not limited to, exports of high performance computers.

(2) REPEAL.—Section 1213 of the National Defense Authorization Act for Fiscal Year 1998 is repealed.

(g) REFUSAL TO ALLOW POST-SHIPMENT VERIFICATION.—

(1) IN GENERAL.—If an end-user refuses to allow post-shipment verification of a controlled item, the Secretary shall deny a license for the export of any controlled item to such end-user until such post-shipment verification occurs.

(2) RELATED PERSONS.—The Secretary may exercise the authority under paragraph (1) with respect to any person related through affiliation, ownership, control, or position of responsibility, to any end-user refusing to allow post-shipment verification of a controlled item.

(3) REFUSAL BY COUNTRY.—If the country in which the end-user is located refuses to allow post-shipment verification of a controlled item, the Secretary may deny a license for the export of that item or any substantially identical or directly competitive item or class of items to all end-users in that country until such post-shipment verification is allowed.

(h) AWARD OF COMPENSATION; PATRIOT PROVISION.—

(1) IN GENERAL.—If—

(A) any person, who is not an employee or officer of the United States, furnishes to a United States attorney, to the Secretary of the Treasury or the Secretary, or to appropriate officials in the Department of the Treasury or the Department of Commerce, original information concerning a violation of this Act or any regulation, order, or license issued under this Act, which is being, or has been, perpetrated or contemplated by any other person and in which the person furnishing the information has not participated, and

(B) such information leads to the recovery of any criminal fine, civil penalty, or forfeiture,

the Secretary and the Commissioner of Customs, may, in the sole discretion of the Secretary or the Commissioner, award and pay an amount that does not exceed 25 percent of the net amount recovered.

(2) DOLLAR LIMITATION.—The amount awarded and paid to any person under this section may not exceed $250,000 for any case.

(3) SOURCE OF PAYMENT.—The amount paid under this section shall be paid out of any penalties, forfeitures, or appropriated funds.

(i) FREIGHT FORWARDERS BEST PRACTICES PROGRAM AUTHORIZATION.—There is authorized to be appropriated for the Department of Commerce $3,500,000 and such sums as may be necessary to hire 20 additional employees to assist United States freight forwarders and other interested parties in developing and implementing, on a voluntary basis, a ''best practices'' program to ensure that exports of controlled items are undertaken in compliance with this Act.

(j) END-USE VERIFICATION AUTHORIZATION.—

(1) IN GENERAL.—There is authorized to be appropriated for the Department of Commerce $4,500,000 and such sums as may be necessary to hire 10 additional overseas investigators to be posted in the People's Republic of China, the Russian Federation, the Hong Kong Special Administrative Region, the Republic of India, Singapore, Egypt, and Taiwan, or any other place the Secretary deems appropriate, for the purpose of verifying the end use of high-risk, dual-use technology.

(2) REPORT.—Not later than 2 years after the date of enactment of this Act and annually thereafter, the Department shall, in its annual report to Congress on export controls, include a report on the effectiveness of the end-use verification activities authorized under subsection (a). The report shall include the following information:

(A) The activities of the overseas investigators of the Department.

(B) The types of goods and technologies that were subject to end-use verification.

(C) The ability of the Department's investigators to detect the illegal transfer of high risk, dual-use goods and technologies.

(3) ENHANCEMENTS.—In addition to the authorization provided in paragraph (1), there is authorized to be appropriated for the Department of Commerce $5,000,000 to enhance its program for verifying the end use of items subject to controls under this Act.

(k) ENHANCED COOPERATION WITH UNITED STATES CUSTOMS SERVICE.—Consistent with the purposes of this Act, the Secretary is authorized to undertake, in cooperation with the United States Customs Service, such measures as may be necessary or required to enhance the ability of the United States to detect unlawful exports and to enforce violations of this Act.

(l) REFERENCE TO ENFORCEMENT.—For purposes of this section, a reference to the enforcement of this Act or to a violation of this Act includes a reference to the enforcement or a violation of any regulation, license, or order issued under this Act.

(m) AUTHORIZATION FOR EXPORT LICENSING AND ENFORCEMENT COMPUTER SYSTEM.—There is authorized to be appropriated for the Department $5,000,000 and such other sums as may be necessary for planning, design, and procurement of a computer system to replace the Department's primary export licensing and computer enforcement system.

(n) AUTHORIZATION FOR BUREAU OF EXPORT ADMINISTRATION.—The Secretary may authorize, without fiscal year limitation, the expenditure of funds transferred to, paid to, received by, or made available to the Bureau of Export Administration as a reimbursement in accordance with section 9703 of title 31, United States Code (as added by Public Law 102–393). The Secretary may also authorize, without fiscal year limitation, the expenditure of funds transferred to, paid to, received by, or made available to the Bureau of Export Administration as a reimbursement from the Department of Justice Assets Forfeiture Fund in accordance with section 524 of title 28, United States Code.

(o) AMENDMENTS TO TITLE 31.—

(1) Section 9703(a) of title 31, United States Code (as added by Public Law 102–393) is amended by striking ''or the United States Coast Guard'' and inserting '', the United States Coast Guard, or the Bureau of Export Administration of the Department of Commerce''.

(2) Section 9703(a)(2)(B)(i) of title 31, United States Code is amended (as added by Public Law 102–393)—

(A) by striking ''or'' at the end of subclause (I);

(B) by inserting ''or'' at the end of subclause (II); and

(C) by inserting at the end, the following new subclause:

''(III) a violation of the Export Administration Act of 1979, the Export Administration Act of 2001, or any regulation, license, or order issued under those Acts;''.

(3) Section 9703(p)(1) of title 31, United States Code (as added by Public Law 102–393) is amended by adding at the end the following: ''In addition, for purposes of this section, the Bureau of Export Administration of the Department of Commerce shall be considered to be a Department of the Treasury law enforcement organization.''.

(p) AUTHORIZATION FOR LICENSE REVIEW OFFICERS.—

(1) IN GENERAL.—There is authorized to be appropriated to the Department of Commerce $2,000,000 to hire additional license review officers.

(2) TRAINING.—There is authorized to be appropriated to the Department of Commerce $2,000,000 to conduct professional training of license review officers, auditors, and investigators conducting post-shipment verification checks. These funds shall be used to—

(A) train and certify, through a formal program, new employees entering these positions for the first time; and

(B) the ongoing professional training of experienced employees on an as needed basis.

(q) AUTHORIZATION.—There are authorized to be appropriated to the Department of Commerce to carry out the purposes of this Act—

(1) $72,000,000 for the fiscal year 2002, of which no less than $27,701,000 shall be used for compliance and enforcement activities;

(2) $73,000,000 for the fiscal year 2003, of which no less than $28,312,000 shall be used for compliance and enforcement activities;

(3) $74,000,000 for the fiscal year 2004, of which no less than $28,939,000 shall be used for compliance and enforcement activities;

(4) $76,000,000 for the fiscal year 2005, of which no less than $29,582,000 shall be used for compliance and enforcement activities; and

(5) such additional amounts, for each such fiscal year, as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs.

SEC. 608. ADMINISTRATIVE PROCEDURE.

(a) EXEMPTIONS FROM ADMINISTRATIVE PROCEDURE.—Except as provided in this section, the functions exercised under this Act are excluded from the operation of sections 551, 553 through 559, and 701 through 706 of title 5, United States Code.

(b) PROCEDURES RELATING TO CIVIL PENALTIES AND SANCTIONS.—

(1) ADMINISTRATIVE PROCEDURES.—Any administrative sanction imposed under section 603 may be imposed only after notice and opportunity for an agency hearing on the record in accordance with sections 554 through 557 of title 5, United States Code. The imposition of any such administrative sanction shall be subject to judicial review in accordance with sections 701 through 706 of title 5, United States Code.

(2) AVAILABILITY OF CHARGING LETTER.—Any charging letter or other document initiating administrative proceedings for the imposition of sanctions for violations of the regulations issued under section 602 shall be made available for public inspection and copying.

(c) COLLECTION.—If any person fails to pay a civil penalty imposed under section 603, the Secretary may ask the Attorney General to commence a civil action in an appropriate district court of the United States to recover the amount imposed (plus interest at currently prevailing rates from the date of the final order). No such action may be commenced more than 5 years after the order imposing the civil penalty becomes final. In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review.

(d) IMPOSITION OF TEMPORARY DENIAL ORDERS.—

(1) GROUNDS FOR IMPOSITION.—In any case in which there is reasonable cause to believe that a person is engaged in or is about to engage in any act or practice which constitutes or would constitute a violation of this Act, or any regulation, order, or license issued under this Act, including any diversion of goods or technology from an authorized end use or end user, and in any case in which a criminal indictment has been returned against a person alleging a violation of this Act or any of the statutes listed in section 603, the Secretary may, without a hearing, issue an order temporarily denying that person's United States export privileges (hereafter in this subsection referred to as a ''temporary denial order''). A temporary denial order shall be effective for such period (not in excess of 180 days) as the Secretary specifies in the order, but may be renewed by the Secretary, following notice and an opportunity for a hearing, for additional periods of not more than 180 days each.

(2) ADMINISTRATIVE APPEALS.—The person or persons subject to the issuance or renewal of a temporary denial order may appeal the issuance or renewal of the temporary denial order, supported by briefs and other material, to an administrative law judge who shall, within 15 working days after the appeal is filed, issue a decision affirming, modifying, or vacating the temporary denial order. The temporary denial order shall be affirmed if it is shown that—

(A) there is reasonable cause to believe that the person subject to the order is engaged in or is about to engage in any act or practice that constitutes or would constitute a violation of this Act, or any regulation, order, or license issued under this Act; or

(B) a criminal indictment has been returned against the person subject to the order alleging a violation of this Act or any of the statutes listed in section 603.

The decision of the administrative law judge shall be final unless, within 10 working days after the date of the administrative law judge's decision, an appeal is filed with the Secretary. On appeal, the Secretary shall either affirm, modify, reverse, or vacate the decision of the administrative law judge by written order within 10 working days after receiving the appeal. The written order of the Secretary shall be final and is not subject to judicial review, except as provided in paragraph (3). The materials submitted to

the administrative law judge and the Secretary shall constitute the administrative record for purposes of review by the court.

(3) COURT APPEALS.—An order of the Secretary affirming, in whole or in part, the issuance or renewal of a temporary denial order may, within 15 days after the order is issued, be appealed by a person subject to the order to the United States Court of Appeals for the District of Columbia Circuit, which shall have the jurisdiction of the appeal. The court may review only those issues necessary to determine whether the issuance of the temporary denial order was based on reasonable cause to believe that the person subject to the order was engaged in or was about to engage in any act or practice that constitutes or would constitute a violation of this title, or any regulation, order, or license issued under this Act, or whether a criminal indictment has been returned against the person subject to the order alleging a violation of this Act or of any of the statutes listed in section 603. The court shall vacate the Secretary's order if the court finds that the Secretary's order is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

(e) LIMITATIONS ON REVIEW OF CLASSIFIED INFORMATION.—Any classified information that is included in the administrative record that is subject to review pursuant to subsection (b)(1) or (d)(3) may be reviewed by the court only on an ex parte basis and in camera.

TITLE VII—EXPORT CONTROL AUTHORITY AND REGULATIONS

SEC. 701. EXPORT CONTROL AUTHORITY AND REGULATIONS.

(a) EXPORT CONTROL AUTHORITY.—

(1) IN GENERAL.—Unless otherwise reserved to the President or a department (other than the Department) or agency of the United States, all power, authority, and discretion conferred by this Act shall be exercised by the Secretary.

(2) DELEGATION OF FUNCTIONS OF THE SECRETARY.—The Secretary may delegate any function under this Act, unless otherwise provided, to the Under Secretary of Commerce for Export Administration or to any other officer of the Department.

(b) UNDER SECRETARY OF COMMERCE; ASSISTANT SECRETARIES.—

(1) UNDER SECRETARY OF COMMERCE.—There shall be within the Department an Under Secretary of Commerce for Export Administration (in this section referred to as the ''Under Secretary'') who shall be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary shall carry out all functions of the Secretary under this Act and other provisions of law relating to national security, as the Secretary may delegate.

(2) ADDITIONAL ASSISTANT SECRETARIES.—In addition to the number of Assistant Secretaries otherwise authorized for the Department of Commerce, there shall be within the Department of Commerce the following Assistant Secretaries of Commerce:

(A) An Assistant Secretary for Export Administration who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall assist the Secretary and the Under Secretary in carrying out functions relating to export listing and licensing.

(B) An Assistant Secretary for Export Enforcement who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall assist the Secretary and the Under Secretary in carrying out functions relating to export enforcement.

(c) ISSUANCE OF REGULATIONS.—

(1) IN GENERAL.—The President and the Secretary may issue such regulations as are necessary to carry out this Act. Any such regulations the purpose of which is to carry out title II or title III may be issued only after the regulations are submitted for review to such departments or agencies as the President considers appropriate. The Secretary shall consult with the appropriate export control advisory committee appointed under section 105(f) in formulating regulations under this title. The second sentence of this subsection does not require the concurrence or approval of any official, department, or agency to which such regulations are submitted.

(2) AMENDMENTS TO REGULATIONS.—If the Secretary proposes to amend regulations issued under this Act, the Secretary shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives on the intent and rationale of such amendments. Such report shall evaluate the cost and burden to the United States exporters of the proposed amendments in relation to any enhancement of licensing objectives. The Secretary shall consult with the appropriate export control advisory committees appointed under section 105(f) in amending regulations issued under this Act.

SEC. 702. CONFIDENTIALITY OF INFORMATION.

(a) EXEMPTIONS FROM DISCLOSURE.—

(1) INFORMATION OBTAINED ON OR BEFORE JUNE 30, 1980.—Except as otherwise provided by the third sentence of section 602(c)(2), information obtained under the Export Administration Act of 1979, or any predecessor statute, on or before June 30, 1980, which is deemed confidential, including Shipper's Export Declarations, or with respect to which a request for confidential treatment is made by the person furnishing such information, shall not be subject to disclosure under section 552 of title 5, United States Code, and such information shall not be published or disclosed, unless the Secretary determines that the withholding thereof is contrary to the national interest.

(2) INFORMATION OBTAINED AFTER JUNE 30, 1980.—Except as otherwise provided by the third sentence of section 13(b)(2) of the Export Administration Act of 1979, information obtained under this Act, under the Export Administration Act of 1979 after June 30, 1980, or under the Export Administration regulations as maintained and amended under the authority of the International Emergency Economic Powers Act (50 U.S.C. 1706), may be withheld from disclosure only to the extent permitted by statute, except that information submitted, obtained, or considered in connection with an application for an export license or other export authorization (or recordkeeping or reporting requirement) under the Export Administration Act of 1979, under this Act, or under the Export Administration regulations as maintained and amended under the authority of the International Emergency Economic Powers Act (50 U.S.C. 1706), including—

(A) the export license or other export authorization itself,

(B) classification requests described in section 501(h),

(C) information or evidence obtained in the course of any investigation,

(D) information obtained or furnished under title VII in connection with any international agreement, treaty, or other obligation, and

(E) information obtained in making the determinations set forth in section 211 of this Act,

and information obtained in any investigation of an alleged violation of section 602 of this Act except for information required to be disclosed by section 602(c)(2) or 606(b)(2) of this Act, shall be withheld from public disclosure and shall not be subject to disclosure under section 552 of title 5, United States Code, unless the release of such information is determined by the Secretary to be in the national interest.

(b) INFORMATION TO CONGRESS AND GAO.—

(1) IN GENERAL.—Nothing in this title shall be construed as authorizing the withholding of information from Congress or from the General Accounting Office.

(2) AVAILABILITY TO THE CONGRESS—

(A) IN GENERAL.—Any information obtained at any time under this title or under any predecessor Act regarding the control of exports, including any report or license application required under this title, shall be made available to any committee or subcommittee of Congress of appropriate jurisdiction upon the request of the chairman or ranking minority member of such committee or subcommittee.

(B) PROHIBITION ON FURTHER DISCLOSURE.—No committee, subcommittee, or Member of Congress shall disclose any information obtained under this Act or any predecessor Act regarding the control of exports which is submitted on a confidential basis to the Congress under subparagraph (A) unless the full committee to which the information is made available determines that the withholding of the information is contrary to the national interest.

(3) AVAILABILITY TO THE GAO.—

(A) IN GENERAL.—Notwithstanding subsection (a), information described in paragraph (2) shall, consistent with the protection of intelligence, counterintelligence, and law enforcement sources, methods, and activities, as determined by the agency that originally obtained the information, and consistent with the provisions of section 716 of title 31, United States Code, be made available only by the agency, upon request, to the Comptroller General of the United States or to any officer or employee of the General Accounting Office authorized by the Comptroller General to have access to such information.

(B) PROHIBITION ON FURTHER DISCLOSURES.—No officer or employee of the General Accounting Office shall disclose, except to Congress in accordance with this paragraph, any such information which is submitted on a confidential basis and from which any individual can be identified.

(c) INFORMATION EXCHANGE.—Notwithstanding subsection (a), the Secretary and the Commissioner of Customs shall exchange licensing and enforcement information with each other as necessary to facilitate enforcement efforts and effective license decisions.

(d) PENALTIES FOR DISCLOSURE OF CONFIDENTIAL INFORMATION.—

(1) DISCLOSURE PROHIBITED.—No officer or employee of the United States, or any department or agency thereof, may publish, divulge, disclose, or make known in any manner or to any extent not authorized by law any information that—

(A) the officer or employee obtains in the course of his or her employment or official duties or by reason of any examination or investigation made by, or report or record made to or filed with, such department or agency, or officer or employee thereof; and

(B) is exempt from disclosure under this section.

(2) CRIMINAL PENALTIES.—Any such officer or employee who knowingly violates paragraph (1) shall be fined not more than $50,000, imprisoned not more than 1 year, or both, for each violation of paragraph (1). Any such officer or employee may also be removed from office or employment.

(3) CIVIL PENALTIES; ADMINISTRATIVE SANCTIONS.—The Secretary may impose a civil

penalty of not more than $5,000 for each violation of paragraph (1). Any officer or employee who commits such violation may also be removed from office or employment for the violation of paragraph (1). Subsections 603 (e), (g), (h), and (i) and 606 (a), (b), and (c) shall apply to violations described in this paragraph.

TITLE VIII—MISCELLANEOUS PROVISIONS

SEC. 801. ANNUAL AND PERIODIC REPORTS.

(a) ANNUAL REPORT.—Not later than February 1 of each year, the Secretary shall submit to Congress a report on the administration of this Act during the fiscal year ending September 30 of the preceding calendar year. All Federal agencies shall cooperate fully with the Secretary in providing information for each such report.

(b) REPORT ELEMENTS.—Each such report shall include in detail—

(1) a description of the implementation of the export control policies established by this Act, including any delegations of authority by the President and any other changes in the exercise of delegated authority;

(2) a description of the changes to and the year-end status of country tiering and the Control List;

(3) a description of the petitions filed and the determinations made with respect to foreign availability and mass-market status, the set-asides of foreign availability and mass-market status determinations, and negotiations to eliminate foreign availability;

(4) a description of the regulations issued under this Act;

(5) a description of organizational and procedural changes undertaken in furtherance of this Act;

(6) a description of the enforcement activities, violations, and sanctions imposed under section 604;

(7) a statistical summary of all applications and notifications, including—

(A) the number of applications and notifications pending review at the beginning of the fiscal year;

(B) the number of notifications returned and subject to full license procedure;

(C) the number of notifications with no action required;

(D) the number of applications that were approved, denied, or withdrawn, and the number of applications where final action was taken; and

(E) the number of applications and notifications pending review at the end of the fiscal year;

(8) summary of export license data by export identification code and dollar value by country;

(9) an identification of processing time by—

(A) overall average, and

(B) top 25 export identification codes;

(10) an assessment of the effectiveness of multilateral regimes, and a description of negotiations regarding export controls;

(11) a description of the significant differences between the export control requirements of the United States and those of other multilateral control regime members, the specific differences between United States requirements and those of other significant supplier countries, and a description of the extent to which the executive branch intends to address the differences;

(12) an assessment of the costs of export controls;

(13) a description of the progress made toward achieving the goals established for the Department dealing with export controls under the Government Performance Results Act; and

(14) any other reports required by this Act to be submitted to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives.

(c) CONGRESSIONAL NOTIFICATION.—Whenever the Secretary determines, in consultation with other appropriate departments and agencies, that a significant violation of this Act poses a direct and imminent threat to United States national security interests, the Secretary, in consultation with other appropriate departments and agencies, shall advise the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives of such violation consistent with the protection of law enforcement sources, methods, and activities.

(d) FEDERAL REGISTER PUBLICATION REQUIREMENTS.—Whenever information under this Act is required to be published in the Federal Register, such information shall, in addition, be made available on the appropriate Internet website of the Department.

SEC. 802. TECHNICAL AND CONFORMING AMENDMENTS.

(a) REPEAL.—The Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq.) is repealed.

(b) ENERGY POLICY AND CONSERVATION ACT.—

(1) Section 103 of the Energy Policy and Conservation Act (42 U.S.C. 6212) is repealed.

(2) Section 251(d) of the Energy Policy and Conservation Act (42 U.S.C. 6271(d)) is repealed.

(c) ALASKA NATURAL GAS TRANSPORTATION ACT.—Section 12 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719j) is repealed.

(d) MINERAL LEASING ACT.—Section 28(u) of the Mineral Leasing Act (30 U.S.C. 185(u)) is repealed.

(e) EXPORTS OF ALASKAN NORTH SLOPE OIL.—Section 28(s) of the Mineral Leasing Act (30 U.S.C. 185(s)) is repealed.

(f) DISPOSITION OF CERTAIN NAVAL PETROLEUM RESERVE PRODUCTS.—Section 7430(e) of title 10, United States Code, is repealed.

(g) OUTER CONTINENTAL SHELF LANDS ACT.—Section 28 of the Outer Continental Shelf Lands Act (43 U.S.C. 1354) is repealed.

(h) ARMS EXPORT CONTROL ACT.—

(1) Section 38 of the Arms Export Control Act (22 U.S.C. 2778) is amended—

(A) in subsection (e)—

(i) in the first sentence, by striking ''subsections (c)'' and all that follows through ''12 of such Act,'' and inserting ''subsections (b), (c), (d) and (e) of section 603 of the Export Administration Act of 2001, by subsections (a) and (b) of section 607 of such Act, and by section 702 of such Act,''; and

(ii) in the third sentence, by striking ''11(c) of the Export Administration Act of 1979'' and inserting ''603(c) of the Export Administration Act of 2001''; and

(B) in subsection (g)(1)(A)(ii), by inserting ''or section 603 of the Export Administration Act of 2001'' after ''1979''.

(2) Section 39A(c) of the Arms Export Control Act is amended—

(A) by striking ''subsections (c),'' and all that follows through ''12(a) of such Act'' and inserting ''subsections (c), (d), and (e) of section 603, section 608(c), and subsections (a) and (b) of section 607, of the Export Administration Act of 2001''; and

(B) by striking ''11(c)'' and inserting ''603(c)''.

(3) Section 40(k) of the Arms Export Control Act (22 U.S.C. 2780(k)) is amended—

(A) by striking ''11(c), 11(e), 11(g), and 12(a) of the Export Administration Act of 1979'' and inserting ''603(b), 603(c), 603(e), 607(a), and 607(b) of the Export Administration Act of 2001''; and

(B) by striking ''11(c)'' and inserting ''603(c)''.

(i) OTHER PROVISIONS OF LAW.—

(1) Section 5(b)(4) of the Trading with the Enemy Act (50 U.S.C. App. 5(b)(4)) is amended by striking ''section 5 of the Export Administration Act of 1979, or under section 6 of that Act to the extent that such controls promote the nonproliferation or antiterrorism policies of the United States'' and inserting ''titles II and III of the Export Administration Act of 2001''.

(2) Section 502B(a)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2304(a)(2)) is amended in the second sentence—

(A) by striking ''Export Administration Act of 1979'' the first place it appears and inserting ''Export Administration Act of 2001''; and

(B) by striking ''Act of 1979)'' and inserting ''Act of 2001)''.

(3) Section 140(a) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f(a)) is amended—

(A) in paragraph (1)(B), by inserting ''or section 310 of the Export Administration Act of 2001'' after ''Act of 1979''; and

(B) in paragraph (2), by inserting ''or 310 of the Export Administration Act of 2001'' after ''6(j) of the Export Administration Act of 1979''.

(4) Section 40(e)(1) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2712(e)(1)) is amended by striking ''section 6(j)(1) of the Export Administration Act of 1979'' and inserting ''section 310 of the Export Administration Act of 2001''.

(5) Section 205(d)(4)(B) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 305(d)(4)(B)) is amended by striking ''section 6(j) of the Export Administration Act of 1979'' and inserting ''section 310 of the Export Administration Act of 2001''.

(6) Section 110 of the International Security and Development Cooperation Act of 1980 (22 U.S.C. 2778a) is amended by striking ''Act of 1979'' and inserting ''Act of 2001''.

(7) Section 203(b)(3) of the International Emergency Economic Powers Act (50 U.S.C. 1702(b)(3)) is amended by striking ''section 5 of the Export Administration Act of 1979, or under section 6 of such Act to the extent that such controls promote the nonproliferation or antiterrorism policies of the United States'' and inserting ''the Export Administration Act of 2001''.

(8) Section 1605(a)(7)(A) of title 28, United States Code, is amended by striking ''section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j))'' and inserting ''section 310 of the Export Administration Act of 2001''.

(9) Section 2332d(a) of title 18, United States Code, is amended by striking ''section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405)'' and inserting ''section 310 of the Export Administration Act of 2001''.

(10) Section 620H(a)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2378(a)(1)) is amended by striking ''section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j))'' and inserting ''section 310 of the Export Administration Act of 2001''.

(11) Section 1621(a) of the International Financial Institutions Act (22 U.S.C. 262p–4q(a)) is amended by striking ''section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j))'' and inserting ''section 310 of the Export Administration Act of 2001''.

(12) Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking ''section 11 (relating to violations) of the Export Administration of 1979'' and inserting ''section 603 (relating to penalties) of the Export Administration Act of 2001''.

SEC. 803. SAVINGS PROVISIONS.

(a) IN GENERAL.—All delegations, rules, regulations, orders, determinations, licenses,

or other forms of administrative action which have been made, issued, conducted, or allowed to become effective under—

(1) the Export Control Act of 1949, the Export Administration Act of 1969, the Export Administration Act of 1979, or the International Emergency Economic Powers Act when invoked to maintain and continue the Export Administration regulations, or

(2) those provisions of the Arms Export Control Act which are amended by section 802,

and are in effect on the date of enactment of this Act, shall continue in effect according to their terms until modified, superseded, set aside, or revoked under this Act or the Arms Export Control Act.

(b) ADMINISTRATIVE AND JUDICIAL PROCEEDINGS.—

(1) EXPORT ADMINISTRATION ACT.—This Act shall not affect any administrative or judicial proceedings commenced or any application for a license made, under the Export Administration Act of 1979 or pursuant to Executive Order 12924, which is pending at the time this Act takes effect. Any such proceedings, and any action on such application, shall continue under the Export Administration Act of 1979 as if that Act had not been repealed.

(2) OTHER PROVISIONS OF LAW.—This Act shall not affect any administrative or judicial proceeding commenced or any application for a license made, under those provisions of the Arms Export Control Act which are amended by section 802, if such proceeding or application is pending at the time this Act takes effect. Any such proceeding, and any action on such application, shall continue under those provisions as if those provisions had not been amended by section 802.

(c) TREATMENT OF CERTAIN DETERMINATIONS.—Any determination with respect to the government of a foreign country under section 6(j) of the Export Administration Act of 1979, or Executive Order 12924, that is in effect on the day before the date of enactment of this Act, shall, for purposes of this title or any other provision of law, be deemed to be made under section 310 of this Act until superseded by a determination under such section 310.

(d) LAWFUL INTELLIGENCE ACTIVITIES.—The prohibitions otherwise applicable under this Act do not apply with respect to any transaction subject to the reporting requirements of title V of the National Security Act of 1947.

(e) IMPLEMENTATION.—The Secretary shall make any revisions to the Export Administration regulations required by this Act no later than 180 days after the date of enactment of this Act.

Mr. SARBANES. Mr. President, I am pleased to join with my colleagues Senator ENZI, Senator JOHNSON, and Senator GRAMM to introduce the Export Administration Act of 2001. The legislation we are introducing today is very similar to the legislation that was reported out of the Senate Banking Committee in the last Congress by a unanimous 20–0 vote.

The Export Administration Act provides the President authority to control exports for reasons of national security and foreign policy. Let me begin by saying that I believe there is a very strong national interest in Congress reauthorizing the Export Administration Act.

The EAA has not been reauthorized since 1990 except for temporary extensions in 1993, 1994, and last year. At the end of the last Congress we passed a temporary extension of the EAA that expires on August 20 of this year. Prior to this most recent temporary extension, the authority of the President to impose export controls had been exercised pursuant to the International Economic Emergency Powers Act (IEEPA). In my view, Congress should put in place a permanent statutory framework for the imposition of export controls. They should not be imposed in effect on a permanent basis pursuant to an emergency economic authority of the President. Just one example of the implications of depending on IEEPA is that the penalties that may be imposed for violations of export controls under IEEPA are significantly less than those imposed under the EAA.

I believe this legislation is a carefully balanced effort to provide the President authority to control exports for reasons of national security and foreign policy, while also responding to the need of U.S. exporters to compete in the global marketplace.

Extensive consultation took place with representatives of the previous Administration, including the Commerce Department, the Defense Department, the intelligence agencies and the National Security Council, as well as representatives of the different industry groups. I also understand that during the campaign then-Governor Bush also endorsed this legislation, and we would hope to work closely with the new Administration on this bill.

I would like to commend Senator ENZI (who was the chairman of the International Trade and Finance Subcommittee of the Banking Committee in the last Congress), Senator JOHNSON (who was the ranking member of the Subcommittee), and Senator GRAMM, as well as their staffs, for their efforts to develop a bipartisan consensus on this legislation.

The legislation generally tracks the authorities provided the President under the Export Administration Act which expired in 1990. However a significant effort was made, with the assistance of the Legislative Counsel's Office, to provide these authorities in a more clear and straightforward manner. We believe this will make the statute both easier for the executive branch agencies to administer and for exporters to comply with.

The bill also makes a number of significant improvements to the EAA. I would like to mention just a few. The legislation provides for the first time a statutory basis for the resolution of interagency disputes over export license applications. The intent is to provide an orderly process for the timely resolution of disputes, while allowing all interested agencies a full opportunity to express their views. This was an issue of great concern to the Administration, the national security community, and industry. I believe we have reached a reasonable resolution of this issue in the bill.

The bill significantly increases both criminal and civil penalties for violations of the Export Administration Act, reflecting the seriousness of such violations.

The bill provides new authority to the President to determine that a good has mass market status in the United States and should therefore be decontrolled. The President retains authority to set aside a mass market determination if he determines it would constitute a serious threat to national security and continued export controls would be likely to advance the national security interests of the United States. This was a provision of great importance to U.S. exporters.

At the urging of Senator ENZI, the bill contains a provision that would require the President to establish a system of tiers to which countries would be assigned based on their perceived threat to U.S. national security. The intent is to provide exporters a clear guide as to the licensing requirements of an export of a particular item to a particular country.

The bill would also require that any foreign company that declined a U.S. request for a post-shipment verification of an export would be denied licenses for future exports. The President would have authority to deny licenses to affiliates of the company, and to the country in which the company is located as well.

On balance, I believe this bill is a very balanced piece of work. It commanded unanimous bipartisan support in the Banking Committee in the last Congress. It is my belief that it will receive broad bipartisan support in the Banking Committee and in the full Senate in this Congress. I believe it will be the first bill the Banking Committee will act on this year, and I would hope we could move it quickly to consideration by the full Senate. Early action by the full Senate would, in turn, give the House more time to act on the bill. I am hopeful that this will be the Congress in which the Export Administration Act is enacted back into law.

By Mr. KERRY:

S. 150. A bill to amend the Internal Revenue Code of 1986 to provide an incentive to ensure that all Americans gain timely and equitable access to the Internet over current and future generations of broadband capability; to the Committee on Finance.

HEALTH INSURANCE FOR SMALL BUSINESS

Mr. KERRY. Mr. President, I am proud to be an original cosponsor of the Self-Employed Health Insurance Fairness Act. As the Ranking Democratic Member on the Senate Committee on Small Business, I know how important access to health insurance is for small businesses. Today, approximately 42.5 million Americans lack health insurance. Unfortunately, employees of small businesses are much more likely to be uninsured than employees of large firms.

Current law allows qualified small businesses to deduct 60 percent of their health insurance payments. The cost of health insurance and the lack of a full deduction has kept many small businesses from obtaining health insurance for their employees. In 1998, an estimated 12.5 million workers were self-employed but only about 3.2 million tax returns claimed the self-employed health insurance deduction. In 1998, 34 percent of workers in firms with fewer than 10 employees lacked health insurance compared with only 13 percent of workers in firms with more than 1,000 employees. Clearly, the cost of health insurance has kept many small businesses from offering health insurance. Many small businesses simply cannot afford to pick up the difference between the deduction and the total cost of health insurance.

Unfortunately, due to an inequity within our current tax law, big businesses are currently allowed to deduct 100 percent of their health insurance costs. While small businesses are slated to have their health insurance deduction increase to 100 percent in 2003, I believe this is far too long for many small businesses to wait to obtain health insurance.

That is why I am proud to cosponsor the legislation introduced yesterday by Senators BOND and DURBIN, which will finally end the inequity in current tax law and allow small businesses to deduct the same amount of their health insurance costs as big businesses. For many small businesses, this increase in the deduction will make it possible for them to obtain health insurance for the first time.

No one in the United States should be without adequate health care because he or she cannot afford it. Access to affordable health insurance is crucial to increase the quality of life for working families across this nation. That is why we must enact this legislation during the 107th Congress.

By Mr. GRASSLEY (for himself and Mr. BAUCUS):

S. 152. A bill to amend the Internal Revenue Code of 1986 to eliminate the 60-month limit and increase the income limitation on the student loan interest deduction; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, today I am introducing legislation to expand the tax deduction for student loan interest. I am proud to have as my original cosponsor Senator MAX BAUCUS of Montana.

Under the Tax Reform Act of 1986, the tax deduction for student loan interest was eliminated. This action, done in the name of fiscal responsibility, disregarded the duty we have to the education of our nation's students. This struck me and many of my colleagues as wrong. Since 1987, I have spearheaded the bipartisan effort to reinstate the tax deduction for student loan interest. In 1992, we succeeded in passing the legislation only to have it vetoed as part of a larger bill with tax increases. Finally, after ten long years our determination and perseverance paid off. Under the Taxpayer Relief Act of 1997 we reinstated the deduction. In our success, we sent a message to the students and their families of this nation that the Congress of the United States understands the financial hardships they face, and that we are willing to assist them in easing those hardships so they can continue to receive the education they need to become productive members of society and of their place of work.

In 1997, our steps were in the right direction. We did what needed to be done. Regrettably, due to fiscal constraints, we were not able to go as far as we wanted. The nation was still struggling to eliminate the deficit. In order to control costs, we were forced to limit the deductibility of student loan interest to only sixty payments, which is five years' worth plus the time spent in forbearance or deferment.

This restriction hurts some of the most needy borrowers. Many of these borrowers are students who, due to limited means, have borrowed most heavily. The restriction discriminates against those who have the highest debt loads and the lowest incomes. It makes the American dream of self-improvement harder to achieve for those struggling to pull themselves up—but who started with less. It is simply unjust.

Today, our situation is vastly different. In these times of economic surplus, we have a responsibility to do what we were unable to do before. Student debt is rising to alarming levels and additional relief is needed. We must eliminate the sixty month restriction on the deductibility of student loan interest and adjust the income limits to show that the United States Congress stands behind our nation's students in their endeavors to better themselves.

In addition, the removal of the sixty-month limit on deductibility of student loan interest will bring most needed relief to some of the most deserving borrowers. The restriction weighs most heavily on those who, despite lower pay have decided to dedicate themselves to public service. Thus this change will have the added benefit of rewarding civic virtue of these admirable citizens.

Additionally, eliminating this restriction will remove difficult and costly reporting requirements that are currently required for both the borrower and lender. By supporting our nation's students, we will also be reducing costly and unnecessary regulatory requirements.

Currently, to claim the deduction, the taxpayer must have an adjusted gross income of $40,000 or less or $60,000 for married couples. The amount of the deduction is gradually phased out for those with incomes between $40,000 and $55,000, or $60,000 and $75,000 for married couples. The deduction was phased in at $1,000 and will cap out at $2,500 in 2002. This bill will adjust those limits.

Many students in our country are suffering from heavy education-related debt. More can and must be done to help them. In these times of relative budget surplus, it is our duty to invest in our students' education. Doing so is an investment in America's future. To maintain our competitive edge in the global marketplace, America must have a well-educated workforce. By making it easier for students to take out the loans they need to obtain the highest level of education they can, we recommit ourselves to education and maintaining our competitive advantage in technology and in world trade.

I urge members to join me and Senator BAUCUS in our effort to relieve these excessive burdens on those trying to better themselves and their futures through education, by expanding the tax deduction for student loan interest payments. I now ask that the full 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. 152

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ELIMINATION OF 60-MONTH LIMIT AND INCREASE IN INCOME LIMITATION ON STUDENT LOAN INTEREST DEDUCTION.

(a) ELIMINATION OF 60-MONTH LIMIT.—

(1) IN GENERAL.—Section 221 of the Internal Revenue Code of 1986 (relating to interest on education loans) is amended by striking subsection (d) and by redesignating subsections (e), (f), and (g) as subsections (d), (e), and (f), respectively.

(2) CONFORMING AMENDMENT.—Section 6050S(e) of such Code is amended by striking ''section 221(e)(1)'' and inserting ''section 221(d)(1)''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to any loan interest paid after December 31, 2000, in taxable years ending after such date.

(b) INCREASE IN INCOME LIMITATION.—

(1) IN GENERAL.—Section 221(b)(2)(B) of the Internal Revenue Code of 1986 (relating to amount of reduction) is amended by striking clauses (i) and (ii) and inserting the following:

''(i) the excess of—

''(I) the taxpayer's modified adjusted gross income for such taxable year, over

''(II) $50,000 (twice such dollar amount in the case of a joint return), bears to

''(ii) $15,000.''.

(2) CONFORMING AMENDMENT.—Section 221(g)(1) of such Code is amended by striking ''$40,000 and $60,000 amounts'' and inserting ''$50,000 amount''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years ending after December 31, 2000.

Mr. BAUCUS. Mr. President, I am pleased to join my colleague, Senator GRASSLEY, in introducing legislation to expand the tax deduction for student loan interest.

Under current law, student loan interest is only deductible for the first sixty loan repayments, which is equivalent to five years in addition to any deferrals. While this limitation was

originally imposed due to revenue constraints, it has had unanticipated consequences.

Most importantly, the limitation hurts some of our neediest borrowers. Students with the most limited means often are forced to borrow most heavily in order to afford a higher education. These are precisely the students who need the most help to succeed.

The restriction also makes it more difficult for students who would like to pursue a career in public service, where loan repayment is made more challenging by salaries that tend to be lower than the private sector. We should not punish those who sacrifice in order to serve the greater good.

Finally, the current sixty month limitation imposes costly and time-consuming reporting requirements on both borrowers and lenders. In supporting our nation's students, we will also be cutting costly bureaucracy.

Mr. President, we currently are enjoying unprecedented budget surpluses, which allows us the luxury of deciding how best to allocate our nation's revenues. I believe there are some priorities we must emphasize, and one important one is our children's education.

Investing in education is investing in our nation's future.

Our best tool for ensuring long-term economic growth is to make sure our workforce is the most educated in the world. Eliminating this artificial restriction on student loan interest deductibility keeps us one small step closer to our goal.

I urge my colleagues to support this effort.

By Mr. HATCH:

S. 153. A bill to amend title XVIII of the Social Security Act to provide for State accreditation of diabetes self-management training programs under the Medicare Program; to the Committee on Finance.

Mr. HATCH. Mr. President, today, I am introducing legislation that will allow all state accredited diabetes education programs to be reimbursed by the Medicare program. Currently, diabetes education programs that have state certification, as an alternative to being certified by the American Diabetes Association (ADA), are not eligible to receive Medicare reimbursement for their services. As a result, these deserving patients have more limited access to the important medical education that they need to control their diabetes effectively and to improve the quality of their health.

This important health issue was brought to my attention by the Program Director of the Utah Diabetes Control Program. There are over 30 diabetes education programs in Utah that are either Utah certified or recognized by the American Diabetes Association. The majority of the education programs have only state certification; several are located in rural communities of Utah.

It is important to emphasize, that in Utah, our state certification program meets or exceeds all national standards. These stringent state requirements include the submission of a detailed application, with the appropriate documentation that the diabetes education programs meet the various national standards.

The Utah Diabetes Control Program staff also conduct on-site visits to all applying programs. After the completion of this extensive application process, the state staff collects follow-up data through the annual report process in order to assess program quality and diabetic patient outcomes.

One notable concern that has been brought to my attention by the Utah Department of Health is that the American Diabetes Association charges $850 for state programs to apply for their ADA certification. The smaller and rural state diabetes education programs, which provide services to their patients, have indicated that the ADA fee is cost-prohibitive for them. It does not seem right to me that Medicare reimbursement for such programs is contingent on the ability of the program sponsor to pay a fee to the only accepted certifying entity.

I understand that this problem is not unique to Utah, but is a significant issue across the country. All Medicare beneficiaries, regardless of where they live in America, should have access to these diabetes education programs that ultimately improve the quality of their lives. I urge my colleagues to join me in supporting this legislation.

Mr. President, I ask unanimous consent 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. 153

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. STATE ACCREDITATION OF DIABETES SELF-MANAGEMENT TRAINING PROGRAMS.

Section 1861(qq)(2) of the Social Security Act (42 U.S.C. 1395x(qq)(2)) is amended—

(1) in the matter preceding subparagraph (A) by striking ''paragraph (1)—'' and inserting ''paragraph (1):'';

(2) in subparagraph (A)—

(A) by striking ''a 'certified provider' '' and inserting ''A 'certified provider' ''; and

(B) by striking ''; and'' at the end and inserting a period; and

(3) in subparagraph (B)—

(A) by striking ''a physician, or such other individual'' and inserting ''(i) A physician, or such other individual'';

(B) by inserting ''(I)'' before ''meets applicable standards'';

(C) by inserting ''(II)'' before ''is recognized'';

(D) by inserting '', or by a program described in clause (ii),'' after ''recognized by an organization that represents individuals (including individuals under this title) with diabetes''; and

(E) by adding at the end the following new clause:

''(ii) Notwithstanding any reference to 'a national accreditation body' in section 1865(b), for purposes of clause (i), a program described in this clause is a program operated by a State for the purposes of accrediting diabetes self-management training programs, if the Secretary determines that such State program has established quality standards that meet or exceed the standards established by the Secretary under clause (i) or the standards originally established by the National Diabetes Advisory Board and subsequently revised as described in clause (i).''.

By Mr. SHELBY:

S. 154. A bill to amend the Uniformed and Overseas Citizens Absentee Voting Act to ensure uniform treatment by States of Federal overseas absentee ballots, to amend titles 10 and 18, United States Code, and the Revised Statutes to remove the uncertainty regarding the authority of the Department of Defense to permit buildings located on military installations and reserve component facilities to be used as polling places in Federal, State, and elections for public office, and for other purposes; to the Committee on Rules and Administration.

Mr. SHELBY. Mr. President, I rise today to introduce the Military and Overseas Citizens Voting Fairness Act of 2001. This bill ensures that the men and women of the military who go into harm's way and bravely serve our country will have their vote counted. Given the great sacrifice these men and women make to defend our country, it is essential that we as lawmakers do all that we can to have their voices heard.

Although military mail is technically supposed to carry a postmark, the reality of the situation is that exigent circumstances aboard Navy ships and in foreign theaters can result in mail being sent without a postmark. Because several states require a postmark for an absentee ballot to be counted, the unfortunate outcome is that many military persons who went through the timely process of registering, applying for and sending in a ballot are disenfranchised through no fault of their own.

My bill provides that lack of a postmark does not result in automatic rejection of an overseas ballots in states that require a postmark. Specifically, the bill states that as long as there is conclusive proof of timely sending and the ballot is received by a state within 10 days after a federal election, mere lack of a postmark will not prevent the ballot from being counted.

My bill lists two ways in which conclusive proof of timely sending may be established, although any conclusive evidence could establish timely sending. If a ballot is received on or before election day, logic dictates that the ballot was sent in a timely manner. Also, timely sending would be conclusively established by examining the date of signature and witness on the outside of the ballot envelope. Fraudulently misstating the date would be punishable by civil and criminal penalties.

In addition to creating a uniform absentee voting law, my bill includes provisions to allow polling places on domestic military bases. These provisions

will make it easier for military personnel located on remote bases to be able to participate in the voting process. Voting is one of the most important civic duties in a democracy. By allowing voting to take place on-base, we as the Senate, will guarantee that the men and women of our military will have every opportunity to exercise their important right to vote.

Mr. President, confidence, clarity, and participation in our voting process are vital to the continuation of our great democracy. The election of this past year illustrates the need for change in our voting procedures. While more reform will be needed, my bill is a crucial step in that direction. For this and all the above reasons, I urge you and all my other colleagues to support the passage of this all important bill.

By Mr. BINGAMAN:

S. 155. A bill to amend title 5, United States Code, to eliminate an inequity in the applicability of early retirement eligibility requirements to military reserve technicians; to the Committee on Governmental Affairs.

Mr. BINGAMAN. Mr. President, I rise today to introduce a bill that I put forward last year to remove the inequity that continues to exist in retirement pay benefits for critical personnel, referred to as ''Dual Status Technicians,'' who serve in our National Guard and Reserve. The Senate approved my proposed legislation last year by including it in the FY 2001 Defense Authorization bill. This year, I urge my colleagues in the Senate and House to join with me to see that this important initiative is enacted into law.

There are about 40,000 Dual Status Technicians covered by retirement requirements and restrictions contained in Title 32 of the United States Code. The designation ''Dual Status'', Mr. President, refers to the fact that these technicians serve the government simultaneously both as military and civilian employees. These men and women are the backbone of our National Guard and Reserve structure. They are the mechanics, pilots engineers, equipment operators, supply and support technicians who keep things running so that the Guard is able to respond to natural disasters and national emergencies, as well as serve on active duty in accordance with the ''total force concept'' that integrates active and reserve forces in the military. These hardworking men and women are often the first called to duty in an emergency. They played on essential role, for example, in the major firefighting efforts that took place in New Mexican and throughout western states last summer.

As essential as Dual Status Technicians are, they suffer from the worst of two employment worlds. These technicians are by statute both military and civilian employees. Guard technicians must maintain their military job and grade in order to keep their technician status and remain a federal employee. In the event of separation from military service, however, under existing law they are denied the retirement benefit options extended to those who serve in the same grade and time in service in the active military. Frequently, Dual Status Technicians who are separated from the Guard and Reserve must wait years to qualify to receive their Federal Service retirement benefits.

The bill I am introducing in the Senate today corresponds to a companion bill being introduced on the House side by Representative ABERCROMBIE. It seeks to eliminate retirement inequities—a problem we just addressed head on in the Armed Services Committee when we include a provision in the FY 2000 Defense Authorization Bill eliminating retirement inequities between active duty personnel who retire before or after 1986. We voted by that provision to effectively eliminate the ''Redux'' retirement benefit program because of the lower benefits it offered to personnel who retired after 1986. The action I am proposing in this legislation is similar.

The bill will permit Dual Status Technicians to retire at any age with 25 years of service or at age 50 with 20 years of service. Those criteria reflect benefit options now extended to Federal police and fire employees. They also replicate those offered to federal employees who retire from the Congress.

Last year, I was pleased to see, Mr. President, that the FY 2000 Defense Authorization Act took a step to extend more equitable retirement benefits to Dual Status Technicians. In doing so, however, the Congress created an inequity within the Technician community itself. A provision in that Act authorized early retirement after 25 years at any age, or at age 50 with 20 years of service—but only for those employed as Dual Status Technicians after 1996. Those same benefits are withheld from those employed before 1996. In other words, Mr. President, we created a situation similar to the one the Senate dealt with regarding the ''Redux'' retirement program in the FY 2001 Defense Authorization Act. The bill I offer today would remove that inequity in the same way the Congress voted to remove the inequity for active duty personnel who retired under the ''Redux'' program.

Mr. President, the cost of achieving retirement equity for Dual Status Technicians would not be high. Last year, the Congressional Budget Office estimated that this bill could cost about $74 million over a five year period. That estimate may be on the high side, I believe, since it is based on the assumption that nearly all technicians eligible for retirement under those criteria would choose to do so. The actual number who would choose to retire would vary, of course, depending on individual circumstances. It is important to note, Mr. President, that we're not only providing for equity here. We're authorizing appropriate compensation, well deserved, to the men and women who have devoted their careers to service for the nation both at home and abroad—the men and women of our National Guard and Reserve.

I urge my colleagues to support this bill and urge my fellow members to support this effort through cosponsorship. 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. 155

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EQUITABLE APPLICATION OF EARLY RETIREMENT ELIGIBILITY REQUIREMENTS TO MILITARY RESERVE TECHNICIANS.

(a) TECHNICIANS COVERED BY FERS.—Paragraph (1) of section 8414(c) of title 5, United States Code, is amended by striking ''after becoming 50 years of age and completing 25 years of service'' and inserting ''after completing 25 years of service or after becoming 50 years of age and completing 20 years of service''.

(b) TECHNICIANS COVERED BY CSRS.—Section 8336 of title 5, United States Code, is amended by adding at the end the following new subsection:

''(p) Section 8414(c) of this title applies—

''(1) under paragraph (1) of such section to a military reserve technician described in that paragraph for purposes of determining entitlement to an annuity under this subchapter; and

''(2) under paragraph (2) of such section to a military technician (dual status) described in that paragraph for purposes of determining entitlement to an annuity under this subchapter.''.

(c) APPLICABILITY.—Subsection (c) of section 8414 of title 5, United States Code (as amended by subsection (a)), and subsection (p) of section 8336 of such title (as added by subsection (b)), shall apply according to the provisions thereof with respect to separations from service referred to in such subsections that occur on or after October 5, 1999.

By Mrs BOXER:

S. 156. A bill to improve academic and social outcomes for students and reduce both juvenile crime and the risk that youth will become victims of crime by providing productive activities during after school hours; to the Committee on Health, Education, Labor, and Pensions.

S. 157. A bill to establish a program to help States expand the existing education system to include at least 1 year of early education preceding the year a child enters kindergarten; to the Committee on Health, Education, Labor, and Pensions.

Mrs. BOXER. Mr. President, there have been many positive steps taken to support quality early education and afterschool programs, yet they still represent token steps when giant leaps are needed. America must commit to ensuring a comprehensive education system beginning with early education

programs and continuing with afterschool programs. This is why I am reintroducing my two bills, the ''Early Education Act of 2001,'' and the ''After School Education and Anti-Crime Act of 2001.''

Every day, millions of working parents are forced with the prospect of leaving their children unsupervised after school because they either cannot afford quality afterschool programs or the programs simply are unavailable in their surrounding area. Children need a place to go after school. An empty house should not be an option. It can be especially frightening for many students today because of the increase in crime and drug related incidents in their neighborhoods.

There are anywhere from 8 to 15 million children without accessible afterschool opportunities. Only 33 percent of schools in low-income neighborhoods offer before and afterschool programs compared to over 50 percent of schools in affluent neighborhoods. Yet, unlike what most may believe, this tragic situation cuts across both racial and economic lines. Affluent, non-minority workers also leave their children home alone.

According to a recent report from the Urban Institute, one in five children ages 6 to 12 are regularly left without adult supervision after school. The FBI reports that the after school hours between 2 p.m. and 8 p.m. are the times when latchkey children are most likely to be involved in crimes and other delinquent behavior, and this is precisely the time period when juvenile crime peaks across the nation.

According to the Departments of Education and Health and Human Services, extracurricular activities, like those provided by afterschool programs, have proven to reduce the number of students likely to use drugs by 50 percent and the number of students likely to become teen parents by 33 percent. Statistics like these prove that after school programs are essential to ensuring the safety of our children in the critical hours after school.

We made great progress in the last 5 years. Through the 21st Century Community Learning Center program, federal support for local afterschool programs increased from $1 million in fiscal year 1997 to $845 million in fiscal year 2001. As a result, over 900 communities across the nation are now providing their children with a positive alternative to unsupervised care.

But a gap still exists. While eight out of ten voters in America indicate they strongly support afterschool programs and would welcome them in their community, fewer than 4 out of 10 voters say that their community provides afterschool programs.

My bill, the After Education and Anti-Crime Act of 2001, would help close this gap. It would provide $1 billion in grants for afterschool programs and incrementally increase that funding over the next five years to $1.5 billion in the year 2006. This funding would help provide afterschool programs for 1.5 million youth in the year 2002 with the potential to assist nearly 2.5 million in the year 2006.

While afterschool programs continue the learning process during after school hours, we also must support initiatives that ensure our young children receive quality educational experiences in their early, formative years.

In 1989, the Nation's governors established a goal that all children would have access to high quality prekindergarten programs by the year 2000. It is now the year 2001, and this goal still has not been met.

Importantly, researchers have discovered that children have a learning capacity that can and should be developed at a much earlier age than was previously thought. The National Research Council reported that prekindergarten educational opportunities are necessary if children are going to develop the language and literacy skills needed to read.

Furthermore, studies have shown that children who participate in prekindergarten programs are less likely to be held back a grade, show greater learning retention and initiative, have better social skills, are more enthusiastic about school, and more likely to have good attendance records. Yet, of the nearly 8 million 3- and 4-year-olds that could be in early education, fewer than half are enrolled.

My bill, the Early Education Act of 2001, would create a demonstration project in at least 10 States that want to provide one year of prekindergarten early education in the public schools. There is a 50 percent matching requirement, and the $300 million authorized under this bill would be used by States to supplement—not supplant—other Federal, State or local funds.

Our children need a solid foundation that builds on our current education system by providing them with early learning skills and the opportunity to further develop these skills during the afterschool hours. My bills will help create such a positive environment for our Nation's youth.

By Mr. BINGAMAN (for himself and Mr. LUGAR):

S. 158. A bill to improve schools; to the Committee on Health, Education, Labor, and Pensions.

Mr. BINGAMAN. Mr. President, I rise today to re-introduce legislation that I first introduced in 1999. This bill will establish much needed accountability for our education system so that the taxpayers' investment in education is adequately protected and our children receive the best possible education. I am pleased to offer this bipartisan bill on behalf of myself and my colleague Senator LUGAR. The provisions of this bill are also included in S. 7, introduced yesterday by Senator DASCHLE and 18 other senators.

I think that we can all agree that greater accountability in our public schools is an imperative. I am encouraged that President Bush and our new Secretary of Education, Rod Paige, have both expressed a strong commitment to increased accountability and have implemented strong school accountability standards in Texas. I understand accountability is a central piece of the administration's proposal being released today.

In 1994, we made some important changes to the Elementary and Secondary Education Act. We created an accountability system for the program receiving most of the ESEA funds—the program, for disadvantaged students called the Title I program. This accountability framework—along with the Goals 2000 program—have driven the standards-based reform efforts across the nation. During the last 5 years, however, experience in many States has demonstrated that we must do more. At this point, only 11 states have fully approved assessment systems in place as required under Title I.

The federal government has succeeded in targeting funds on those most in need better than any state or local government. And over the last three decades we have had success—albeit only partial success—in closing the achievement gap between economically disadvantaged students and their peers.

Our bill builds on the existing strengths of the accountability structure in the current Title I programs and also establishes accountability for teacher quality and other federal education programs encompassed in the Elementary and Secondary Education Act. In particular, our bill (1) establishes aggressive but achievable performance objectives for all students linked to each state's own standards and assessments; (2) directs resources to the students and objectives most in need and (3) provides maximum flexibility for educators in devising strategies that meet our shared goals, but ultimately having real consequences and sanctions for states, districts, and schools that do not meet agreed-upon performance objectives for student achievement.

Through amendments to Title I and Title VI of the Elementary and Secondary Education Act, our bill establishes aggressive but achievable performance objectives for all students.

We require rigorous statewide accountability systems based on each state's standards and assessments holding states, districts, and schools accountable for real achievement progress for all students, by requiring states, districts and schools to set specific, numerical goals for improvement which will ensure that all students will be proficient on state standards within 10 years. We also require public reporting of not just the results of the assessment but also the number of students excluded from assessments.

Most importantly, Mr. President, this bill demands results for all students, by no longer tolerating existing achievement gaps between minority

and non-minority students, poor and non-poor students, and LEP and English-speaking students. The achievement gap between low-income students and their more advantaged peers has narrowed significantly from 1970 until the mid-1980's. This was a central goal of the Title I program and its success in this regard is underrated.

But we have not done enough to accelerate those results. Accountability systems that depend upon average student achievement data—data in the aggregate—will not close the achievement gaps that separate low-income students from more affluent students or minority students from white students.

For example, in my home State of New Mexico, in 1994 4th grade reading data show that an average of 21 percent of the 4th graders in my state were reading at the proficient level. This is distressing enough, but the disaggregated data tells an even more depressing story. In New Mexico only 11 percent of the African American 4th graders and just 15 percent of the Latino 4th graders were reading at the proficient level. The 1996 4th grade NAEP data show that 13 percent of all students in New Mexico were proficient in math while only 3 percent of African American students and 6 percent of Latino students were proficient.

The fact that these students are in the minority means that their performance data is swamped by data of the majority when an accountability system that depends on averages is used.

To remedy this—to close the gaps and to make good on the promises of Title I—our bill would demand that states use disaggregated data and goals to hold schools and school districts accountable for the use of Title I funds.

Mr. President, recognizing that increased accountability and increased results will not be easy to accomplish, our bill also directs additional resources to the students and objectives most in need.

First, our bill would set aside a pot of funds (3 percent of Title I funds—about $250 million at current funding levels—and 5 percent after three years) for school improvement. 80 percent of these funds would be sent to the local level to support efforts to turn around failing schools. Schools can use these funds to implement research-based comprehensive school reform programs.

An example of a comprehensive school reform model used widely in my State and throughout the nation with great results is Success for All. This program is a proven early grade reading program, which if implemented properly can ensure results. At the end of the first grade, Success for All schools have average reading scores almost three months ahead of those in matching control schools, and by the end of the 5th grade, students read more than one year ahead of control peers. The program can reduce the need for special education placements by more than 50 percent and virtually eliminate retention. Our bill provides new funding of $500 million per year to states and school districts to implement comprehensive, research-based school reform programs, such as Success for All, that have proven effectiveness.

Second, the state may use the remaining State funds to provide assistance to districts and schools as they implement their accountability system and develop school improvement plans.

Finally, we also support an increased authorization level for Title I—$15 billion—and will continue to fight for substantial increases in the appropriations process.

Mr. President, the bill does not provide additional resources without asking for something in return. The bill would ensure that if states, districts or schools fail to demonstrate returns on the federal investment through increased student performance, real consequences and sanctions will result.

On the school and district level, if grant recipients do not meet required performance standards, changes in the governance structure of the school or district must be implemented; and students must be allowed to transfer to higher performing schools. The states and districts must provide the necessary resources for transportation with state and local funds; state administrative funds will be withheld; and Title VI funding (current block grant program) will be reduced and States will be ineligible for the Ed-Flex program.

This bill also would establish aggressive but achievable performance objectives to ensure that every class has a qualified teacher. Our bill does this by first, requiring states receiving federal funds to ensure that all teachers are fully qualified by December 2005; second, requiring states and districts receiving federal teacher quality funds to set specific numerical performance goals and targets for reducing the number of unqualified and out-of-field teachers; and third, ensuring that low income and minority students are not taught by unqualified teachers at higher rates than other students.

The bill would ensure that resources are directed to these objectives first, by ensuring that federal funds are not used to hire unqualified teachers and second, by ensuring that resources are provided for, and school improvement plans incorporate, high-quality, research-based professional development for instructional staff.

Again, in exchange for increased resources, our bill would provide consequences for failing to meet performance objectives. States failing to meet their performance objectives would lose State administrative funding. Districts and schools failing to meet performance objectives would be ineligible for continuing grants.

This bill also ensures that the other Federal Education Programs in the ESEA incorporate performance-based accountability measures by: First, requiring that all plans submitted with grant applications incorporate performance-based objectives for increased student performance or other relevant program objectives. Second, providing additional funding through the Title VI block grant program in the ESEA to achieve performance-based objectives. Third, providing consequences for failing to meet performance-based objectives, including ineligibility for continuing grants in the case of competitive programs and in the case of formula programs, reductions in administrative funds and Title VI, and fourth, mandating that states failing to meet goals would also be ineligible for flexible funding programs in current law (''Ed Flex'').

In addition, this bill recognizes the critical role played by parents in improving performance and ensuring accountability. The bill provides parents the right to know their child's teachers' qualifications; it requires that parents be notified when their child's school is failing; it requires school improvement plans be published and parents be included in their development; and it requires school report cards to inform parents about the quality of their schools and their programs in meeting student achievement goals.

Finally, our bill authorizes $200 million dollars for States to reward high performing schools and districts so that these schools and districts are recognized and encouraged to strive for high performance.

Mr. President, our bill would use an output-based rather than an input-based system of accountability for the various programs authorized by this bill. A shift that my colleagues on the both sides of the aisle have repeatedly endorsed.

Indeed, Both President Bush and Secretary Paige have expressed support for the measures incorporated in this bill and implemented many of them with some success in Texas. Both have endorsed closing the achievement gap at the school level with real consequences for failure—the key component for accountability under Title I. They have indicated support for report cards, a rewards program for successful schools, and using performance-based accountability for all education programs. At his confirmation hearing, Secretary Paige also endorsed providing additional resources to struggling schools to help them turn around before corrective actions are taken. So I am very hopeful that this will be a bill that receives strong bipartisan support and I look forward to working with my colleagues on both sides of the aisle on it.

In conclusion, Mr. President, many schools that educate hard-to-serve students have shown success by setting high standards for staff and students and mobilizing educators and the community around a clear set of educational goals.

In fact, there are successful schools all over the country, in every type of

community, that are living proof that all children have the ability to achieve beyond our wildest expectations, no matter what their economic or social background.

Success is not yet the rule in all of our schools. Our job, in this Congress, is to support parents and educators in every community as they apply these lessons and leverage federal funds so that they create change in areas where success continues to lag. We know what works. Now we must dedicate the resources needed to apply what works and hold the system accountable for real results. Again. I want to thank my colleague, Senator LUGAR, for his cosponsorship of this bill.

Mr. President, I ask unanimous consent that a copy 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. 158

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 ''School Improvement Accountability Act''.

TITLE I—HELPING DISADVANTAGED CHILDREN

SEC. 101. RESERVATIONS FOR ACCOUNTABILITY.

Section 1003 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6303) is amended to read as follows:

''SEC. 1003. RESERVATION FOR ACCOUNTABILITY AND SCHOOL IMPROVEMENT.

''(a) STATE RESERVATION.—

''(1) IN GENERAL.—Each State educational agency shall reserve 3 percent of the amount the agency receives under part A for each of fiscal years 2002 and 2003, and 5 percent of that amount for each of fiscal years 2004 through 2006, to carry out paragraph (2) and to carry out its responsibilities under sections 1116 and 1117, including carrying out its statewide system of technical assistance and providing support for local educational agencies.

''(2) LOCAL EDUCATIONAL AGENCIES.—Of the amount reserved under paragraph (1) for any fiscal year, the State educational agency shall allocate at least 80 percent directly to local educational agencies. In making allocations under this paragraph, the State educational agency shall give first priority to agencies, and agencies serving schools, identified for corrective action or improvement under section 1116(c).

''(3) USE OF FUNDS.—Each local educational agency receiving an allotment under paragraph (2) shall use the allotment to—

''(A) carry out corrective action, as defined in section 1116(c)(5)(A), in those schools; or

''(B) achieve substantial improvement in the performance of those schools.

''(b) NATIONAL ACTIVITIES.—From the total amount appropriated for any fiscal year to carry out this title, the Secretary may reserve not more than 0.30 percent to conduct evaluations and studies and to collect data.

SEC. 102. IMPROVED ACCOUNTABILITY.

(a) STATE PLANS.—Section 1111(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)) is amended—

(1) in the subsection heading, by striking ''AND ASSESSMENTS'' and inserting '', ASSESSMENTS, AND ACCOUNTABILITY'';

(2) by amending paragraph (2) to read as follows:

''(2) ADEQUATE YEARLY PROGRESS.—(A) Each State plan shall specify what constitutes adequate yearly progress in student achievement, under the State's accountability system described in paragraph (4), for each school and each local educational agency receiving funds under this part, and for the State.

''(B) The specification of adequate yearly progress in the State plan for schools—

''(i) shall be based primarily on the standards described in paragraph (1) and the valid and reliable assessments aligned to State standards described in paragraph (3);

''(ii) shall include specific numerical adequate yearly progress requirements in each subject and grade included in the State assessments at least for each of the assessments required under paragraph (3) and shall base the numerical goal required for each group of students specified in clause (iv) upon a timeline that ensures all students meet or exceed the proficient level of performance on the assessments required by this section within 10 years after the effective date of the School Improvement Accountability Act;

''(iii) shall include other academic indicators, such as school completion or dropout rates, with the data for all such academic indicators disaggregated as required by clause (iv), but the inclusion of such indicators shall not decrease the number of schools or local educational agencies that would be subject to identification for improvement or corrective action if the indicators were not included;

''(iv) shall compare separately data for the State as a whole, for each local educational agency, and for each school, regarding the performance and progress of students, disaggregated by each major ethnic and racial group, by English proficiency status, and by economically disadvantaged students as compared with students who are not economically disadvantaged (except that such disaggregation shall not be required in a case in which the number of students in a category would be insufficient to yield statistically reliable information or the results would reveal individually identifiable information about individual students); and

''(v) shall compare the proportion of students at the basic, proficient, and advanced levels of performance in a grade for a year with the proportion of students at each of the 3 levels in the same grade in the previous year.

''(C)(i) Adequate yearly progress for a local educational agency shall be based upon both—

''(I) the number or percentage of schools identified for school improvement or corrective action; and

''(II) the progress of the local educational agency in reducing the number or length of time schools are identified for school improvement or corrective action.

''(ii) The State plan shall provide that each local educational agency shall ensure that, not later than the end of the fourth academic year after the effective date of the School Improvement Accountability Act, the percentage of schools making adequate yearly progress among schools whose concentrations of poor children are greater than the average concentration of such children served by the local educational agency shall not be less than the percentage of schools making adequate yearly progress among schools whose concentrations of poor children are less than the average concentration of such children served by the local educational agency.

''(D)(i) Adequate yearly progress for a State shall be based upon both—

''(I) the number or percentage of local educational agencies identified for improvement or corrective action; and

''(II) the progress of the State in reducing the number or length of time local educational agencies are identified for improvement or corrective action.

''(ii) The State plan shall provide that the State shall ensure that, not later than the end of the fourth academic year after the effective date of the School Improvement Accountability Act, the percentage of local educational agencies making adequate yearly progress among local educational agencies whose concentrations of poor children are greater than the State average of such concentrations shall not be less than the percentage of local educational agencies making adequate yearly progress among local educational agencies whose concentrations of poor children are less than the State average.'';

(3) in paragraph (3)—

(A) in the matter preceding subparagraph (A)—

(i) by striking ''developed or adopted'' and inserting ''in place''; and

(ii) by inserting '', not later than the school year 2000–2001,'' after ''will be used'';

(B) by redesignating subparagraphs (G), (H), and (I) as subparagraphs (H), (I), and (J);

(C) in subparagraph (F)—

(i) in clause (ii), by striking ''and'' after the semicolon; and

(ii) by adding at the end the following:

''(iv) the use of assessments written in Spanish for the assessment of Spanish-speaking students with limited English proficiency, if Spanish-language assessments are more likely than English language assessments to yield accurate and reliable information regarding what those students know and can do in content areas other than English; and

''(v) notwithstanding clauses (iii) and (iv), the assessment (using tests written in English) of reading or language arts of any student who has attended school in the United States (not including Puerto Rico) for 3 or more consecutive years, for purposes of school accountability;'';

(D) by inserting after subparagraph (F) the following:

''(G) result in a report from each local educational agency that indicates the number and percentage of students excluded from each assessment at each school, including, where statistically sound, data disaggregated in accordance with subparagraph (J), except that a local educational agency shall be prohibited from providing such information if providing the information would reveal the identity of any individual student.''; and

(E) by amending subparagraph (I) (as so redesignated) to read as follows:

''(I) provide individual student interpretive and descriptive reports, which shall include scores and other information on the attainment of student performance standards that reflect the quality of daily instruction and learning such as measures of student coursework over time, student attendance rates, student dropout rates, and rates of student participation in advanced level courses; and'';

(4) by striking paragraph (7);

(5) by redesignating paragraphs (4), (5), (6), and (8) as paragraphs (8), (9), (10), and (11), respectively;

(6) by inserting after paragraph (3) the following:

''(4) ACCOUNTABILITY.—(A) Each State plan shall demonstrate that the State has developed and is implementing a statewide accountability system that is or will be effective in substantially increasing the numbers and percentages of all students, including the lowest performing students, economically disadvantaged students, and students with limited proficiency in English, who

meet the State's proficient and advanced levels of performance within 10 years after the date of enactment of the School Improvement Accountability Act. The State accountability system shall—

''(i) be the same accountability system the State uses for all schools or all local educational agencies in the State, if the State has an accountability system for all schools or all local educational agencies in the State;

''(ii) hold local educational agencies and schools accountable for student achievement in at least reading and mathematics and in any other subject that the State may choose; and

''(iii) identify schools and local educational agencies for improvement or corrective action based upon failure to make adequate yearly progress as defined in the State plan pursuant to paragraph (2).

''(B) The accountability system described in subparagraph (A) and described in the State plan shall also include a procedure for identifying for improvement a school or local educational agency, intervening in that school or agency, and (if that intervention is not effective) implementing a corrective action not later than 3 years after first identifying such agency or school, that—

''(i) complies with sections 1116 and 1117, including the provision of technical assistance, professional development, and other capacity-building as needed, to ensure that schools and local educational agencies so identified have the resources, skills, and knowledge needed to carry out their obligations under sections 1114 and 1115 and to meet the requirements for adequate yearly progress described in paragraph (2); and

''(ii) includes rigorous criteria for identifying those agencies and schools based upon failure to make adequate yearly progress in student achievement in accordance with paragraph (2).

''(5) PUBLIC NOTICE AND COMMENT.—Each State plan shall contain assurances that—

''(A) in developing the State plan provisions relating to adequate yearly progress, the State diligently sought public comment from a range of institutions and individuals in the State with an interest in improved student achievement; and

''(B) the State will continue to make a substantial effort to ensure that information regarding this part is widely known and understood by citizens, parents, teachers, and school administrators throughout the State, and is provided in a widely read or distributed medium.

''(6) ANNUAL REVIEW.—The State plan shall provide an assurance that the State will annually submit to the Secretary information, as part of the State's consolidated plan under section 14302, on the extent to which schools and local educational agencies are making adequate yearly progress, including the number and names of schools and local educational agencies identified for improvement and corrective action under section 1116, the steps taken to address the performance problems of such schools and local educational agencies, and the number and names of schools that are no longer so identified, for purposes of determining State and local compliance with section 1116.

''(7) PENALTIES.—(A) The State plan shall provide that, if the State fails to meet the deadlines described in paragraphs (1)(C) and (10) for demonstrating that the State has in place high-quality State content and student performance standards and aligned assessments, or if the State fails to establish a system for measuring and monitoring adequate yearly progress, for a fiscal year, including having the ability to disaggregate student achievement data for the assessments as required under this section at the State, local educational agency, and school levels, then the State shall be ineligible to reserve a greater amount of administrative funds under section 1003 for the succeeding fiscal year than the State reserved for such purposes for the fiscal year preceding the fiscal year in which the failure occurred.

''(B)(i) The State plan shall provide that, except as described in clause (ii), if the State fails to meet the deadlines described in paragraphs (1)(C) and (10) for a fiscal year, then the Secretary may withhold funds made available under this part for administrative expenses for the succeeding fiscal year in such amount as the Secretary determines appropriate.

''(ii) The State plan shall provide that, if the State fails to meet the deadlines described in paragraphs (1)(C) and (10) for the succeeding fiscal year or a subsequent fiscal year, the Secretary shall withhold not less than ⅕ of the funds made available under this part for administrative expenses for the fiscal year.

''(C) The State plan shall provide that, if the State has not developed challenging State assessments that are aligned to challenging State content standards in at least mathematics and reading or language arts by school year 2000–2001, the State shall not be eligible for designation as an Ed-Flex Partnership State under the Education Flexibility Partnership Act of 1999 until the State develops such assessments, and the State shall be subject to such other penalties as are provided in this Act for failure to develop the assessments.''; and

(7) by adding at the end the following:

''(12) SCHOOL REPORTS.—The State plan shall provide that individual school reports publicized and disseminated under section 1116(a)(2) shall include information on the total number of students excluded from each assessment at each school, including, where statistically sound, data disaggregated in accordance with paragraph (3)(J), and shall include information on why such students were excluded from the assessment. In issuing this report, a local educational agency may not provide any information that would violate the privacy or reveal the identity of any individual student.''.

(b) ASSURANCES.—Section 1112(c)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6312(c)(1)) is amended—

(1) in subparagraph (G), by striking ''; and'' and inserting a semicolon;

(2) in subparagraph (H), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(I) ensure, through incentives for voluntary transfers, the provision of professional development, and recruitment programs, that low-income students and minority students are not taught at higher rates than other students by unqualified, out-of-field, or inexperienced teachers.''.

(c) ASSESSMENT AND IMPROVEMENT.—Section 1116 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6317) is amended—

(1) by amending subsection (a) to read as follows:

''(a) STATE AND LOCAL REVIEW.—

''(1) IN GENERAL.—Each local educational agency receiving funds under this part shall use the State assessments and other academic indicators described in the State plan or in a State-approved local educational agency plan to review annually the progress of each school served under this part by the agency to determine whether the school is making the adequate yearly progress specified in section 1111(b)(2) toward enabling all students to meet the State's student performance standards described in the State plan.

''(2) PUBLICATION AND DISSEMINATION; RESULTS.—Each local educational agency receiving funds under this part shall—

''(A) publicize and disseminate in individual school reports that include statistically sound results disaggregated in the same manner as results are disaggregated under section 1111(b)(3)(J), to teachers and other staff, parents, students, and the community, the results of the annual review under paragraph (1) and (if not already included in the review), graduation rates, attendance rates, retention rates, and rates of participation in advanced level courses, for all schools served under this part; and

''(B) provide the results of the annual review to schools served by the agency under this part so that the schools can continually refine their programs of instruction to help all students served under this part in those schools to meet the State's student performance standards.'';

(2) in subsection (c)—

(A) by amending paragraph (1) to read as follows:

''(1) IN GENERAL.—(A) A local educational agency shall identify for school improvement any school served under this part that—

''(i) for 2 consecutive years failed to make adequate yearly progress as defined in the State's plan under section 1111, except that in the case of a school participating in a targeted assistance program under section 1115, a local educational agency may review the progress of only those students in such school who are served under this part; or

''(ii) was identified for school improvement under this section on the day preceding the date of enactment of the School Improvement Accountability Act.

''(B) The 2-year period described in subparagraph (A)(i) shall include any continuous period of time immediately preceding the date of the enactment of such Act, during which a school did not make adequate yearly progress as defined in the State's plan, as such plan was in effect on the day preceding the date of enactment.'';

(B) by amending paragraph (2) to read as follows:

''(2) REQUIREMENTS.—(A)(i) Each school identified under paragraph (1)(A) shall promptly notify a parent of each student enrolled in the school that the school was identified for improvement by the local educational agency and provide with the notification—

''(I) the reasons for such identification; and

''(II) information about opportunities for parents to participate in the school improvement process.

''(ii) The notification under this subparagraph shall be in a format and, to the extent practicable, in a language, that the parents can understand.

''(B)(i) Before identifying a school for school improvement under paragraph (1)(A), the local educational agency shall inform the school that the agency proposes to identify the school for school improvement and provide the school with an opportunity to review the school-level data, including assessment data, upon which the proposed determination regarding identification is based.

''(ii) If the school believes that the proposed identification is in error for statistical or other substantive reasons, the school may provide supporting evidence to the local educational agency during the review period, and the agency shall consider such evidence before making a final determination regarding identification.

''(iii) The review period under this subparagraph shall not exceed 30 days. At the end of the period, the agency shall make public a final determination regarding identification of the school.

''(C) Each school identified under paragraph (1)(A) shall, within 3 months after being so identified, and in consultation with parents, the local educational agency, and the school support team or other outside experts, develop or revise a school plan that—

''(i) addresses the fundamental teaching and learning needs in the school;

''(ii) describes the specific achievement problems to be solved;

''(iii) includes the strategies, supported by valid and reliable evidence of effectiveness, with specific goals and objectives, that have the greatest likelihood of improving the performance of participating students in meeting the State's student performance standards;

''(iv) explains how those strategies will work to address the achievement problems identified under clause (ii), including providing a summary of evaluation-based evidence of student achievement after implementation of those strategies in other schools;

''(v) addresses the need for high-quality staff by ensuring that all new teachers in the school in programs supported with funds provided under this part are fully qualified;

''(vi) addresses the professional development needs of the instructional staff of the school by describing a plan for spending a minimum of 10 percent of the funds received by the school under this part on professional development that—

''(I) does not supplant professional development services that the instructional staff would otherwise receive; and

''(II) is designed to increase the content knowledge of teachers, build teachers' capacity to align classroom instruction with challenging content standards, and bring all students in the school to proficient or advanced levels of performance;

''(vii) identifies specific goals and objectives the school will undertake for making adequate yearly progress, including specific numerical performance goals and targets that are high enough to ensure that all groups of students specified in section 1111(b)(2)(B)(iv) meet or exceed the proficient levels of performance in each subject area within 10 years after the date of enactment of the School Improvement Accountability Act; and

''(viii) specifies the responsibilities of the school and the local educational agency, including how the local educational agency will hold the school accountable for, and assist the school in, meeting the school's obligations to provide enriched and accelerated curricula, effective instructional methods, highly qualified professional development, and timely and effective individual assistance, in partnership with parents.

''(D)(i) The school shall submit the plan (including a revised plan) to the local educational agency for approval.

''(ii) The local educational agency shall promptly subject the plan to a peer review process, work with the school to revise the plan as necessary, and approve the plan.

''(iii) The school shall implement the plan as soon as the plan is approved.'';

(C) by amending paragraph (4) to read as follows:

''(4) TECHNICAL ASSISTANCE.—(A) For each school identified for school improvement under paragraph (1)(A), the local educational agency shall provide technical assistance as the school develops and implements the school's plan.

''(B) Such technical assistance—

''(i) shall include information on effective methods and instructional strategies that are supported by valid and reliable evidence of effectiveness;

''(ii) shall be designed to strengthen the core academic program for the students served under this part, address specific elements of student performance problems, and address problems, if any, in implementing the parental involvement requirements in section 1118, implementing the professional development provisions in section 1119, and carrying out the responsibilities of the school and local educational agency under the plan; and

''(iii) may be provided directly by the local educational agency, through mechanisms authorized under section 1117, or (with the local educational agency's approval) by an institution of higher education whose teacher preparation program is not identified as low performing by its State and that is in full compliance with the requirements of section 207 of the Higher Education Act of 1965, a private nonprofit organization, an educational service agency, a comprehensive regional assistance center under part A of title XIII, or other entities with experience in helping schools improve achievement.

''(C) Technical assistance provided under this section by the local educational agency or an entity approved by such agency shall be supported by valid and reliable evidence of effectiveness.'';

(D) by amending paragraph (5) to read as follows:

''(5) CORRECTIVE ACTION.—In order to help students served under this part meet challenging State standards, each local educational agency shall implement a system of corrective action in accordance with the following:

''(A) In this paragraph, the term 'corrective action' means action, consistent with State and local law, that—

''(i) substantially and directly responds to the consistent academic failure that caused the local educational agency to take such action and to any underlying staffing, curricular, or other problems in the school involved; and

''(ii) is designed to substantially increase the likelihood that students will perform at the proficient and advanced performance levels.

''(B) After providing technical assistance under paragraph (4), the local educational agency—

''(i) may take corrective action at any time with respect to a school that has been identified under paragraph (1)(A);

''(ii) shall take corrective action with respect to any school that fails to make adequate yearly progress, as defined by the State, for 2 consecutive years following the school's identification under paragraph (1)(A), at the end of the second year; and

''(iii) shall continue to provide technical assistance while instituting any corrective action under clause (i) or (ii).

''(C) In the case of a school described in subparagraph (B)(ii), the local educational agency—

(i) shall take corrective action that changes the school's administration or governance by—

(I) instituting and fully implementing a new curriculum, including providing appropriate professional development for all relevant staff, that is supported by valid and reliable evidence of effectiveness and offers substantial promise of improving educational achievement for low-performing students;

(II) restructuring the school, such as by creating schools within schools or other small learning environments, or making alternative governance arrangements (such as the creation of a public charter school);

(III) redesigning the school by reconstituting all or part of the school staff;

(IV) eliminating the use of noncredentialed teachers; or

(V) closing the school;

(ii) shall provide professional development for all relevant staff, that is supported by valid and reliable evidence of effectiveness and that offers substantial promise of improving student educational achievement and is directly related to the content area in which each teacher is providing instruction and the State's content and performance standards in that content area; and

(iii) may defer, reduce, or withhold funds provided to carry out this title.

''(D)(i) When a local educational agency has identified a school for corrective action under subparagraph (B)(ii), the agency shall provide all students enrolled in the school with the option to transfer to another public school that is within the area served by the local educational agency that has not been identified for school improvement and provide such students with transportation (or the costs of transportation) to such school, subject to the following requirements:

''(I) Such transfer must be consistent with State or local law.

''(II) If the local educational agency cannot accommodate the request of every student from the identified school, the agency shall permit as many students as possible to transfer, with such students being selected at random on a nondiscriminatory and equitable basis.

''(III) The local educational agency may use not more than 10 percent of the funds the local educational agency receives through the State reservation under section 1003(a)(2) to provide transportation to students whose parents choose to transfer the students to a different school under this subparagraph.

''(ii) If all public schools served by the local educational agency are identified for corrective action, the agency shall, to the extent practicable, establish a cooperative agreement with another local educational agency in the area to enable students served by the agency to transfer to a school served by that other agency.

''(E) A local educational agency may delay, for a period not to exceed 1 year, implementation of corrective action if the failure to make adequate yearly progress was justified due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency or school.

''(F) The local educational agency shall publish and disseminate to parents and the public in a format and, to the extent practicable, in a language the parents and the public can understand, through such means as the Internet, the media, and public agencies, information on any corrective action the agency takes under this paragraph.

''(G)(i) Before taking corrective action with respect to any school under this paragraph, the local educational agency shall inform the school that the agency proposes to take corrective action and provide the school with an opportunity to review the school-level data, including assessment data, upon which the proposed determination regarding corrective action is based.

''(ii) If the school believes that the proposed determination is in error for statistical or other substantive reasons, the school may provide supporting evidence to the local educational agency during the review period, and the agency shall consider such evidence before making a final determination regarding corrective action.

''(iii) The review period under this subparagraph shall not exceed 45 days. At the end of the period, the local educational agency shall make public a final determination regarding corrective action for the school.'';

(E) by amending paragraph (6) to read as follows:

''(6) STATE EDUCATIONAL AGENCY RESPONSIBILITIES.—If a State educational agency determines that a local educational agency failed to carry out its responsibilities under this section, the State educational agency shall take such action as the agency finds necessary, consistent with this section, to improve the affected schools and to ensure that the local educational agency carries out its responsibilities under this section.''; and

(F) by amending paragraph (7) to read as follows:

''(7) WAIVERS.—The State educational agency shall review any waivers that have previously been approved for a school identified for improvement or corrective action, and shall terminate any waiver approved by the State, under the Educational Flexibility Partnership Act of 1999, if the State determines, after notice and an opportunity for a hearing, that the waiver is not helping such school make adequate yearly progress toward meeting the goals, objectives, and performance targets in the school's improvement plan.''; and

(3) by amending subsection (d) to read as follows:

''(d) STATE REVIEW AND LOCAL EDUCATIONAL AGENCY IMPROVEMENT.—

''(1) IN GENERAL.—A State educational agency shall annually review the progress of each local educational agency receiving funds under this part to determine whether schools receiving assistance under this part are making adequate yearly progress as defined in section 1111(b)(2) toward meeting the State's student performance standards.

''(2) IDENTIFICATION OF LOCAL EDUCATIONAL AGENCY FOR IMPROVEMENT.—A State educational agency shall identify for improvement any local educational agency that—

''(A) for 2 consecutive years failed to make adequate yearly progress as defined in the State's plan under section 1111(b)(2); or

''(B) was identified for improvement under this section as this section was in effect on the day preceding the date of enactment of the School Improvement Accountability Act.

''(3) TRANSITION.—The 2-year period described in paragraph (2)(A) shall include any continuous period of time immediately preceding the date of enactment of such Act, during which a local educational agency did not make adequate yearly progress as defined in the State's plan, as such plan was in effect on the day preceding the date of enactment.

''(4) TARGETED ASSISTANCE SCHOOLS.—For purposes of reviewing the progress of targeted assistance schools served by a local educational agency, a State educational agency may choose to review the progress of only the students in such schools who are served under this part.

''(5) OPPORTUNITY TO REVIEW AND PRESENT EVIDENCE.—(A) Before identifying a local educational agency for improvement under paragraph (2), a State educational agency shall inform the local educational agency that the State educational agency proposes to identify the local educational agency for improvement and provide the local educational agency with an opportunity to review the local educational agency data, including assessment data, upon which the proposed determination regarding identification is based.

''(B) If the local educational agency believes that the proposed identification is in error for statistical or other substantive reasons, the agency may provide supporting evidence to the State educational agency during the review period, and the agency shall consider such evidence before making a final determination regarding identification.

''(C) The review period under this paragraph shall not exceed 30 days. At the end of the period, the State shall make public a final determination regarding identification of the local educational agency.

''(6) NOTIFICATION TO PARENTS.—(A) The local educational agency shall promptly notify a parent of each student enrolled in a school served by a local educational agency identified for improvement that the agency was identified for improvement and provide with the notification—

(i) the reasons for the agency's identification; and

(ii) information about opportunities for parents to participate in upgrading the quality of the local educational agency.

''(B) The notification under this paragraph shall be in a format and, to the extent practicable, in a language, that the parents can understand.

''(7) LOCAL EDUCATIONAL AGENCY REVISIONS.—(A) Each local educational agency identified under paragraph (2) shall, not later than 3 months after being so identified, develop or revise a local educational agency plan and annual academic achievement goals, in consultation with parents, school staff, and others.

''(B) ACHIEVEMENT GOALS.—The annual academic achievement goals shall be sufficiently high to ensure that all students within the jurisdiction involved, including the lowest performing students, economically disadvantaged students, students of different races and ethnicities, and students with limited English proficiency will meet or exceed the proficient level of performance on the assessments required by section 1111 within 10 years after the date of enactment of the School Improvement Accountability Act.

''(C) The plan shall—

''(i) address the fundamental teaching and learning needs in the schools served by that agency, and the specific academic problems of low-performing students, including stating a determination of why the local educational agency's prior plan, if any, failed to bring about increased achievement;

''(ii) incorporate strategies that are supported by valid and reliable evidence of effectiveness and that strengthen the core academic program in the local educational agency;

''(iii) identify specific annual academic achievement goals and objectives that will—

''(I) have the greatest likelihood of improving the performance of participating students in meeting the State's student performance standards; and

''(II) include specific numerical performance goals and targets for each of the groups of students for which data are disaggregated pursuant to section 1111(b)(2)(B)(iv);

''(iv) address the professional development needs of the instructional staff of the schools by describing a plan for spending a minimum of 10 percent of the funds received by the schools under this part on professional development that—

''(I) does not supplant professional development services that the instructional staff would otherwise receive; and

''(II) is designed to increase the content knowledge of teachers, build teachers' capacity to align classroom instruction with challenging content standards, and bring all students in the schools to proficient or advanced levels of performance;

''(v) identify measures the local educational agency will undertake to make adequate yearly progress;

''(vi) identify how, pursuant to paragraph (6), the local educational agency will provide written notification to parents in a format and, to the extent practicable, in a language the parents can understand;

''(vii) specify the responsibilities of the State educational agency and the local educational agency under the plan; and

''(viii) include strategies to promote effective parental involvement in the schools.

''(D) The local educational agency shall submit the plan (including a revised plan) to the State educational agency for approval. The State educational agency shall, within 60 days after submission of the plan, subject the plan to a peer review process, work with the local educational agency to revise the plan as necessary, and approve the plan.

''(E) The local educational agency shall implement the plan (including a revised plan) as soon as the plan is approved.

''(8) STATE EDUCATIONAL AGENCY RESPONSIBILITY.—(A) For each local educational agency identified under paragraph (2), the State educational agency (or an entity authorized by the agency) shall provide technical or other assistance, if requested, as authorized under section 1117, to better enable the local educational agency—

''(i) to develop and implement the local educational agency plan as approved by the State educational agency consistent with the requirements of this section; and

''(ii) to work with schools identified for improvement.

''(B) Technical assistance provided under this section by the State educational agency or an entity authorized by the agency shall be supported by valid and reliable evidence of effectiveness.

''(9) CORRECTIVE ACTION.—In order to help students served under this part meet challenging State standards, each State educational agency shall implement a system of corrective action in accordance with the following:

''(A) In this paragraph, the term 'corrective action' means action, consistent with State law, that—

''(i) substantially and directly responds to the consistent academic failure that caused the State educational agency to take such action and to any underlying staffing, curricular, or other problems in the schools involved; and

''(ii) is designed to substantially increase the likelihood that students served under this part will perform at the proficient and advanced performance levels.

''(B) After providing technical assistance under paragraph (8) and subject to subparagraph (D), the State educational agency—

''(i) may take corrective action at any time with respect to a local educational agency that has been identified under paragraph (2);

''(ii) shall take corrective action with respect to any local educational agency that fails to make adequate yearly progress, as defined by the State, for 3 consecutive years following the agency's identification under paragraph (2), at the end of the third year; and

''(iii) shall continue to provide technical assistance while instituting any corrective action under clause (i) or (ii).

''(C) In the case of a local educational agency described in subparagraph (B)(ii), the State educational agency shall take at least 1 of the following corrective actions:

''(i) Withholding funds from the local educational agency.

''(ii) Reconstituting school district personnel.

''(iii) Removing particular schools from the jurisdiction of the local educational agency and establishing alternative arrangements for public governance and supervision of the schools.

''(iv) Appointing, through the State educational agency, a receiver or trustee to administer the affairs of the local educational agency in place of the superintendent and school board.

''(v) Abolishing or restructuring the local educational agency.

''(D) When a State educational agency has identified a local educational agency for corrective action under subparagraph (B)(ii), the State educational agency shall provide all students enrolled in a school served by the local educational agency with a plan to transfer to a higher performing public school served by another local educational agency and shall provide such students with transportation (or the costs of transportation) to such schools, subject to the following requirements:

''(i) The provision of the transfer shall be done in conjunction with at least 1 additional action described in this paragraph.

''(ii) If the State educational agency cannot accommodate the request of every student from the schools served by the agency, the agency shall permit as many students as possible to transfer, with such students being selected at random on a nondiscriminatory and equitable basis.

''(iii) The State educational agency may use not more than 10 percent of the funds the agency receives through the State reservation under section 1003(a)(2) to provide transportation to students whose parents choose to transfer their child to a different school under this subparagraph.

''(E) Prior to implementing any corrective action under this paragraph, the State educational agency shall provide due process and a hearing to the affected local educational agency, if State law provides for such process and hearing. The hearing shall take place not later than 45 days following the decision to implement the corrective action.

''(F) The State educational agency shall publish and disseminate to parents and the public in a format and, to the extent practicable, in a language the parents and the public can understand, through such means as the Internet, the media, and public agencies, information on any corrective action the agency takes under this paragraph.

''(G) A State educational agency may delay, for a period not to exceed 1 year, implementation of corrective action if the failure to make adequate yearly progress was justified due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency.

''(10) WAIVERS.—The State educational agency shall review any waivers that have previously been approved for a local educational agency identified for improvement or corrective action, and shall terminate any waiver approved by the State, under the Educational Flexibility Partnership Act of 1999, if the State determines, after notice and an opportunity for a hearing, that the waiver is not helping such agency make adequate yearly progress toward meeting the goals, objectives, and performance targets in the agency's improvement plan.''.

(d) STATE ASSISTANCE FOR SCHOOL SUPPORT AND IMPROVEMENT.—Section 1117(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6318(a)) is amended to read as follows:

''(a) SYSTEM FOR SUPPORT.—

''(1) IN GENERAL.—Each State educational agency shall establish a statewide system of intensive and sustained support and improvement for local educational agencies and schools receiving funds under this part, in order to increase the opportunity for all students served by those agencies and schools to meet the State's content standards and student performance standards.

''(2) PRIORITIES.—In carrying out this section, a State educational agency shall—

''(A) provide support and assistance to local educational agencies and schools identified for corrective action under section 1116;

''(B) provide support and assistance to other local educational agencies and schools identified for improvement under section 1116; and

''(C) provide support and assistance to each school receiving funds under this part in which the number of students in poverty equals or exceeds 75 percent of the total number of students enrolled in such school.

''(3) APPROACHES.—In order to achieve the objectives of this subsection, each statewide system shall provide technical assistance and support through approaches such as—

''(A) use of school support teams, composed of individuals who are knowledgeable about research on and practice of teaching and learning, particularly about strategies for improving educational results for low-achieving students;

''(B) the designation and use of 'Distinguished Educators', chosen from schools served under this part that have been especially successful in improving academic achievement;

''(C) assisting local educational agencies or schools to implement research-based comprehensive school reform models; and

''(D) use of a peer review process designed to increase the capacity of local educational agencies and schools to develop high-quality school improvement plans.

''(4) FUNDS.—Each State educational agency—

''(A) shall use funds reserved under section 1003(a)(1), but not used under section 1003(a)(2) and funds appropriated under section 1002(f) to carry out this section; and

''(B) may use State administrative funds authorized for such purpose.

''(5) ALTERNATIVES.—The State educational agency may devise additional approaches to providing the assistance described in subparagraphs (A) and (B) of paragraph (3), other than the provision of assistance under the statewide system, such as providing assistance through institutions of higher education, educational service agencies, or other local consortia. The State educational agency may seek approval from the Secretary to use funds made available under section 1003 for such approaches as part of the State plan.''.

(e) CONFORMING AMENDMENTS.—The Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is amended—

(1) in section 1111(b)(1)(C) (20 U.S.C. 6311(b)(1)(C)), by striking ''paragraph (6)'' and inserting ''paragraph (10)'';

(2) in section 1112(c)(1)(D) (20 U.S.C. 6312(c)(1)(D)), by striking ''section 1116(c)(4)'' and inserting ''section 1116(c)(5)'';

(3) in section 1117(c)(2)(A) (20 U.S.C. 6318(c)(2)(A)), by striking ''section 1111(b)(2)(A)(i)'' and inserting ''section 1111(b)(2)(A)'';

(4) in section 1118(c)(4)(B) (20 U.S.C. 6319(c)(4)(B)), by striking ''school performance profiles required under section 1116(a)(3)'' and inserting ''individual school reports required under section 1116(a)(2)(A)'';

(5) in section 1118(e)(1) (20 U.S.C. 6319(e)(1)), by striking ''section 1111(b)(8)'' and inserting ''section 1111(b)(11)''; and

(6) in section 1119(h)(3) (20 U.S.C. 6320(h)(3)), by striking ''section 1116(d)(6)'' and inserting ''section 1116(d)(9)''.

SEC. 103. COMPREHENSIVE SCHOOL REFORM.

Title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is amended—

(1) by redesignating part F as part G; and

(2) by inserting after part E the following:

''PART F—COMPREHENSIVE SCHOOL REFORM

''SEC. 1551. PURPOSE.

''The purpose of this part is to provide financial incentives for schools to develop comprehensive school reforms based upon promising and effective practices and research-based programs that emphasize basic academics and parental involvement so that all children can meet challenging State content and student performance standards.

''SEC. 1552. PROGRAM AUTHORIZATION.

''(a) PROGRAM AUTHORIZED.—

''(1) IN GENERAL.—The Secretary may award grants to State educational agencies, from allotments under paragraph (2), to enable the State educational agencies to award subgrants to local educational agencies to carry out the purpose described in section 1551.

''(2) ALLOTMENTS.—

''(A) RESERVATIONS.—Of the amount appropriated under section 1558 for a fiscal year, the Secretary may reserve—

''(i) not more than 1 percent to provide assistance to schools supported by the Bureau of Indian Affairs and in the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands according to their respective needs for assistance under this part; and

''(ii) not more than 1 percent to conduct national evaluation activities described in section 1557.

''(B) IN GENERAL.—Of the amount appropriated under section 1558 that remains after making the reservation under subparagraph (A) for a fiscal year, the Secretary shall allot to each State for the fiscal year an amount that bears the same ratio to the remainder for that fiscal year as the amount made available under section 1124 to the State for the preceding fiscal year bears to the total amount made available under section 1124 to all States for the preceding fiscal year.

''(C) REALLOTMENT.—If a State does not apply for funds under this part, the Secretary shall reallot such funds to other States in proportion to the amount allotted to such other States under subparagraph (B).

''SEC. 1553. STATE APPLICATIONS.

''(a) IN GENERAL.—Each State educational agency that desires to receive a grant under this part shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

''(b) CONTENTS.—Each such application shall describe—

''(1) the process and selection criteria by which the State educational agency, using expert review, will select local educational agencies to receive subgrants under this part;

''(2) how the State educational agency will ensure that only comprehensive school reforms that are based upon promising and effective practices and research-based programs receive funds under this part;

''(3) how the State educational agency will disseminate information on comprehensive school reforms that are based upon promising and effective practices and research-based programs;

''(4) how the State educational agency will evaluate the implementation of such reforms and measure the extent to which the reforms have resulted in increased student academic performance; and

''(5) how the State educational agency will make available technical assistance to a local educational agency in evaluating, developing, and implementing comprehensive school reform.

''SEC. 1554. STATE USE OF FUNDS.

''(a) IN GENERAL.—Except as provided in subsection (e), a State educational agency

that receives a grant under this part shall use the grant funds to award subgrants, on a competitive basis, to local educational agencies (including consortia of local educational agencies) in the State that receive funds under part A.

''(b) SUBGRANT REQUIREMENTS.—A subgrant to a local educational agency shall be—

''(1) of sufficient size and scope to support the initial costs for the particular comprehensive school reform plan selected or designed by each school identified in the application of the local educational agency;

''(2) in an amount not less than $50,000 for each participating school; and

''(3) renewable for 2 additional 1-year periods after the initial 1-year grant is made, if the participating school is making substantial progress in the implementation of reforms.

''(c) PRIORITY.—A State educational agency, in awarding subgrants under this part, shall give priority to local educational agencies that—

''(1) plan to use the funds in schools identified for improvement or corrective action under section 1116(c); and

''(2) demonstrate a commitment to assist schools with budget allocation, professional development, and other strategies necessary to ensure that comprehensive school reforms are properly implemented and are sustained in the future.

''(d) GRANT CONSIDERATION.—In awarding subgrants under this part, the State educational agency shall take into consideration the equitable distribution of subgrants to different geographic regions within the State, including urban and rural areas, and to schools serving elementary school and secondary school students.

''(e) ADMINISTRATIVE COSTS.—A State educational agency that receives a grant under this part may reserve not more than 5 percent of the grant funds for administrative, evaluation, and technical assistance expenses.

''(f) SUPPLEMENT.—Funds made available under this part shall be used to supplement, and not supplant, any other Federal, State, or local funds that would otherwise be available to carry out the activities assisted under this part.

''(g) REPORTING.—Each State educational agency that receives a grant under this part shall provide to the Secretary such information as the Secretary may require, including the names of local educational agencies and schools receiving assistance under this part, the amount of the assistance, and a description of the comprehensive school reform model selected and used.

''SEC. 1555. LOCAL APPLICATIONS.

''(a) IN GENERAL.—Each local educational agency desiring a subgrant under this part shall submit an application to the State educational agency at such time, in such manner, and containing such information as the State educational agency may reasonably require.

''(b) CONTENTS.—Each such application shall—

''(1) identify the schools, that are eligible for assistance under part A, that plan to implement a comprehensive school reform program and include the projected costs of such program;

''(2) describe the promising and effective practices and research-based programs that such schools will implement;

''(3) describe how the local educational agency will provide technical assistance and support for the effective implementation of the promising and effective practices and research-based school reforms selected by such schools; and

''(4) describe how the local educational agency will evaluate the implementation of such reforms and measure the results achieved in improving student academic performance.

''SEC. 1556. LOCAL USE OF FUNDS.

''(a) USE OF FUNDS.—A local educational agency that receives a subgrant under this part shall provide the subgrant funds to schools, that are eligible for assistance under part A and served by the agency, to enable the schools to implement a comprehensive school reform program for—

''(1) employing innovative strategies for student learning, teaching, and school management that are based upon promising and effective practices and research-based programs and have been replicated successfully in schools with diverse characteristics;

''(2) integrating a comprehensive design for effective school functioning, including instruction, assessment, classroom management, professional development, parental involvement, and school management, that aligns the school's curriculum, technology, and professional development into a comprehensive reform plan for schoolwide change designed to enable all students to meet challenging State content and student performance standards and addresses needs identified through a school needs assessment;

''(3) providing high quality and continuous teacher and staff professional development;

''(4) including measurable goals for student performance;

''(5) providing support to teachers, principals, administrators, and other school personnel staff;

''(6) including meaningful community and parental involvement initiatives that will strengthen school improvement activities;

''(7) using high quality external technical support and assistance from an entity that has experience and expertise in schoolwide reform and improvement, which may include an institution of higher education;

''(8) evaluating school reform implementation and student performance; and

''(9) identifying other resources, including Federal, State, local, and private resources, that will be used to coordinate services supporting and sustaining the school reform effort.

''(b) SPECIAL RULE.—A school that receives funds to develop a comprehensive school reform program shall not be limited to using the approaches identified or developed by the Secretary, but may develop the school's own comprehensive school reform programs for schoolwide change as described in subsection (a).

''SEC. 1557. NATIONAL EVALUATION AND REPORTS.

''(a) IN GENERAL.—The Secretary shall develop a plan for a national evaluation of the programs assisted under this part.

''(b) EVALUATION.—The national evaluation shall—

''(1) evaluate the implementation and results achieved by schools after 3 years of implementing comprehensive school reforms; and

''(2) assess the effectiveness of comprehensive school reforms in schools with diverse characteristics.

''(c) REPORTS.—Prior to the completion of the national evaluation, the Secretary shall submit an interim report describing implementation activities for the Comprehensive School Reform Program to the Committee on Education and the Workforce, and the Committee on Appropriations, of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions, and the Committee on Appropriations, of the Senate.

''SEC. 1558. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this part $500,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 4 succeeding fiscal years.''.

TITLE II—TEACHERS

SEC. 201. STATE APPLICATIONS.

(a) CONTENTS OF STATE PLAN.—Section 2205(b)(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6645(b)(2)) is amended—

(1) by amending subparagraph (N) to read as follows:

''(N) set specific annual, quantifiable, and measurable performance goals to increase the percentage of teachers participating in sustained professional development activities, reduce the beginning teacher attrition rate, and reduce the percentage of teachers who are not certified or licensed, and the percentage who are out-of-field teachers;'';

(2) by redesignating subparagraph (O) as subparagraph (P); and

(3) by inserting after subparagraph (N) the following:

''(O) describe how the State will ensure that all teachers in the State will be fully qualified not later than December 1, 2005; and''.

(b) STATE AND LOCAL ACTIVITIES.—Part B of title II of the Elementary and Secondary Education Act (20 U.S.C. 6641 et seq.) is amended—

(1) by redesignating section 2211 as section 2215;

(2) by inserting after section 2210 the following:

''SEC. 2211. LOCAL CONTINUATION OF FUNDING.

''(a) AGENCIES.—If a local educational agency applies for funds from a State under this part for a fourth or subsequent fiscal year, the agency may not receive the funds for that fiscal year unless the State determines that the agency has demonstrated that, in carrying out activities under this part during the past fiscal year, the agency has annual numerical performance objectives consisting of—

''(1) improved student performance for all groups identified in section 1111;

''(2) an increased percentage of teachers participating in sustained professional development activities;

''(3) a reduction in the beginning teacher attrition rate for the agency; and

''(4) a reduction in the percentage of teachers who are not certified or licensed, and the percentage who are out-of-field teachers, for the agency.

''(b) SCHOOLS.—If a local educational agency applies for funds under this part on behalf of a school for a fourth or subsequent fiscal year (including applying for funds as part of a partnership), the agency may not receive the funds for the school for that fiscal year unless the State determines that the school has demonstrated that, in carrying out activities under this part during the past fiscal year, the school has met the requirements of paragraphs (1) through (4) of subsection (a).

''SEC. 2212. INFORMATION AND NOTICE TO PARENTS.

''(a) PARENTS' RIGHT TO KNOW INFORMATION.—

''(1) IN GENERAL.—A local educational agency that receives funds under this title shall provide, on request, in an understandable and uniform format, to any parent of a student attending any school served by the agency, information regarding the professional qualifications of each of the student's classroom teachers.

''(2) CONTENTS.—The agency shall provide, at a minimum, information on—

''(A) whether the teacher has met State certification or licensing criteria for the academic subjects and grade levels in which the teacher teaches the student;

''(B) whether the teacher is teaching with emergency or other provisional credentials, due to which any State certification or licensing criteria have been waived; and

''(C) the academic qualifications of the teacher in the academic subjects and grade levels in which the teacher teaches.

''(b) NOTICE.—In addition to providing the information described in subsection (a), if a school that receives funds under this title assigns a student to a teacher who is not a fully qualified teacher or assigns a student, for 2 or more consecutive weeks, to a substitute teacher who is not a fully qualified teacher, the school shall provide notice of the assignment to a parent of the student, not later than 15 school days after the assignment.

''SEC. 2213. GENERAL ACCOUNTING OFFICE STUDY.

''Not later than September 30, 2005, the Comptroller General of the United States shall prepare and submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a study setting forth information regarding the progress of States' compliance in increasing the percentage of fully qualified teachers for fiscal years 2001 through 2004.

''SEC. 2214. DEFINITION OF FULLY QUALIFIED.

''(a) IN GENERAL.—In this part, the term 'fully qualified', used with respect to a teacher, means a teacher who—

''(1)(A) has demonstrated the subject matter knowledge, teaching knowledge, and teaching skill necessary to teach effectively in the academic subject in which the teacher teaches, according to the criteria described in subsections (b) and (c); and

''(B) is not a teacher for whom State certification or licensing requirements have been waived or who is teaching under an emergency or other provisional credential; or

''(2) meets the standards set by the National Board for Professional Teaching Standards.

''(b) ELEMENTARY SCHOOL.—For purposes of making the demonstration described in subsection (a)(1), each teacher who teaches elementary school students (other than middle school students) shall, at a minimum—

''(1) have State certification (which may include certification obtained through an alternative route) or a State license to teach; and

''(2) hold a bachelor's degree and demonstrate the subject matter knowledge, teaching knowledge, and teaching skill required to teach effectively in reading, writing, mathematics, social studies, science, and other elements of a liberal arts education.

''(c) MIDDLE SCHOOL AND SECONDARY SCHOOL.—For purposes of making the demonstration described in subsection (a)(1), each teacher who teaches middle school students or secondary school students shall, at a minimum—

''(1) have State certification (which may include certification obtained through an alternative route) or a State license to teach; and

''(2) hold a bachelor's degree or higher degree and demonstrate a high level of competence in all academic subjects in which the teacher teaches through—

''(A) achievement of a high level of performance on rigorous academic subject area tests;

''(B) completion of an academic major (or courses totaling an equivalent number of credit hours) in each of the academic subjects in which the teacher teaches; or

''(C) in the case of teachers hired before the date of enactment of the School Improvement Accountability Act, completion of appropriate coursework for mastery of the academic subjects in which the teacher teaches.''; and

(3) by amending section 2215 (as so redesignated)—

(A) in subsection (a)(3), by adding after ''agency'' the following: ''for which at least 40 percent of the students served by the agency are eligible for free or reduced price lunches under the Richard B. Russell National School Lunch Act''; and

(B) by inserting after subsection (a)(4) the following:

''(5) REPORTING REQUIREMENTS.—Each institution of higher education receiving assistance under paragraph (1) shall fully comply with all reporting requirements of title II of the Higher Education Act of 1965.''.

(c) CONFORMING AMENDMENTS.—The Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is amended—

(1) in section 2203(2) (20 U.S.C. 6643(2)), by striking ''section 2211'' and inserting ''section 2215''; and

(2) in section 2205(c)(2) (20 U.S.C. 6645(c)(2)), by striking ''section 2211'' and inserting ''section 2215''.

TITLE III—INNOVATIVE EDUCATION

SEC. 301. REQUIREMENTS FOR STATE PLANS.

Part B of title VI of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7331 et seq.) is amended by adding at the end the following:

''SEC. 6203. REQUIREMENTS FOR STATE PLANS.

''(a) STATE PLANS.—In addition to requirements relating to State applications under this part, the State educational agency for each State desiring a grant under this title shall submit a State plan that meets the requirements of this section to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

''(b) CONSOLIDATED PLAN.—A State plan submitted under subsection (a) may be submitted as part of a consolidated plan under section 14302, and as part of a State application described in section 6202.

''(c) CONTENTS.—Each plan submitted under subsection (a) shall—

''(1) describe how the funds made available through the grant will be used to increase student academic performance;

''(2) describe annual, quantifiable, and measurable performance goals that will be used to measure the impact of those funds on student performance;

''(3) describe the methods the State will use to measure the annual impact of programs described in the plan and the extent to which such goals are aligned with State standards;

''(4) certify that the State has in place the standards and assessments required under section 1111;

''(5) certify that the State educational agency has a system, as required under section 1111, for—

''(A) holding each local educational agency and school accountable for adequate yearly progress (as described in section 1111(b)(2));

''(B) identifying local educational agencies and schools for improvement and corrective action (as required in sections 1116 and 1117);

''(C) assisting local educational agencies and schools that are identified for improvement with the development of improvement plans; and

''(D) providing technical assistance, professional development, and other capacity building as needed to get such agencies and schools out of improvement status;

''(6) certify that the State educational agency will use the disaggregated results of student assessments required under section 1111(b)(3), and other measures or indicators available, to review annually the progress of each local educational agency and school served under this title to determine whether each such agency and school is making adequate yearly progress as required under section 1111(b)(2);

''(7) certify that the State educational agency will take action against a local educational agency that is identified for corrective action and receiving funds under this title;

''(8) describe what, if any, State and other non-Federal resources will be provided to local educational agencies and schools served under this title to carry out activities consistent with this title; and

''(9) certify that the State educational agency has a system to hold local educational agencies accountable for meeting the annual performance goals required under paragraph (2).

''(d) APPROVAL.—The Secretary, using a peer review process, shall approve a State plan submitted under this section if the State plan meets the requirements of this section.

''(e) DURATION OF THE PLAN.—Each State plan shall remain in effect for the duration of the State's participation under this title.

''(f) REQUIREMENT.—A State shall not be eligible to receive funds under this title unless the State has established the standards and assessments required under section 1111.

''(g) PUBLIC REVIEW.—Each State educational agency will make publicly available the plan approved under subsection (d).

''SEC. 6204. SANCTIONS.

''(a) THIRD FISCAL YEAR.—If a State receiving grant funds under this title fails to meet performance goals established under section 6203(c)(2) by the end of the third fiscal year for which the State receives such grant funds, the Secretary shall reduce by 50 percent the amount the State is entitled to receive for administrative expenses under this title.

''(b) FOURTH FISCAL YEAR.—If the State fails to meet such performance goals by the end of the fourth fiscal year for which the State receives grant funds under this title, the Secretary shall reduce the total amount the State receives under this title by 20 percent.

''(c) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance, at the request of a State subjected to sanctions under subsection (a) or (b).

''(d) LOCAL SANCTIONS.—

''(1) IN GENERAL.—Each State receiving assistance under this title shall develop a system to hold local educational agencies accountable for meeting the adequate yearly progress requirements established under part A of title I and the performance goals established under this title.

''(2) SANCTIONS.—A system developed under paragraph (1) shall include a mechanism for sanctioning local educational agencies for failure to meet such performance goals and adequate yearly progress levels.

''SEC. 6205. STATE REPORTS.

''Each State educational agency or Chief Executive Officer of a State receiving funds under this title shall annually publish and disseminate to the public in a format and, to the extent practicable, in a language that the public can understand, a report on—

''(1) the use of such funds;

''(2) the impact of programs conducted with such funds and an assessment of such programs' effectiveness; and

''(3) the progress of the State toward attaining the performance goals established

under section 6203(c)(2), and the extent to which the programs have increased student achievement.

"SEC. 6206. STANDARDS; ASSESSMENTS ENHANCEMENT.

''Each State educational agency receiving a grant under this title may use such grant funds, consistent with section 6201(a)(1)(C), to—

''(1) establish high quality, internationally competitive content and student performance standards and strategies that all students will be expected to meet;

''(2) provide for the establishment of high quality, rigorous assessments that include multiple measures and demonstrate comprehensive knowledge; or

''(3) develop and implement value-added assessments.''.

SEC. 302. PERFORMANCE OBJECTIVES.

Title VII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7401 et seq.) is amended by inserting after section 7105 the following:

"SEC. 7106. PERFORMANCE OBJECTIVES.

''(a) IN GENERAL.—Each State educational agency or local educational agency receiving a grant under this part shall develop annual numerical performance objectives that are age-appropriate and developmentally-appropriate with respect to helping limited English proficient students become proficient in English and improve overall academic performance based upon State and local content and performance standards. The objectives shall include incremental percentage increases for each fiscal year a State educational agency or local educational agency receives a grant under this title, including increases from the preceding fiscal year in the number of limited English proficient students demonstrating an increase in performance on annual assessments concerning reading, writing, speaking, and listening comprehension.

''(b) ACCOUNTABILITY.—Each State educational agency or local educational agency receiving a grant under this title shall be held accountable for meeting the annual numerical performance objectives under this title and the adequate yearly progress levels for limited English proficient students under clauses (ii) and (iv) of section 1111(b)(2)(B). Any State educational agency or local educational agency that fails to meet the annual performance objectives shall be subject to sanctions described in section 14515.

''(c) PARENTAL NOTIFICATION.—

''(1) IN GENERAL.—Each State educational agency or local educational agency shall notify a parent of a student who is participating in a language instruction educational program under this title, in a manner and form understandable to the parent, including, if necessary and to the extent feasible, in the native language of the parent, of—

''(A) the student's level of English proficiency, how such level was assessed, the status of the student's academic achievement, and the implications of the student's educational strengths and needs for age-appropriate and grade-appropriate academic attainment, promotion, and graduation;

''(B) what programs are available to meet the student's educational strengths and needs, and how such programs differ in content and instructional goals from other language instruction educational programs and, in the case of a student with a disability, how such available programs meet the objectives of the individualized education program of such a student; and

''(C) the instructional goals of the language instruction educational program, and how the program will specifically help the limited English proficient student learn English and meet State and local content and performance standards, including—

''(i) the characteristics, benefits, and past academic results of the language instruction educational program and of instructional alternatives; and

''(ii) the reasons the student was identified as being in need of a language instruction educational program.

''(2) OPTION TO DECLINE.—Each parent described in paragraph (1) shall also be informed that the parent has the option of declining the enrollment of a student in a language instruction educational program, and shall be given an opportunity to decline such enrollment if the parent so chooses.

''(3) SPECIAL RULE.—A student shall not be admitted to, or excluded from, any federally assisted language instruction educational program solely on the basis of a surname or language-minority status.''.

SEC. 303. REPORT CARDS.

Title XIV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801 et seq.) is amended by adding at the end the following:

"PART I—REPORT CARDS

"SEC. 14901. REPORT CARDS.

''(a) GRANTS AUTHORIZED.—The Secretary shall award a grant, from allotments under subsection (b), to each State having a State report card meeting the requirements described in subsection (e), to enable the State, and local educational agencies and schools in the State, annually to publish report cards for each elementary school and secondary school that receives funding under this Act and is served by the State.

''(b) RESERVATIONS AND ALLOTMENTS.—

''(1) RESERVATIONS.—From the amount appropriated under subsection (j) to carry out this part for each fiscal year, the Secretary shall reserve—

''(A) ½ of 1 percent of such amount for payments to the Secretary of the Interior for activities approved by the Secretary of Education, consistent with this part, in schools operated or supported by the Bureau of Indian Affairs, on the basis of their respective needs for assistance under this part; and

''(B) ½ of 1 percent of such amount for payments to outlying areas, to be allotted in accordance with their respective needs for assistance under this part, as determined by the Secretary, for activities approved by the Secretary, consistent with this part.

''(2) STATE ALLOTMENTS.—From the amount appropriated under subsection (j) for a fiscal year and remaining after the Secretary makes reservations under paragraph (1), the Secretary shall allot to each State having a State report card meeting the requirements described in subsection (e) an amount that bears the same relationship to the remainder as the number of public school students enrolled in elementary schools and secondary schools in the State bears to the number of such students so enrolled in all States.

''(c) STATE RESERVATION OF FUNDS.—Each State educational agency receiving a grant under subsection (a) may reserve—

''(1) not more than 10 percent of the grant funds to carry out activities described in subsections (e) and (g)(2) for fiscal year 2002; and

''(2) not more than 5 percent of the grant funds to carry out activities described in subsections (e) and (g)(2) for fiscal year 2003 and each of the 3 succeeding fiscal years.

''(d) WITHIN-STATE ALLOCATIONS.—Each State educational agency receiving a grant under subsection (a) shall allocate the grant funds that remain after making the reservation described in subsection (c) to each local educational agency in the State in an amount that bears the same relationship to the remainder as the number of public school students enrolled in elementary schools and secondary schools served by the local educational agency bears to the number of such students served by local educational agencies within the State.

''(e) ANNUAL STATE REPORT CARD.—

''(1) REPORT CARDS REQUIRED.—Not later than the beginning of the 2002–2003 school year, a State that receives assistance under this Act shall prepare and disseminate an annual report card for parents, the general public, teachers, and the Secretary, with respect to all elementary schools and secondary schools within the State.

''(2) REQUIRED INFORMATION.—Each State described in paragraph (1), at a minimum, shall include in the annual State report card information regarding—

''(A) student performance on statewide assessments for the year for which the annual State report card is prepared and the preceding year, in at least English language arts and mathematics, including—

''(i) a comparison of the proportions of students who performed at the basic, proficient, and advanced levels in each subject area, for each grade level for which assessments are required under title I for the year for which the report card is prepared, with proportions in each of the same 3 levels in each subject area at the same grade levels in the preceding school year;

''(ii) a statement on the most recent 3-year trend in the percentage of students performing at the basic, proficient, and advanced levels in each subject area, for each grade level for which assessments are required under title I; and

''(iii) a statement of the percentage of students not tested and a listing of categories of the reasons why such students were not tested;

''(B) student retention rates in each grade, the number of students completing advanced placement courses, annual school dropout rates as calculated by procedures conforming with the National Center for Education Statistics Common Core of Data, and 4-year graduation rates; and

''(C) the professional qualifications of teachers in the aggregate, including the percentage of teachers teaching with emergency or provisional credentials, the percentage of class sections not taught by fully qualified teachers, and the percentage of teachers who are fully qualified.

''(3) STUDENT DATA.—Student data in each report card shall contain disaggregated results for the following categories:

''(A) Racial and ethnic groups.

''(B) Gender groups.

''(C) Economically disadvantaged students, as compared with students who are not economically disadvantaged.

''(D) Students with limited English proficiency, as compared with students who are proficient in English.

''(E) Migrant status groups.

''(F) Students with disabilities, as compared with students who are not disabled.

''(4) OPTIONAL INFORMATION.—A State may include in the State annual report card any other information the State determines appropriate to reflect school quality and school achievement, including by grade level information on the following:

''(A) Average class size.

''(B) School safety, such as the incidence of school violence and drug and alcohol abuse.

''(C) The incidence of student suspensions and expulsions.

''(D) Student access to technology, including the number of computers for educational purposes, the number of computers per classroom, and the number of computers connected to the Internet.

''(E) Parental involvement, as determined by such measures as the extent of parental

participation in schools, parental involvement activities, and extended learning time programs, such as after-school and summer programs.

''(f) LOCAL EDUCATIONAL AGENCY AND SCHOOL REPORT CARDS.—

''(1) IN GENERAL.—The State shall ensure that each local educational agency, elementary school, and secondary school in the State, collects appropriate data and publishes an annual report card consistent with this subsection.

''(2) REQUIRED INFORMATION.—Each local educational agency, elementary school, and secondary school described in paragraph (1), at a minimum, shall include in its annual report card—

''(A) the information described in paragraphs (2) and (3) of subsection (e) for each local educational agency and school;

''(B) in the case of a local educational agency—

''(i) information regarding the number and percentage of schools served by the local educational agency that are identified for school improvement, including schools identified under section 1116;

''(ii) information on the most recent 3-year trend in the number and percentage of elementary schools and secondary schools served by the local educational agency that are identified for school improvement; and

''(iii) information on how students in the schools served by the local educational agency performed on the statewide assessment compared with students in the State as a whole;

''(C) in the case of an elementary school or a secondary school—

''(i) information regarding whether the school has been identified for school improvement;

''(ii) information on how the school's students performed on the statewide assessment compared with students in schools served by the same local educational agency and with all students in the State; and

''(iii) information about the enrollment of students compared with the rated capacity of the schools; and

''(D) other appropriate information, regardless of whether the information is included in the annual State report.

''(g) DISSEMINATION AND ACCESSIBILITY OF REPORT CARDS.—

''(1) REPORT CARD FORMAT.—Annual report cards under this part shall be—

''(A) concise; and

''(B) presented in a format and manner that parents can understand, including, to the extent practicable, in a language the parents can understand.

''(2) STATE REPORT CARDS.—State annual report cards under subsection (e) shall be disseminated to all elementary schools, secondary schools, and local educational agencies in the State, and made broadly available to the public through means such as posting on the Internet and distribution to the media, and through public agencies.

''(3) LOCAL REPORT CARDS.—Local educational agency report cards under subsection (f) shall be disseminated to all elementary schools and secondary schools served by the local educational agency and to parents of students attending such schools, and made broadly available to the public through means such as posting on the Internet and distribution to the media, and through public agencies.

''(4) SCHOOL REPORT CARDS.—Elementary school and secondary school report cards under subsection (f) shall be disseminated to parents of students attending that school, and made broadly available to the public through means such as posting on the Internet and distribution to the media, and through public agencies.

''(h) COORDINATION OF STATE PLAN CONTENT.—A State shall include in its plan under part A of title I or part B of title II, an assurance that the State has in effect a policy that meets the requirements of this section.

''(i) PRIVACY.—Information collected under this section shall be collected and disseminated in a manner that protects the privacy of individuals.

''(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this part $5,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 4 succeeding fiscal years.

''PART J—ADDITIONAL PERFORMANCE AND ACCOUNTABILITY PROVISIONS

''SEC. 14911. REWARDING HIGH PERFORMANCE.

''(a) STATE REWARDS.—

''(1) IN GENERAL.—From amounts appropriated under subsection (d), the Secretary shall make awards to States that—

''(A) for 3 consecutive years have—

''(i) exceeded the State performance goals and objectives established for any title under this Act;

''(ii) exceeded the adequate yearly progress levels established under section 1111(b)(2);

''(iii) significantly narrowed the gaps between minority and nonminority students, and between economically disadvantaged students and students who are not economically disadvantaged;

''(iv) raised all students to the proficient standard level prior to 10 years after the date of enactment of the School Improvement Accountability Act; or

''(v) significantly increased the percentage of core classes being taught by fully qualified teachers, in schools receiving funds under part A of title I; or

''(B) by not later than fiscal year 2005, ensure that all teachers teaching in the State public elementary schools and secondary schools are fully qualified.

''(2) STATE USE OF FUNDS.—

''(A) DEMONSTRATION SITES.—Each State receiving an award under paragraph (1) shall use a portion of the award funds that are not distributed under subsection (b) to establish demonstration sites with respect to high-performing schools (based upon achievement, or performance levels and adequate yearly progress) in order to help low-performing schools.

''(B) IMPROVEMENT OF PERFORMANCE.—Each State receiving an award under paragraph (1) shall use the portion of the award funds that are not used pursuant to subparagraph (A) or (C) and are not distributed under subsection (b) for the purpose of improving the level of performance of all elementary school and secondary school students in the State, based upon State content and performance standards.

''(C) RESERVATION FOR ADMINISTRATIVE EXPENSES.—Each State receiving an award under paragraph (1) may set aside not more than ½ of 1 percent of the award funds for the planning and administrative costs of carrying out this section, including the costs of distributing awards to local educational agencies.

''(b) LOCAL EDUCATIONAL AGENCY AWARDS.—

''(1) IN GENERAL.—Each State receiving an award under subsection (a)(1) shall distribute 80 percent of the award funds to local educational agencies in the State that—

''(A) for 3 consecutive years have—

''(i) exceeded the State-established local educational agency performance goals and objectives established for any title under this Act;

''(ii) exceeded the adequate yearly progress levels established under section 1111(b)(2);

''(iii) significantly narrowed the gaps between minority and nonminority students, and between economically disadvantaged students and students who are not economically disadvantaged;

''(iv) raised all students enrolled in schools served by the local educational agency to the proficient standard level prior to 10 years from the date of enactment of the School Improvement Accountability Act; or

''(v) significantly increased the percentage of core classes being taught by fully qualified teachers, in schools receiving funds under part A of title I;

''(B) not later than December 31, 2005, ensure that all teachers teaching in the elementary schools and secondary schools served by the local educational agency are fully qualified; or

''(C) have attained consistently high achievement in another area that the State determines appropriate to reward.

''(2) SCHOOL-BASED PERFORMANCE AWARDS.—A local educational agency shall use funds made available under paragraph (1) for activities described in subsection (c) such as school-based performance awards.

''(3) RESERVATION FOR ADMINISTRATIVE EXPENSES.—Each local educational agency receiving an award under paragraph (1) may set aside not more than ½ of 1 percent of the award funds for the planning and administrative costs of carrying out this section, including the costs of distributing awards to eligible elementary schools and secondary schools, teachers, and principals.

''(c) SCHOOL REWARDS.—Each local educational agency receiving an award under subsection (b) shall consult with teachers and principals to develop a reward system, and shall use the award funds—

''(1) to reward individual schools that demonstrate high performance with respect to—

''(A) increasing the academic achievement of all students;

''(B) narrowing the academic achievement gap described in section 1111(b)(2)(B)(iv);

''(C) improving teacher quality;

''(D) increasing high-quality professional development for teachers, principals, and administrators; or

''(E) improving the English proficiency of limited English proficient students;

''(2) to reward collaborative teams of teachers, or teams of teachers and principals, that—

''(A) significantly increase the annual performance of low-performing students; or

''(B) significantly improve in a fiscal year the English proficiency of limited English proficient students;

''(3) to reward principals who successfully raise the performance of a substantial number of low-performing students to high academic levels;

''(4) to develop or implement school district-wide programs or policies to increase the level of student performance on State assessments that are aligned with State content standards; and

''(5) to reward schools for consistently high achievement in another area that the local educational agency determines appropriate to reward.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $200,000,000 for fiscal year 2002, and such sums as may be necessary for each of the 4 succeeding fiscal years.

''(e) DEFINITION.—The term 'low-performing student' means a student who is below a basic State standard level.''.

SEC. 304. ADDITIONAL ACCOUNTABILITY PROVISIONS.

Part E of title XIV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8891 et seq.) is amended by adding at the end the following:

''SEC. 14515. ADDITIONAL ACCOUNTABILITY PROVISIONS.

''(a) IN GENERAL.—Notwithstanding any other provision of this Act, a recipient of funds provided for a fiscal year under part A of title I, part A or C of title III, part A of title IV, part A of title V, or title VII, shall include—

(1) in the plans or applications required under such part or title—

(A) the methods the recipient will use to measure the annual impact of each program funded in whole or in part with funds provided under such part or title and, if applicable, the extent to which each such program will increase student academic achievement;

(B) the annual, quantifiable, and measurable performance goals and objectives for each such program, and the extent to which, if applicable, the program's performance goals and objectives align with State content standards and State student performance standards established under section 1111(b)(1)(A); and

(C) if the recipient is a local educational agency, assurances that the local educational agency consulted, at a minimum, with parents, school board members, teachers, administrators, business partners, education organizations, and community groups to develop the plan or application submitted and that such consultation will continue on a regular basis; and

''(2) in the reports required under such part or title, a report for the preceding fiscal year regarding how the plan or application submitted for such fiscal year under such part or title was implemented, the recipient's progress toward attaining the performance goals and objectives identified in the plan or application for such year, and, if applicable, the extent to which programs funded in whole or in part with funds provided under such part or title increased student achievement.

''(b) PENALTIES.—If a recipient of funds under a part or title described in subsection (a) fails to meet the performance goals and objectives of the part or title for 3 consecutive fiscal years, the Secretary shall—

''(1) withhold not less than 50 percent of the funds made available under the relevant program for administrative expenses for the succeeding fiscal year, and for each consecutive fiscal year until the recipient meets such performance goals and objectives; and

''(2) in the case of—

''(A) a competitive grant (as determined by the Secretary), consider the recipient ineligible for grants under the part or title until the recipient meets such performance goals and objectives; and

''(B) a formula grant (as determined by the Secretary), withhold not less than 20 percent of the total amount of funds provided under title VI for the succeeding fiscal year and each consecutive fiscal year until the recipient meets such goals and objectives.

''(c) OTHER PENALTIES.—A State that has not met the requirements of subsection (a)(1)(B) with respect to a fiscal year—

''(1) shall not be eligible for designation as an Ed-Flex Partnership State under the Education Flexibility Partnership Act of 1999 until the State meets the requirements of subsection (a)(1)(B); and

''(2) shall be subject to such other penalties as are provided in this Act for failure to meet the requirements of subsection (a)(1)(B).

''(d) SPECIAL RULE FOR SECRETARY AWARDS.—

''(1) IN GENERAL.—Notwithstanding any other provision of this Act, a recipient of funds provided under a direct award made by the Secretary, or a contract or cooperative agreement entered into with the Secretary, for a program shall include the following information in any application or plan required for such program:

''(A) How funds provided under the program will be used and how such use will increase student academic achievement.

''(B) The goals and objectives to be met, including goals for dissemination and use of the information or materials produced, where applicable.

''(C) If the grant requires dissemination of information or materials, how the recipient will track and report annually to the Secretary—

''(i) the successful dissemination of information or materials produced;

''(ii) where information or materials produced are being used; and

''(iii) the impact of such use and, if applicable, the extent to which such use increased student academic achievement or contributed to the stated goal of the program.

''(2) REQUIREMENT.—If no application or plan is required under a program described in paragraph (1), the Secretary shall require the recipient of funds to submit a plan containing the information required under paragraph (1).

''(3) FAILURE TO ACHIEVE GOALS AND OBJECTIVES.—

''(A) IN GENERAL.—The Secretary shall evaluate the information submitted under this subsection to determine whether the recipient has met the goals and objectives described in paragraph (1)(B), where applicable, assess the magnitude of dissemination described in paragraph (1)(C), and, where applicable, assess the effectiveness of the activity funded in raising student academic achievement in places where information or materials produced with such funds are used.

''(B) INELIGIBILITY.—The Secretary shall consider the recipient ineligible for grants, contracts, or cooperative agreements under the program described in paragraph (1) if—

''(i) the goals and objectives described in paragraph (1)(B) have not been met;

''(ii) where applicable, the dissemination has not been of a magnitude to ensure goals and objectives are being addressed; and

''(iii) where applicable, the information or materials produced have not made a significant impact on raising student achievement in places where such information or materials are used.''.

By Mrs. BOXER.

S. 159. A bill to elevate the Environmental Protection Agency to a cabinet level department, to redesignate the Environmental Protection Agency as the Department of Environmental Protection Affairs, and for other purposes; to the Committee on Governmental Affairs.

Mrs. BOXER. Mr. President, today I am pleased to introduce the Department of Environmental Protection Affairs Act of 2001. The bill redesignates the Environmental Protection Agency (EPA) as the Department of Environmental Protection Affairs and makes the Department part of the president's cabinet.

As most of my colleagues know, President Nixon established EPA in 1970 as a response, in part, to water too polluted to drink and air too dirty to breathe. It had become clear by that time that air, waste and water pollution problems did not respect state boundaries, and that public health and environmental protections varied widely from state to state.

In the 30 years since its founding, EPA has played a critical role in ensuring that all Americans enjoy the same basic level of public health and environmental protection.

The Department of Environmental Protection Affairs Act of 2001 recognizes that fact. The bill reflects that today most Americans view protection of the public health and environment as duties of at least equal importance as our national programs for education, energy, defense, commerce and agriculture.

The impact of this bill, however, goes beyond the very important symbolic statement it makes.

First, elevating the EPA to the cabinet will ensure that the president is directly involved in setting environmental policies. While past presidents have chosen to make the EPA Administrator part of cabinet-level discussions, this bill expresses Congress' will that environmental protection is given its place among the other national issues which occupy the president and his cabinet.

Second, this bill will ensure that the EPA Administrator is on equal footing with her colleagues in the rest of the cabinet. This is important because some of the worst polluters in the nation are departments of the federal government. For example, Department of Defense and Department of Energy facilities are some of the most polluted toxic waste sites in the nation.

EPA must be on equal footing with those departments if it is to ensure that the environment is restored and that the public health is protected at those sites.

Third, this bill will strengthen EPA's role in negotiating international agreements with foreign nations. Protection of public health and the environment has increasingly become an important part of foreign relations. Most of the industrialized nations have afforded top status to their environmental officials. This bill will afford that status to our top environmental official.

I am hopeful that my House and Senate colleagues can act quickly to ensure the passage of this important legislation. I ask unanimous consent that the bill be print in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 159

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 ''Department of Environmental Protection Affairs Act of 2001''.

SEC. 2. FINDINGS.

Congress finds that—

(1) protection of public health and the environment is a mission of at least equal importance to the duties carried out by cabinet-level departments;

(2) the Federal Government should ensure that all Americans enjoy the same basic level of public health and environmental protection regardless of where they live;

(3) protection of public health and the environment increasingly involves negotiations with foreign nations, including the

most highly industrialized nations all of whose top environmental officials have ministerial status; and

(4) a cabinet-level Department of Environmental Protection Affairs should be established.

SEC. 3. ESTABLISHMENT OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION AFFAIRS.

(a) REDESIGNATION.—The Environmental Protection Agency is redesignated as the Department of Environmental Protection Affairs (in this Act referred to as the ''Department'') and shall be an executive department in the executive branch of the Government.

(b) SECRETARY OF ENVIRONMENTAL PROTECTION AFFAIRS.—

(1) IN GENERAL.—There shall be at the head of the Department a Secretary of Environmental Protection Affairs who shall be appointed by the President, by and with the advice and consent of the Senate. The Department shall be administered under the supervision and direction of the Secretary.

(2) NONDELEGATION.—The Secretary may not assign duties for or delegate authority for the supervision of the Assistant Secretaries, the General Counsel, or the Inspector General of the Department to any officer of the Department other than the Deputy Secretary.

(3) DELEGATIONS.—Except as described under paragraph (2) of this section and section 4(b)(2), and notwithstanding any other provision of law, the Secretary may delegate any functions including the making of regulations to such officers and employees of the Department as the Secretary may designate, and may authorize such successive redelegations of such functions within the Department as determined to be necessary or appropriate.

(c) DEPUTY SECRETARY.—There shall be in the Department a Deputy Secretary of the Environment, who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Secretary shall perform such responsibilities as the Secretary shall prescribe and shall act as the Secretary during the absence or disability of the Secretary or in the event of a vacancy in the Office of Secretary.

(d) OFFICE OF THE SECRETARY.—The Office of the Secretary shall consist of a Secretary and a Deputy Secretary and may include an Executive Secretary and such other executive officers as the Secretary may determine necessary.

(e) REGIONAL OFFICES.—The regional offices of the Environmental Protection Agency are redesignated as regional offices of the Department of Environmental Protection Affairs.

(f) INTERNATIONAL RESPONSIBILITIES OF THE SECRETARY.—

(1) IN GENERAL.—In addition to exercising other international responsibilities under existing provisions of law, the Secretary is—

(A) encouraged to assist the Secretary of State to carry out his primary responsibilities for coordinating, negotiating, implementing, and participating in international agreements, including participation in international organizations, relevant to environmental protection; and

(B) authorized and encouraged to—

(i) conduct research on and apply existing research capabilities to the nature and impacts of international environmental problems and develop responses to such problems; and

(ii) provide technical and other assistance to foreign countries and international bodies to improve the quality of the environment.

(2) CONSULTATION.—The Secretary of State shall consult with the Secretary of Environmental Protection Affairs and such other persons as he determines appropriate on such negotiations, implementation, and participation described under paragraph (1)(A).

(g) AUTHORITY OF THE SECRETARY WITHIN THE DEPARTMENT.—Nothing in this Act—

(1) authorizes the Secretary of Environmental Protection Affairs to require any action by any officer of any executive department or agency other than officers of the Department of Environmental Protection Affairs, except that this paragraph shall not affect any authority provided for by any other provision of law authorizing the Secretary of Environmental Protection Affairs to require any such actions;

(2) modifies any Federal law that is administered by any executive department or agency; or

(3) transfers to the Department of Environmental Protection Affairs any authority exercised by any other Federal executive department or agency before the effective date of this Act, except the authority exercised by the Environmental Protection Agency.

(h) APPLICATION TO THE DEPARTMENT OF ENVIRONMENTAL PROTECTION AFFAIRS.—This Act applies only to activities of the Department of Environmental Protection Affairs, except where expressly provided otherwise.

SEC. 4. ASSISTANT SECRETARIES.

(a) ESTABLISHMENT OF POSITIONS.—There shall be in the Department such number of Assistant Secretaries, not to exceed 10, as the Secretary shall determine, each of whom shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES OF ASSISTANT SECRETARIES.—

(1) IN GENERAL.—The Secretary shall assign to Assistant Secretaries such responsibilities as the Secretary considers appropriate, including—

(A) enforcement and compliance monitoring;

(B) research and development;

(C) air and radiation;

(D) water;

(E) pesticides and toxic substances;

(F) solid waste;

(G) hazardous waste;

(H) hazardous waste cleanup;

(I) emergency response;

(J) international affairs;

(K) policy, planning, and evaluation;

(L) pollution prevention;

(M) congressional, intergovernmental, and public affairs; and

(N) administration and resources management, including financial and budget management, information resources management, procurement and assistance management, and personnel and labor relations.

(2) ASSIGNMENT OF RESPONSIBILITIES.—The Secretary may assign and modify any responsibilities at his discretion under paragraph (1), except that the Secretary may not modify the responsibilities of any Assistant Secretary without substantial prior written notification of such modification to the appropriate committees of the Senate and the House of Representatives.

(c) DESIGNATION OF RESPONSIBILITIES BEFORE CONFIRMATION.—Whenever the President submits the name of an individual to the Senate for confirmation as Assistant Secretary under this section, the President shall state the particular responsibilities of the Department such individual shall exercise upon taking office.

(d) CONTINUING PERFORMANCE OF FUNCTIONS.—On the effective date of this Act, the Administrator and Deputy Administrator of the Environmental Protection Agency shall be redesignated as the Secretary and Deputy Secretary of the Department of Environmental Protection Affairs, Assistant Administrators of the Agency shall be redesignated as Assistant Secretaries of the Department, and the General Counsel and the Inspector General of the Agency shall be redesignated as the General Counsel and the Inspector General of the Department, without renomination or reconfirmation.

(e) CHIEF INFORMATION RESOURCES OFFICER.—

(1) IN GENERAL.—The Secretary shall designate the Assistant Secretary whose responsibilities include information resource management functions as required by section 3506 of title 44, United States Code, as the Chief Information Resources Officer of the Department.

(2) RESPONSIBILITIES.—The Chief Information Resources Officer shall—

(A) advise the Secretary on information resource management activities of the Department as required by section 3506 of title 44, United States Code;

(B) develop and maintain an information resources management system for the Department which provides for—

(i) the conduct of and accountability for any acquisitions made under a delegation of authority under section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759);

(ii) the implementation of all applicable government-wide and Department information policies, principles, standards, and guidelines with respect to information collection, paperwork reduction, privacy and security of records, sharing and dissemination of information, acquisition and use of information technology, and other information resource management functions;

(iii) the periodic evaluation of and, as needed, the planning and implementation of improvements in the accuracy, completeness, and reliability of data and records contained with Department information systems; and

(iv) the development and annual revision of a 5-year plan for meeting the Department's information technology needs; and

(C) report to the Secretary as required under section 3506 of title 44, United States Code.

SEC. 5. DEPUTY ASSISTANT SECRETARIES.

(a) ESTABLISHMENT OF POSITIONS.—There shall be in the Department such number of Deputy Assistant Secretaries as the Secretary may determine.

(b) APPOINTMENTS.—Each Deputy Assistant Secretary—

(1) shall be appointed by the Secretary; and

(2) shall perform such functions as the Secretary shall prescribe.

(c) FUNCTIONS.—Functions assigned to an Assistant Secretary under section 4(b) may be performed by 1 or more Deputy Assistant Secretaries appointed to assist such Assistant Secretary.

SEC. 6. OFFICE OF THE GENERAL COUNSEL.

There shall be in the Department, the Office of the General Counsel. There shall be at the head of such office a General Counsel who shall be appointed by the President, by and with advice and consent of the Senate. The General Counsel shall be the chief legal officer of the Department and shall provide legal assistance to the Secretary concerning the programs and policies of the Department.

SEC. 7. OFFICE OF THE INSPECTOR GENERAL.

The Office of Inspector General of the Environmental Protection Agency, established in accordance with the Inspector General Act of 1978 (5 U.S.C. App.), is redesignated as the Office of Inspector General of the Department of Environmental Protection Affairs.

SEC. 8. MISCELLANEOUS EMPLOYMENT RESTRICTIONS.

Except as otherwise provided in this Act, political affiliation or political qualification may not be taken into account in connection

with the appointment of any person to any position in the career civil service or in the assignment or advancement of any career civil servant in the Department.

SEC. 9. ADMINISTRATIVE PROVISIONS.

(a) ACCEPTANCE OF MONEY AND PROPERTY.—

(1) IN GENERAL.—The Secretary may accept and retain money, uncompensated services, and other real and personal property or rights (whether by gift, bequest, devise, or otherwise) for the purpose of carrying out the Department's programs and activities, except that the Secretary shall not endorse any company, product, organization, or service. Gifts, bequests, and devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be credited in a separate fund in the Treasury of the United States and shall be available for disbursement upon the order of the Secretary.

(2) REGULATIONS.—The Secretary shall prescribe regulations and guidelines setting forth the criteria the Department shall use in determining whether to accept a gift, bequest, or devise. Such criteria shall take into consideration whether the acceptance of the property would reflect unfavorably upon the Department's or any employee's ability to carry out its responsibilities or official duties in a fair and objective manner, or would compromise the integrity of or the appearance of the integrity of a Government program or any official involved in that program.

(b) SEAL OF THE DEPARTMENT.—

(1) IN GENERAL.—On the effective date of this Act, the seal of the Environmental Protection Agency with appropriate changes shall be the seal of the Department of Environmental Protection Affairs, until such time as the Secretary may cause a seal of office to be made for the Department of Environmental Protection Affairs of such design as the Secretary shall approve.

(2) CRIMINAL PENALTY FOR UNAUTHORIZED USE OF SEAL.—

(A) IN GENERAL.—Chapter 33 of title 18, United States Code, is amended by adding at the end the following:

"§ 716. Department of Environmental Protection Affairs Seal

''(a) Whoever knowingly displays any printed or other likeness of the official seal of the Department of Environmental Protection Affairs, or any facsimile thereof, in, or in connection with, any advertisement, poster, circular, book, pamphlet, or other publication, public meeting, play, motion picture, telecast, or other production, or on any building, monument, or stationery, for the purpose of conveying, or in a manner reasonably calculated to convey, a false impression of sponsorship or approval by the Government of the United States or by any department, agency, or instrumentality thereof, shall be fined not more than $250 or imprisoned not more than 6 months, or both.

''(b) Whoever, except as authorized under regulations promulgated by the Secretary of Environmental Protection Affairs and published in the Federal Register, knowingly manufactures, reproduces, sells, or purchases for resale, either separately or appended to any article manufactured or sold, any likeness of the official seal of the Department of Environmental Protection Affairs, or any substantial part thereof, except for manufacture or sale of the article for the official use of the Government of the United States, shall be fined not more than $250 or imprisoned not more than 6 months, or both.

''(c) A violation of subsection (a) or (b) may be enjoined at the suit of the Attorney General of the United States upon complaint by any authorized representative of the Secretary of the Department of Environmental Protection Affairs.''.

(B) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 33 of title 18, United States Code, is amended by adding at the end:

''716. Department of Environmental Protection Affairs Seal.''.

(c) ACQUISITION OF COPYRIGHTS AND PATENTS.—The Secretary is authorized to acquire any of the following described rights if the related property acquired is for use by or for, or useful to, the Department:

(1) Copyrights, patents, and applications for patents, designs, processes, and manufacturing data.

(2) Licenses under copyrights, patents, and applications for patents.

(3) Releases, before suit is brought, for past infringement of patents or copyrights.

(d) ADVISORY COMMITTEE STANDARDS OF CONDUCT AND COMPENSATION.—The Secretary may promulgate regulations, no less stringent than any other applicable provision of law, regarding standards of conduct for members of advisory committees (and consultants to advisory committees), including requirements regarding conflicts of interest or disclosure of past and present financial and employment interests. The Secretary may pay members of advisory committees and others who perform services as authorized under section 3109 of title 5, United States Code, at rates for individuals not to exceed the per diem rate equivalent to the rate for level V of the Executive Schedule under section 5316 of title 5, United States Code.

SEC. 10. INHERENTLY GOVERNMENTAL FUNCTIONS.

(a) GOVERNMENT OFFICERS AND EMPLOYEES.—

(1) IN GENERAL.—Any inherently governmental function of the Department shall be performed only by officers and employees of the United States.

(2) DEFINITION.—In this section, the term ''inherently governmental function''—

(A) means any activity which is so intimately related to the public interest as to mandate performance by Government officers and employees; and

(B) includes—

(i) activities which require either the exercise of discretion in applying Government authority or the use of value of judgment in making decisions for the Government; and

(ii) work of a policy, decisionmaking, or managerial nature which is the direct responsibility of Department officials.

(b) CONFLICTS OF INTEREST.—

(1) IN GENERAL.—The Secretary shall by regulation require any person proposing to enter into a contract, agreement, or other arrangement, whether by competitive bid or negotiation, for the conduct of research, development, evaluation activities, or for advisory and assistance services, to provide the Secretary, before entering into any such contract, agreement, or arrangement, with all relevant information, as determined by the Secretary, bearing on whether that person has a possible conflict of interest with respect to—

(A) being able to render impartial, technically sound, or objective assistance or advice in light of other activities or relationships with other persons; or

(B) being given an unfair competitive advantage.

(2) SUBCONTRACTORS.—Such person shall ensure, in accordance with regulations prescribed by the Secretary, compliance with this section by subcontractors of such person who are engaged to perform similar services.

(c) REQUIRE AFFIRMATIVE FINDING; CONFLICTS OF INTEREST WHICH CANNOT BE AVOIDED; MITIGATION OF CONFLICTS.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary may not enter into any such contract, agreement, or arrangement, unless he affirmatively finds, after evaluating all such information and any other relevant information otherwise available to him, either that—

(A) there is little or no likelihood that a conflict of interest would exist; or

(B) that such conflict has been avoided after appropriate conditions have been included in such contract, agreement, or arrangement.

(2) MITIGATION OF CONFLICTS.—If the Secretary determines that such conflict of interest exists and that such conflict of interest cannot be avoided by including appropriate conditions therein, the Secretary may enter into such contract, agreement, or arrangement, if he—

(A) determines that it is in the best interests of the United States to do so; and

(B) includes appropriate conditions in such contract, agreement, or arrangement to mitigate such conflict.

(d) PUBLIC NOTICE REGARDING CONFLICTS OF INTEREST.—The Secretary shall promulgate regulations which require public notice to be given whenever the Secretary determines that the award of a contract, agreement, or arrangement may result in a conflict of interest which cannot be avoided by including appropriate conditions therein.

(e) DISCLAIMER.—Nothing in this section shall preclude the Department from promulgating regulations to monitor potential conflicts after the contract award.

(f) RULES.—Not later than 60 days after the effective date of this Act, the Secretary shall publish rules for the implementation of this section.

(g) CENTRAL FILE.—The Department shall maintain a central file regarding all cases when a public notice is issued. Other information required under this section shall also be compiled. Access to this information shall be controlled to safeguard any proprietary information.

(h) DEFINITIONS.—In this section, the term ''advisory and assistance services'' includes—

(1) management and professional support services;

(2) the conduct of studies, analyses, and evaluations; and

(3) engineering and technical services, excluding routine technical services.

SEC. 11. REFERENCES.

Reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to—

(1) the Administrator of the Environmental Protection Agency shall be deemed to refer to the Secretary of Environmental Protection Affairs;

(2) the Environmental Protection Agency shall be deemed to refer to the Department of Environmental Protection Affairs;

(3) the Deputy Administrator of the Environmental Protection Agency shall be deemed to refer to the Deputy Secretary of Environmental Protection Affairs; or

(4) any Assistant Administrator of the Environmental Protection Agency shall be deemed to refer to an Assistant Secretary of the Department of Environmental Protection Affairs.

SEC. 12. SAVINGS PROVISIONS.

(a) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(1) which have been issued, made, granted, or allowed to become effective by the President, by the Administrator of the Environmental Protection Agency, or by a court of

competent jurisdiction, in the performance of functions of the Administrator or the Environmental Protection Agency, and

(2) which are in effect at the time this Act takes effect, or were final before the effective date of this Act and are to become effective on or after the effective date of this Act; shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary of Environmental Protection Affairs, or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) PROCEEDINGS NOT AFFECTED.—This Act shall not affect any proceedings or any application for any license, permit, certificate, or financial assistance pending before the Environmental Protection Agency at the time this Act takes effect, but such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(c) SUITS NOT AFFECTED.—This Act shall not affect suits commenced before the date this Act takes effect, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this Act had not been enacted.

(d) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Environmental Protection Agency, or by or against any individual in the official capacity of such individual as an officer of the Environmental Protection Agency, shall abate by reason of the enactment of this Act.

(e) ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.—Any administrative action relating to the preparation or promulgation of a regulation by the Environmental Protection Agency may be continued by the Department with the same effect as if this Act had not been enacted.

(f) PROPERTY AND RESOURCES.—The contracts, liabilities, records, property, and other assets and interests of the Environmental Protection Agency shall, after the effective date of this Act, be considered to be the contracts, liabilities, records, property, and other assets and interests of the Department.

(g) SAVINGS.—The Department of Environmental Protection Affairs and its officers, employees, and agents shall have all the powers and authorities of the Environmental Protection Agency.

SEC. 13. CONFORMING AMENDMENTS.

(a) PRESIDENTIAL SUCCESSION.—Section 19(d)(1) of title 3, United States Code, is amended by inserting before the period at the end the following: '', Secretary of Environmental Protection Affairs''.

(b) DEFINITION OF DEPARTMENT, CIVIL SERVICE LAWS.—Section 101 of title 5, United States Code, is amended by adding at the end the following: ''The Department of Environmental Protection Affairs''.

(c) COMPENSATION, LEVEL I.—Section 5312 of title 5, United States Code, is amended by adding at the end the following: ''Secretary of Environmental Protection Affairs''.

(d) COMPENSATION, LEVEL II.—Section 5313 of title 5, United States Code, is amended by striking ''Administrator of Environmental Protection Agency'' and inserting ''Deputy Secretary of Environmental Protection Affairs''.

(e) COMPENSATION, LEVEL IV.—Section 5315 of title 5, United States Code, is amended—

(1) by striking ''Inspector General, Environmental Protection Agency'' and inserting ''Inspector General, Department of Environmental Protection Affairs''; and

(2) by striking each reference to an Assistant Administrator of the Environmental Protection Agency and by adding at the end the following:

''Assistant Secretaries, Department of Environmental Protection Affairs (10).

''General Counsel, Department of Environmental Protection Affairs.''.

(f) INSPECTOR GENERAL ACT.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in section 2(1)—

(A) by inserting ''the Department of Environmental Protection Affairs,'' after ''Veterans Affairs,''; and

(B) by striking ''The Environmental Protection Agency,'';

(2) in section 11(1) by striking ''or Veterans Affairs'' and inserting ''Veterans Affairs, or Environmental Protection Affairs,''; and

(3) in section 11(2) by striking ''or Veterans Affairs'' and inserting ''Veterans Affairs, or Environmental Protection Affairs,''.

SEC. 14. ADDITIONAL CONFORMING AMENDMENTS.

After consultation with the Committee on Governmental Affairs and the Committee on Environment and Public Works and other appropriate committees of the United States Senate and the appropriate committees of the House of Representatives, the Secretary of the Environment shall prepare and submit to Congress proposed legislation containing technical and conforming amendments to the United States Code, and to other provisions of law, to reflect the changes made by this Act. Such legislation shall be submitted not later than 6 months after the effective date of this Act.

SEC. 15. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on such date during the 6-month period beginning on the date of enactment, as the President may direct in an Executive order. If the President fails to issue an Executive order for the purpose of this section, this Act and such amendments shall take effect 6 months after the date of enactment of this Act.

By Mrs. BOXER:

S. 160. A bill to provide assistance to States to expand and establish drug abuse treatment programs to enable such programs to provide services to individuals who voluntarily seek treatment for drug abuse; to the Committee on Health, Education, Labor, and Pensions.

Mrs. BOXER. Mr. President, today I am introducing the Drug Abuse Treatment on Demand Assistance Act to help ensure that substance abuse treatment is available to all substance abusers who seek it.

According to the Department of Health and Human Services, each year drug and alcohol related abuse kills more than 120,000 Americans. In 1999, an estimated 14.8 million Americans were illicit drug users, with nearly 5 million of them addicted to drugs.

Drugs and alcohol abuse costs taxpayers nearly $276 billion annually in preventable health care costs, extra law enforcement, auto crashes, crime and lost productivity.

In his final report before stepping down as America's Drug Czar, General Barry McCaffrey outlined the prescription for solving America's drug problem: ''prevention coupled with treatment accompanied by research.'' And drug treatment is now one of the goals of the National Drug Control Strategy.

To meet that goal, however, will require additional investment. Through the Substance Abuse Mental Health Services Administration (SAMHSA), the federal government currently provides over $2 billion to states and local entities for drug treatment programs, and total federal spending in this area is just over $3 billion. But, fewer than half of America's nearly 5 million substance abusers are receiving treatment for their addiction.

While some substance abusers are not seeking treatment, many are—and are being turned away. In California, for example, 60 percent of all facilities that maintain a waiting list have an average of 23 people on their list on any given day. Nationwide, an estimated 2.7 million substance abusers are in need of treatment.

Current treatment on demand programs focus on the specific drug abuse needs of the local community. For instance, in San Francisco, methamphetamine abuse is especially problematic and continues to be on the rise. In other cities, cocaine abuse or marijuana is the drug of choice. Treatment programs should be targeted to address these local epidemics, but there is a funding shortfall.

The Drug Abuse Treatment on Demand Assistance Act would more than double SAMHSA's funding for drug treatment over five years—to $6 billion in fiscal year 2006. This is an increase of $600 million each year for five years. The additional funding is provided through SAMHSA's Center for Substance Abuse Treatment and it provides SAMHSA with flexibility to target funds where they are needed most.

The Drug Abuse Treatment on Demand Assistance Act would also reward states that have instituted a policy of providing substance abuse treatment to non-violent drug offenders as an alternative to prison, as California recently did with the enactment of Proposition 36. The bill authorizes $125 million per year for five years to provide matching grants to states. These funds could be used to help pay for treatment as well as to provide other elements of a comprehensive anti-drug abuse program for non-violent offenders, including drug testing and probation services.

Mr. President, recent studies indicate that every additional dollar invested in substance abuse treatment saves taxpayers $7.46 in societal costs. Clearly, such an investment is very worthwhile, and I urge my colleagues to support treatment on demand.

ADDITIONAL COSPONSORS

S. 21

At the request of Mr. CLELAND, his name was added as a cosponsor of S. 21, a bill to establish an off-budget lockbox to strengthen Social Security and Medicare.

S. 22

At the request of Mr. HAGEL, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 22, a bill to amend the Federal Election Campaign Act of 1971 to provide meaningful campaign finance reform through requiring better reporting, decreasing the role of soft money, and increasing individual contribution limits, and for other purposes.

S. 27

At the request of Mr. FEINGOLD, the names of the Senator from Georgia (Mr. CLELAND) and the Senator from Florida (Mr. NELSON) were added as cosponsors of S. 27, a bill to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform.

S. 29

At the request of Mr. BOND, the names of the Senator from Nebraska (Mr. HAGEL), the Senator from New Jersey (Mr. TORRICELLI), the Senator from Indiana (Mr. BAYH), the Senator from Maryland (Mr. SARBANES), the Senator from Washington (Mrs. MURRAY), the Senator from California (Mrs. BOXER), and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 29, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for 100 percent of the health insurance costs of self-employed individuals.

S. 30

At the request of Mr. SARBANES, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 30, a bill to strengthen control by consumers over the use and disclosure of their personal financial and health information by financial institutions, and for other purposes.

S. 35

At the request of Mr. GRAMM, the names of the Senator from Arizona (Mr. KYL) and the Senator from Kentucky (Mr. BUNNING) were added as cosponsors of S. 35, a bill to provide relief to America's working families and to promote continued economic growth by returning a portion of the tax surplus to those who created it.

S. 104

At the request of Ms. SNOWE, the names of the Senator from Rhode Island (Mr. CHAFEE), the Senator from Michigan (Mr. LEVIN), and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 104, a bill to require equitable coverage of prescription contraceptive drugs and devices, and contraceptive services under health plans.

S. 127

At the request of Mr. MCCAIN, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 127, a bill to give American companies, American workers, and American ports the opportunity to compete in the United States cruise market.

SENATE RESOLUTION 14—COMMENDING THE GEORGIA SOUTHERN UNIVERSITY EAGLES FOOTBALL TEAM FOR WINNING THE 2000 NCAA DIVISION I–AA FOOTBALL CHAMPIONSHIP

Mr. CLELAND (for himself, and Mr. MILLER) submitted the following resolution; which was considered and agreed to:

S. RES. 14

Whereas Georgia Southern University is a member of the Southern Conference of the National Collegiate Athletic Association Division I–AA and the Conference's champion for 4 consecutive years;

Whereas in 2000, Georgia Southern captured its second consecutive and a record-setting sixth overall Division I–AA national title;

Whereas Head Coach, Paul Johnson, has won numerous Coach of the Year awards during his career; has a 50–8 win-loss record at Georgia Southern, which is one of the best records in college football; and had 13 first-year starters in the 2000 season but was still able to win 13 games on the way to another national championship;

Whereas junior running back, Adrian Peterson, ran for 148 yards in the championship game, which marked the 43rd consecutive game in which he rushed for 100 or more yards;

Whereas the students, alumni, and supporters of Georgia Southern University, as well as the community of Statesboro, are to be congratulated for their unshakable commitment to the Georgia Southern University football team; and

Whereas their Division I–AA national championships in 1985, 1986, 1989, 1990, 1999, and 2000, as well as their place as runner-up in 1988 and 1998, make the Georgia Southern University program the most successful college football program in Division I–AA football history: Now, therefore, be it

Resolved, that the Senate—

(1) commends the Georgia Southern University Eagles football team for winning the 2000 NCAA Division I–AA collegiate football national championship;

(2) recognizes the achievements of all the players, coaches, and support staff who were instrumental in helping Georgia Southern University win the 2000 NCAA Division I–AA collegiate football national championship and invites them to the United States Capitol Building to be honored;

(3) requests that the President recognize the accomplishments and achievements of the 2000 Georgia Southern football team and invite them to Washington, D.C. for a White House ceremony for national championship teams; and

(4) directs the Secretary of the Senate to make available enrolled copies of this resolution to Georgia Southern University for appropriate display and to transmit an enrolled copy of the resolution to each coach and member of the 2000 NCAA Division I–AA collegiate national championship football team.

Mr. CLELAND. Mr. President, I rise to pay tribute to the Georgia Southern University football team for their second consecutive and sixth overall NCAA's Division I–AA football national championship. In addition to the record number of National Championships, Georgia Southern has captured four consecutive Southern Conference titles. Never in the history of Division I–AA has there been such a successful football program and I see no end to their success in the future. Among the many players and coaches who were honored this year was Coach Paul Johnson who was recognized as the American Football Coaches Association's 2000 Regional Coach of the Year. Another notable performance was that of junior running back Adrian Peterson who completed his 43rd consecutive game rushing for more than 100 yards—including 152 yards against the much larger school, the University of Georgia and 148 yards against Montana in the National Championship game. Much credit is due to all the players—offense, defense and special teams—who made this wonderful season possible.

While the Eagles had just two losses this season—one to rival Furman and the other to the Division I–A opponent the University of Georgia—they had an impressive list of victories this season, including: a 57–12 victory over Johnson C. Smith; a 24–17 victory over Wofford; a 31–10 victor over Chattanooga; a 56–3 victory over VMI; a 42–24 victory over Western Carolina; a 34–28 victory over Appalachian State; a 27–10 victory over the Citadel; a 42–7 victory over East Tennessee State; and a 32–9 victory over Elon. Additionally, in the post season, Georgia Southern defeated: McNeese State 42–17; Hofstra 48–20; Delaware 27–18; and finally, Montana 27–25 for the National Championship.

Mr. President, at this time, I would like to recognize all the 2000 Georgia Southern football team for their dedication to the team and their commitment to the hard work it takes to win a national championship: Derek Adams, T.J. Anderson, Mike Anderson, Brad Bird, Rob Bironas, Chris Blount, Bubba Brantley, James Burchett, Travis Burkett, Victor Cabral, P.J. Cantrell,, Charles Clarke, Edmund Coley, Paul Collins, Dreck Cooper, Reggie Cordy, Melvin Cox, Leonard Daggett, Devin Danridge, Kevin Davis, Dietrich Everett, Hakim Ford, Nate Gates, Justin Godsey, Ryan Hadden, Eric Hadley, Travis Hames, Winston Hardison, Kevin Heard, Nick Heuman, Sean Holland, Dallas Horne, Donte Hunter, Trey Hunter, Eric Irby, Chris Johnson, Titus Johnson, Willie Johnson, Jamar Jones, Josh Jones, Nick Kearns, Tom LaRocco, Robert LeBlanc, Robert Locke, Basail Mack, James McCoy, Jim McCullough, Chad McDonald, Eric McIntire, Jesse McMillan, Corey Middlebrooks, Steven Moore, Phillip Mouzon, Mark Myers, Jason Neese, Derrick Nobles, Chris O'Neil, Carlton Oglesby, Terry Owens, Kevin Patterson, Freddy Pesqueira, Adrian Peterson, Lavar Rainey, J.R. Revere, Matt Rio, Aundra Robinson, Elliott Rogers, Darryl Rountree, Anthony Scott, Joe Scott, Scott Shelton, Mike Stewart, Dion Stokes, Taqua Thrasher, Gino Tutera, Zzream Walden, Michael

Ward, Andre Weathers, Sid Wildes, Anthony Williams, Chaz Williams, Derrick Williams, Tyrie Williams, Verge Williams, Justin Wright, Brian Young, David Young, James Young and Mike Youngblood.

Finally, I would like to offer my thanks and congratulations to the people of Georgia Southern—the students, alumni, supporters, faculty, staff as well as the community of Statesboro. As you well know, this championship could not have been accomplished without your unshakable commitment to the football program last year and the many previous years. I am proud of all the Eagle players and coaches and I am proud to say the most successful football team in Division I–AA is still in Statesboro, Georgia.

I ask unanimous consent that the text of the resolution be printed in the RECORD.

REMAINING MATERIALS FROM THE 106TH CONGRESS

MESSAGE FROM THE HOUSE RECEIVED SUBSEQUENT TO SINE DIE ADJOURNMENT

ENROLLED BILL SIGNED

Under the authority of the order of the Senate of January 6, 1999, the Secretary of the Senate, on December 15, 2000, subsequent to the sine die adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bill:

H.R. 4577. An act making consolidated appropriations for the fiscal year ending September 30, 2001, and for other purposes.

Under the authority of the order of the Senate of December 15, 2000, the enrolled bill was signed subsequent to the sine die adjournment, by the Acting President pro tempore (Mr. ABRAHAM1).

Under the authority of the order of the Senate of January 6, 1999, the Secretary of the Senate, on December 18, 2000, subsequent to the sine die adjournment of the Senate, received a message from the House of Representatives announcing that the House agreed to the amendment of the Senate to the bill (H.R. 4020) to authorize the addition of land to Sequoia National Park, and for other purposes.

The message also announced that the House agreed to the following concurrent resolution, without amendment:

S. Con. Res. 162. A concurrent resolution to direct the Clerk of the House of Representatives to make a correction in the enrollment of H.R. 4577.

HOUSE MESSAGE RECEIVED SUBSEQUENT TO SINE DIE ADJOURNMENT

The following message was received from the House of Representatives on December 18, 2000, subsequent to the sine die adjournment.

The Speaker signed the following enrolled bills:

S. 1761. A bill to direct the Secretary of the Interior, through the Bureau of Reclamation, to conserve and enhance the water supplies of the Lower Rio Grande Valley.

S. 2749. An act to establish the California Trail Interpretive Center in Elko, Nevada, to facilitate the interpretation of the history of development and use of trails in the settling of the western portion of the United States, and for other purposes.

S. 2943. An act to authorize additional assistance for international malaria control, and for other purposes.

S. 2924. A bill to strengthen the enforcement of Federal statutes relating to false identification, and for other purposes.

S. 3181. A bill to establish the White House commission on the National Moment of Remembrance, and for other purposes.

H.R. 207. An act to amend title 5, United States Code, to provide that physicians comparability allowances be treated as part of basic pay for retirement purposes.

H.R. 1795. An act to amend the Public Health Service Act to establish the National Institute of Biomedical Imaging and Engineering.

H.R. 2570. An act to require the Secretary of the Interior to undertake a study regarding methods to commemorate the national significance of the United States roadways that comprise the Lincoln Highway, and for other purposes.

H.R. 2816. An act to establish a grant program to assist State and local law enforcement in deterring, investigating, and prosecuting computer crimes.

H.R. 3594. An act to repeal the modification of the installment method.

H.R. 3756. An act to establish a standard time zone for Guam and the Commonwealth of the Northern Mariana Islands, and for other purposes.

H.R. 4020. An act to authorize an expansion of the boundaries of Sequoia National Park to include Dillonwood Giant Sequoia Grove.

H.R. 4656. An act to authorize the Forest Service to convey certain lands in the Lake Tahoe Basin to the Washoe County School District for use as an elementary school site.

H.R. 4907. An act to establish the Jamestown 400th Commemoration Commission, and for other purposes.

ENROLLED BILLS SIGNED

Under the authority of the order of January 6, 1999,

The foregoing bill was signed by the President pro tempore on Wednesday, December 20, 2000, subsequent to the sine die adjournment.

ENROLLED BILLS PRESENTED SUBSEQUENT TO SINE DIE ADJOURNMENT

The Secretary of the Senate, on December 20, 2000, subsequent to the sine die adjournment of the Senate, presented the following enrolled bills to the President of the United States:

S. 1761. An act to direct the Secretary of the Interior, through the Bureau of Reclamation, to conserve and enhance the water supplies of the Lower Rio Grande Valley.

S. 2749. An act to establish the California Trail Interpretive Center in Elko, Nevada, to facilitate the interpretation of the history of development and use of trails in the settling of the western portion of the United States, and for other purposes.

S. 2924. An act to strengthen the enforcement of Federal statutes relating to false identification, and for other purposes.

S. 2943. An act to authorize additional assistance for international malaria control, and for other purposes.

S. 3181. An act to establish the White House Commission on the National Moment of Remembrance, and for other purposes.

● Mr. FEINGOLD. Mr. President, I oppose the conference report of the Labor, Health and Human Services appropriations bill, which has become the vehicle for the final budget agreement for fiscal year 2001, and I regret the need to do so for there are many laudable provisions included in this package. I was particularly pleased with the boost in funding for Pell grants, an absolutely critical program that ensures lower income students have the opportunity to go to college. Welcome, too, was the additional support for class size reduction and special education funding. This latter program, though, is still far short of where it ought to be. While this spending package brings funding for the Federal share of the Individuals with Disabilities Education Act to 15 percent, the highest it has ever been, it is still far short of the 40 percent which represents the maximum Federal contribution under IDEA. I was proud to join with my colleague from Vermont, Mr. JEFFORDS, in offering an amendment to the budget resolution earlier this year which would have provided that full funding for IDEA, and though we were not successful, I very much hope my colleagues will make full funding of this program a high priority.

I was also pleased that this measure includes needed increases in support for Social Services Block Grants, a vitally important program that helps counties and social service providers serve our most vulnerable citizens and that had been drastically cut in earlier versions of the Labor, Health and Human Services spending bill. As well, I was glad that additional funding was provided to the National Institutes of Health and the Centers for Disease Control, and that additional resources were included to relieve funding pressures on those who provide Medicare services. In this last area, I was especially pleased that the legislation will provide relief for Medicare services delivered in rural areas and that it will delay for one year the scheduled 15 percent cut to home health care agencies.

Unfortunately, this massive spending bill also includes a number of highly questionable provisions. I am deeply concerned that the Medicare package is disproportionately skewed toward HMOs, providers that do not serve the vast majority of Wisconsinites. The underlying reimbursement formula for Medicare HMOs is grossly unfair, punishing those areas, like Wisconsin, with efficient, low-cost health care providers. Significant reform is needed for the Medicare HMO reimbursement formula, and until that reform is undertaken, we should not pour billions and billions more into a Medicare HMO system that is so fundamentally unfair. Instead, those funds should have been targeted toward provisions to ensure adequate access to home health care and funding a significant prescription

drug benefit. In this regard, I am particularly disappointed that Congress only delayed, and did not eliminate, the 15 percent reduction in payments to home health care agencies and only ordered a study of the inclusion of medical supplies in new payment system.

More broadly, this measure contains the same defects that previous large end-of-session omnibus spending bills have contained; namely, special interest provisions that are slipped into the must-pass bill to avoid the usual committee scrutiny and full review on the floors of the House and Senate. My good friend and colleague, the senior Senator from Arizona, Mr. MCCAIN, has identified at least $1.9 billion in pork barrel spending in this year's version of the omnibus spending bill. He notes that in the conference report for the Commerce, State, and Justice appropriations bill, itself an add-on to the Labor, Health, and Social Services appropriations bill, are many earmarked spending provisions that have never undergone appropriate review, including: $200,000 for the Kotzebue Sound test fishery for king crab and sea snail; $3 million for Red Snapper research; $300,000 for research on the Charleston bump; $150,000 for lobster sampling; $1 million for Hawaiian coral reef monitoring; and $1 million for the implementation of the National Height Modernization system in North Carolina.

I am willing to concede that some of these programs may have merit. But if they do have merit, those who advocate funding for them ought to make their case before the appropriate authorizing committees and submit their case to the floor of the House and Senate in the normal way. That they chose instead to slip these matters secretly into a massive, must-pass spending bill at least suggests that some of these programs would not have withstood thorough scrutiny.

Mr. President, these special interest provisions continue to be one of the best arguments for reforming an appropriations and budget process that has led to an annual, end of the fiscal year budget wreck. Unwarranted and wasteful special interest provisions flourish in such an environment, and fundamental reform, including moving to a biennial budget process, is the only solution. I very much hope such reform will be the very highest priority of this body during the 107th Congress and that this year's pork-laden omnibus appropriations bill will be the last of its kind.●

PIPELINE SAFETY IMPROVEMENT ACT OF 2001

The text of S. 141, introduced by Mr. MCCAIN on January 22, 2001, is as follows:

S. 141

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF TITLE 49, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the ''Pipeline Safety Improvement Act of 2001''.

(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. IMPLEMENTATION OF INSPECTOR GENERAL RECOMMENDATIONS.

(a) IN GENERAL.—Except as otherwise required by this Act, the Secretary 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 Committee on Transportation and Infrastructure 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. 3. 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 sections 1135 (a) and (b) of title 49, United States Code, available to the public at reasonable cost.

(c) REPORTS TO CONGRESS.—The Secretary, Administrator, or Director, respectively, shall submit to the 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. 4. QUALIFICATIONS OF PIPELINE PERSONNEL.

(a) QUALIFICATION PLAN.—Each pipeline operator shall make available to the Secretary of Transportation, or, in the case of an intrastate pipeline facility operator, the appropriate State regulatory agency, a plan that is designed to enhance the qualifications of pipeline personnel and to reduce the likelihood of accidents and injuries. The plan shall be made available not more than 6 months after the date of enactment of this Act, and the operator shall revise or update the plan as appropriate.

(b) REQUIREMENTS.—The enhanced qualification plan shall include, at a minimum, criteria to demonstrate the ability of an individual to safely and properly perform tasks identified under section 60102 of title 49, United States Code. The plan shall also provide for training and periodic reexamination of pipeline personnel qualifications and provide for requalification as appropriate. The Secretary, or, in the case of an intrastate pipeline facility operator, the appropriate State regulatory agency, may review and certify the plans to determine if they are sufficient to provide a safe operating environment and shall periodically review the plans to ensure the continuation of a safe operation. The Secretary may establish minimum standards for pipeline personnel training and evaluation, which may include written examination, oral examination, work performance history review, observation during performance on the job, on the job training, simulations, or other forms of assessment.

(c) REPORT TO CONGRESS.—

(1) IN GENERAL.—The Secretary shall submit a report to the Congress evaluating the effectiveness of operator qualification and training efforts, including—

(A) actions taken by inspectors;

(B) recommendations made by inspectors for changes to operator qualification and training programs; and

(C) industry responses to those actions and recommendations.

(2) CRITERIA.—The Secretary may establish criteria for use in evaluating and reporting on operator qualification and training for purposes of this subsection.

(3) DUE DATE.—The Secretary shall submit the report required by paragraph (1) to the Congress 3 years after the date of enactment of this Act.

SEC. 5. PIPELINE INTEGRITY INSPECTION PROGRAM.

Section 60109 is amended by adding at the end the following:

''(c) INTEGRITY MANAGEMENT.—

''(1) GENERAL REQUIREMENT.—The Secretary shall promulgate regulations requiring operators of hazardous liquid pipelines and natural gas transmission pipelines to evaluate the risks to the operator's pipeline facilities in areas identified pursuant to subsection (a)(1), and to adopt and implement a program for integrity management that reduces the risk of an incident in those areas. The regulations shall be issued no later than one year after the Secretary has issued standards pursuant to subsections (a) and (b) of this section or by December 31, 2002, whichever is sooner.

''(2) STANDARDS FOR PROGRAM.—In promulgating regulations under this section, the Secretary shall require an operator's integrity management plan to be based on risk analysis and each plan shall include, at a minimum—

''(A) periodic assessment of the integrity of the pipeline through methods including internal inspection, pressure testing, direct assessment, or other effective methods;

''(B) clearly defined criteria for evaluating the results of the periodic assessment methods carried out under subparagraph (A) and procedures to ensure identified problems are corrected in a timely manner; and

''(C) measures, as appropriate, that prevent and mitigate unintended releases, such as leak detection, integrity evaluation, restrictive flow devices, or other measures.

''(3) CRITERIA FOR PROGRAM STANDARDS.—In deciding how frequently the integrity assessment methods carried out under paragraph (2)(A) must be conducted, an operator shall take into account the potential for new defects developing or previously identified structural defects caused by construction or installation, the operational characteristics of the pipeline, and leak history. In addition, the Secretary may establish a minimum testing requirement for operators of pipelines to conduct internal inspections.

''(4) STATE ROLE.—A State authority that has an agreement in effect with the Secretary under section 60106 is authorized to review and assess an operator's risk analyses and integrity management plans required under this section for interstate pipelines located in that State. The reviewing State authority shall provide the Secretary with a written assessment of the plans, make recommendations, as appropriate, to address safety concerns not adequately addressed in the operator's plans, and submit documentation explaining the State-proposed plan revisions. The Secretary shall carefully consider the State's proposals and work in consultation with the States and operators to address safety concerns.

''(5) MONITORING IMPLEMENTATION.—The Secretary of Transportation shall review the risk analysis and program for integrity management required under this section and provide for continued monitoring of such plans. Not later than 2 years after the implementation of integrity management plans under this section, the Secretary shall complete an assessment and evaluation of the effects on safety and the environment of extending all of the requirements mandated by the regulations described in paragraph (1) to additional areas. The Secretary shall submit the assessment and evaluation to Congress along with any recommendations to improve and expand the utilization of integrity management plans.

''(6) OPPORTUNITY FOR LOCAL INPUT ON INTEGRITY MANAGEMENT.—Within 18 months after the date of enactment of the Pipeline Safety Improvement Act of 2001, the Secretary shall, by regulation, establish a process for raising and addressing local safety concerns about pipeline integrity and the operator's pipeline integrity plan. The process shall include—

''(A) a requirement that an operator of a hazardous liquid or natural gas transmission pipeline facility provide information about the risk analysis and integrity management plan required under this section to local officials in a State in which the facility is located;

''(B) a description of the local officials required to be informed, the information that is to be provided to them and the manner, which may include traditional or electronic means, in which it is provided;

''(C) the means for receiving input from the local officials that may include a public forum sponsored by the Secretary or by the State, or the submission of written comments through traditional or electronic means;

''(D) the extent to which an operator of a pipeline facility must participate in a public forum sponsored by the Secretary or in another means for receiving input from the local officials or in the evaluation of that input; and

''(E) the manner in which the Secretary will notify the local officials about how their concerns are being addressed.''.

SEC. 6. ENFORCEMENT.

(a) IN GENERAL.—Section 60112 is amended—

(1) by striking subsection (a) and inserting the following:

''(a) GENERAL AUTHORITY.—After notice and an opportunity for a hearing, the Secretary of Transportation may decide 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.''; and

(2) by striking ''is hazardous,'' in subsection (d) and inserting ''is, or would be, hazardous,''.

SEC. 7. PUBLIC EDUCATION, EMERGENCY PREPAREDNESS, AND COMMUNITY RIGHT TO KNOW.

(a) Section 60116 is amended to read as follows:

''§ 60116. Public education, emergency preparedness, and community right to know

''(a) PUBLIC EDUCATION PROGRAMS.—

''(1) 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.

''(2) Within 12 months after the date of enactment of the Pipeline Safety Improvement Act of 2001, 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.

''(3) 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.

''(b) EMERGENCY PREPAREDNESS.—

''(1) OPERATOR LIAISON.—Within 12 months after the date of enactment of the Pipeline Safety Improvement Act of 2001, an operator of a gas transmission or hazardous liquid pipeline facility shall initiate and maintain liaison with the State emergency response commissions, and local emergency planning committees in the areas of pipeline right-of-way, established under section 301 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11001) in each State in which it operates.

''(2) INFORMATION.—An operator shall, upon request, make available to the State emergency response commissions and local emergency planning committees, and shall make available to the Office of Pipeline Safety in a standardized form for the purpose of providing the information to the public, the information described in section 60102(d), the operator's program for integrity management, and information about implementation of that program. The information about the facility shall also include, at a minimum—

''(A) the business name, address, telephone number of the operator, including a 24-hour emergency contact number;

''(B) a description of the facility, including pipe diameter, the product or products carried, and the operating pressure;

''(C) with respect to transmission pipeline facilities, maps showing the location of the facility and, when available, any high consequence areas which the pipeline facility traverses or adjoins and abuts;

''(D) a summary description of the integrity measures the operator uses to assure safety and protection for the environment; and

''(E) a point of contact to respond to questions from emergency response representative.

''(3) SMALLER COMMUNITIES.—In a community without a local emergency planning committee, the operator shall maintain liaison with the local fire, police, and other emergency response agencies.

''(4) PUBLIC ACCESS.—The Secretary shall prescribe requirements for public access, as appropriate, to this information, including a requirement that the information be made available to the public by widely accessible computerized database.

''(c) COMMUNITY RIGHT TO KNOW.—Not later than 12 months after the date of enactment of the Pipeline Safety Improvement Act of 2001, and annually thereafter, the owner or operator of each gas transmission or hazardous liquid pipeline facility shall provide to the governing body of each municipality in which the pipeline facility is located, a map identifying the location of such facility. The map may be provided in electronic form. The Secretary may provide technical assistance to the pipeline industry on developing public safety and public education program content and best practices for program delivery, and on evaluating the effectiveness of the programs. The Secretary may also provide technical assistance to State and local officials in applying practices developed in these programs to their activities to promote pipeline safety.

''(d) PUBLIC AVAILABILITY OF REPORTS.—The Secretary shall—

''(1) make available to the public—

''(A) a safety-related condition report filed by an operator under section 60102(h);

''(B) a report of a pipeline incident filed by an operator;

''(C) the results of any inspection by the Office of Pipeline Safety or a State regulatory official; and

''(D) a description of any corrective action taken in response to a safety-related condition reported under subparagraph (A), (B), or (C); and

''(2) prescribe requirements for public access, as appropriate, to integrity management program information prepared under this chapter, including requirements that will ensure data accessibility to the greatest extent feasible.''.

(b) SAFETY CONDITION REPORTS.—Section 60102(h)(2) is amended by striking ''authorities.'' and inserting ''officials, including the local emergency responders.''.

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 601 is amended by striking the item relating to section 60116 and inserting the following:

''60116. Public education, emergency preparedness, community right to know.''.

SEC. 8. PENALTIES.

(a) CIVIL PENALTIES.—Section 60122 is amended—

(1) by striking ''$25,000'' in subsection (a)(1) and inserting ''$500,000'';

(2) by striking ''$500,000'' in subsection (a)(1) and inserting ''$1,000,000'';

(3) by adding at the end of subsection (a)(1) the following: ''The preceding sentence does not apply to judicial enforcement action under section 60120 or 60121.''; and

(4) by striking subsection (b) and inserting the following:

''(b) PENALTY CONSIDERATIONS.—In determining the amount of a civil penalty 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, 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 discount because of subsequent damages; and

''(B) other matters that justice requires.''.

(b) EXCAVATOR DAMAGE.—Section 60123(d) is amended—

(1) by striking ''knowingly and willfully'';

(2) by inserting ''knowingly and willfully'' before ''engages'' in paragraph (1); and

(3) striking paragraph (2)(B) and inserting the following:

''(B) a pipeline facility, is aware of damage, and does not report the damage promptly to the operator of the pipeline facility and to other appropriate authorities; or''.

(c) CIVIL ACTIONS.—Section 60120(a)(1) is amended to read as follows:

''(1) On 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 of this chapter, 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.''.

SEC. 9. STATE OVERSIGHT ROLE.

(a) STATE AGREEMENTS WITH CERTIFICATION.—Section 60106 is amended—

(1) by striking ''GENERAL AUTHORITY.—'' in subsection (a) and inserting ''AGREEMENTS WITHOUT CERTIFICATION.—'';

(2) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e); 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 of this title 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 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 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, 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, 2002, 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 2001 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), 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 the 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.''.

SEC. 10. IMPROVED DATA AND DATA AVAILABILITY.

(a) IN GENERAL.—Within 12 months after the date of enactment of this Act, the Secretary shall develop and implement a comprehensive plan for the collection and use of gas and hazardous liquid pipeline data to revise the causal categories on the incident report forms to eliminate overlapping and confusing categories and include subcategories. The plan shall include components to provide the capability to perform sound incident trend analysis and evaluations of pipeline operator performance using normalized accident data.

(b) REPORT OF RELEASES EXCEEDING 5 GALLONS.—Section 60117(b) is amended—

(1) by inserting ''(1)'' before ''To'';

(2) redesignating paragraphs (1) and (2) as subparagraphs (A) and (B);

(3) inserting before the last sentence the following:

''(2) A person owning or operating a hazardous liquid pipeline facility shall report to the Secretary each release to the environment greater than five gallons of the hazardous liquid or carbon dioxide transported. This section applies to releases from pipeline facilities regulated under this chapter. A report must include the location of the release, fatalities and personal injuries, type of product, amount of product release, cause or causes of the release, extent of damage to property and the environment, and the response undertaken to clean up the release.

''(3) During the course of an incident investigation, a person owning or operating a pipeline facility shall make records, reports, and information required under subsection (a) of this section or other reasonably described records, reports, and information relevant to the incident investigation, available to the Secretary within the time limits prescribed in a written request.''; and

(4) indenting the first word of the last sentence and inserting ''(4)'' before ''The Secretary'' in that sentence.

(c) PENALTY AUTHORITIES.—(1) Section 60122(a) is amended by striking ''60114(c)'' and inserting ''60117(b)(3)''.

(2) Section 60123(a) is amended by striking ''60114(c),'' and inserting ''60117(b)(3),''.

(d) ESTABLISHMENT OF NATIONAL DEPOSITORY.—Section 60117 is amended by adding at the end the following:

''(l) NATIONAL DEPOSITORY.—The Secretary shall establish a national depository of data on events and conditions, including spill histories and corrective actions for specific incidents, that can be used to evaluate the risk of, and to prevent, pipeline failures and releases. The Secretary shall administer the program through the Bureau of Transportation Statistics, in cooperation with the Research and Special Programs Administration, and shall make such information available for use by State and local planning and emergency response authorities and the public.''.

SEC. 11. RESEARCH AND DEVELOPMENT.

(a) INNOVATIVE TECHNOLOGY DEVELOPMENT.—

(1) IN GENERAL.—As part of the Department of Transportation's research and development program, the Secretary of Transportation shall direct research attention to the development of alternative technologies—

(A) to expand the capabilities of internal inspection devices to identify and accurately measure defects and anomalies;

(B) to inspect pipelines that cannot accommodate internal inspection devices available on the date of enactment;

(C) to develop innovative techniques measuring the structural integrity of pipelines;

(D) to improve the capability, reliability, and practicality of external leak detection devices; and

(E) to develop and improve alternative technologies to identify and monitor outside force damage to pipelines.

(2) COOPERATIVE.—The Secretary may participate in additional technological development through cooperative agreements with trade associations, academic institutions, or other qualified organizations.

(b) PIPELINE SAFETY AND RELIABILITY RESEARCH AND DEVELOPMENT.—

(1) IN GENERAL.—The Secretary of Transportation, in coordination with the Secretary of Energy, shall develop and implement an accelerated cooperative program of research and development to ensure the integrity of natural gas and hazardous liquid pipelines. This research and development program—

(A) shall include materials inspection techniques, risk assessment methodology, and information systems surety; and

(B) shall complement, and not replace, the research program of the Department of Energy addressing natural gas pipeline issues existing on the date of enactment of this Act.

(2) PURPOSE.—The purpose of the cooperative research program shall be to promote pipeline safety research and development to—

(A) ensure long-term safety, reliability and service life for existing pipelines;

(B) expand capabilities of internal inspection devices to identify and accurately measure defects and anomalies;

(C) develop inspection techniques for pipelines that cannot accommodate the internal inspection devices available on the date of enactment;

(D) develop innovative techniques to measure the structural integrity of pipelines to prevent pipeline failures;

(E) develop improved materials and coatings for use in pipelines;

(F) improve the capability, reliability, and practicality of external leak detection devices;

(G) identify underground environments that might lead to shortened service life;

(H) enhance safety in pipeline siting and land use;

(I) minimize the environmental impact of pipelines;

(J) demonstrate technologies that improve pipeline safety, reliability, and integrity;

(K) provide risk assessment tools for optimizing risk mitigation strategies; and

(L) provide highly secure information systems for controlling the operation of pipelines.

(3) AREAS.—In carrying out this subsection, the Secretary of Transportation, in coordination with the Secretary of Energy, shall consider research and development on natural gas, crude oil and petroleum product pipelines for—

(A) early crack, defect, and damage detection, including real-time damage monitoring;

(B) automated internal pipeline inspection sensor systems;

(C) land use guidance and set back management along pipeline rights-of-way for communities;

(D) internal corrosion control;

(E) corrosion-resistant coatings;

(F) improved cathodic protection;

(G) inspection techniques where internal inspection is not feasible, including measurement of structural integrity;

(H) external leak detection, including portable real-time video imaging technology, and the advancement of computerized control center leak detection systems utilizing real-time remote field data input;

(I) longer life, high strength, non-corrosive pipeline materials;

(J) assessing the remaining strength of existing pipes;

(K) risk and reliability analysis models, to be used to identify safety improvements that could be realized in the near term resulting from analysis of data obtained from a pipeline performance tracking initiative;

(L) identification, monitoring, and prevention of outside force damage, including satellite surveillance; and

(M) any other areas necessary to ensuring the public safety and protecting the environment.

(4) POINTS OF CONTACT.—

(A) IN GENERAL.—To coordinate and implement the research and development programs and activities authorized under this subsection—

(i) the Secretary of Transportation shall designate, as the point of contact for the Department of Transportation, an officer of the Department of Transportation who has been appointed by the President and confirmed by the Senate; and

(ii) the Secretary of Energy shall designate, as the point of contact for the Department of Energy, an officer of the Department of Energy who has been appointed by the President and confirmed by the Senate.

(B) DUTIES.—

(i) The point of contact for the Department of Transportation shall have the primary responsibility for coordinating and overseeing the implementation of the research, development, and demonstration program plan under paragraphs (5) and (6).

(ii) The points of contact shall jointly assist in arranging cooperative agreements for research, development and demonstration involving their respective Departments, national laboratories, universities, and industry research organizations.

(5) RESEARCH AND DEVELOPMENT PROGRAM PLAN.—Within 240 days after the date of enactment of this Act, the Secretary of Transportation, in coordination with the Secretary of Energy and the Pipeline Integrity Technical Advisory Committee, shall prepare and submit to the Congress a 5-year program plan to guide activities under this subsection. In preparing the program plan, the Secretary shall consult with appropriate representatives of the natural gas, crude oil, and petroleum product pipeline industries to select and prioritize appropriate project proposals. The Secretary may also seek the advice of utilities, manufacturers, institutions of higher learning, Federal agencies, the pipeline research institutions, national laboratories, State pipeline safety officials, environmental organizations, pipeline safety advocates, and professional and technical societies.

(6) IMPLEMENTATION.—The Secretary of Transportation shall have primary responsibility for ensuring the 5-year plan provided for in paragraph (5) is implemented as intended. In carrying out the research, development, and demonstration activities under this paragraph, the Secretary of Transportation and the Secretary of Energy may use, to the extent authorized under applicable provisions of law, contracts, cooperative agreements, cooperative research and development agreements under the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.), grants, joint ventures, other transactions, and any other form of agreement available to the Secretary consistent with the recommendations of the Advisory Committee.

(7) REPORTS TO CONGRESS.—The Secretary of Transportation shall report to the Congress annually as to the status and results to date of the implementation of the research and development program plan. The report shall include the activities of the Departments of Transportation and Energy, the national laboratories, universities, and any other research organizations, including industry research organizations.

SEC. 12. PIPELINE INTEGRITY TECHNICAL ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—The Secretary of Transportation shall enter into appropriate arrangements with the National Academy of Sciences to establish and manage the Pipeline Integrity Technical Advisory Committee for the purpose of advising the Secretary of Transportation and the Secretary of Energy on the development and implementation of the 5-year research, development, and demonstration program plan under section 11(b)(5). The Advisory Committee shall have an ongoing role in evaluating the progress and results of the research, development, and demonstration carried out under that section.

(b) MEMBERSHIP.—The National Academy of Sciences shall appoint the members of the Pipeline Integrity Technical Advisory Committee after consultation with the Secretary of Transportation and the Secretary of Energy. Members appointed to the Advisory Committee should have the necessary qualifications to provide technical contributions to the purposes of the Advisory Committee.

SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

(a) GAS AND HAZARDOUS LIQUIDS.—Section 60125(a) is amended to read as follows:

''(a) GAS AND HAZARDOUS LIQUID.—To carry out this chapter and other pipeline-related damage prevention activities of this title (except for section 60107), there are authorized to be appropriated to the Department of Transportation—

''(1) $26,000,000 for fiscal year 2002, of which $20,000,000 is to be derived from user fees for fiscal year 2002 collected under section 60301 of this title; and

''(2) $30,000,000 for each of the fiscal years 2003 and 2004 of which $23,000,000 is to be derived from user fees for fiscal year 2003 and fiscal year 2004 collected under section 60301 of this title.''.

(b) GRANTS TO STATES.—Section 60125(c) is amended to read as follows:

''(c) STATE GRANTS.—Not more than the following amounts may be appropriated to the Secretary to carry out section 60107—

''(1) $17,000,000 for fiscal year 2002, of which $15,000,000 is to be derived from user fees for fiscal year 2002 collected under section 60301 of this title; and

''(2) $20,000,000 for the fiscal years 2003 and 2004 of which $18,000,000 is to be derived from user fees for fiscal year 2003 and fiscal year 2004 collected under section 60301 of this title.''.

(c) OIL SPILLS.—Sections 60525 is amended by redesignating subsections (d), (e), and (f) as subsections (e), (f), (g) and inserting after subsection (c) the following:

''(d) OIL SPILL LIABILITY TRUST FUND.—Of the amounts available in the Oil Spill Liability Trust Fund, $8,000,000 shall be transferred to carry out programs authorized in this Act for fiscal year 2002, fiscal year 2003, and fiscal year 2004.''.

(d) PIPELINE INTEGRITY PROGRAM.—(1) There are authorized to be appropriated to the Secretary of Transportation for carrying out sections 11(b) and 12 of this Act $3,000,000, to be derived from user fees under section 60125 of title 49, United States Code, for each of the fiscal years 2002 through 2006.

(2) 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 to carry out programs for detection, prevention and mitigation of oil spills under sections 11(b) and 12 of this Act for each of the fiscal years 2002 through 2006.

(3) There are authorized to be appropriated to the Secretary of Energy for carrying out sections 11(b) and 12 of this Act such sums as may be necessary for each of the fiscal years 2002 through 2006.

SEC. 14. OPERATOR ASSISTANCE IN INVESTIGATIONS.

(a) IN GENERAL.—If the Department of Transportation or the National Transportation Safety Board investigate an accident, the operator involved shall make available to the representative of the Department 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 inserting ''(1)'' after ''CORRECTIVE ACTION ORDERS.—''; and

(2) by adding at the end the following:

''(2) 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—

''(A) the Secretary determines that the employee's performance of duty in carrying out the activity 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 4 of the Pipeline Safety Improvement Act of 2001 and can safely perform those activities.

''(3) Disciplinary action taken by an operator under paragraph (2) shall be in accordance with the terms and conditions of any applicable collective bargaining agreement to the extent it is not inconsistent with the requirements of this section.''.

SEC. 15. 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 PIPELINE EMPLOYEES.—No pipeline operator or contractor or subcontractor of a pipeline may discharge an employee or otherwise discriminate against an employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee)—

''(1) provided, caused to be provided, or is about to provide (with any knowledge of the employer) or cause to be provided to the employer or Federal Government information relating to any violation or alleged violation of any order, regulation, or standard of the Research and Special Programs Administration or any other provision of Federal law relating to pipeline safety under this chapter or any other law of the United States;

''(2) has filed, caused to be filed, or is about to file (with any knowledge of the employer) or cause to be filed a proceeding relating to any violation or alleged violation of any order, regulation, or standard of the Administration or any other provision of Federal law relating to pipeline safety under this chapter or any other law of the United States;

''(3) testified or is about to testify in such a proceeding; or

''(4) assisted or participated or is about to assist or participate in such a proceeding.

''(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 90 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 named in the complaint and the Administrator of the Research and Special Programs Administration 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 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 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 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 alleged to have committed a violation of subsection (a) of the Secretary'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 shall accompany the Secretary's findings with a preliminary order providing the relief prescribed by paragraph (3)(B). Not later than 30 days after the date of notification of findings under this paragraph, either the person alleged to have committed the 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 30-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 paragraphs (1) through (4) of 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 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 may determine that a violation of subsection (a) has occurred only if the complainant demonstrates that any behavior described in paragraphs (1) through (4) of 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 120 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 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 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 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 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 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 employee of a pipeline, contractor or subcontractor who, acting without

direction from the pipeline contractor or subcontractor (or such person's agent), deliberately causes a violation of any requirement relating to pipeline safety under this chapter or any other law of the United States.

''(e) CONTRACTOR DEFINED.—In this section, the term 'contractor' means a company that performs safety-sensitive functions by contract for a pipeline.''.

(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 chapter analysis for chapter 601 is amended by adding at the end the following:

''60129. Protection of employees providing pipeline safety information.''.

SEC. 16. 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. 17. FINES AND PENALTIES.

The Inspector General of the Department of Transportation shall conduct an analysis of the Department's assessment of fines and penalties on gas transmission and hazardous liquid pipelines, including the cost of corrective actions required by the Department in lieu of fines, and, no later than 6 months after the date of enactment of this Act, shall provide a report to the Senate Committee on Commerce, Science, and Transportation and the House Committee on Transportation and Infrastructure on any findings and recommendations for actions by the Secretary or Congress to ensure the fines assessed are an effective deterrent for reducing safety risks.

SEC. 18. STUDY OF RIGHTS-OF-WAY.

The Secretary of Transportation is authorized to conduct a study on how best to preserve environmental resources in conjunction with maintaining pipeline rights-of-way. The study shall recognize pipeline operators' regulatory obligations to maintain rights-of-way and to protect public safety.

COMMENDING GEORGIA SOUTHERN UNIVERSITY EAGLES FOOTBALL TEAM

Mr. THOMAS. Mr. President, I ask unanimous consent that the Senate proceed to consideration of S. Res. 14, introduced earlier today by Senators CLELAND and MILLER.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 14) commending the Georgia Southern University Eagles football team for winning the 2000 NCAA Division I–AA football championship.

There being no objection, the Senate proceeded to consider the resolution.

Mr. THOMAS. I ask unanimous consent that the resolution and the preamble be agreed to en bloc, the motion to reconsider be laid upon the table, any statements relating to the resolution shall be placed in the appropriate place as if read, with the above occuring with no intervening action.

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

The resolution (S. Res. 14) was agreed to.

The preamble was agreed to.

(The resolution, with its preamble, is printed in today's RECORD under ''Senate Resolutions.'')

ORDERS FOR WEDNESDAY, JANUARY 24, 2001

Mr. THOMAS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 10 a.m. on Wednesday, January 24. I further ask consent that on Wednesday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business until 11 a.m. with Senators speaking for up to 10 minutes each, with the following exceptions: Senator DURBIN or his designee, 10 o'clock to 10:30; Senator MURKOWSKI, 10:30 to 10:50; Senator COLLINS, 10:50 to 11 o'clock.

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

Mr. THOMAS. Further, I ask consent at 11 a.m. the Senate resume consideration of the Thompson nomination and Senators GRASSLEY, BAUCUS, and KENNEDY be in control of 10 minutes each prior to the vote on the nomination.

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

PROGRAM

Mr. THOMAS. For the information of all Senators, the Senate will be in a period of morning business until 11 a.m. tomorrow. Following morning business, the Senate will resume consideration of the Thompson nomination for approximately 30 minutes. A vote has been scheduled to occur on the nomination at 11:30 by previous consent. Senators should be aware that the Senate may also consider other nominations during tomorrow's session of the Senate.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. THOMAS. If there be no further business to come before the Senate, I now ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 5:26 p.m., adjourned until Wednesday, January 24, 2001, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate January 23, 2001:

EXECUTIVE OFFICE OF THE PRESIDENT

MITCHELL E. DANIELS, JR., OF INDIANA, TO BE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

DEPARTMENT OF VETERANS AFFAIRS

ANTHONY JOSEPH PRINCIPI, OF CALIFORNIA, TO BE SECRETARY OF VETERANS AFFAIRS.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

MELQUIADES RAFAEL MARTINEZ, OF FLORIDA, TO BE SECRETARY OF HOUSING AND URBAN DEVELOPMENT.