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House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, October 16, 2001, at 12:30 p.m.

Senate

MONDAY, OCTOBER 15, 2001

The Senate met at 3:30 p.m. and was called to order by the President pro tempore [Mr. BYRD].

PRAYER

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

Loving Father, as the war against terrorism continues, and now takes on even more immediate dangers here in the United States Senate, we cry out to You for Your protection and Your power. Protect the Senators and all of us who work with and for them from the insidious threats of bio-terrorism. Calm our nerves; replace panic with Your peace. Especially we pray for our Majority Leader TOM DASCHLE and his staff in this time of examination of the possible threat to their health from today's incident. Help us all to be alert to further dangers, but give us courage to press on in our work with a renewed commitment to serve our Nation here in the Senate with even greater patriotism than ever before. You have promised to be with us in our times of greatest need. We need You now, dear God. You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

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

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, with Senators permitted to speak therein for up to 10 minutes each.

APPOINTMENTS

The PRESIDENT pro tempore. The Chair, on behalf of the Republican leader, pursuant to Public Law 100–696, announces the appointment of the Senator from Utah, Mr. BENNETT, as a member of the United States Capitol Preservation Commission; vice the Senator from Illinois, Mr. DURBIN.

The Chair, pursuant to Public Law 100–696, appoints the following Senators as members of the United States Capitol Preservation Commission:

The Senator from Illinois, Mr. DURBIN; vice the Senator from Utah, Mr. BENNETT.

The Senator from Nevada, Mr. REID; vice the Senator from Ohio, Mr. DEWINE.

RECOGNITION OF THE ACTING MAJORITY LEADER

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

SCHEDULE

Mr. REID. Mr. President, first of all, the Senate will be in a period of morning business until 4:30 this afternoon. At 4:30, the Senate will resume consideration of the motion to proceed to H.R. 2506, the Foreign Operations Appropriations Act, with the time until 5:30 evenly divided between the chairman, Senator LEAHY, and the ranking member, Senator MCCONNELL. We will have a cloture vote at 5:30.

THE RECENT FOCUS ON ISLAM

Mr. REID. Mr. President, during this time of trouble, since September 11, there has been a lot of attention focused on Islam. I can say that I have had some exposure to this religion. It is a religion that builds great character. It is a religion that has a very fine health code. It is basically a very good religion. My wife, who has had some illness in her time, has two physicians who are Muslims. They are wonderful men. They are close friends. One is an internist and one is a surgeon. Her family physician—the person who takes care of her more often than not—is Dr. Anwar. Her surgeon is Dr. Khan. I have been in their homes on several occasions, going back almost 20 years—well, more than that, 25 years. We are social friends. I have had the pleasure of going to their beautiful new mosque in Las Vegas, where these two men and their families worship.

We in America, this past 4 weeks, have come to better understand this religion. But we have a lot more that we need to understand. I received a letter—and I am sure other Senators received the same letter—which I would like to read into the RECORD. It is a letter addressed to me, dated September 14, 2001. It says:

Honorable Senator: We are writing this letter in light of the horrific tragedy that

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

struck America on September 11, 2001. We would like to extend our heartfelt sympathies and condolences to families of all civilians and rescue workers who lost their loved ones in the tragedy. May Allah bless them and give them courage during this time of grief and extreme sadness. We also pray for the steady and early recovery of individuals who suffered injuries as a result of the incident.

We would like you to know that although perpetrators of such heinous crimes more often than not justify these acts in the name of religion, we do not support their ideas. Islam for instance, condemns senseless acts of violence against fellow human beings. As the Qur'an so aptly states in Chapter 5, vs. 32, ''For that cause we decreed for the children of Israel that whosoever killeth a human being for other than manslaughter or corruption in the earth, it shall be as if he had killed all mankind, and whoso saveth the life of one, it shall be as if he had saved the life of all mankind.'' All in all, Islam values human life and applauds its preservation rather than its destruction. It is a religion that preaches peace, love, justice and tolerance for people from all walks of life.

Moreover, we would like to clarify a misconception that many people harbor in their minds about Islam. Islam is not a religion that was founded by Prophet Muhammad rather, it is a continuation of the earlier Revelations that were made to Prophets Abraham (Ibrahim), David (Dawood), Moses (Musa) and Jesus (Issa) in the Torah and the Bible, Prophet Mohammed was the last Prophet though whom the Final Revelation was made—that Final Revelation is the Qur'an. On that note, please accept the enclosed copy of the Holy Qur'an as a token of our support.

I do have that and I have read part of that since having received it.

The letter goes on:

Finally, we would like to applaud the tireless rescue efforts that have been underway for the past few days and also pray for all those who are involved in this mission and wish them every success.

Signed by Aunali Khalfan, who is with the Tahrike Tarsile Qur'an, Inc., based in Elmhurst, NY.

I believed it was appropriate to spread across the RECORD of this Senate this very thoughtful letter that I received hoping it will lead to a better understanding of this very fine religion which 6 million Americans follow, the teachings of Islam.

I ask unanimous consent—I see my friend from Alaska here—that I be allowed 10 more minutes to complete a statement on another subject.

The PRESIDENT pro tempore. Is there objection?

Hearing no objection, the Senator from Nevada is recognized for 10 additional minutes.

SENATE BUSINESS

Mr. REID. Mr. President, last week the Senate continued demonstrating its resolve to move forward in a bipartisan manner, following on the footsteps of the resolution allowing force, the $40 billion for New York-related matters, moneys that were made available, and the airline bailout, costing billions of additional dollars, plus legislation which allowed relief for those people who were injured physically and killed in that incident. Last week we moved even further; we passed a very strong aviation security bill and extremely tough antiterrorism legislation. I believe this sends a strong message to those who are watching our Nation's response to the attacks of September 11.

Everywhere I go—and I am sure it is the same with the President pro tempore and my friend from Alaska who is in the Chamber—people are amazed and appreciative of the bipartisanship that has been shown these past 5 weeks. People all over America—Nevada is no exception—hope we can maintain this bipartisanship and pass legislation that is good for this country.

If there is legislation that passes that is good, everyone can take credit for that, but if we do not pass legislation that is necessary for the well-being of this country, everyone rightfully has to take blame for that.

We as Democrats are working closely with the President to provide our military with the support it needs to fight this war against terrorism. We are working with our Republican colleagues on the other side of the aisle. We are proceeding with the proper amount of caution and purpose, but we are meeting our obligation to complete our work in an orderly manner. I hope that can continue this week.

The reason I say that is we are voting at 5:30 p.m. today on something I think is totally unnecessary. We are trying to move forward and complete our appropriations bills. We have an extremely important piece of legislation. It is the foreign operations appropriations bill that funds our involvement in the world. It is one of the 13 appropriations bills. We were unable to move to that last week. We had to file a cloture motion on a motion to proceed to the legislation.

That is just wrong, and to the people who are causing us to go through these procedural hoops to get to this legislation, I have to say respectfully, it is not good for this country. Why are they not allowing us to go forward on this most important legislation? Because they say we are not approving enough judges.

Senator LEAHY, who is an outstanding Member of this Senate—there is not a better patriot anyplace in America than PAT LEAHY—working with the ranking member, ORRIN HATCH, has been working very hard. Antiterrorism legislation has taken up every spare minute they have had, but in spite of that, they also have been able to report out some judges.

Maybe it is not enough. I am willing to accept maybe it is not enough, but work with us and let's get some more done.

What we could have said was we were not going to have any more judges until you allowed us to go forward on these appropriations bills. We have not done that. Whenever judges are ready to move through the Senate, we approve them. We approved two last week. More are going to be ready this week. We are going to approve those judges in spite of what I believe is a wrongheaded legislative tactic on behalf of some people in the minority.

We have to complete action on these annual appropriations bills. There is no more reassuring message we can send to the American people than to pass these bills.

Now, more than ever, people are turning to government, especially the Federal Government, for assurances that we are ready to respond to anything. Certainly we should be able to do the basic things this Government has to do every year; that is, pass these appropriations bills. Keeping our Government open and running can only be accomplished with the passage of these appropriations bills. To not act on these bills now is irresponsible. We are trying to be responsible.

The Presiding Officer is the chairman of the Appropriations Committee. It is a distinct honor to be chairman of that Appropriations Committee, no question, but there is no one in the United States who has more knowledge of the legislative process than the President pro tempore. I cannot imagine how he must feel in that we are not able to move forward on these appropriations bills—held up over somebody thinking we are not approving enough judges.

The American people have a lot of problems on their minds right now, but I bet there are very few who are concerned about us not having more judges. I have yet to have anybody from Nevada say: Could you get us some more judges? And Nevada is the most rapidly growing State in the Nation. We have two judges who are in the pipeline. They are going to be approved, Mr. President. I am not worried about it.

My two friends are going to be judges: Mr. Hicks and Judge Mayhan. They are going to be approved. These people are not doing those two men any favors by holding up these appropriations bills.

Secretary Powell, Secretary Rumsfeld, Secretary Thompson, and Attorney General Ashcroft are not worrying about whether there are enough judges. Some believe this is our way to get us some more judges.

Senator DASCHLE, the majority leader, and I have said on many occasions, this is not payback time as to the fact we did not get many judges. We are approving the judges as quickly as we can. I am sure there was more that could have been done in the Judiciary Committee. Maybe Senator LEAHY and Senator HATCH should have set aside some of the antiterrorism work they were doing and moved on some of these judges. As one of my children would say: Give us a break; we are doing our best. This is not good government. I hope we can move forward on at least a motion to proceed today so we can get this legislation out of the way.

I see my friend—as I have said a couple times today—from Alaska. I am

sure, if I know him, he is going to be talking about energy policy. There is not a chance we can do any energy legislation until we finish our appropriations bills. Senator DASCHLE has said he will at the earliest possible time move to energy, but we cannot do that until we finish our appropriations work. We have conferences we have to complete. We have bills we have to pass.

We have some complicated bills. We have the Defense appropriations bill, Labor-HHS. When they come to the floor, we cannot finish those in an hour. These are very difficult bills involving billions and billions of dollars. All we are saying to those who are holding this legislation up because of judges: Let us do our work.

We have matched circuit judges who were approved during the first Clinton administration. We can prove anything with statistics. They can prove anything with statistics; we can prove anything with statistics.

All I am saying is, as a matter of common sense, let us move forward on appropriations bills. There is a time and a place for everything. I do not think this is the time to hold up legislation because we are not moving enough judges. We are moving judges. As I said before, we are moving all the judges we can clear. We could have held those back, but we are not doing that. We are moving forward. This is not the time to horse trade on judges. This is the time to keep our Government open and running, not on a week-to-week basis, but get it done for the next year.

The public deserves to see stability and responsiveness from its elected leaders. Passing appropriations bills in an orderly manner sends just that message.

I hope we can move forward with other appropriations bills. We could finish foreign operations maybe tonight or tomorrow. Certainly we should move forward. We have to do an agricultural appropriations bill. We have many people coming from the heartland of this country who are extremely desperate to get a new agricultural bill. We cannot do that until we finish the appropriations bills.

Mr. DORGAN. Mr. President, will the Senator from Nevada yield for a question?

Mr. REID. I will be happy to yield to my friend from North Dakota for a question.

Mr. DORGAN. Mr. President, the Senator from Nevada talks about the importance of moving the appropriations bills. I observe the deadline for the appropriations bills was October 1. The deadline was October 1, and the chairman of the Appropriations Committee and the ranking member have done everything humanly possible to try to move these bills, and yet we discover we cannot even get past the motion to proceed on an appropriations bill, which is just unthinkable to me.

Is it not the case we had to break a filibuster on the motion to proceed not just on appropriations bills but even on the aviation security bill and the bill before that?

This is not a time to be having filibusters on motions to proceed. Will the Senator from Nevada agree with that?

The PRESIDENT pro tempore. The time of the Senator from Nevada has expired.

Mr. REID. I ask unanimous consent to have time to answer my friend's question.

The PRESIDENT pro tempore. How much time?

Mr. REID. Two minutes.

The PRESIDENT pro tempore. Without objection, the Senator is recognized for 2 minutes.

Mr. REID. I also express my appreciation to my friend from Alaska for allowing me to proceed.

I say to my friend from North Dakota, the distinguished Senator, this is not the time to play legislative games. Yes, it is true that to move forward on airport security we had to break a filibuster. Hard to believe, but that is true.

I stated, before the Senator arrived, that I believe the majority has set an example of bipartisanship. Senator DASCHLE has gone out of his way to work with the President of the United States. They have developed a very fine relationship. They talk several times a day on this country's business. I think the very least we could do is move forward on the appropriations bills.

Mr. DORGAN. Mr. President, will the Senator yield for one additional question?

Mr. REID. I will be happy to yield.

Mr. DORGAN. As a member of the Appropriations Committee, let me say there is no more bipartisan committee in the Congress than the Senate Appropriations Committee. These are Republicans and Democrats working together in a very significant way. It is completely bipartisan in its culture, and I am proud to be a part of that.

I am proud to be on the Appropriations Committee. It is just disappointing that the appropriations bills Senator BYRD and Senator STEVENS have helped us fashion can now not be brought to the floor because of people blocking the motion to proceed. That does not serve the Senate's interests, and it does not serve the country's interests. My hope is those who are blocking this will decide that they should step aside and allow us to do the Appropriations Committee's work. It is very important we do that. It is important for us, and it is certainly important for the country.

I appreciate the Senator from Nevada yielding.

The PRESIDENT pro tempore. The majority leader.

FIELD TESTS CONFIRM PRESENCE OF ANTHRAX

Mr. DASCHLE. Mr. President, I will use some of my leader time. I think this is an appropriate time to inform my colleagues about the events of the day, and I want to take just a couple of minutes to do so at this time.

At about 10:15 this morning, a member of my staff opened an envelope. It became clear from the very beginning that the envelope contained a suspicious substance. My office notified the Capitol Police and the Capitol physician, who responded almost instantaneously. The tests were taken immediately. They call them field tests. Two field tests were taken on the scene. Both tests confirmed the substance was anthrax. I say ''confirmed'' advisedly because a far more sophisticated test is underway. We will not have that information available for approximately 24 hours.

Based upon the preliminary tests, members of my staff most directly involved were tested and given an antibiotic. The office was quarantined, and all mail from our office was returned. I immediately contacted the other leaders to inform them of the incident.

The President happened to be calling at that point, and I informed him as well. I say the antibiotic is so effective it is 100-percent successful in killing the bacteria once that bacteria has been released. So we are supremely confident of our ability to deal with circumstances such as this.

I must compliment the Sergeant at Arms, the Capitol Police, and our Capitol physician for their extraordinary response, organizationally and medically. I am very grateful to all of those who have been involved so far.

The office has been quarantined and will not be open for several days as the office cleanup takes place. We have asked that all offices return all mail, and that is being done this afternoon. We will have meetings in our caucuses tomorrow wherein we will hear from the Sergeant at Arms, the Capitol Police, the Capitol physician, and others who will brief us about the specific ramifications of incidents such as this.

I will say, however—it is very important to me, and I have talked to Senator LOTT and to many of my colleagues—this Senate and this institution will not stop. We will not cease our business. We will continue to work.

I am confident we can put in place practices that will minimize the exposure to any danger our staff may have to endure. I am especially confident about our ability to respond as we have today.

So our work will continue. We will be in session tomorrow. I hope all offices will conduct their business as we would expect them to conduct it, with the exception of my office, until the inspection and the investigation and the cleanup can take place.

I also want to express my heartfelt sympathy to my staff for what they have had to endure. I have been in contact with many of the families of my staff throughout the day, and while this has been an extraordinary experience for each of them, I am proud of the way they have handled themselves.

I am proud of the attitude they bring even now to their work and to their mission, and I am especially proud of the fact that under these circumstances they have been so responsive, courageous, and upbeat.

I simply want to encourage all colleagues to continue to conduct their work with the knowledge that we are taking every step and we will take additional steps as we become more aware of what can be done in a preventive way to deal with these circumstances in the future.

I yield the floor.

The PRESIDENT pro tempore. The Senator from Alaska, Mr. MURKOWSKI.

Mr. MURKOWSKI. I thank the Chair.

In regard to the comments by the majority leader, when I left my office we had found a very strange envelope, which appeared with no postage, that was apparently left in the office with no identification. We contacted the Capitol Police and were advised there would be someone on the scene very soon.

When I left the office, the police were in the office. They were waiting for the specialist to come over to identify the particular envelope. We were advised at that time we were No. 12 on the list of official notices that had been given to the Capitol Police relative to strange, unidentified postal packages or letters that have come in.

I wish to emphasize we have no indication of what was in this particular article. It was not mailed. It did not have stamps. Nevertheless, I think it represents the precautions that are necessary to be taken.

Again, I do not want to alarm anyone, but I commend the Capitol Police for the manner in which they came on the scene with instructions. I think all offices received instructions today on how to handle mail.

Mr. President, I ask unanimous consent that I may speak as in morning business for 15 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Alaska is recognized for 15 minutes.

NOMINATIONS

Mr. MURKOWSKI. Mr. President, I listened very carefully to the comments from the majority whip relative to the next business at hand, the foreign operations appropriations bill and the issue of holding that up because of judges. It is my understanding that there are 52 judges in committee. Currently, 8 have been passed out of committee. It seems the committees could work more expeditiously to get the judges out of committee so we can address them. I understand 12½ percent of all Federal judicial positions are open at this time. As I indicated, there are 52 pending nominations with only 8 confirmations.

The reality is the committees have a lot of work to do. I encourage, as a consequence of that, they be expeditious so we can get on with the business at hand.

HOMELAND ENERGY SECURITY

Mr. MURKOWSKI. Mr. President, I will be speaking each day this week on the issue of homeland energy security. I have come before the Senate on many occasions to discuss our needs for national energy in this country, some form of a national energy policy. I think my colleagues' focus for the most part is on the issue of opening and exploring that small sliver of the 19 million acres known as ANWR, an area the size of the State of South Carolina. This is a sliver because it represents roughly 1.5 million acres open for exploration that only Congress can allow, and the realization in the House-passed bill that there was only an authorization of 2000 acres, not much bigger than a small farm. This is the issue of opening up ANWR in my State of Alaska.

Last spring, for example, Senator BREAUX and I proposed a comprehensive bipartisan energy policy with some 300 pages. All that most people focused on was the two pages remitted to opening ANWR. I am a man of few words. It is fair to say some of the radical environmental groups have used ANWR as a cash cow in that they have milked it for all it is worth from the standpoint of membership and dollars. It is a great issue because it is far away—the American people cannot see for themselves and understand and appreciate the dimension, size, and magnitude nor the response we had in producing Prudhoe Bay, which could be transferred to the ANWR area.

ANWR will be opened. The radical environmental groups will move on to another issue in the course of future action. Nevertheless, this discussion is not just about ANWR. I am not in favor of opening ANWR simply because it is the right thing to do for my State or it is the right thing to do for the Nation. My concern with our increasing dependence on unstable sources of energy is not a smokescreen for narrow political gain. I am in fear of opening ANWR simply as an integral part of our overall energy strategy, a policy balance between production and conservation.

I was pleased to note the President's remarks a few days ago when he commented: There are two other aspects of a good, strong, economic stimulus package, one of which is trade promotion authority, and the other is an energy bill. Now there was a good energy bill passed out of the House of Representatives, and the reason it passed is because Members of both parties understood an energy bill was not only good for jobs or stimulus, it is important for our national security to have a good energy policy.

I urge the Senate to listen to the will of the Senators and move a bill that will help Americans find work and also make it easier for all of us around this table to protect the security of the country. The less dependent we are on foreign sources of crude oil, the more secure we are at home. We have spent a lot of time talking about homeland security. An integral piece of homeland security is energy independence, and I will ask the Senate to respond to the call to get an energy bill moving.

The facts speak for themselves. In 1973, we were 37 percent dependent on foreign oil and the Arab oil embargo brought us to our knees. How quickly we forget about gas lines around the block. In 1991, we fought a war with Iraq largely over oil. We spent billions and billions of dollars to keep Saddam Hussein in check largely in order to keep a stable source of supply coming from the Persian Gulf.

I ask unanimous consent to have printed in the RECORD an editorial from October 11 in the Washington Post by Robert Samuelson.

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

[From the Washington Post, Oct. 11, 2001]

NOW DO WE GET SERIOUS ON OIL?

(By Robert J. Samuelson)

If politics is the art of the possible, then things ought to be possible now that weren't before Sept. 11. Or perhaps not. For three decades, Americans have only haphazardly tried to fortify themselves against a catastrophic cutoff of oil from the Middle East, which accounts for about a third of world production and two-thirds of known reserves. Little seems to have changed in the past month, although the terrorism highlighted our vulnerability. Oil is barely part of the discussion.

Over the past 30 years, we have suffered Middle East supply disruptions caused by the Yom Kippur War of 1973, the fall of the shah of Iran in 1979 and Iraq's invasion of Kuwait in 1990. We have fought one war for access to oil—the Persian Gulf War. How many times do we have to be hit before we pay attention? No one can foresee what might lead to a huge supply shutdown or whether the present attack on Afghanistan might trigger disastrous changes. A collapse of the Saudi regime? A change in its policy? Massive sabotage of pipelines? Another Arab-Israeli war? Take your pick.

Even if we avoid trouble now, the threat will remain. In 2000 the United States imported 53 percent of its oil; almost a quarter of that came from the Persian Gulf. Weaning ourselves from Middle Eastern oil would still leave us vulnerable, because much of the rest of the industrial world—Europe, Japan, Asia—needs it. Without it, the world economy would collapse. Of course, countries that have oil can't benefit from it unless they sell it. The trouble is they can sell it on their terms, which might include a large measure of political or economic blackmail.

They, too, run a risk. Oil extortion might provoke a massive military response. It is precisely because the hazards are so acute and unpredictable for both sides that Persian Gulf suppliers have recently tried to separate politics from oil decisions. (Indeed, prices have dropped since the terrorist attacks.) But in the Middle East, logic is no defense against instability. We need to make it harder for them to use the oil weapon and take steps to protect ourselves if it is used.

The outlines of a program are clear:

Raise CAFE (''corporate average fuel economy'') standards. America's cars and light

trucks—pickups, minivans and sport-utility vehicles—consume a tenth of annual global oil production, about 8 million barrels a day out of 77 million. Tempering oil demand requires lowering the thirst of U.S. cars. The current CAFE standards are 27.5 miles per gallon for cars and 20.7 mpg for light trucks. With existing technologies, fuel economy could be raised by 17 percent to 36 percent for cars and by 27 percent to 47 percent for light trucks without harming safety and performance, according to the National Research Council. Changes would have to occur over a decade to give manufacturers time to convert.

Impose a gasoline or energy tax. People won't buy fuel-efficient vehicles unless it pays to do so. Cheap gasoline prices also cause people to drive more. An effective tax would be at least 35 cents to 50 cents a gallon. It ought to be introduced over two or three years beginning in 2003. (To impose the tax would worsen the recession.) A 50-cent-a-gallon tax might raise about $60 billion a year. Some of this might be returned in other tax cuts; some might be needed to cover higher defense and ''homeland security'' costs.

Relax restrictions against domestic drilling. The other way to dampen import dependence is to raise domestic production. It peaked in 1970 and since then has dropped about 28 percent. The easiest way to cushion the decline is to open up areas where drilling is now prohibited, including the Arctic National Wildlife Refuge (ANWR) and areas off both the Atlantic and Pacific coasts. This would aid both oil and natural gas production.

Expand the Strategic Petroleum Reserve. Tapping the SPR is the only way to offset a huge oil loss until a military or diplomatic solution is reached. Created in 1975, the SPR was envisioned to reach 1 billion barrels. At the end of 2000, it had 541 million barrels, roughly where it was in 1992. The failure to increase the SPR in the Clinton years was astonishingly shortsighted. When oil prices are low—as now—the SPR should be slowly expanded to at least 2 billion barrels. Other industrial countries should also raise their oil stocks.

What prevents a program such as this is a failure of political imagination. There ought to be a natural coalition between environmentalists and defense groups. Environmentalists want to reduce air pollution and greenhouse gas emissions. Defense groups want to limit our vulnerability to oil cutoffs or blackmail. A common denominator is the need to control cars' gasoline use. But these groups aren't allies, because their dogmas discourage compromise. Environmentalists don't like more drilling in places such as ANWR, despite modest environmental hazards; and defense types (read: the Bush administration) want to expand production and dislike CAFE, because it compromises the freedom they seek to defend. Both shun unpopular energy taxes.

The American way of life doesn't depend on $1 or $1.50 gasoline. It does depend on reliable sources of energy. Unless vast reserves are discovered outside the Middle East—or new technologies eliminate the need for oil—the world's dependence on fuel from the Persian Gulf seems destined to grow. The dangers have been obvious for years, and our failure to react ought to be a source of deep national embarrassment. This is a long-term problem; anything we do now won't have significant effects for years. But if we fail to heed the latest warning, the neglect would be almost criminal.

Mr. MURKOWSKI. In this article he rightly points out:

Even if we avoid trouble now, the threat will remain. In 2000 the United States imported 53 percent of its oil.

I pointed out that factually, it was 56 percent and will be closer to 62 percent in the next few years, according to the Department of Energy, with the biggest increase coming from the Persian Gulf. Mr. Samuelson points out the terrible threat to our economic stability created by this state of affairs.

I don't necessarily draw the same conclusions, but I agree we need a comprehensive program to address the situation. There are those who tried to shut down the discussion on energy that are so bound to narrow parochial interests of one group that they refuse to address the clear and evident need for energy now. What we need is a balanced policy based on conservation and increasing our own domestic production. These are solutions that are available and as a consequence we must look to develop these solutions—not a moratorium on discussion of what that balance will mean. I fear we will not address this situation until it is too late. That seems to be the case.

I fear the United States is in denial about the reality of the situation. What is it going to take to wake up? Is it going to take another crisis, the overthrow of our friends in the gulf? We know that Saudi Arabia, one of our staunchest allies in the gulf, has told the United States that it is unable to cooperate in freezing the assets of bin Laden and his associates. What kind of signal does that send us? The money supply is his lifeline. Evidently, bin Laden is still intact. The Saudi regime is providing little help to Federal investigators with background checks on suspected terrorists. The Saudi Government, as we have learned, has also asked Britain's Prime Minister, Tony Blair, to stay away for the time being and not visit the Kingdom as part of its efforts to build support for the international coalition against terrorism. What kind of a signal is that? I understand why the Saudi regime is uncomfortable with being helpful in our efforts to track down bin Laden, and I can understand why the Saudis are uncomfortable, seemingly overfriendly to the United States at this time. There is a sizable constituency in Saudi Arabia that supports bin Laden, and we know that.

By overtly choosing sides against him, the regime would endanger its own rule. But by siding with the United States, the Saudis risk an uprising which could make the ones going on in Pakistan, Israel, and Indonesia right now look very tame.

The Saudis are rightly worried about their political future, and I can understand that. But I also suggest if the Saudis are worried about the stability of their regime, then we should be worried, too. If the Saudis, from whom we get 16 percent of our oil, view our close relationship as destabilizing, we should, too.

It is interesting to look at where we get our oil. Let me show you this chart. This is pretty much where the inputs into the United States come from. There are about 6 million barrels a day coming into the United States. Saudi Arabia is the largest contributor at about 1.7 million barrels, then Libya, Nigeria, Venezuela, Indonesia, Bahrain, Iraq, Kuwait, the United Arab Emirates, Qatar, and so forth.

The interesting thing is the significance of the oil that we seem to be getting from Iraq. It is a little over 1 million barrels a day. It was 862,00O. Lest we forget, we are enforcing a no-fly zone over Iraq. From our friend Saddam Hussein, who since the Persian Gulf war has been a thorn in our side, we are importing nearly 1 million barrels a day. We are taking his oil, putting it in our aircraft and enforcing a no-fly zone in the air, which is very similar to a blockade, in theory.

What is he doing with our money? We know he takes the money for the oil and obviously pays his Republican Guard that contribute to his livelihood, or he develops a missile capability with biological warfare capability and for all practical purposes may aim it at Israel. So here we are taking the oil, fueling his aircraft, we bomb some of his sites. Aspects of that are associated, realistically, with where we have vulnerability. The vulnerability of our country speaks for itself.

Before I go to a couple more charts, I wish to identify our reliance on the Persian Gulf in the sense we rely on the Persian Gulf to get our children to school in the morning, inasmuch as our fuel comes from there; we get the food from the farms, inasmuch as the oil fuels our tractors; and to heat our homes in the winter.

There are some in this body who believe the urgency behind the development of energy policy faded on that disastrous day of September 11. There are those who would put aside the energy issue and move to more pressing affairs. I cannot disagree more. Mark my words, energy is front and center on the war on terrorism. If you go back and find out where terrorism is being funded, it is being funded indirectly through Mideast oil.

Bin Laden refers to oil as Islamic wealth. He believes the United States owes Muslims $36 trillion because we paid artificially low prices for energy.

I think we are becoming more and more aware of bin Laden's writings. I ask unanimous consent to print an article bylined Donna Abu-Nasr, under the headline, ''Bin Laden's Past Words Revisited.''

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

[From the Associated Press, Sept. 28, 2001]

BIN LADEN'S PAST WORDS REVISITED

(By Donna Abu-Nasr)

All American men are the enemy, Osama bin Laden says. And the United States owes Muslims $36 trillion, payback for ''the biggest theft'' in history—the purchase of cheap oil from the Persian Gulf.

A book with that and more of bin Laden in his own words has been snapped up by Arabic

readers in the weeks since he was named the No. 1 suspect in the Sept. 11 suicide bombings in New York and Washington. The book, ''Bin Laden, Al-Jazeera—and I'' by Jamal Abdul Latif Ismail, includes a 54-page transcript of the complete 1998 interview that was broadcast in abbreviated form on Al-Jazeera, a popular television program. Al-Jazeera has rebroadcast its version of the interview, conducted by Ismail, since the attacks. Those hungry for more often found copies sold out in book stores across the Mideast. Readers have been borrowing and photocopying the book from friends.

Bin Laden spoke to Ismail in a tent in mountainous southern Afghanistan four months after the August 1998 bombings of two U.S. embassies in Africa—attacks in which he's also a suspect.

Bin Laden began the interview with personal notes, saying he was born 45 years ago, in the Muslim year of 1377, in the Saudi capital of Riyadh. The family later moved between the two holy cities of Mecca and Medina and the port city of Jiddah.

Bin Laden's father, Muhammad, who was born in the Yemeni region of Hadramawt, was a prominent construction magnate who built the major mosques in mecca and Medina and undertook repairs on Jerusalem's Dome of the Rock. He died when bin Laden was 10.

After getting a degree in economics at a university in Jiddah, bin Laden joined his father's company before beginning his road to jihad.

Even before President Bush mentioned the word ''crusade'' in describing the anti-terror campaign, bin Laden was using that term to describe alleged U.S. intentions against Muslims.

''There's a campaign that's part of the ongoing Crusader-Jewish wars against Islam,'' bin Laden told Ismail.

Asked about his 1998 fatwa, or edict, urging Muslims to target not only the U.S. military, but also American civilians, bin Laden said only American men were the target. ''Every American man is an enemy whether he is among the fighters who fight us directly or among those who pay taxes,'' bin Laden said.

Bin Laden claimed Western attacks on Arabs, such as the British-U.S. bombings of Iraq, were directed by Israelis and Jews who have infiltrated the White House, the Defense Department, the State Department and the CIA.

His views on other issues:

—On reports he was trying to acquire chemical, biological and nuclear weapons, bin Laden said:

''At a time when Israel stores hundreds of nuclear warheads and bombs and the Western crusaders control a large percentage of these weapons, this should not be considered an accusation but a right. . . . It's like asking a man, 'Why are you such a courageous fighter?' Only an unbalanced person would ask such a question.

''It's the duty of Muslims to own (the weapons), and America knows that, today, Muslims have acquired such a weapon.''

—On whether he's ready to stand trial in an Islamic court: ''We are ready at any time for a legitimate court . . . If the plaintiff is the United States of America, we at the same time will sue it for many things . . . it committed in the land of Muslims.''

—Bin Laden denied he was behind the 1998 embassy bombings, but acknowledged he ''has incited (Muslims) to wage jihad.''

—Asked about the freezing of his assets, bin Laden said even though the United States has pressured several countries to ''rob us of our rights,'' he and his followers have survived. ''We feel that the whole universe is with us and money is like a passing shadow. We urge Muslims to spend their money on jihad and especially on the movements that have devoted themselves to the killing of Jews and the crusaders.''

—On the U.S.-backed fight against the Soviet presence in Afghanistan: ''Those who waged jihad in Afghanistan . . . knew they could, with a few RPGs (rocket-propelled grenades), a few anti-tank mines and a few Kalashnikovs, destroy the biggest military myth humanity has even known. The biggest military machines was smashed and with it vanished from our minds what's called the superpower.''

—Asked about the money the United States put on his head, bin Laden said: ''Because America worships money, it believes that people think that way too. By Allah, I haven't changed a single man (guard) after these reports.''

—Bin Laden claimed the United States has carried out the ''biggest theft in history'' by buying oil from Persian Gulf countries at low prices. According to bin Laden, a barrel of oil today should cost $144. Based on that calculation, he said, the Americans have stolen $36 trillion from Muslims and they owe each member of the faith $30,000.

''Do you want (Muslims) to remain silent in the face of such a huge theft?'' bin Laden said.

—His message to the world: ''Regimes and the media want to strip us of our manhood. We believe we are men, Muslim men. We should be the ones defending the greatest house in the world, the blessed Kaaba . . . and not the female, both Jewish and Christian, American soldiers.'' Bin Laden was referring to the U.S. troops that have deployed in Saudi Arabia since 1990 following Iraq's invasion on Kuwait.

''The rulers in the region said the Americans would stay a few months, but they lied from the start. . . . Months passed, and the first and second years passed and now we're in the ninth year and the Americans lie to everyone. . . . The enemy robs the owner, you tell him you're stealing and he tells you, 'It's in my interest.'

''Our goal is to liberate the land of Islam from the infidels and establish the law of Allah.''

Mr. MURKOWSKI. I will just refer to two very short paragraphs.

All American men are the enemy, Osama bin Laden says. And the United States owes Muslims $36 trillion, payback for ''the biggest theft'' in history—the purchase of cheap oil from the Persian Gulf.

It further goes on to say:

Bin Laden claimed the United States has carried out the ''biggest theft in history'' by buying oil from Persian Gulf countries at low prices. According to bin Laden, a barrel of oil today should cost $144. Based on that calculation, he said, the Americans have stolen $36 trillion from Muslims and they owe each member of the faith $30,000.

If there is any motivation in the connection of oil, I remind you of that.

Control of Arab oil is the core of bin Laden's philosophy and at the heart of Saddam Hussein's politics. There is no question about it; oil is the key, not only to bin Laden but Saddam Hussein. Our Achilles' heel in this war is our dependence on foreign oil. Bin Laden knows it. Saddam Hussein knows it. That the Senate does not yet seem to know it is to our immense discredit. I hope I have helped enlighten us a little bit today. That we do not recognize it and did not recognize it on September 11 is to our immense discredit. If we do not recognize it soon, God help us all.

I thank the Chair.

The PRESIDENT pro tempore. The Senator from Oregon, Mr. WYDEN.

PROHIBITING UNDERCOVER INVESTIGATIONS

Mr. WYDEN. Mr. President, today I rise to say the national antiterrorism legislation passed by this body is in grave danger of being rendered useless. The bill passed by this body corrected an immediate and severe impediment to the undercover investigations that must be employed to shut down terrorism in our Nation. The antiterrorism bill passed by this body included legislation introduced by Senator LEAHY, Senator HATCH, and myself that would untie the hands of Federal prosecutors in my home State of Oregon and remove the roadblocks that currently all but prohibit undercover investigations there.

Unfortunately, the antiterrorism legislation passed by the House strips that provision and rips back open the enormous loophole that potentially makes Oregon a safe haven for dangerous criminals and terrorists everywhere.

For more than a year now, State and Federal prosecuting attorneys in Oregon have been legally prohibited from advising or participating in law enforcement undercover investigations. Without advice of counsel, law enforcement operatives cannot conduct wiretaps, sting operations, or infiltrate dangerous criminal operations. Covert investigations in my State have been shut down for more than a year. If the Senate does not insist on antiterrorism language to restart these investigations in Oregon, the national antiterrorism legislation will not be national at all; it will cover 49 States and it will give dangerous criminals, including terrorists, not just a license but practically an engraved invitation to set up shop in Oregon with little fear of detection or apprehension through undercover or covert methods. It would endanger, not just the people of my State but all Americans.

I wish to explain briefly how this situation came about. It started here in Washington in 1998. An amendment to the omnibus appropriations bill started the ball rolling in Washington, DC. A McDade-Murtha amendment required Federal prosecutors to abide by the State ethics laws and rules in the State in which they work. In Oregon, the State bar association enacted a disciplinary rule making it unethical for attorneys to take part in any practice involving ''deceit or misrepresentation of any kind.''

When an Oregon attorney misrepresented his identity to investigate a claim, the State supreme court found him guilty of an ethics violation. The McDade-Murtha amendment backed that up. It became very clear no matter how vital the investigation, no matter how great the need, no matter how dangerous the criminals, attorneys—including Federal, State, and

local prosecutors—are simply absolutely not allowed to take a single step, not even to give advice, to help in an undercover investigation. If an undercover investigator cannot get advice from a Federal, State, or local prosecutor, that undercover investigator cannot go forward. It is that simple: no wiretaps, no sting operations, no infiltrating or gathering information on any criminal group no matter how dangerous their bent or how dastardly their plans.

I have been working on a bipartisan basis for more than a year now with Senator LEAHY and Senator HATCH. They have been very helpful, but the stakes are getting higher and the solution is more important than ever.

Federal officials have informed me that criminals have admitted that they set up shop in Oregon because the McDade situation makes it easier for them to remain undetected and unpunished—even more particularly sophisticated criminals. But garden-variety criminals have recognized the opportunities the loophole allows, and certainly more sophisticated criminal elements and terrorists can as well.

Criminals operating in my State involved in serious crimes such as child pornography, drug sales, and eco-terrorism have been breathing easier, safe in the knowledge that law enforcement will have a much tougher time catching them without the best weapon in the war against these criminals. Several important investigations have in fact been terminated or impeded.

For example, the Portland Innocent Images Undercover Program, which targeted child pornography and exploitation, was shut down when the U.S. attorney's office informed the FBI field office it would not concur or participate in the use of long-used and highly productive techniques such as undercover operations and conventional monitoring of phone calls that could be deemed excessive.

If unsophisticated criminals were aware of enough to be attracted to Oregon because of this situation, I am extremely concerned that more sophisticated criminals and terrorists are equally aware that they can exploit this loophole.

The House-passed version of the antiterrorism bill undoes the important work that Senator LEAHY, Senator HATCH, and I did on the bipartisan basis, because the House bill specifically excludes the language that would fix the McDade problem.

I say today that that must not be acceptable to the Senate. This body must act, and act now, to find the solution. Senators HATCH and LEAHY and I worked on a bipartisan basis with the FBI and the Department of Justice to introduce the language that would allow prosecutors in Oregon to once again advise, consult, and participate in legal undercover investigations with law enforcement agencies. But if it doesn't get done in this conference on antiterrorist legislation, my concern is it will not get done at all.

When the differences between the Senate and House antiterrorism bills are taken up in conference, Senate conferees must insist that the McDade fix is in the bill that goes to the President's desk. Anything less would make this antiterrorism legislation a toothless tiger, seemingly strong but incapable of defending or protecting any Americans, including the language that could possibly allow Oregon to be an easy basing State for future terrorist attacks that would be devastating to our Nation.

The terrorists made their homes in Florida and New Jersey before striking Americans in New York and Virginia. I don't want to find 6 months from now that the terrorists made their homes in Oregon because this body failed in its resolve to shut them down in every State in our country. Leaving one State vulnerable makes each State in this country vulnerable.

I implore the conferees, and indeed the Congress, to act swiftly and judicially to guarantee that our Federal prosecutors and investigators have these essential tools that they have asked us to support on a bipartisan basis so they can conduct covert operations that are necessary to prevent and prosecute criminals in terrorist acts.

I conclude by asking unanimous consent that several news articles that highlight the concerns Senators LEAHY and HATCH and I have on a bipartisan basis be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Chicago Tribune, Aug. 4, 2001]

OREGON ETHICS RULING CHIDED FOR HANDCUFFING POLICE WORK

(By V. Dion Haynes)

For the last year, police and law-enforcement officials say they have been handcuffed by a state Supreme Court ruling that all but prohibits undercover work, a staple of crime investigations.

Nationwide, sting operations—those involving paid informants, surveillance and undercover officers—have become the preferred weapon in the investigative arsenals of law-enforcement agencies battling crime. Typically, prosecutors direct the operations to ensure that law-enforcement agencies do not entrap suspects and do not break rules in gathering evidence.

But prosecutors reluctantly severed their ties to some undercover investigations and disbanded others after the Oregon's highest court ruled a year ago that prosecutors are not exempt from state bar ethics codes prohibiting lawyers from engaging in ''dishonesty, fraud, deceit or misrepresentation.''

While the ethics codes of most state bars forbid dishonesty, Oregon is the only state to apply that rule to prosecutors involved in undercover investigations in which informants or detectives must misrepresent themselves.

Undercover operations in Oregon have continued since the ruling, but without legal advice from prosecutors.

ABA TO ADDRESS ISSUE

The American Bar Association, now meeting in Chicago, plans to address a related controversy over a federal law requiring Justice Department prosecutors to submit to state ethics guidelines.

Some criminal defense lawyers praise the Oregon Supreme Court ruling, saying all lawyers should be subject to the same standards. The ruling is helping rein in prosecutors and investigators who often rely too heavily on undercover work, they say.

''As a matter of public policy in a democratic system, government lawyers should not be allowed to engage in deceit while other lawyers are precluded from doing so by bar disciplinary rules,'' said Steven Wax, a federal public defender in Portland.

But the FBI, U.S. attorney's office, Drug Enforcement Administration, state attorney general, Oregon State Police, county district attorneys and local police departments say the ruling has curtailed their investigative work, hindering their ability to fight narcotics, child-sex abuse, prostitution, organized crime, housing discrimination and consumer fraud.

''I think it's generally true that the worst criminals are smart enough to hide their crimes and can only be found through undercover operations,'' said Oregon U.S. Atty. Mike Mosman.

Oregon's court decision, in part, illustrates a long-standing, bitter dispute over whether Justice Department prosecutors should be subject to local bar association ethics codes in the states where they serve.

The debate started during the first Bush administration and continued in the Clinton administration, when the attorneys general issued policies exempting federal lawyers from state ethics codes.

MC DADE AMENDMENT

Last year, Congress reversed a Justice Department policy with the so-called McDade Amendment, which requires lawyers and federal prosecutors in all states to comply with local ethics and court rules.

The law stemmed from concerns about ''how far should government go in preventing crime,'' said John Henry Hingson, a defense attorney in Oregon City, Ore., and a former president of the National Association of Criminal Defense Lawyers.

''Many Americans believe that undercover operations go into entrapment,'' he added.

The question of whether an ethical double standard exists for government lawyers and defense lawyers arose in Oregon with the case that prompted the August 2000 state Supreme Court ruling banning misleading practices by prosecutors.

Using the tactics of government undercover operations, personal injury lawyer Daniel Gatti allegedly posed as a doctor in phone calls to an insurance company he was planning to sue, according to the Oregon State Bar.

Citing the ethics code prohibiting lawyers from using fraud and deceit, the state high court publicly reprimanded Gatti.

The U.S. Justice Department asked that state Supreme Court to exempt prosecutors from the code, but the court ruled that the ethics code does not allow exceptions. The opinion further forbade lawyers from encouraging anyone else to participate in the misconduct.

''I have not authorized certain investigations or I have shut down other investigations because I did not have a prosecutor or U.S. attorney involved,'' said Capt. Jim Ferraris of the Portland Police Bureau's drug and vice division.

DRAFTING AN EXEMPTION

A state bar committee is drafting a rule change that would exempt all prosecutors from the ethics code prohibition on deception, thereby allowing them to again supervise undercover operations. If it passes the bar's House of Delegates next month, the proposed rule would go to the Supreme Court for final approval. The high court early this year rejected a similar proposal.

The Justice Department is pressing Congress to repeal the law requiring federal prosecutors to follow state ethics rules and it is suing the Oregon State Bar over its disciplinary code.

Meanwhile, the American Bar Association is proposing a change in state ethics codes that would preserve the federal law's requirement that government prosecutors submit to state disciplinary rules but would give the Justice Department latitude in its investigations—with a court order.

[From the Associated Press, Oct. 12, 2001]

HOUSE FAILS TO INCLUDE OREGON INVESTIGATION MEASURE IN ANTI-TERRORISM PACKAGE

(By Katherine Pfleger)

WASHINGTON.—The House anti-terrorism package passed Friday failed to include a measure designed to remove barriers faced by federal attorneys conducting covert investigations in Oregon, Including those into suspected terrorists.

The measure, which the Senate approved Thursday, would have lifted restrictions in Oregon that hinder federal prosecutors from approving undercover operations to catch suspected criminals.

But Reps. Henry Hyde, R–Ill., and at least one other congressman had the language removed from the House anti-terrorism package. ''I believe U.S. attorneys ought to obey ethical requirements of the state,'' Hyde said Friday.

As a result, Sen. Ron Wyden, D–Ore., said he worries that Oregon could remain ''a safe-haven'' for terrorists and other criminals. He sponsored the measure with Sen. Patrick Leahy, D–Vt.

Wyden's Chief of Staff Josh Kardon said the senator won't discuss classified security issues.

But ''I find it difficult to believe that he would be putting this many hours into this legislation, with all that is going on right now, if he don't believe that there is a current threat to the nation's security,'' Kardon said.

Kardon said withdrawal of White House support contributed to the measure's downfall.

The restrictions stem from an Oregon Supreme Court decision that said all attorneys—including federal prosecutors—must abide by Oregon State Bar ethics rules that prohibit deceit.

A former senior Justice Department official, speaking on condition of anonymity, said investigators have found information about the court decision during searches of suspects, unrelated to the terrorist investigation.

''If the ordinary garden variety of crooks know this, it paints a bull's eye on the state,'' the official said. ''Looking at what these guys did on Sept. 11, you can see they paid attention to some pretty sophisticated things.''

Four men with Oregon addresses are on an international list compiled by anti-terrorism agencies that are tying to lock down assets of those with suspected ties to the Sept. 11 terrorist attacks. It was inadvertently posted on a Web site earlier this month by Finland's financial regulator.

None of the men still live in the state.

U.S. Attorney Michael Mosman, Oregon's top law enforcement officer, wouldn't comment on whether the state court's ruling was hampering any investigations involving the Sept. 11 terrorist attacks.

However, Mosman said, more broadly the ruling ties the hands of federal prosecutors working in Oregon, both in state-specific cases or more sweeping national ones.

''Federal prosecutors are in a box with our sworn oath to uphold the law, which doesn't allow us currently to do undercover work, and our sworn duty to protect the public,'' he said.

For instance, Mosman said, in some cases investigators may need to get approval from the U.S. attorney before using more serious undercover techniques, such as wiretaps, but Mosman is barred from participating.

Charles Williamson, a member of the Oregon State Bar board of governors, said he personally has concerns on his initial read of Wyden's legislation.

''It may give federal prosecutors too much latitude,'' Williamson said. ''Could they lie to a judge? Could they lie to defense council in a case?''

Wyden's legislation would have altered the ''McDade amendment,'' pushed by Hyde and Joe McDade, a former congressman whose reputation was clouded by an eight-year racketeering case before he won acquittal in 1996.

The amendment prevented federal prosecutors from using investigative techniques such as wiretaps, undercover stings and contacting company whistleblowers that are not barred by federal law but are disallowed by some ethics rules enforced by state and local bar associations.

Passed this week, the House and Senate anti-terrorism packages expanded the FBI's wiretapping authority, imposed stronger penalties on those who harbor or finance terrorists and increased punishment for terrorists, among other measures.

The two versions could go to a conference committee to iron out the differences, or the Senate cold decide to simply vote on the House legislation.

Kardon said Wyden is outraged his measure isn't included in the House bill.

''He has put the Senate leadership on notice that he plans to fight to retain his legislation in the anti-terrorism bill,'' Kardon said.

Rep. Greg Walden, R–Ore., is considering a few options, including efforts to get the legislation passed as a stand-alone bill, if necessary, said Dallas Boyd, Walden's legislative assistance for defense.

Meanwhile, Rep. Peter DeFazio, D–Ore., complained the House bill was cobbled together overnight.

''A lot of people don't know what else was in there, including me,'' he said. ''It was rushed though the House. The process broke down.''

[From the Portland Oregonian, Oct. 13, 2001]

HOUSE BILL LOSES OREGON PROVISION

(By Ashbel S. Green—The Oregonian Staff writer Jim Barnett contributed to this report)

The U.S. House of Representatives on Friday stripped a sweeping anti-terrorism bill of a provision designed to allow suspended federal undercover investigations in Oregon to resume.

The bill, which included the ''Oregon provision'' in the version the U.S. Senate passed Thursday night, will head to a conference committee, where representatives of the two chambers will try to work out the differences next week.

The Oregon provision would allow federal prosecutors to supervise undercover operations, even if they required using deceit.

Sen. Ron Wyden, who proposed the Oregon provision after the Sept. 11 attacks, and more recently inserted it in the anti-terrorism bill requested by President Bush, will fight to put it back into the bill, according to his staff.

Without the provision, ''in essence, the bill will be an anti-terrorism bill for 49 states,'' said Josh Kardon, Wyden's chief of staff.'' A bill that addresses only 49 states leaves the entire nation in jeopardy.''

The provision would amend a controversial 1998 law that requires federal prosecutors to comply with the laws and state bar rules of every state in which they conduct enforcement activities.

That law, passed at the behest of Rep. Joseph M. McDade, R-Pa., and Rep. John P. Murtha, D-Pa., was designed to curtail prosecutorial excessiveness. McDade was once indicted on federal corruption charges but later was acquitted.

Murtha and Rep. Henry Hyde, R-Ill., who are big supporters of the 1998 law, demanded that the Oregon provision be stripped out of the anti-terrorism bill, Kardon said.

Molly Rowley, a spokeswoman for Senate Majority Leader Tom Daschle, D-S.D., said the Senate would conduct a legislative conference on the bill with the House early next week.

Last year, federal law enforcement officials suspended many undercover operations in response to an Oregon Supreme Court ruling that prosecutors were excepted from state bar rules against lawyers' lying.

In 2000, the Oregon Supreme Court upheld a disciplinary action against Daniel J. Gatti, a Salem attorney who misrepresented himself as a chiropractor while investigating whether to file a lawsuit.

The Oregon State Bar responded in January by passing a rule that allowed all lawyers to supervise undercover operations, but the Supreme Court rejected the change.

Last month, the bar passed a more limited rule that allowed only government lawyers and legal aid groups to supervise undercover operations. The Supreme Court has yet to decide on that change.

In the meantime, earlier this year the U.S. Department of Justice sued the state bar over the rule, seeking to block it from being enforced against federal prosecutors.

A hearing in that case is scheduled for next month.

[From the Statesman Journal, Oct. 13, 2001]

HOUSE MEASURE IGNORES OREGON

COVERT CRIMINAL INVESTIGATIONS ARE HAMPERED HERE BY RESTRICTIVE LAWS

WASHINGTON.—The House anti-terrorism package passed Friday failed to include a measure designed to remove barriers faced by federal attorneys conducting covert investigations in Oregon, including those into suspected terrorists.

The measure, which the Senate approved Thursday, would have lifted restrictions in Oregon that hinder federal prosecutors from approving undercover operations to catch suspected criminals.

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But ''I find it difficult to believe that he would be putting this many hours into this legislation, with all that is going on right now, if he didn't believe that there is a current threat to the nation's security,'' Kardon said.

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abide by Oregon State Bar ethics rules that prohibit deceit.

A former senior Justice Department official, speaking on condition of anonymity, said investigators have found information about the court decision during searches of suspects, unrelated to the terrorist investigation.

''If the ordinary garden variety of crooks know this, it paints a bull's eye on the state,'' the official said. ''Looking at what these guys did on Sept. 11, you can see they paid attention to some pretty sophisticated things.''

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

The PRESIDENT pro tempore. The Senator from Arizona, Mr. KYL, is recognized.

Mr. KYL. Mr. President, I believe that among staff there is an informal agreement we would extend the morning business time for a period up to 5 o'clock, which would take us beyond the 4:30 time. When someone is ready to propound that unanimous consent request, I will be prepared to stop since my time will go beyond 4:30, which I understand is the current time. I thought I would note that. I will be particularly speaking after 4:30 based upon that understanding.

The PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

The Senator is recognized.

Mr. KYL. I thank the Chair.

JUDICIAL VACANCIES

Mr. KYL. Mr. President, I could not help thinking, particularly as I listened to the distinguished majority leader discuss the activity in his office today and the concern about his staff and their current terrorist threat that reaches the U.S. Capitol staff now, about how many ways this threat of terrorism affects all of us. I certainly hope all of the majority leader's staff is well and suffers no ill effects from what may well have been another reach of terrorist attack here in the United States.

It reminds us how this kind of unlawful extralegal activity can affect a society which has always been so free and so open, precisely because we are a nation of laws and precisely because we believe in the rule of law.

Of course, in our society that rule of law ultimately rests upon the judge and our courts for its administration. Of course, it is the judges who are the ultimate arbiters of the law. We could not function long as a free society without our judges. Yet today we are speaking about the fact that an unacceptable number of vacancies exist in our courts, vacancies that must be filled if we are to be able to properly administer that law we revere so much.

Currently, there are 108 empty seats in the Federal judiciary. We are speaking of the Federal courts alone. That represents a 12.6-percent vacancy in the total number of judgeships.

I note, as others I believe have perhaps also noted, that of those, there are 41 judicial emergencies. In other words, more than a third of these vacancies, according to the Administrative Office of the Courts, represents judicial emergencies—meaning that they are in districts and in courts in which there is an overwhelming burden of cases in which, without having a judge to fill the court position, essential justice will not be done. It certainly raises the question about why we as a Senate are not able to act on the judges or the candidates for judge whom the President has nominated.

It is in this regard that I feel my responsibility most strongly because not only am I a Member of this body but I am also a member of the Judiciary Committee. Until the Judiciary Committee acts, we as a body are not able to give our final advice and consent. In fact, I am especially keen on the issue because three of these vacancies represent nominations for a district court for my own State of Arizona. All three of them are also designated by the administrative office as judicial emergencies.

This is not a hypothetical or a theoretical matter; it is a very real matter for us today, which should touch all of us, but it certainly touches some of us very strongly. It is, therefore, with some sadness that I hear my colleagues talk about the potential of holding up action on appropriations bills in order to take up the matter of judicial nominations.

Historically, the Senate has been able to do many things at the same time. We have considered legislative matters on the floor when we have had other calendars from which we took up matters. Indeed, many of the nominations, including judicial nominations, are considered as a relatively routine matter, sometimes at the end of the legislative day when the majority leader will simply ask for unanimous consent to consider a number of nominees. It is mostly the case that judicial nominees as well as others are considered in that fashion without even having a rollcall vote.

It has been the custom of the current chairman of the Judiciary Committee this year to call for, I believe in most all cases, rollcall votes, which is fine. I would actually prefer to do it that way. But it has not been deemed necessary in the past because most of these nominations are not controversial—my point being that we can consider and act upon frequently large numbers of nominations without having to take a lot of the Senate's time for debate. It has always been that way. The Senate can do many things at once. We hold committee hearings when we have actions pending on the floor. It is simply not true that we can only do one thing at a time.

Part of the reason we don't have the number of judges confirmed we should is that some have made the arguments that we are too busy doing other things and we have to be on the floor doing the antiterrorist legislation, or some other business before the Senate, and therefore we can't take up the nominations. That, I submit, is not an accurate statement of the way the Senate operates.

But for those who say we can't do more than one thing at a time, I have said: Fine; then given the fact that we have time and time again asked for action on judicial nominations that has not been forthcoming by and large, perhaps it is time to give those nominations the proper priority they deserve and to get them on the calendar so we can consider them. As a result of that, I, on a couple of other occasions, suggested that rather than taking up a particular appropriations bill, we should get on with nominations. No. Some colleagues argued: We need to get on with these appropriations bills. We will take up those nominations in due course.

As a matter of fact, there have been two explicit agreements reached between the majority leader, minority leader, and others about how to follow this process, with the specific commitment made to take action on those nominees, at least those who were nominated prior to the August recess. Still, we do not see action occurring at a pace fast enough to be able to conclude that by the end of our session this year we will have, indeed, taken action on the nominations pending prior to the August recess.

That is why I have decided that if, in fact, it is the case that we cannot do more than one thing at a time, then we will simply call a timeout on the appropriations process, go to these nominations, see how many of them we can get done as appropriate, and then return to the appropriations process.

No one suggests we will not complete that process this year. We have to do it. We will do it. I will be supportive of it, as well. That is essentially the reason why I have suggested we call a timeout on that process, so we can get those nominations done.

I will continue my statement, but I know the distinguished majority whip wishes to speak.

Mr. REID. I apologize for the interruption, but I want to make clear I thought there was going to be a request for morning business. We have no one on our side wishing more morning business.

I want to make sure that everyone understands the next hour is that time set aside for Senator LEAHY and Senator MCCONNELL. So any time that is going to be used would have to be, under the previous agreement, given to them by the managers of the legislation or whoever decides to dole out the time for each side.

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

Mr. REID. Yes.

Mr. THOMAS. Would it be appropriate to ask unanimous consent that we have morning business until 5 p.m.?

Mr. REID. I have spoken to Senator LEAHY. He would agree to give up 15 minutes of his time.

Would Senator MCCONNELL be willing to give up 15 minutes of his time?

Mr. KYL. I say to the Senator from Nevada, Senator MCCONNELL has asked me to represent him during this period of time. I would be happy to do that if that would be the preference of the Senator from Nevada and the Senator from Vermont.

EXTENSION OF MORNING BUSINESS

Mr. REID. Mr. President, I say that I do not see anyone in the Chamber wishing to speak on the Democrat side; I am sure there will be somebody shortly. Why not have until 5 o'clock set aside equally between the majority and minority for morning business, and at 5 o'clock Senator LEAHY and Senator MCCONNELL will use their time as appropriate. I ask unanimous consent that be the order.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). Without objection, it is so ordered.

Mr. KYL. I thank the Senator from Nevada.

JUDICIAL VACANCIES

Mr. KYL. Let me summarize where I was, Mr. President.

The point is, we are a country that relies upon our courts to administer the rule of law. At the Federal level that means we need to have a fully staffed Federal judiciary. We always know there are a certain number of vacancies at any given time. But we need to complete action on as many of the nominations pending before us as possible, certainly before we leave perhaps some time next month.

In the past, it has been the case that Members of both parties have expressed concern about the fact that we have vacancies and that we need to fill those vacancies. I will make note of that in just a moment because some of my colleagues on the other side have been eloquent about their commitment to try to get the process done.

My point is, with over 40 vacancies designated as emergencies by the Administrative Office of the Courts that characterizes vacancies as ''emergency'' or ''nonemergency,'' with over 100 vacancies now, over 40 of which are emergencies, it is not business as usual. We cannot continue to have maybe one hearing a week, with maybe one or two judges being considered. We have only confirmed eight judges this entire year; most of them quite recently—only eight.

At that pace, we are clearly not going to be able to act even on the President's nominees that existed at the time we began the August recess. These are nominations made in May, in June, I believe, mostly—maybe a couple in July. Clearly, we ought to at least act on those nominations before we terminate our business this session.

But if we do not get about that task very soon, there will not be enough in the pipeline coming from the Judiciary Committee to get that work done. That is why I have said we are going to have to have a timeout. If the argument is we just don't have time, we are too busy doing other things, then I am willing to say: Then let's call a timeout. Let's get to the nominations. And when there is a sufficient number of nominations completed, then we will go back to our other priorities.

We will continue to pass continuing resolutions to fund all of the various operations that are the subject of the appropriations bills. There will be nothing lost from that process.

We will pass the appropriations bills. No one suggests otherwise. But in terms of priorities, if we do not act soon on these judges, two things will happen: No. 1, we are not going to have enough time to complete the work on those before we quit; second, we will not fill these vacancies that have been declared emergency vacancies by the Administrative Office of the Courts.

So that is my reason for calling this timeout. It is my reason for urging people to vote against the motion to proceed to the foreign operations bill, which I very strongly support, incidentally.

I will represent to my colleagues that Senator MCCONNELL, who is the ranking member of that subcommittee, did, indeed, ask me to represent him until he arrives this afternoon. He may be in the Chamber by 5 o'clock. He may not. But it is his view that this is an appropriate objection at this time to moving forward with action on that bill.

Since I see a couple of my colleagues are in the Chamber to speak, let me simply say, when I resume my comments, I will speak statistically to where we are in this current situation vis-a-vis past administrations and make the point that it pretty much does not matter how you cut it. By any statistical measure, we are far behind.

In the Reagan administration of 8 years, in the Clinton administration of 8 years, in the previous Bush administration of 4 years—in every case, with one exception, every single Presidential nominee for the courts that was made prior to the August recess was acted upon before Congress adjourned for the year.

There are 30-some vacancies for the courts now. I do not see, at the current pace at which we are operating, how we can come close to completing action on those nominations. Actually, if you were to compare the numbers through October 31, it would be a better measure, and that would make it virtually impossible for us to get all these nominations done when we are so far behind at this point.

I think an even more conservative proposal of just acting on those nominees the President sent to the Senate prior to August would be perfectly appropriate. I see no reason for us not to do it. That is why I am willing to say until we do that, we need to defer action on our other business so we can indeed get about this job.

With that, Mr. President, I reserve the time until we take up the motion to proceed to the bill.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, I want to follow up a bit on what my friend from Arizona has talked about. Certainly, each of us recognizes that things have changed substantially since September 11.

I spent the weekend in Cheyenne, WY, and much of it with the National Guard. These great men and women are continuing to carry out their duties in protecting the country, as well as now doing the special things, such as airport security, and other requirements they have. Some have just returned from Bosnia, as a matter of fact.

I guess my point is, things changed for all of us; and special things come up at times such as we are in now. But it is also necessary for us, after we have done the things we have to do for those special times, to go ahead and do the things that we ordinarily have to do. Life goes on, and we have to continue to pursue that.

I think very much that is the case now with issues we have before us, special things such as airport security, special things such as the declaration, really, of war on terrorism, which we have done. Those things needed to be done.

Now, of course, we need to do appropriations. But we also have to do the mundane things such as the confirmation of judges, the seating of U.S. attorneys, many of whom have a very real role in this matter of domestic terrorism.

I, too, believe we have to work these two things out together. I understand the frustration of the leadership in the majority when they are seeking to move things, but I have to remind us, for example, that on July 21, 2000, while objecting to Majority Leader LOTT's attempt to proceed with the intelligence authorization bill, the minority leader—now majority leader—said this:

> I hope we can accommodate this unanimous consent request for intelligence authorization. As does Senator Lott, I recognize that it's important. I hope we can address it. We must address additional appropriations bills. There is no reason that we can't. We will find a compromise if there is a will, and I am sure there is. But we also want to see the list of what we expect will probably be the final list of judicial nominees to be considered in hearings before the Judiciary Committee.

This is what he said as he held up that appropriations bill.

Our friend from Nevada, on July 24, while objecting to Senator LOTT's repeated attempt to move forward, said:

> We believe there should be certain rights protected. Under this Constitution, we have a situation that was developed by our Founding Fathers in which Senators would give the executive branch, the President, recommendations for people to serve in the Judiciary. Once these recommendations are made, the President would send the names to the Senate and we would confirm them and

approve of those names. One of the problems we are having is it is very difficult to get people approved and confirmed. This has nothing to do with the energy and water bill. It does, however, have something to do with other bills.

That was as he objected to continuation.

We find ourselves in the same position. We need to move forward to do the things that must be done. We need to do the things that are ordinarily done. I suggest we can do those things at the same time.

The PRESIDING OFFICER. The Senator from Kansas.

(The remarks of Mr. ROBERTS pertaining to the introduction of S. 1546 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

The PRESIDING OFFICER. The Senator from Nevada.

JUDICIAL NOMINEES

Mr. REID. Mr. President, if I could take just a couple minutes to say a few words.

I have listened to my friend from Arizona, but he has to understand—the whole world has to understand—we, the Democrats, just took control of the Senate in June. For the first 6 months this year, the Republicans controlled the Senate Judiciary Committee. The chairman was ORRIN HATCH. During that period of time, there was not a single confirmation hearing or a single judicial confirmation.

They have to get real. They are not.

My friend from Arizona says we are going to have to take time out and do nothing here. That is what we will be doing because we have to finish the appropriations bills.

I also say what we have to do is very important. We have appropriation bills we must complete. No one is saying we will not confirm judges. Even though we didn't get many confirmations for President Clinton, this is not payback time. We are going to do the very best we can, and the Judiciary Committee has done the very best it can. There are hearings scheduled for this Thursday to report out a significant number of judges. They have known that. These hearings are not something we just planned. They have been planned for a long period of time.

There was talk from my friend from Wyoming that we have to do U.S. attorneys. I don't know how many U.S. attorneys we did the past week, but it was 10 or 15 U.S. attorneys.

Mr. LEAHY. Fourteen, I say to the Senator from Nevada. Not only 14, but we have been doing U.S. attorneys as fast as they have come in—26 so far for the year. At times when we have gone to a markup for U.S. attorneys, the White House wouldn't even send up their material. We had my staff working until 3 in the morning to help them complete—for President Bush's nominees, to help them complete their paperwork to get it through. We are still waiting for them to send up the U.S. marshals. In 26 years, I have never known any President, Republican or Democrat, to take this long.

And as the Senator from Nevada said, during the half a year the Republicans controlled the Senate, of course, they didn't have a single judicial confirmation hearing. They didn't confirm a single judge. We are now, of course, confirming them much faster than they were confirmed during the first year of the Clinton term or the first year of former President Bush's term. Actually, as I recall, when the Republicans controlled the Senate during the Clinton years, we had 34 months that they didn't even have hearings on judges.

We have been doing hearings every single month, whether we are in recess or not. So I suppose I could take a partisan attitude and say we will go as slowly on judges as they did with President Clinton. I thought that was unfair then; of course it is unfair now. I have no intention of taking the irresponsible position my Republicans colleagues did during that time.

What we are doing is debating a motion to proceed to the foreign operations appropriations bill. Senators have asked me earlier: Is all our Middle East money in the foreign operations bill? Yes, it is.

Is money in there for such things as President Bush has talked about; for example, for aid to the Afghan people? Yes, some of that is in that bill.

Some have asked me if the money we provide to countries we have been calling on to stand up for the United States during this time—some of that money is in this bill that the other side wants to hold up. An amazing fact, Mr. President. Everywhere President Bush has said we want to help and work together, and we want your help; and we want to help you, I say to the leaders, that money the President is talking about, which he wants us to support him on, guess what. It is in this bill.

I suspect that all Democrats are going to vote to go forward. We want to give the President the money he needs to help in this effort against terrorism. I am amazed that some Senators want to stop the President from getting that money. If they vote against going forward, then he will not get it. That is why I am amazed to find—I read in one of the papers, Republican Senators would hold up this bill—the bill that funds our foreign policy—at a time when the President of the United States is going around the world asking for support. It makes no sense.

Every Senator has a right to vote the way he or she wants. But I can imagine what would be said if Democrats had ever done that to any President—Republican or Democrat. They would probably be calling for our impeachment.

Mr. REID. If the Senator will yield, I ask the chairman: Would the Senator agree that during this time of trouble and strife we have been going through, two of our greatest allies have been Israel and Egypt?

Mr. LEAHY. Absolutely true.

Mr. REID. Now, as a result of the inaction of the Senate, as has been threatened by the Senator from Arizona, these two countries that have been such a stalwart friend of the United States, they won't be getting the aid we have set forth in this bill, will they?

Mr. LEAHY. No. In fact, we have a procedure when we pass the bill; a certain amount is provided upfront. That is not going to be there because we can't do it under a continuing resolution. It would be misleading to suggest otherwise. We have billions of dollars for our friends in the Middle East, held up, as the Senator said. We have military assistance for our European allies. We asked them to stand behind us. We have antiterrorism assistance in this bill.

Imagine that. This bill has $38 million in antiterrorism assistance. I wonder how many Senators who would vote against sending this bill forward are willing to go back home and explain, well, even though the Democrats went a lot faster in judicial nominations than we did, we held up antiterrorism assistance. I would hate to have to make that argument back home, but they are going to have to.

We have assistance for refugees in Africa—the poorest of the poor. Are we going to hold up that money? We have victims of drought and earthquakes in Central America. Are we going to hold up that money? We have funding to combat HIV/AIDS, the worst public health crisis in half a millennium. Are we going to hold up that money? How about assistance for combating poverty around the world, which breeds the hopelessness and resentment that provides the fertile breeding grounds for terrorists?

President Bush spoke about that. The Secretary of State has made the same point. Do we want to hold up that money?

It is self-defeating and shortsighted, and it is irresponsible to hold up funding for foreign policy when anyone can see we have shortchanged foreign policy for years.

It is time to recognize that global leadership requires acting like a leader, not like petulant children in a school ground. It is about more than dropping bombs; it is about diplomacy and foreign assistance.

Let's stop holding up this bill and get on with the Senate's business. It is utterly lacking in judgment. It unfairly punishes the entire Nation to hold up this bill.

Think of the things that are being held back. Then look at the reason. They claim it is because judges are being held up.

I have a chart. I mention this because my friend from Nevada mentioned it earlier. He mentioned how Republicans—Republicans didn't hold a

single hearing on a judicial nomination, not one, didn't confirm a single judicial nominee. When I became chairman of the reconstituted committee, 10 minutes after that we started having hearings. In fact, the Presiding Officer knows that a Republican appointee from his State, a nominee to the circuit court of appeals, the Presiding Officer and his colleague came to me and talked to me about it. That judge moved forward. Look at this chart. We have here the green line.

This is what happened in the first term of George Herbert Walker Bush. By October 15, they had four judges. Take a look at President Clinton. He didn't get his first judge until September. By this time, we had four. Look what happened under our chairmanship. Within a couple of weeks of becoming Chair, I was having hearings on nominations. So this baloney about numbers—I thought I would share the facts.

An easy fact to remember is that during this part of the year the Republicans didn't hold a single confirmation hearing or confirm a single judge. I have gone now faster than the first year of the last two Presidents—both President Bush and President Clinton—twice as fast, actually, moving judges through than it was done in their terms. That is only since becoming chairman of the committee in July. I held hearings two different days during the August recess. I was roundly criticized by two Republican members on the Judiciary Committee for even holding the hearings. You are almost damned if you do, damned if you don't.

That is fine. They have an absolute right. I believe in the first amendment.

The more important question here is not the judges.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The Chair needs to interrupt for a moment to close morning business.

Mr. LEAHY. I yield the floor.

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 2002—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the hour of 5 p.m. having arrived, the Senate will resume consideration of the motion to proceed to H.R. 2506, which the clerk will report.

The assistant legislative clerk read as follows:

A motion to proceed to the bill (H.R. 2506) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2002, and for other purposes.

The PRESIDING OFFICER. Who yields time?

Mr. KYL. Mr. President, for the edification of the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Senator MCCONNELL asked that during the period of time prior to the vote I represent him. I will be happy to do that. I assume that since the proponent of the legislation is the Senator from Vermont, he will want to begin, and I respect that.

I presume from the shrug, the Senator from Vermont does not wish to move forward, in which case I will be happy to continue with the discussion.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I will respond to a couple things the Senator from Vermont had to say. I very much appreciate the burden he carries as chairman of the Judiciary Committee, and the fact he was not in the majority until June. However, I think it important to point out there is a reason the chairman of the Judiciary Committee before him did not hold hearings on nominees.

We will all recall that it took President Bush a little while to secure his office this time, and he was probably a good 6 weeks or so behind. I am not sure how that translates into making nominations to the bench, but by early May he, indeed, was making nominations. There are a whole number of nominations that were made on May 9, as a matter of fact, and then following that, on May 25 and then in June, and so on.

Very shortly after he was sworn in, he began the work of nominating people to fill the vacancies on the court. It is important to point out that, probably more than any of the last four Presidents, himself included, he has acted with alacrity to fill vacancies. As a matter of fact, by the beginning of the August recess, in the short time that President Bush held office, the President had submitted to the Senate 44 judicial nominees. Let me put this in perspective.

President Reagan had submitted 8 nominees before the end of the August recess, President Bush submitted 8 nominees before the August recess, and President Clinton submitted 14 nominees before the August recess. President Bush submitted, as I said, 44 nominees before the August recess.

It is true that those were not submitted in February and March and April. Obviously, he was just taking office at that time. To point out no hearings were held before the distinguished Senator from Vermont became chairman of the committee I think does not represent the situation in any accurate way for us to take action now.

The fact is, we had 44 nominees pending prior to the August recess, 108 vacancies currently, and therefore it is time to act. Whatever the situation was before June, we now know we have all of these nominees. My question is, Why are we not acting on them?

In terms of hearings, it is true the Senator from Vermont has held hearings, but the problem is he does not put very many judicial nominations on the hearing calendar. In contrast to his predecessor, Senator HATCH, who averaged 4.2 judicial nominees per confirmation hearing, Senator LEAHY has been moving at about a third of that place—1.4 judicial nominees per confirmation hearing. It is a little hard to fill these 108 vacancies when you are only having 1.4 nominees per hearing and you only hold the hearings on the schedule they have been held so far.

As a result, we have only confirmed eight judges. That is the reality of where we are today.

The fact that we have 41 designated emergency judges as indicated by the Administrative Office of the Courts does not concern anyone? It certainly concerns me as a Senator representing a border State, where I have three nominations pending, with no action being taken on those.

There are 21 nominees pending in the Judiciary Committee who are slated to fill positions which have been declared judicial emergencies by the Administrative Office of the Courts. Why are we not holding hearings on these nominations? As far as I know, there is nothing to prevent us from holding hearings, and if I am wrong, I ask the distinguished chairman of the committee to tell me how I am wrong.

He says anyone who takes the position I have taken is utterly lacking in judgment. I ask him to perhaps reconsider that comment. Perhaps I can ask the Senator from Vermont who he thinks is acting like petulant children in the schoolyard—the other comment he made.

The fact is, we have had time to hold hearings, and there are all of these nominations pending. They were pending before the August recess. There is nothing preventing us from holding the hearings. There is nothing preventing us from voting on those nominations in the hearing, nothing except politics, I submit, and that, at the end of the day, is apparently where we are.

I do not like to hold up other business any more than anyone else. It is important to get the foreign operations bill done. Clearly, we will do that. But for those who say we are just so busy doing other things, then I am forced to say, fine. Then let's stop until we can get some of these nominations to the floor for a vote and acted on.

Mr. President, I wish to make one other comment. These are not my words but the words of the distinguished Senator from Vermont. When Bill Clinton was President and there were fewer than 85 vacancies—now there are 108—Senator LEAHY took the position that ''[a]ny week in which the Senate does not confirm three judges is a week in which the Senate is failing to address the vacancy crisis.''

When there were fewer than 70 judicial vacancies, the Senator told the Judiciary Committee:

[W]e must redouble our efforts to work with the President to end the longstanding vacancies that plague the Federal courts and disadvantage all Americans. That is our constitutional responsibility.

I certainly agree with the Senator.

Finally, in May of 2000 Senator LEAHY argued that we should move more judges than had been moved before at a time when they were being moved faster than they are now. He said:

I have challenged the Senate to regain the pace met in 1998 when the committee held 13 hearings and the Senate confirmed 65 judges.

I suggest if it was an appropriate pace then, it is an appropriate pace now. There is no reason not to do it. Therefore, we should get on with that task.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I am going to speak on this issue of judicial nominations for a few moments. I urge us to get as many of these judges reported as possible, but I do also think we need to stick to some of the facts. I will put in the RECORD a few facts.

President Bush has submitted 60 nominees for confirmation to us this year; we have confirmed 8. That is 13 percent. President Clinton through all of 1993—the Senate confirmed 27; he submitted 47; so that was a total of 57 percent.

The first President Bush, in 1989, in his first year, submitted 24. We confirmed 15. So he had 62 percent of the judges he submitted to Congress in his first year be confirmed.

President Reagan, in 1981, submitted 45. Forty-one were confirmed for a confirmation rate of 91 percent. For President Reagan, we confirmed 91 percent of the judges he submitted in his first year in office; President Bush, 62 percent; President Clinton, 57 percent. This year with President George W. Bush, we have confirmed 8 out of 60—only 13 percent. So we are way behind compared to the three previous Presidents. We have a lot of catching up to do.

Those are the facts. We are way behind on circuit court nominees. We have had more circuit court nominees submitted this time than in the past. We have only confirmed 4, but we have had 25 submitted. So we have only confirmed 16 percent of the circuit court nominees. I just mention that.

For the district court, 35 have been submitted, and we have only confirmed 4. We have a few more in the pipeline, and hopefully we will get those through, but we still have a lot.

My point is, out of 60 judges submitted by President Bush this year, we have confirmed 8. That is only 13 percent. That is far behind the 57 percent for President Clinton's judges. Sixty-two percent of President Bush's judges and 91 percent of President Reagan's judges were confirmed in the first year. So we are moving very slowly. We need to accelerate. That is the reason why some of us are saying wait a minute before we agree to move forward on all the appropriations bills. Let us try to see if we cannot come up with an agreement where we can have expeditious consideration of these judges. They should not be penalized.

This Congress should confirm the judges. I know Senator DASCHLE and Senator REID have told me they concur with that. So I hope in the very near future we come up with an agreement on how to proceed that all would say is a fair way of dealing with these judges.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Kentucky.

Mr. MCCONNELL. Am I in control of the time on this side? If so, how much time remains?

The PRESIDING OFFICER. Three and a half minutes.

Mr. MCCONNELL. Mr. President, I have been a longtime friend of the chairman of the Judiciary Committee. In fact, he and I have worked together for some 9 years on the foreign operations bill, the bill that will at some point in the future be before the Senate. Sometimes he has been chairman and sometimes I have been chairman. Right now he is chairman.

As an appropriator, I am mindful of the need to complete appropriations bills in a timely fashion. This year, the Foreign Operations Subcommittee has put together what I believe to be a good bill, and I certainly support that bill and want to see it become law at the earliest possible time. Nevertheless, I do intend to vote against cloture on the motion to proceed because regretfully this seems to be the only tool with which we are left to try to advance the President's judicial nominations.

While I am aware of the importance of the timely completion of appropriations bills, I am also cognizant of the need to make sure that our Federal judiciary is adequately staffed. It is because I am concerned that some of my colleagues do not fully appreciate the crisis facing the Federal judiciary that I feel it is necessary to object proceeding to this bill. I hope that by doing so, we can get a concrete agreement on timely confirming the President's nominees and remedying the situation facing the judiciary.

I have great respect for the chairman of the Judiciary Committee, who is also chairman of the Foreign Operations Subcommittee, but the cold, hard fact is there are 108 judicial vacancies, almost 13 percent of the Federal bench, which means that the Federal judiciary is woefully understaffed. And we are running out of time in this fall session.

It will do us precious little good to pass important counter-terrorism legislation, for example, if there are not enough judges to review search warrants and to try cases in a timely fashion. We are engaged in a massive war on terrorism with, as we have seen today, new fronts emerging each and every day. With such a massive law enforcement operation, we need U.S. Attorneys, and we need Federal judges.

I am particularly puzzled that my colleagues across the aisle, who have cried for adequate judicial safeguards in our counter-terrorism package, would not support our request for the expeditious consideration of the President's judicial nominees.

If we look at the first year of the last three administrations, all but one of the judges nominated before the August recess were confirmed. Clearly, for whatever reason, we are not getting the job done in the Judiciary Committee.

We need to have an adequate complement of Federal judges on the bench. Given the sorry state of the vacancy situation, timely consideration is certainly needed. It is the middle of October, and the President has only eight judicial nominees confirmed. By contrast, at the end of his first year in office, President Clinton had 27 or 28 judges confirmed.

This is not President Bush's fault. He submitted 44 nominees before the August recess. Indeed, President Bush submitted his first batch of nominees back in May. This, again, is another record, at least for the last couple of decades.

Rather, the reason for this delay is that while we have had some hearings, we have not come close to getting the most out of these hearings. I expect this afternoon there has been a lot of talk about hearings, but the fact is we have gotten the least out of the most.

Specifically, while from 1998 to 2000 the Judiciary Committee averaged 4.2 judicial nominees per hearing, this year we have averaged only 1.4 judicial nominees per hearing. That is a pace that is three times as slow as was the case from 1998 to 2000.

We can do better than that. We must do better than that. The chairman of the Judiciary Committee and my friend, Senator LEAHY, was constantly complaining prior to this year about the slow pace of the previous Senate. The fact is, it was moving a lot more rapidly than we are at the moment.

Now, my colleagues on the other side of the aisle will say, ''MCCONNELL, you got it all wrong. You need to look at 'this.' And you need to look at 'that.' And you need to look at the other.'' Well, I and my colleagues are not going to be distracted by ''this, that, and the other,'' and we are going to make sure the American public is not either. We are going to keep our eyes fixed on the bottom line, and the bottom line is that President Bush's 8 judicial nominees is woefully inadequate when compared to his predecessors, and particularly President Clinton who got 28 judges confirmed in his first year.

So I urge my colleagues to support the President, the Federal judiciary, and the law enforcement community, which is on the front lines of our nation's war against terrorism. Vote no on this motion.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The Senator controls 15 minutes.

Mr. LEAHY. Then do we vote?

The PRESIDING OFFICER. At 5:30, by agreement, there will be a cloture vote.

Mr. LEAHY. I thank the distinguished Chair. The former Governor of Nebraska has spent an enormous amount of time in that chair. I know he is now giving up the chair, but he has done the Senate a great service with the amount of time he has spent there. I have a feeling the Senator from Nebraska, when he came from the executive branch, never thought he would be presiding as much, but he has done the Senate a great service.

I love to hear quotes, especially those taken out of context. Back when the Republicans controlled the Senate I urged that they move quicker on judicial nominations. I think it is because they left an extraordinary number of President Clinton's nominees at the end of his term on which they never even allowed a vote. He had women, Hispanics, others who would wait 3, 4, 5 years and never even get a hearing. That created a real problem. Now, having created all of those vacancies, they come in and say, oh, my gosh, we have judicial vacancies.

President Clinton tried to fill those judicial vacancies, as my colleagues may recall, and the Republican-controlled Senate refused to allow him. Time and time again, they would hold them up. They would keep sending more questions to them. They would not allow them to come forward. They would not have a hearing. They would not have a vote, and finally the nominations died. So, of course, there were vacancies. All the vacancies would have been filled if they had even allowed votes on these because, when on the rare occasions they would allow a vote, the person would get 90 votes, 95 votes, sometimes 100 votes. They would go through easily, but they would not allow them to have a vote. So the vacancies occurred.

It is a little bit like the young person who is before the court. He is there for murdering his parents and he says, Your Honor, you have to have mercy on me. I am an orphan. Well, this is the same thing. Republicans spent 2, 3, 4, 5, 6 years creating enormous judicial vacancies and then they come in and say we have to fill these judicial vacancies.

We are going to have hearings for five judges on Thursday. We will have a hearing for them. So there are five judges on Thursday alone who are coming up. As we wait for them to finish their questionnaires, I think it is good if we can find out if they have criminal records or things such as that before we go forward. If they fit at least a basic level of competence before they go forward, we will continue to have those hearings. I am not going to do what the Republicans did and have 34 months without having any hearings at all. We have been having hearings every month.

It is an interesting complaint they make, when they had 6 months that they controlled the Senate and did not have any confirmation hearings of judges or votes. We started having them within a week after taking over the Senate.

Be that as it may, maybe someone sits in a room somewhere and thinks we don't have enough work to do. After all, we spent 3 weeks putting together an antiterrorism bill—which did take up a little bit of time. I remember the number of times I was here late at night, and then to hear complaints we have not had Judiciary hearings—actually, we had a couple while we were working on the antiterrorism bill.

Some things have happened in the last month in this country that have needed our attention. We have been trying to move U.S. attorneys as fast as they come up, but it is like pulling teeth to get them out of the White House so we can move them. I don't know if we have had any marshal nominations come up, but a week ago we had not had a single one. I have never known a President in my term to take that long.

Holding up the foreign aid bill is an interesting tactic. I cannot figure out why. If Senators want to criticize me on judges, I am happy to make a commitment to move as fast as they moved the nominees of President Clinton, but I have a feeling no one would be happy if I, as chairman, were to treat President Bush's judicial nominees the way they treated President Clinton's. If I did that, we would hear screams. I think we would hear screams from Democrats, too, because it would be so patently unfair if we did to them what the Republicans did to President Clinton. I am not going to do that. I don't believe in doing that. When we get done, whatever time I am chairman of the Judiciary Committee, we will find President Bush's nominees were handled far more fairly than those of President Clinton.

Having said that, I wonder what in Heaven's name is the masochistic attitude that is holding up this bill so they can make political points on the weekend talk shows. I cannot understand that. Secretary Powell is overseas now trying to solidify our antiterrorism coalition. Democrats have united behind the President and the Secretary of State in helping to bring together the support of leaders of other countries. The distinguished majority leader has pushed hard to get through money and authorization for President Bush to fight terrorism. We went the extra mile to get the antiterrorism bill completed.

Having done that, we are now saying to the President: Look, Mr. President, you can call on all these people overseas, ask them to support us in our antiterrorism activities, but we are not going to give you your foreign aid bill. We will not give you the money you are now promising the foreign leaders for their help. We are not going to give you the money that goes to NATO allies. We will not give you the money that goes to the Middle East Camp David signers. We will not give you the money to fight AIDS in Africa. We are not going to give you the money to give child immunizations. We are not going to give you the money, apparently, to help feed the Afghanistan people after this war ends.

It is a sad day when, for partisan reasons, an important appropriations bill is sabotaged. Even the ranking member of the foreign appropriations subcommittee will vote against proceeding to the appropriations bill. It is unfortunate, unjustified, especially after I have bent over backwards to work with him on this bill. Our economy is intricately intertwined with the global economy. Our health depends on our ability and the ability of countries in Africa, Asia, and Latin America to control the spread of deadly infectious diseases. Our security is linked to the spread of nuclear, biological, and chemical weapons and our ability to stop terrorism and narcotrafficking and organized crime. These threats are prevalent from as far away as China to our own cities.

No less a threat but potentially the trigger that ignites many others is poverty. We are surrounded by a sea of desperate people. Two billion people, a third of the world's inhabitants, live on the edge of starvation. They barely survive on whatever scraps they can scavenge. Many children die before the age of 5. This grinding, hopeless, desperate existence is overladen with despair. That despair fuels hatred, fear, violence, and even the terrorism that hit this country a month ago. We see it on many continents, including today in Pakistan, where thousands of people are threatening to overthrow their own government if it gives American troops access to Pakistani territory. We see it across Africa and in Colombia and Indonesia. We see it in the form of refugees and people displaced from their homes who number in the tens of millions.

The world is on fire in too many places to count, and in most of those flashpoints poverty and the injustice that perpetuates it are at the root of instability.

Our foreign assistance programs provide economic support to poor countries, health care to the world's neediest women and children, food and shelter to refugees and victims of natural and manmade disasters, and technical expertise to promote democracy, free markets, human rights, and the rule of law. This is as it should be. But as important as this is, what we give is a pittance when considered in terms of our wealth and the seriousness of the threats we face. Even this pittance, the other side doesn't want us to even vote on. Stand up and say we are all against terrorism. Of course we are. Wave the flag and say you want to protect America. Of course we do. But to say we might do something to actually stop some of the root causes of terrorism—

well, not if it interferes with the partisan political agenda; we can't do that.

The approximately $10 billion we provide in this type of assistance—whether through the State Department and the Agency for International Development or as contributions to the World Bank, the U.N. Development Program, the World Food Program, and other organizations—amounts to less than $40 per person in this country.

We are all willing to give far more money than that—we were in my family—for the victims of terrorism. But at least give something that maybe will stop the terrorism from happening in the first place. We are also trying to help people in our country because our economy is suffering. But we cannot bury our heads in the sand and protect our national interests, in today's complex and dangerous world, on a foreign assistance budget that is less in real terms than it was 15 years ago.

Our world is not simply our towns and our States and our country, it is the whole world. We live in a global economy. The Ebola virus is like a terrorist—the terrorists could get on a plane in one part of the world and could be in our backyard hours later. We can try our best to control our borders, but we cannot hide behind an impenetrable wall.

We have to go to the source of the problem, to the countries that are failing from ignorance, poverty, and injustice.

Almost 60 percent of the world's people live in Asia. That number is growing. Seventy percent of the world's people are nonwhite, 70 percent are non-Christian, 5 percent own more than half the world's wealth, half the world's people suffer from malnutrition, and 70 percent are illiterate.

These people may not knock down skyscrapers that kill 6,000 Americans in a single day. But they pose immense long-term threats to our way of life: Extreme poverty on a massive scale in countries that cannot feed their people today, and the poisoning of our environment. All of these things should be attacked by us just as much as we attack the networks of Osama bin Laden.

We give no credit to the Senate—the greatest parliamentary body—we give no credit to this great body if we block the foreign aid bill from going forward.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent the order for the quorum call be dispensed with.

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

CLOTURE MOTION

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

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to Calendar No. 147, H.R. 2506, the foreign operations appropriations bill, 2002:

Harry Reid, Patrick Leahy, Richard J. Durbin, Ron Wyden, Barbara A. Mikulski, Daniel K. Akaka, Russell D. Feingold, Jack Reed, Zell Miller, Tim Johnson, Paul S. Sarbanes, Jean Carnahan, Daniel K. Inouye, Barbara Boxer, Ernest F. Hollings, Patty Murray, Edward M. Kennedy.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call under the rule is waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to H.R. 2506, an act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2002, and for other purposes, shall be brought to a close.

The yeas and nays are required under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Washington (Ms. CANTWELL) is necessarily absent.

Mr. NICKLES. I announce that the Senator from Mississippi (Mr. LOTT), the Senator from Arizona (Mr. MCCAIN), and the Senator from Oklahoma (Mr. INHOFE) are necessarily absent.

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

The yeas and nays resulted—yeas 50, nays 46, as follows:

[Rollcall Vote No. 303 Leg.]

YEAS—50

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

NAYS—46

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

NOT VOTING—4

Cantwell	Lott
Inhofe	McCain

The PRESIDING OFFICER. On this vote, the yeas are 50, the nays are 46. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

CLOTURE MOTION

Mr. REID. Mr. President, I send a cloture motion to the desk.

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

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the motion to proceed to H.R. 2506, the Foreign Operations Appropriations bill.

Pat Leahy, Harry Reid, Tom Daschle, Ben Nelson of Nebraska, Kent Conrad, Zell Miller, Byron L. Dorgan, Russell D. Feingold, Paul Wellstone, Joseph Lieberman, Debbie Stabenow, Bill Nelson of Florida, Max Cleland, Patty Murray, Mark Dayton, Jack Reed of Rhode Island, Barbara Mikulski, and Herb Kohl.

Mr. REID. Mr. President, I ask unanimous consent that the mandatory quorum under rule XXII be waived.

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

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to a period for morning business, with Senators allowed to speak therein for a period not to exceed 10 minutes.

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

Mr. BIDEN. Mr. President, 5 years ago I stood here and called upon the Senate to join the fight against terrorism. Back then terrorism seemed like something that happened far away, in distant lands over distant conflicts. Well, that has all changed.

Terrorism has come to America.

We have to be a little proactive now. Back then, I proposed a series of precise antiterrorism tools to help law enforcement catch terrorists before they commit their deadly acts, not ever imagining the events of September 11.

In particular, I said that it simply did not make sense that many of our law enforcement tools were not available for terrorism cases.

For example, the FBI could get a wiretap to investigate the mafia, but they could not get one to investigate terrorists. To put it bluntly, that was crazy! What's good for the Mob should be good for terrorists!

Anyway, some of my proposals were enacted into law, a number were not.

There were those who decided that the threat to Americans was apparently not serious enough to give the President all the changes in the law he requested.

Today, five years later, I again call on my colleagues to provide law enforcement with a number of the tools which they declined to do back then. The anti-terrorism bill we passed judgment on Thursday, S. 1510, is measured and prudent. It takes a number of important steps in waging an effective war on terrorism.

It allows law enforcement to keep up with the modern technology these terrorists are using. The bill contains several provisions which are identical or near-identical to those I previously proposed.

For example: it allows the FBI to get wiretaps to investigate terrorists, just like they do for the Mafia or drug kingpins; it allows the FBI to get a ''roving wiretap'' to investigate terrorists—so they can follow a particular suspect, regardless of how many different forms of communication that person uses; it allows terrorists to be charged with federal ''racketeering offenses''—serious criminal charges available against organizations which engage in criminal conduct as a group—for their crimes; it includes a provision similar to legislation I introduced last Congress, S. 3202, to prohibit terrorists, and others, from possessing biological materials when that person does not have any lawful reason for having them. Right now, it's only illegal if you intend to use such materials as a weapon, the FBI tells me that that is simply too difficult a burden for them to prove in many cases, and that the new offense we create in this bill will be helpful in prosecuting terrorists who possess dangerous biological agents; it incorporates the language of S. 899, legislation Senator HATCH and I introduced earlier this year to raise the payment to families of public safety officers killed or permanently disabled in the line of duty from $100,000 to $250,000.

Let's be clear. This bill is a step in the right direction. Some will say that it doesn't go far enough.

I have to say, I was disappointed that the Administration dropped some proposals from an early draft of its bill, measures which I called for five years ago. Those antiterrorism measures are NOT in the bill, but I continue to believe that they're common-sense tools which law enforcement should have.

We should be extending 48 hour ''emergency'' wiretaps and ''pen registers,'' ''caller-ID''-type devices to track incoming and outgoing phone calls from suspects, to terrorism crimes. This would allow police, in an emergency situation, to obtain immediately surveillance means against a terrorist, provided the police go to a judge within 48 hours and prove that they had the right to get the wiretap and that the emergency circumstances prevented them from going to the judge in the first place. Right now, these emergency means are available only for organized crime cases.

We should be extending the Supreme Court's ''good faith'' exception to wiretaps. This well-accepted doctrine prevents criminals in other types of offenses from going free when the police make an honest mistake in seizing evidence or statements from a suspect. We should apply this ''good faith'' exception to terrorist crimes as well, to prevent terrorists from getting away when the police make an honest mistake in obtaining a wiretap.

I'm also pleased that Chairman LEAHY and the administration were able to reach consensus on the two areas which gave me some pause in the administration's original proposal: those provisions dealing with mandatory detention of illegal aliens and with greater information sharing between the intelligence and law enforcement communities.

Overall, the agreement Chairman LEAHY reached has satisfied me that these new law enforcement powers will not upset the balance between effective law enforcement and the civil liberties we all value.

This bill is not perfect. No one here claims it has all the answers. This fight may be lengthy. But I am confident that by treating terrorism as seriously as we do the Mob, that we are taking a step in the right direction.

LOCAL LAW ENFORCEMENT ACT OF 2001

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

Last Friday marked the three-year anniversary of a heinous crime that occurred in Laramie, WY. On October 12, 1998, Matthew Shepard, 21, an openly gay student at the University of Wyoming, was savagely beaten to death, burned, and tied to a wooden fence. Russell A. Henderson, 21, and Aaron McKinney were convicted of first-degree felony murder, kidnapping, and aggravated battery. The duo had met Shepard at a bar, pretended to be gay, and lured him to their truck where they intended to rob him. After being pistol whipped and burned, Shepard was found 18 hours later tied to a fence and in a coma. He died later that night in Poudre Valley Hospital in Fort Collins, CO. The pair's girlfriends, Chasity V. Pasley, 20, and Kristen L. Price, 18, were convicted for being accessories after the fact.

On a personal note, I want to state that my involvement with hate crimes legislation stems from this murder. I was in Portland, OR watching the televised vigil on the steps of the Capitol following Matt's death. It caused me great sorrow to note that no sitting Republican Senator was involved in this vigil. I resolved then to help change our current hate crimes law in part so that what happened to Matt, would never happen again.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation, we can change hearts and minds as well.

HISPANIC HERITAGE MONTH

Mr. LEVIN. Mr. President, this autumn from September 15th to October 15th, we commemorate the Nation's 33rd Hispanic Heritage Month. In 1968, Congress designated a week to celebrate Hispanic culture nationally. Twenty years later in 1988, the week-long festivity was transformed into a month-long variety of activities aimed at raising national awareness of the tradition and achievement of Hispanics in America.

In that spirit I would like to recognize the initiating force behind this celebration, Gil Coronado. Colonel Coronado envisioned a week-long celebration of culture and pride and as founder and chairman of ''Heroes and Heritage: Saluting a Legacy of Hispanic Patriotism and Pride'' a non-profit organization, set forth to make his dream a reality. A hero himself, Colonel Coronado enlisted with the Air Force at age 16 and would serve for 30 years in Vietnam, Panama, Germany and Spain before he retired with over 35 awards including the Legion of Merit and the Bronze Star. Hispanic Americans like Colonel Coronado, have risen to the call of duty, defending the liberty and freedom the United States stands for, just as they continue to do so today in our armed services.

Hispanic contributions to our culture and society go back almost 500 years, to when Juan Ponce de Leon first arrived in Florida in 1513. His fellow explorers like Alvarez de Pinela and Cabeza de Vaca would traverse what is now the American ''Sunbelt.'' In fact, the arrival of De Soto in Mississippi in 1541 is commemorated in one of the great historical canvases in the Rotunda of the Capitol building in which we work.

Today, Hispanics continue to be pioneers in our society. Fernando Bujones was 19 when he became the first American to win a gold medal at the 1972 International Ballet Competition in Varma Bulgaria. Mari Luci Jamarillo would be appointed by President Jimmy Carter as the Ambassador to Honduras in 1977, distinguishing her as the first woman ambassador of Hispanic descent.

I would also like to make special note of two people affiliated with my home state of Michigan. In 1990, Antonia Novello became the first female Hispanic U.S. Surgeon General. Dr. Novello started her medical career at

University of Michigan where she was named ''Intern of the Year,'' the first woman to ever receive such an award. Detroit would also be the starting point for Jose Feliciano's musical career. A native of Puerto Rico, Feliciano was born blind, but he mastered multiple instruments like the 6 and 12 string guitars, the bass, banjo, mandolin, organ, bongo drums, piano, harpsichord, harmonica and trumpet. He would achieve stardom with his Latin-soul version of ''Light My Fire.'' However, he would gain even more popularity with his unorthodox blues-rock rendition of ''The Star-Spangled Banner'' during the 1968 World Series game in Detroit.

These are just a few outstanding examples of Hispanic contributions to American society. It is a pleasure for me to stand today with my Senate colleagues as we continue to recognize the contributions of our Hispanic community during National Hispanic Heritage month.

Mr. WELLSTONE. Mr. President, I rise today on behalf of this year's Hispanic Heritage Month, commemorated annually between September 15 and October 15. This celebration is an opportunity to honor a community devoted to family, faith, country and hard work. It is also a demonstration of patriotism as we appreciate the diversity from which our country derives its strength.

This month, and all year, we honor the courage, talent, determination, leadership and vision of Hispanic men, women and children who have done so much for our Nation in the face of incredible obstacles. We also honor the rich culture and heritage of the Chicano/Latino community and the tremendous gifts the community has given to our country.

Our greatness lies in the diversity of our beliefs as well as in the strength of our common ideals. The history of our country, its values and beliefs, are thus intertwined with the Chicano/Latino community.

In acknowledging the rich heritage of the Chicano/Latino community, I would like particularly to acknowledge the outstanding contributions of four Chicano/Latino institutions in my State of Minnesota. Their efforts have helped shape the social, economic and political landscape of their vibrant community as well as the community at large.

The Chicanos Latinos Unidos en Servicio, CLUES, has provided critical services to advance the Chicano/Latino community. Founded in 1981 in St. Paul to provide culturally appropriate and bilingual mental health services, CLUES has just opened a new office in Minneapolis that provides mental health, chemical health, education, employment and elder wellness programs.

The Chicano Latino Affairs Council, CLAC, advises the Government and State legislature on issues of importance to the Minnesota Chicano/Latino community. CLAC consists of 15 members appointed by the Governor of Minnesota from all different levels of government. The CLAC educates the legislature, the general public, the media, and agency heads on the contributions of Chicano/Latinos and the issues facing the community.

In addition, Minnesota has funded a bi-lingual charter school, El Colegio, designed to improve the achievement of high school students. Its mission is to engage students in experiences that help them find meaning and purpose in their lives. This experimental education uses Hispanic, Chicano and Mexican perspectives to study art, environment and technology. The school helps students take pride in who they are and in what they can do for American society. One student, David Juanez is currently helping me with legislation which would allow States to create permanent resident status for undocumented students in good standing, enabling them to receive state funding when applying to college. This is only an example of what these students can do when given the opportunity.

A further great contribution to the Chicano/Latino community has been the opening of Mercado Central in August, 1999 and its ongoing operation since then. The market features 45 Latino merchants offering authentic foods, housewares, gifts, and groceries. The entrepreneurs that have opened this market have changed the face of Minneapolis' Lake Street forever. Its addition is a celebration of the Hispanic, Chicano, and Mexican community here in Minnesota.

At a time when we are faced with national challenge, we must strive even more to continue building a society in which people of diverse backgrounds are valued for the richness of their contributions. I hope that we can use this special occasion of Hispanic Heritage Month to bring the American people closer together.

FLIGHT FOR FREEDOM

Mr. SMITH of Oregon. Mr. President, ever since the days of the pioneers, when folks would gather from miles around to participate in community barn raisings, the spirit of neighbor helping neighbor has been an Oregon tradition.

I rise today with great pride in my State to tell you that the tradition of neighbor helping neighbor reached new heights these past few days in a remarkable project entitled ''Flight for Freedom''.

Spurred by New York City Mayor Rudy Giuliani's call that New York City was open for business, Portland Mayor Vera Katz and Portland businessman Sho Dozono came up with the idea of sending a delegation of Oregonians to New York City to lend whatever support they could to the residents of the Big Apple.

It wasn't too long before 100 Oregonians signed up, and then 200, and then 500, and then 750, and when all was said and done, over 1,000 Oregonians from every corner of my state boarded planes and traveled to New York City last weekend.

This delegation brought a great deal of business to New York hotels, restaurants and stores. But more important than that, they brought a great message. A message that we are one Nation. A message that the 3,000 miles between New York City and Oregon was made non-existent on September 11. A message that as New Yorkers move forward in the days and weeks ahead, Oregonians and Americans will stand with them.

It was a message expressed in the tee-shirts that members of the Flight to Freedom wore and distributed as they marched in the Columbus Day Parade. The shirt said simply ''Oregon loves New York.''

Many participants in the Flight for Freedom have described the trip as the most moving and most memorable of their life. They will always remember the gratitude New Yorkers extended to them. They will always remember the words of a New York policeman who said, ''The gap in the New York skyline is incredible. It can't ever be replaced. But we'll bounce back with the help of people like you in Oregon.''

I know my colleague Senator WYDEN joins with me in saying to Senator SCHUMER and Senator CLINTON that we share the sentiments expressed by our fellow Oregonians last weekend. We, too, love New York, and we, too, will stand with you every step of the way.

The State motto of Oregon is ''She flies with her own wings.'' And it seems to me that Oregon, New York City, and all of America are flying just a little bit higher today because of the spirit and leadership of Mayor Vera Katz, Sho Dozono, and all those who made the Flight to Freedom such a remarkable success.

IN MEMORY OF KARLETON DOUGLAS BEYE FYFE

Mr. EDWARDS. Mr. President, at 8:48 a.m. on September 11, 2001, America lost one of its finest citizens, one of the many who gave their lives in the senseless acts of terror visited upon our country that day. His name is Karleton Douglas Beye Fyfe, and he deserves to be remembered. He died aboard American Airlines Flight 11, scheduled to fly from Boston to Los Angeles. He died at the age of 31 in the service of his family, of his profession and of his country. He died among the very first victims of this tragedy which has so unsettled our Nation. He would have had strong views about the aftermath of this tragedy, and he would not have been shy about expressing them.

Mr. Fyfe's loss leaves his many survivors devastated. He was a devoted father and loving son, a constant husband and loyal friend, an outstanding student and solid professional.

Mr. Fyfe grew up in North Carolina and attended the University of North

Carolina at Chapel Hill, where he majored in economics and philosophy. At Chapel Hill, Mr. Fyfe's lightning intellect flourished; he was equally at home both inside and outside his chosen disciplines. His instructors describe Karleton as a prodigy, the kind of student who makes teaching exciting, rewarding, and easy.

Mr. Fyfe served his family and his country as a successful member of America's financial community in Boston, working as an analyst with Fidelity Investments for eight years before joining John Hancock as a telecom analyst in January. As a financial analyst, he would tell his friends of the seriousness with which he took his important work: ''These are people's lives'' is how he would describe the retirement accounts in his care.

Mr. Fyfe's family and friends all remember his unique, disarming sense of humor, a quality he used to overcome awkward moments and often to make a point. He died, and his voice has been silenced, but those who had the honor of knowing Karleton are certain that he would have views about his country's reaction to the horror that took his life.

A close friend imagined that Karleton might say: ''If you must go to war, be sure somebody is in charge of protecting the innocent. Make sure that our country emerges from this enterprise having improved the condition of all the women and children it will inevitably affect.''

Let us take a moment to hear those words. If he thought they could be heard in this forum, Mr. Fyfe would have been glad to give his life in the service of his family, his profession, his country, and the innocent.

I ask consent that two important insertions into the RECORD be in order. The first will be the text of Mr. Fyfe's death notice as published in the Raleigh News and Observer on Thursday, September 13, 2001; it reiterates the profound loss suffered by his family and friends, and it emphasizes the message, which must emerge from his death, of protecting the innocents. The second is an account of Mr. Fyfe's character, friendship, and sense of humor, written by his dear friend, Ric Schellhorn, as published in the Raleigh News and Observer on Tuesday, September 18, 2001; it characterizes Karleton's humanity and humor as only a best friend can.

I now ask consent, that the two documents be printed in the RECORD.

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

KARLETON DOUGLAS BEYE FYFE

DURHAM.—Karleton Douglas Beye Fyfe's life was taken yesterday on AA flight 11 by the hatred that so poisons part of our humanity—he would not want us to take revenge on innocent people for this cruel, senseless act.

Karleton was born in San Antonio, Texas on a warm, sunny February 10th in 1970. He spent his growing up years in Durham County and graduated from Southern High. He majored in philosophy and economics at UNC and then worked for Fidelity Investments of Boston for eight years. During that time he married Haven Conley from the Chapel Hill-Durham area, earned a Masters degree in business from Boston University and a CFA certificate, and became father to Jackson before joining the John Hancock Company as a financial analyst in January of this year.

He is survived by his wonderful wife Haven, his adoring son Jackson of 19 months, his parents, Barbara and Jim of Durham, his older sister Tiffany Tanguilig and husband Larry of Alpharetta, GA, his younger sister Erin Yang and husband Carl of Cambridge, MA, his niece and nephew Sydney and Tyler Tanguilig, and his many loving relatives, friends and associates.

Karleton's quick wit, gracious friendliness, keen intelligence and loving family loyalty will be missed by us all.

A memorial service will be held at the Community Church of Chapel Hill at a time to be arranged later. In lieu of flowers the family would be happy to see any donations made to the Orange Durham Coalition for Battered Women in Karleton's name.

POINT OF VIEW: ONE AMONG THE THOUSANDS

(By Eric Schellhorn)

SAN DIEGO.—Three of us were on the phone the other night reminiscing about our friend when all at once, for a few long, uncomfortable seconds, everyone stopped talking.

Karleton—Karleton D.B. Fyfe, formerly of Durham and Chapel Hill—would have savored the moment: ''Pretty cool awkward silence we got going here,'' he'd have piped up, as he always did when a sober moment rudely encroached on an otherwise loose and limber good time. It was a stock Karleton line, one of his trademarks. Try it sometime. See if anyone in the room can keep a straight face, even if you happen to be talking about the absurd, violent death of a dear friend.

''Writing about me for The N&O, huh?'' I hear him saying now, deadpan as you please. ''Don't forget to tell them all what a handsome devil I was. And remember to spell 'genius' right. Big newspapers hate typos.''

I won't reduce a dignified and accomplished young life to a series of one-liners, but making an indelible impression on people's senses of humor strikes me as an even more lofty accomplishment than the ones you'll read in his formal bio: 31-year-old telecom-industry analyst for John Hancock, MBA from Boston University, earned at night some years back while working full-time for a major mutual fund broker. Those are just the facts, man, and they don't tell you the part of the story that's most worth remembering.

He was a junior from Durham majoring in economics and philosophy when I met him as a first-year grad student at UNC-Chapel Hill. In anyone else, you might have dismissed that incongruous pairing of academic pursuits as an affectation, or a resume-builder. For Karleton, reading Kant or Hegel was the perfect antidote to a steady diet of Keynes and Adam Smith. He'd say: ''The best part about reading brilliant economists and brilliant philosophers is that now I have no clue what people in two completely different disciplines are talking about.''

Most lives worth remembering embody just these kinds of contradictions: economics and philosophy, class-clown with a work ethic that kept him away from his wife and young son far more than he would have liked, new-era Southern gentleman who inexplicably found himself working shoulder-to-shoulder with Harvard grads in the financial heart of Boston Brahmin country, connoisseur of both Tar Heel baseball caps and fine European-tailored suits.

Back at school, you might have watched him schlep his 6-foot-4 frame around in khaki shorts and T-shirts for three straight months, but you wouldn't have considered trucking out to a morning job interview without rousing him from a sound sleep and asking if the jacket or slacks you'd picked out for yourself made you look like an apprentice televangelist. On one such occasion, I wandered into Karleton's room in the house we shared at school for just this kind of fashion consultation. Chucking diplomacy to the breeze, he wordlessly sized me up, went to his own closet and picked out a necktie of his own that, as he later put it, was a little less ''Carnaby Street.''

There are people you're proud to call friends, and then there are people whose friends you're proud to be. I always felt I got the better end of our bargain. When Karleton asked me to be the best man at his wedding in 1994, it was like being nominated to an elite inner circle. I repaid the distinction by getting the flu on the morning of his nuptials and passing out cold, mid-ceremony in the early October North Carolina heat. An hour later, the vows exchanged in my absence, he came inside to the couch where I was recovering, threw his arms around me, and said, without a trace of annoyance, ''Thanks for giving us the only wedding video in history that'll be worth watching in slo-mo.''

Armchair psychologists will tell you people who respond reflexively to tragic or unpleasant events with a joke or offhand remark are invoking a classic little pain-saving defense mechanism called ''reaction formation.''

Karleton was a world-class reaction-former. I can't say for sure, but my guess is that if he'd been watching Tuesday's events on TV at home, rather than sitting on a plane bound for Los Angeles, he would have summed everything up with a vintage understatement: ''Man, whoever did all this . . . they're gonna have to give back a lot of those humanitarian awards.''

IN MEMORY OF CLYDE L. CHOATE

Mr. DURBIN. Mr. President, I rise today with great sadness to mark the passing of an American hero and an Illinois legend. Clyde Choate spent his 81 years in service to his country and to his State, and we are fortunate indeed to have known him.

Clyde Choate was an Illinoisan through and through, born in downstate Franklin County and a lifelong resident of nearby Union County. Southern Illinois is the heart of coal country, and Clyde came from a family for whom mining was both a way of living and a way of life. Perhaps we can trace his later ability to stand up for himself as a State legislator to the fact that he had 11 brothers and sisters. Anyone growing up in a 14-member household would feel right at home in a large deliberative body.

Shortly after the outbreak of World War II, Clyde enlisted as a private in the U.S. Army and found himself deployed to the European theater, where he spent some 31 months. It was there, on the battlefields of France, that Staff Sergeant Clyde Choate demonstrated a determination and pride that would mark his public service for the rest of his life.

In late October of 1944, the tank destroyer battalion Choate commanded

was engaged by a German tank and company of infantrymen. With his anti-tank weaponry destroyed, Staff Sergeant Choate left a position of safety to search for trapped comrades and to chase the enemy tank, which was by then moving to attack American troops nearby. Grabbing a rocket launcher, Choate singlehandedly attacked the tank, disabling it, and then killed its crew with his pistol. He completed destruction of the German vehicle while under heavy enemy fire by dropping a grenade into the turret. With their firepower rendered useless, the German troops retreated, having been turned back solely through the heroic actions of Staff Sergeant Clyde Choate.

In presenting him with the Congressional Medal of Honor, this country's highest award, in the East Room of the White House on August 23, 1945, President Harry Truman noted that ''Staff Sergeant Choate's great daring in assaulting an enemy tank single-handed, his determination to follow the vehicle after it had passed his position, and his skill and crushing thoroughness in the attack prevented the enemy from capturing a battalion command post and turned a probable defeat into a tactical success.''

A New York Times story written that day notes that President Truman thanked the medal recipients and commented that their ''deeds demonstrated that when leadership was required, no matter what the emergency, it came to the top through the young men of America.'' How true these words ring today when we think about the young men and women who are defending our country in the battle against a new and frightening enemy.

Leadership rose to the top through Clyde Choate on a daily basis. His political career was born that late summer day in our Nation's capital when the young veteran seized his opportunity to lobby at the highest level and expressed to President Truman his concerns about the coal industry in southern Illinois. Perhaps, President Truman suggested, the young Clyde Choate should run for public office. The very next year, Clyde was a candidate for the Illinois House of Representatives and won. He took up residence in Union County's seat and kept it warm for the next 30 years. In that three-decade span, he served as both minority and majority leader of the Illinois House many times.

I remember State Representative Clyde Choate. He was passionately committed to southern Illinois but could always find common ground with his colleagues from the ethnic neighborhoods of our State's biggest cities. His common sense and great sense of humor made him a trusted leader and favorite friend of Democrats and Republicans alike. After leaving the Illinois General Assembly, Clyde Choate became a strong voice for Southern Illinois University.

Last year when I visited southern Illinois, my friend Clyde Choate came to my town meeting. Though illness had dimmed his vision, nothing could dim his insight. He pulled me to the side and in his characteristic style whispered into my ear about politics, the President and our national agenda. His title was gone but his passion for the important issues of our time was undiminished.

Clyde Choate was a soldier for our great nation and a fighter for the great State of Illinois. We have benefitted tremendously from his dedication, his drive and above all, his leadership. He will be sorely missed by the people of Illinois and, most especially, by his neighbors and friends in Union County, all of whom he so tirelessly served.

ADDITIONAL STATEMENTS

THE 100TH ANNIVERSARY OF THE SEAFORD, DELAWARE FIRE DEPARTMENT

• Mr. BIDEN. Mr. President, on November 10th, 1901, several leading citizens of Seaford, DE met in the Town Council room to discuss the organization of a fire company. They understood what we are so very mindful of today, that local firefighters are a key part of our first and best defense against disaster.

By the end of November 1901, there were more than 50 members of the new Seaford Volunteer Fire Department, and W.H. Miller had been elected to serve as its first president. The first chief, T.H. Scott, was elected in early December, and soon after led the company on its first fire response on December 18th, 1901, at a building that was both a store and a home on Seaford's High Street.

The Seaford firefighters used hand-drawn hose reels and ladder trailers until 1921, when the first fire engine was purchased. It is worth taking note that Government money helped buy that first engine, a reminder that a public investment in the fire service is necessary and appropriate. This partnership is all the more important 80 years later, when we ask our firefighters to respond to such a range of threats and dangers.

Today, the Seaford Volunteer Fire Company fleet includes four Pierce fire engines, an aerial truck, two ambulances, a rescue truck, a brush truck, a utility truck and a van, as well as ''Old Number 4,'' a 1948 Seagraves used for fire prevention programs. Four paid ambulance attendants now serve the community, with more than 50 volunteer firefighters still ready to answer the call when their neighbors need them, and 50 more volunteers working in support of the Department.

As we honor the heroes of September 11th, including so many members of New York's Bravest, we stand in prayerful wonder and immeasurable gratitude for what firefighters sacrifice and risk on our behalf. They are, truly, the best of neighbors and the best of citizens.

The Seaford Volunteer Fire Department has been a part of that great tradition for 100 years, and on behalf of the people of my state, and on behalf of the United States Senate, I am proud to extend congratulations to Chief Steve Mayer, President Rich Toulson and all the men and women who have kept the Department and the community strong into a second century of service. Again, we are very proud, and we are deeply grateful.•

CONGRATULATING BARBARA ELY RITTER ON 30 YEARS' FEDERAL SERVICE WITH THE U.S. FISH AND WILDLIFE SERVICE

• Mr. MURKOWSKI. Mr. President, I would like to take a moment to congratulate an exceptional Federal employee and friend, Barbara Ely Ritter, who on October 18 of this year will complete 30 years of Federal service with the United States Fish and Wildlife Service.

Mrs. Ritter is currently Chief of Budget Execution for the USFWS here in Washington, D.C. But her career extends back to 1971 when, as she tells it, as a newly arrived ''Cheechako'' in Anchorage, Alaska, confronting an extremely tight job market, she was faced with a choice between two career paths: night clerk in a liquor store or temporary clerk/typist with the USFWS. Fortunately for the Service and for the taxpayers, Mrs. Ritter chose the latter path.

Thus began a career that has taken her from Alaska to New Mexico to North Carolina to Washington, D.C. to Oregon, and back again to Alaska and the District of Columbia. In each transfer Mrs. Ritter has moved into positions of greater and greater responsibility, establishing along the way a reputation for getting things done and done right. Indeed, she is known in the Service as one of the ''go-to'' people on budget matters. In addition, she has chosen to share her experience and knowledge with up-and-coming USFWS managers and budget specialists by mentoring and instructing prospective managers through the Service's ''Stepping Up to Leadership'' program.

She is a regular lecturer at the National Conservation Training Center in Shepardstown, WV, as well as co-developer of the NCTC's course of budget instruction. In addition, in her various management positions Mrs. Ritter has effectively implemented the Federal Government's oft-stated hiring goals of diversity and quality in its workforce. As an example, she personally led efforts to hire the first visually impaired employee in the USFWS Portland, OR, office—an employee who is, herself, coming up on 10 years' service with the USFWS.

Our nation's future depends to a large degree on the quality and professionalism of the Federal employee. Oft-maligned unjustly, the Federal employee is the person who, ultimately, has to get the job done for America.

Barbara Ely Ritter's 30-year career with the U.S. Fish and Wildlife Service and her inspiring rise from temporary employee to division chief, stands as a vivid example of what our dedicated, hard-working, professional Federal employees are capable of.●

IN MEMORY OF REVEREND DOCTOR FREDERICK GEORGE SAMPSON

● Mr. LEVIN. Mr. President, today I would like to pay tribute to the achievements of a beloved religious leader, heroic civil rights advocate, inspiring preacher and dedicated father from my home State of Michigan, Reverend Doctor Frederick George Sampson.

For the past 30 years, my home town of Detroit has been able to claim Reverend Sampson as one of its own. However, his deep faith, keen intellect, and concern for others enabled him to touch the lives of countless people the world over.

Born in Port Arthur, TX, Reverend Sampson's insatiable thirst for knowledge compelled him to earn three bachelor's degrees, two master's degrees, a doctor of divinity degree from Virginia Theological Seminary as well as certificates in economics and medicine. In addition, three colleges awarded him honorary degrees.

While he was indeed a man of learning, Reverend Sampson was also a man of action who sought to integrate his education and faith into all he did. His learning and faith could be heard in his powerful sermons. Such was the influence of these sermons, that Ebony Magazine twice named Reverend Sampson as one of the Nation's ''Greatest Black Preachers in America.''

Central to all the Reverend's work was his untiring advocacy on behalf of the civil rights movement. A close aide to the Reverend Martin Luther King, Jr., Dr. Sampson helped organize the 1965 voting rights march in Montgomery, AL, and he helped write and edit many important speeches given during the early days of the civil rights movement. In addition, he was a life member of the National Association for the Advancement of Colored People as well as a former President of the Detroit branch of the NAACP. Much of the success of the civil rights movement has been due to the untiring efforts by people of faith, such as Reverend Sampson, who reminded us about the dignity and worth of all people regardless of their race, creed or gender.

After serving two decades in various churches throughout the nation, Reverend Sampson came to Detroit to serve as Senior Pastor at the Tabernacle Missionary Baptist Church. During his tenure as pastor, this parish of 5,000 served as a beacon of hope to the entire community. Tabernacle Church cares for the body and mind as well as the soul, and Reverend Sampson deserves much of the credit for this. The church offers computer training, GED tutoring, runs a soup kitchen, administers a food pantry and among other things has a scholarship program in addition to its services and Bible studies.

As one who early in his life deferred a career in medicine to serve God as a preacher, Reverend Sampson was able to use his role as a minister to increase awareness about health matters. Besides speaking extensively about health and spirituality, Reverend Sampson was able to display considerable courage in his personal life when he was diagnosed with prostate cancer. After this diagnosis, Reverend Sampson and his daughter Freda sought to highlight the threat that prostate cancer poses, particularly to African American males, by teaming with the American Cancer Society and the Southern Christian Leadership Conference to raise awareness of this disease.

Reverend Sampson has been a community and spiritual leader for nearly five decades. I have been able to witness, firsthand, his passionate oratory, his love of his Lord and his commitment to helping others. Reverend Sampson touched the lives of all who met him. I know my Senate colleagues join me in commemorating the life of Reverend Doctor Frederick George Sampson, and in offering their condolences to his son Pastor Frederick Sampson III, his daughter Freda and his extended family.●

NATIONAL BUSINESS WOMEN'S WEEK

● Mr. BIDEN. Mr. President, this week, for the 73rd year, our nation will commemorate National Business Women's Week. Since it was first observed in 1928, the event has been sponsored by Business and Professional Women, (BPW)/USA as a national tribute to all working women. It has helped increase awareness of the continuing challenges that working women face, and has highlighted their many successes that have strengthened our nation.

With well over 60 million women in the American labor force, including more than 70 percent of women with children, and an increasing percentage of women who help care for an elderly relative, the issues that challenge working women must be priorities for all of us, from balancing responsibilities within our own families to our debates on national and, indeed, multinational policy. And, as has been the case for all of the 73 years that we've had National Business Women's Week, we start from a position where there is good news and bad news; we've come a long way, and we have a long way to go.

In 1999, there were nine million women-owned firms, representing 38 percent of all American businesses, a 103 percent increase in just over 10 years; and the rate of growth for women-owned businesses in America is nearly three times faster than the overall rate. Women-owned businesses are also as financially secure and credit-worthy as other firms, and, in fact, are more likely to stay in business.

Yet, even with that powerful place in our economy, women entrepreneurs still have lower levels of available credit than their male counterparts. And as for employees, women still face a wage gap; for every dollar earned by men in 1998, women earned an average of 73 cents. The gap is even wider for women of color, and it gets worse as the workers get older, presumably progressing in their careers.

In the highest echelons of the business world, the Fortune 500, the good news is that the number of women corporate officers has increased by 37 percent over the past five years; the bad news is that the total number of women officers is still alarmingly low. The number of women in the highest officer positions, like CEO, president and high-ranking vice presidencies, has increased by 113 percent since 1995, but that still translates into just 114 women in those jobs, or about five percent of top office holders.

We've seen similar progress, with corresponding long ways to go, in women working in government and higher education. In my State last year, we elected our first woman Governor—a Governor, I might add, who is also a small business owner. While we rightly celebrate her victory, she was just the 11th of 12 American women ever to have been elected to that office outright. Here in the Senate, we have seen progress—with a record 13 women currently serving as U.S. Senators—but we still cannot call it success. And in academia, too, although some numbers are getting better, some problems persist, including what the American Association of University Professors described as substantial disparities in salary, rank and tenure.

And so, as we approach National Business Women's Week, we have some work to do. Achieving equity on the job is a process, and it proceeds not on an isolated track but with almost constant overlap with policies that affect home and family life, from providing adequate health care to combating domestic violence, from meeting the needs of our young children to responding to the needs of our aging parents. As a national interest, work and family exist in partnership.

We celebrate the progress and contributions of working women in America, recognizing that our prosperity—as well as the full expression of our values and national character—depend upon women having the opportunity to participate fully in our economic life. We are not there, but we are inspired by the women who continue to lead the way, and during National Business Women's Week, we are reminded to honor their uniquely valuable contributions to the strength of our economy and our society, and to the promise of our future.●

MESSAGES FROM THE HOUSE

ENROLLED JOINT RESOLUTIONS SIGNED

Under the authority of the order of the Senate of January 3, 2001, the Secretary of the Senate, on October 12, 2001, during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled joint resolutions:

H.J. Res. 68. A joint resolution making further continuing appropriations for the fiscal year 2002, and for other purposes.

S.J. Res. 19. A joint resolution providing for the reappointment of Anne d'Harnoncourt as a citizen regent of the Board of Regents of the Smithsonian Institution.

S.J. Res. 20. A joint resolution providing for the appointment of Roger W. Sant as a citizen regent of the Board of Regents of the Smithsonian Institution.

Under the authority of the order of the Senate of January 3, 2001, the enrolled joint resolutions were signed subsequently by the President pro tempore (Mr. BYRD) on October 12, 2001.

At 3:37 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2975. An act to deter and punish terrorist act in the United States and around the world, to enhance law enforcement investigatory tools, and for other purposes.

H.R. 3061. An act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2002, and for other purposes.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3061. An act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2002, and for other purposes.

The following bill was read the first and second times by unanimous consent, and ordered placed on the calendar:

H.R. 2975. An act to deter and punish terrorist act in the United States and around the world, to enhance law enforcement investigatory tools, and for other purposes.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on, October 12, 2001, she had presented to the President of the United States the following enrolled joint resolutions:

S.J. Res. 19. A joint resolution providing for the reappointment of Anne d'Harnoncourt as a citizen regent of the Board of Regents of the Smithsonian Institution.

S.J. Res. 20. A joint resolution providing for the appointment of Roger W. Sant as a citizen regent of the Board of Regents of the Smithsonian Institution.

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–4421. A communication from the President of the United States, transmitting, pursuant to law, a report on the Status of U.S. Efforts Regarding Iraq's Compliance with UN Security Council Resolutions; to the Committee on Foreign Relations.

EC–4422. A communication from the General Counsel of the Department of Defense, transmitting, a report on the results of the Department of Defense review of the report of the Department of Defense Panel on Military Justice in The National Guard When Not In Federal Service; to the Committee on Armed Services.

EC–4423. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a nomination for the position of Assistant Secretary of Defense, Special Operations, Low Intensity Conflict, received on October 5, 2001; to the Committee on Armed Services.

EC–4424. A communication from the Secretary of Defense, transmitting, the report of a retirement; to the Committee on Armed Services.

EC–4425. A communication from the Alternate OSD Federal Register Liaison Officer, Office of the Secretary, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''TRICARE; CHAMUS; Payments for Professional Services in Low-Access Locations'' (RIN0720-AA58) received on October 10, 2001; to the Committee on Armed Services.

EC–4426. A communication from the Secretary of Defense, transmitting, the report of a retirement; to the Committee on Armed Services.

EC–4427. A communication from the Acting Chairman of the National Transportation Safety Board, transmitting, pursuant to the Independent Safety Board Act of 1974, a report relative to any budget estimate, request, or information submitted to the Office of Management and Budget, and a report regarding the 2002 budget request; to the Committee on Commerce, Science, and Transportation.

EC–4428. A communication from the Associate Bureau Chief, Wireless Telecommunications Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled ''Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Services and Modify the Policies Governing Them and Examination of Exclusivity and Frequency Assignment Policies of the Private Land Mobile Services'' (Doc. No. 92-235, FCC 00-439) received on October 9, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4429. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Actions for the Recreational, Commercial, and Tribal Salmon Seasons from the U.S.-Canada Border to the Oregon-California Border'' received on October 10, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4430. A communication from the Acting Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Adjustment for the Commercial Salmon Season from Humbug MT., OR, to the OR-CA Border'' received on October 10, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4431. A communication from the Acting Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries Off West Coast and Western Pacific States; West Coast Salmon Fisheries; Closure of the Commercial Fishery from Horse Mountain to Point Arena, CA'' received on October 10, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4432. A communication from the Acting Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries Off West Coast and Western Pacific States; West Coast Salmon Fisheries; Closure of the Commercial Fishery from Horse Mountain to Point Arena, CA'' received on October 10, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4433. A communication from the Acting Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Atlantic Highly Migratory Species; Pelagic Longline Fishery; Sea Turtle Protection Measures. Revision to Emergency Rule'' (RIN0648–AP31) received on October 10, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4434. A communication from the Acting Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Pacific Whiting Allocation'' received on October 10, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4435. A communication from the White House Liaison, transmitting, pursuant to law, the report of a nomination for the position of United States Parole Commissioner, Department of Justice, received on October 10, 2001; to the Committee on the Judiciary.

EC–4436. A communication from the White House Liaison, transmitting, pursuant to law, the report of a nomination for the position of United States Parole Commissioner, Department of Justice, received on October 10, 2001; to the Committee on the Judiciary.

EC–4437. A communication from the White House Liaison, transmitting, pursuant to law, the report of a vacancy and a nomination for the position of Special Counsel for Immigration-Related Unfair Employment Practices, Department of Justice, received on October 10, 2001; to the Committee on the Judiciary.

EC–4438. A communication from the White House Liaison, transmitting, pursuant to law, the report of a nomination for the position of Director of the United States Marshals Service, Department of Justice, received on October 10, 2001; to the Committee on the Judiciary.

EC–4439. A communication from the White House Liaison, transmitting, pursuant to law, the report of a nomination confirmed for the position of Director of the Bureau of Justice Assistance, Department of Justice, received on October 10, 2001; to the Committee on the Judiciary.

EC–4440. A communication from the White House Liaison, transmitting, pursuant to law, the report of a nomination confirmed for the position of Director of the Office for

Victims of Crime, Department of Justice, received on October 10, 2001; to the Committee on the Judiciary.

EC–4441. A communication from the White House Liaison, transmitting, pursuant to law, the report of the discontinuation of service, in acting role for the position of Assistant Attorney General, Office of Justice Programs, Department of Justice, received on October 10, 2001; to the Committee on the Judiciary.

EC–4442. A communication from the White House Liaison, transmitting, pursuant to law, the report of the discontinuation of service in acting role in the position of Assistant Attorney General, Office of Justice Programs, Department of Justice, received on October 10, 2001; to the Committee on the Judiciary.

EC–4443. A communication from the White House Liaison, transmitting, pursuant to law, the report of a nomination confirmed for the position of Assistant Attorney General, Office of Justice Programs, Department of Justice, received on October 10, 2001; to the Committee on the Judiciary.

EC–4444. A communication from the Administrator of the Drug Enforcement Administration Office of Diversion Control, Department of Justice, transmitting, pursuant to law, the report of a rule entitled ''Interpretation of Listing of ''Tetrahydrocannabinols'' in Schedule I'' (RIN1117–AA55) received on October 10, 2001; to the Committee on the Judiciary.

EC–4445. A communication from the Administrator of the Drug Enforcement Administration, Department of Justice, transmitting, pursuant to law, the report of a rule entitled ''Exemption from Control of Certain Industrial Products and Material Derived for the Cannabis Plant'' (RIN1117–AA55) received on October 10, 2001; to the Committee on the Judiciary.

EC–4446. A communication from the Administrator of the Drug Enforcement Administration Office of Diversion Control, Department of Justice, transmitting, pursuant to law, the report of a rule entitled ''Clarification of Listing of ''Tetrahydrocannabinols'' in Schedule I'' (RIN1117–AA55) received on October 10, 2001; to the Committee on the Judiciary.

EC–4447. A communication from the Attorney/Advisor of the Department of Transportation, transmitting, pursuant to law, the report of a nomination confirmed for the position of Administrator of the Federal Highway Administration, received on October 4, 2001; to the Committee on Environment and Public Works.

EC–4448. A communication from the Director of the Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Final Rule: Interim Storage for Greater than Class C Waste—10 CFR Parts 30, 70, 72, and 150'' (RIN3150–AG33) received on October 9, 2001; to the Committee on Environment and Public Works.

EC–4449. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Kentucky; Approval of Revisions to State Implementation Plan, Specific Requirements, and Nonregulatory Provisions'' (FRL7083–1a) received on October 10, 2001; to the Committee on Environment and Public Works.

EC–4450. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Reasonably Available Control Technology Requirements for Volatile Organic Compounds and Nitrogen Oxides in the Pittsburgh-Beaver Area'' (FRL7083–3) received on October 10, 2001; to the Committee on Environment and Public Works.

EC–4451. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans, Kentucky: Approval of Revisions to Kentucky State Implementation Plan'' (FRL7082–8) received on October 10, 2001; to the Committee on Environment and Public Works.

EC–4452. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; and Redesignation of Areas for Air Quality Planning Purposes; Kentucky and Indiana; Approval of Revisions to State Implementation Plan; Kentucky'' (FRL7082–9) received on October 10, 2001; to the Committee on Environment and Public Works.

EC–4453. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; Illinois Trading Program'' (FRL7056–6) received on October 10, 2001; to the Committee on Environment and Public Works.

EC–4454. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; State of Missouri'' (FRL7082–6) received on October 10, 2001; to the Committee on Environment and Public Works.

EC–4455. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Interim Final Determination that the State of California Has Corrected Deficiencies and Stay of Sanctions, Ventura County Air Pollution Control District'' (FRL7067–2) received on October 10, 2001; to the Committee on Environment and Public Works.

EC–4456. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Kentucky: Approval of Revisions to State Implementation Plans; Revised Format for Materials Being Incorporated by Reference for Jefferson County, Kentucky'' (FRL7082–7) received on October 10, 2001; to the Committee on Environment and Public Works.

EC–4457. A communication from the General Counsel of the Federal Retirement Thrift Investment Board, transmitting, pursuant to law, the report of a rule entitled ''Uniformed Services Accounts'' received on October 4, 2001; to the Committee on Governmental Affairs.

EC–4458. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting , pursuant to law, a report entitled ''Statistical Programs of the United States Government: Fiscal Year 2002''; to the Committee on Governmental Affairs.

EC–4459. A communication from the Comptroller General of the United States, General Accounting Office, transmitting, pursuant to law, the report of the list of General Accounting Office reports for August 2001; to the Committee on Governmental Affairs.

EC–4460. A communication from the Executive Director of the Office of Navajo and Hopi Indian Relocation, transmitting, pursuant to law, a report relative to Inventory Commercial Activities for Fiscal Year 2001; to the Committee on Governmental Affairs.

EC–4461. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report relative to the Inventory of Commercial Activities for Fiscal Year 2001; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Ms. LANDRIEU, from the Committee on Appropriations, without amendment:

S. 1543: An original bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2002, and for other purposes. (Rept. No. 107–85).

By Mr. ROCKEFELLER, from the Committee on Veterans' Affairs, with an amendment in the nature of a substitute and an amendment to the title:

S. 1088: A bill to amend title 38, United States Code, to facilitate the use of educational assistance under the Montgomery GI Bill for education leading to employment in high technology industry, and for other purposes. (Rept. No. 107–86).

By Mr. ROCKEFELLER, from the Committee on Veterans' Affairs, without amendment:

S. 1090: A bill to increase, effective as of December 1, 2001, the rates of compensation for veterans with service-connected disabilities and the rates dependency and indemnity compensation for the survivors of certain disabled veterans. (Rept. No. 107–87).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LEVIN for the Committee on Armed Services.

*Linton F. Brooks, of Virginia, to be Deputy Administrator for Defense Nuclear Nonproliferation, National Nuclear Security Administration.

*William Winkenwerder, Jr., of Massachusetts, to be an Assistant Secretary of Defense.

Army nomination of Brig. Gen. Michael J. Marchand.

Navy nominations beginning Capt. Richard K. Gallagher and ending Capt. Thomas J. Kilcline Jr., which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 10, 2001.

Army nomination of Maj. Gen. John M. Le Moyne.

Air Force nominations beginning Col. David F. Brubaker and ending Col. Michael W. Corbett, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 21, 2001.

Army nomination of Lt. Gen. Larry R. Jordan.

Army nomination of Lt. Gen. Kevin P. Byrnes.

Army nomination of Lt. Gen. Paul J. Kern.

Army nomination of Maj. Gen. Joseph R. Inge.

Army nomination of Lt. Gen. John P. Abizaid.

Army nomination of Maj. Gen. George W. Casey Jr.

Mr. LEVIN. Mr. President, for the Committee on Armed Services I report favorably the following nomination lists which were printed in the RECORDS on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

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

Army nominations beginning George M. Gouzy III and ending Carrol H. Kinsey Jr., which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 21, 2001.

Army nominations beginning Jeffrey E. Arnold and ending Timothy L. Sheppard, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 21, 2001.

Marine Corps nomination of Henry J. Goodrum.

Navy nominations beginning Richard D. Anderson III and ending James P. Ingram, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 21, 2001.

Navy nomination of Bradley J. Smith.

Army nomination of Gregory A. Antoine.

Navy nominations beginning Richard A. Guerra and ending Jeff B. Jorden, which nominations were received by the Senate and appeared in the CONGRESIONAL RECORD on October 2, 2001.

Navy nomination of Martin B. Harrison.

Army nomination of Stephen C. Burritt.

Navy nomination of Michael S. Speicher.

Navy nomination of Gary W. Latson.

Navy nomination of Robert S. Sullivan.

Air Force nominations beginning Gino L. Auteri and ending Jesus E. Zarate, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 20, 2001.

Air Force nominations beginning Richard E. Aaron and ending *Delia Zorrilla, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 10, 2001.

Navy nominations beginning Kevin T. Aanestad and ending John J. Zuhowski, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 10, 2001.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

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 Ms. LANDRIEU:

S. 1543. An original bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2002, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. KENNEDY:

S. 1544. A bill to direct the Secretary of Transportation to give certain workers who have lost their jobs as a result of the terrorist attacks of September 11, 2001, priority in hiring for aviation-related security positions; to the Committee on Commerce, Science, and Transportation.

By Mr. INHOFE:

S. 1545. A bill to amend title XVIII of the Social Security Act to provide regulatory relief and contracting flexibility under the Medicare Program; to the Committee on Finance.

By Mr. ROBERTS:

S. 1546. A bill to provide additional funding to combat bioterrorism; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SHELBY:

S. 1547. A bill to amend the Internal Revenue Code of 1986 to extend and modify the credit for producing fuel from a nonconventional source; to the Committee on Finance.

By Mrs. CARNAHAN:

S. 1548. A bill to allow the Director of the Centers for Disease Control and Prevention to award a grant to create and maintain a website with information regarding bioterrorism; to the Committee on Health, Education, Labor, and Pensions.

By Mr. LIEBERMAN (for himself, Ms. MIKULSKI, Mr. BOND, Mr. FRIST, and Mr. DOMENICI):

S. 1549. A bill to provide for increasing the technically trained workforce in the United States; to the Committee on Health, Education, Labor, and Pensions.

By Mr. HOLLINGS (for himself and Mr. MCCAIN):

S. 1550. A bill to provide for rail safety and security assistance; to the Committee on Commerce, Science, and Transportation.

By Mrs. CLINTON:

S. 1551. A bill to amend the Federal Food, Drug, and Cosmetic Act to add provisions regarding protecting the United States food supply; to the Committee on Health, Education, Labor, and Pensions.

ADDITIONAL COSPONSORS

S. 540

At the request of Mr. DEWINE, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 540, a bill to amend the Internal Revenue Code of 1986 to allow as a deduction in determining adjusted gross income the deduction for expenses in connection with services as a member of a reserve component of the Armed Forces of the United States, to allow employers a credit against income tax with respect to employees who participate in the military reserve components, and to allow a comparable credit for participating reserve component self-employed individuals, and for other purposes.

S. 583

At the request of Mr. KENNEDY, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 583, a bill to amend the Food Stamp Act of 1977 to improve nutrition assistance for working families and the elderly, and for other purposes.

S. 677

At the request of Mr. HATCH, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 677, a bill to amend the Internal Revenue Code of 1986 to repeal the required use of certain principal repayments on mortgage subsidy bond financing to redeem bonds, to modify the purchase price limitation under mortgage subsidy bond rules based on median family income, and for other purposes.

S. 727

At the request of Ms. COLLINS, the name of the Senator from Tennessee (Mr. FRIST) was added as a cosponsor of S. 727, a bill to provide grants for cardiopulmonary resuscitation (CPR) training in public schools.

S. 790

At the request of Mr. BROWNBACK, the name of the Senator from Oregon (Mr. SMITH of Oregon) was withdrawn as a cosponsor of S. 790, a bill to amend title 18, United States Code, to prohibit human cloning.

S. 1071

At the request of Mr. BOND, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. 1071, a bill to amend title 23, United States Code, to require consideration under the congestion mitigation and air quality improvement program of the extent to which a proposed project or program reduces sulfur or atmospheric carbon emissions, to make renewable fuel projects eligible under that program, and for other purposes.

S. 1111

At the request of Mr. CRAIG, the names of the Senator from Utah (Mr. BENNETT), the Senator from Rhode Island (Mr. CHAFEE), and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of S. 1111, a bill to amend the Consolidated Farm and Rural Development Act to authorize the National Rural Development Partnership, and for other purposes.

S. 1140

At the request of Mr. HATCH, the names of the Senator from Nebraska (Mr. HAGEL) and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of S. 1140, a bill to amend chapter 1 of title 9, United States Code, to provide for greater fairness in the arbitration process relating to motor vehicle franchise contracts.

S. 1163

At the request of Mr. CORZINE, the name of the Senator from Louisiana (Mr. BREAUX) was added as a cosponsor of S. 1163, a bill to increase the mortgage loan limits under the National Housing Act for multifamily housing mortgage insurance.

S. 1203

At the request of Mr. SCHUMER, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 1203, a bill to amend title 38, United States Code, to provide housing loan benefits for the purchase of residential cooperative apartment units.

S. 1262

At the request of Mr. ROCKEFELLER, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 1262 , a bill to make improvements in mathematics and science education, and for other purposes.

S. 1328

At the request of Ms. LANDRIEU, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1328, a bill entitled the ''Conservation and Reinvestment Act''.

S. 1408

At the request of Mr. ROCKEFELLER, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 1408, a bill to amend title 38, United States Code, to standardize the income threshold for copayment for outpatient medications with the income threshold for inability to defray necessary expense of care, and for other purposes.

S. 1433

At the request of Mr. ALLEN, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 1433, a bill to amend the Internal Revenue Code of 1986 to provide tax relief for victims of the terrorist attacks against the United States on September 11, 2001.

S. 1434

At the request of Mr. SPECTER, the names of the Senator from Alaska (Mr. MURKOWSKI), the Senator from West Virginia (Mr. ROCKEFELLER), the Senator from Delaware (Mr. BIDEN), and the Senator from Wyoming (Mr. THOMAS) were added as cosponsors of S. 1434, a bill to authorize the President to award posthumously the Congressional Gold Medal to the passengers and crew of United Airlines flight 93 in the aftermath of the terrorist attack on the United States on September 11, 2001.

S. 1447

At the request of Mr. HOLLINGS, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 1447, a bill to improve aviation security, and for other purposes.

S. 1486

At the request of Mr. EDWARDS, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1486, a bill to ensure that the United States is prepared for an attack using biological or chemical weapons.

S. 1496

At the request of Mr. GRAHAM, the name of the Senator from Tennessee (Mr. THOMPSON) was added as a cosponsor of S. 1496, a bill to clarify the accounting treatment for Federal income tax purposes of deposits and similar amounts received by a tour operator for a tour arranged by such operator.

S.J. RES. 24

At the request of Mr. SPECTER, the names of the Senator from Indiana (Mr. LUGAR), the Senator from Montana (Mr. BURNS), the Senator from Alaska (Mr. STEVENS), and the Senator from Wyoming (Mr. THOMAS) were added as cosponsors of S.J. Res. 24, a joint resolution honoring Maureen Reagan on the occasion of her death and expressing condolences to her family, including her husband Dennis Revell and her daughter Rita Revell.

S. RES. 171

At the request of Mr. JOHNSON, his name was added as a cosponsor of S. Res. 171, a resolution expressing the sense of the Senate concerning the provision of funding for bioterrorism preparedness and response.

S. CON. RES. 74

At the request of Mr. DURBIN, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. Con. Res. 74, a concurrent resolution condemning bigotry and violence against Sikh-Americans in the wake of terrorist attacks in New York City and Washington, D.C. on September 11, 2001.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KENNEDY:

S. 1544. A bill to direct the Secretary of Transportation to give certain workers who have lost their jobs as a result of the terrorist attacks of September 11, 2001, priority in hiring for aviation-related security positions; to the Committee on Commerce, Science, and Transportation.

Mr. KENNEDY. Mr. President it's a privilege to introduce this bill to ensure that laid-off aviation industry workers receive first priority when the Federal Government and private security firms under Federal contracts hire new employees. Identical legislation was introduced last week in the House of Representatives by Representative Jane Harman of California, and I commend her for her leadership.

Under our legislation, the Secretary of Transportation will develop regulations giving priority in such hiring for aviation-related security positions to qualified airline workers who were laid-off as a result of the September 11 terrorist attacks.

Those attacks have had a devastating impact on large numbers of the men and women who work in aviation and related industries. Immense job losses have taken place. Since September 11, layoffs of more than 140,000 aviation workers have been announced, and nearly 80,000 of those workers are already out of work. Clearly, Congress should do all it can to help the men and women in the industry who have lost their jobs. These workers should get preference for training and new employment opportunities.

Last week, the Senate passed the aviation security bill that federalizes airport security, including 18,000 baggage screeners and 10,000 other security-related positions. The bill that Representative Harman and I am sponsoring gives first priority in hiring for these airport security jobs to the thousands of men and women who were working in the aviation industry and at airports before September 11, and who have been laid off as a result of the terrorist attacks.

The time to help these workers is now. We must help these workers get back to work. One of the most effective ways to do that is by giving preference to those who lost their jobs for these airport security positions. I urge my colleagues to help these dedicated men and women by supporting this important legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

S. 1544

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

SECTION 1. PRIORITY IN HIRING.

Not later than 30 days after the date of enactment of this Act, the Secretary of Transportation shall issue regulations directing that the Department of Transportation, agencies within the Department, and private companies contracted to provide aviation-related security shall give first priority in hiring, for employment related to security at airports and on aircraft operated by air carriers in air transportation and intrastate air transportation, to individuals who—

(1) were employed before September 11, 2001—

(A) in a security-related position at an airport;

(B) by an air carrier;

(C) at a facility at, or immediately adjacent to, an airport;

(D) in providing transportation to or from an airport; or

(E) in other employment directly related to commercial aviation;

(2) have been laid off, terminated, released, or otherwise lost their jobs as a result of the terrorist attacks of September 11, 2001; and

(3) are qualified for those positions or for training programs needed to qualify for those positions.

By Mr. INHOFE:

S. 1545. A bill to amend title XVIII of the Social Security Act to provide regulatory relief and contracting flexibility under the Medicare Program; to the Committee on Finance.

Mr. INHOFE. Mr. President, Today I rise to introduce the Medicare Regulatory and Contracting Reform Act of 2001.

I do so at this time because, within the past month, I have received two letters from Medicare Contractors who are withdrawing their services from some Oklahoma counties and other markets across the country. One letter reads, ''. . .over-regulation will force health plans to make the difficult decision to withdraw from some markets. . .''. Nearly half a million seniors will lose their Medicare+Choice health coverage this year. This is unacceptable. Over-regulation and reimbursement issues plague many Medicare contractors and providers. If we do not act to alleviate the ills of this system, more and more Americans will suffer the consequence.

This legislation will substantially alter the current system to reduce the regulatory burden on Medicare providers, carriers, fiscal intermediaries and beneficiaries, and it will improve the efficiency and quality of the contracting system by which Medicare operates on a daily basis.

In order to help providers, carriers, and beneficiaries understand and implement Medicare regulations, this legislation consolidates the rule-making

process for the Secretary of the Department of Health and Human Services, HHS. It also provides for the education and training of all parties involved. Should this bill become law, the Secretary of HHS will be required to utilize the mechanisms of competition and incentives in the Medicare contracting process. Both competition and incentives increase performance and quality of service. Streamlining the claims-appeals process to expedite reviews and amending the process of payment recovery will further benefit providers. This legislation enhances the technical support for small rural providers that currently do not have the resources to comply with electronic billing requirements. Finally, to directly assist Medicare recipients, this bill establishes a resource person to answer questions and work through obstacles that arise in the health care process.

Passage of this legislation is necessary to stabilize and strengthen a Medicare system that is disintegrating. I am confident that we can bring about beneficial change for millions of Americans who depend on Medicare. I hope that my colleagues will join me in this effort.

Mr. INHOFE. 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. 1545

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

SECTION 1. SHORT TITLE; AMENDMENTS TO SOCIAL SECURITY ACT; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Medicare Regulatory and Contracting Reform Act of 2001''.

(b) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(c) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

(d) CONSTRUCTION.—Nothing in this Act shall be construed—

(1) to compromise or affect existing legal authority for addressing fraud or abuse, whether it be criminal prosecution, civil enforcement, or administrative remedies, including under sections 3729 through 3733 of title 31, United States Code (known as the False Claims Act); or

(2) to prevent or impede the Department of Health and Human Services in any way from its ongoing efforts to eliminate waste, fraud, and abuse in the medicare program.

Furthermore, the consolidation of medicare administrative contracting set forth in this Act does not constitute consolidation of the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund or reflect any position on that issue.

SEC. 2. ISSUANCE OF REGULATIONS.

(a) CONSOLIDATION OF PROMULGATION TO ONCE A MONTH.—

(1) IN GENERAL.—Section 1871 (42 U.S.C. 1395hh) is amended by adding at the end the following new subsection:

''(d) The Secretary shall issue proposed or final (including interim final) regulations to carry out this title only on one business day of every month unless publication on another date is necessary to comply with requirements under law.''.

(2) REPORT ON PUBLICATION OF REGULATIONS ON A QUARTERLY BASIS.—Not later than 3 years after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to Congress a report on the feasibility of requiring that regulations described in section 1871(d) of the Social Security Act only be promulgated on a single day every calendar quarter.

(3) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to regulations promulgated on or after the date that is 30 days after the date of the enactment of this Act.

(b) REGULAR TIMELINE FOR PUBLICATION OF FINAL RULES.—

(1) IN GENERAL.—Section 1871(a) (42 U.S.C. 1395hh(a)) is amended by adding at the end the following new paragraph:

''(3) The Secretary, in consultation with the Director of the Office of Management and Budget, shall establish a regular timeline for the publication of final regulations based on the previous publication of a proposed regulation or an interim final regulation. Such timeline may vary among different regulations based on differences in the complexity of the regulation, the number and scope of comments received, and other relevant factors. In the case of interim final regulations, upon the expiration of the regular timeline established under this paragraph for the publication of a final regulation after opportunity for public comment, the interim final regulation shall not continue in effect unless the Secretary publishes a notice of continuation of the regulation that includes an explanation of why the regular timeline was not complied with. If such a notice is published, the regular timeline for publication of the final regulation shall be treated as having begun again as of the date of publication of the notice.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act. The Secretary of Health and Human Services shall provide for an appropriation transition to take into account the backlog of previously published interim final regulations.

(c) LIMITATIONS ON NEW MATTER IN FINAL REGULATIONS.—

(1) IN GENERAL.—Section 1871(a) (42 U.S.C. 1395hh(a)), as amended by subsection (b), is further amended by adding at the end the following new paragraph:

''(4) Insofar as a final regulation (other than an interim final regulation) includes a provision that is not a logical outgrowth of the relevant notice of proposed rulemaking relating to such regulation, that provision shall be treated as a proposed regulation and shall not take effect until there is the further opportunity for public comment and a publication of the provision again as a final regulation.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to final regulations published on or after the date of the enactment of this Act.

SEC. 3. COMPLIANCE WITH CHANGES IN REGULATIONS AND POLICIES.

(a) NO RETROACTIVE APPLICATION OF SUBSTANTIVE CHANGES; TIMELINE FOR COMPLIANCE WITH SUBSTANTIVE CHANGES AFTER NOTICE.—Section 1871 (42 U.S.C. 1395hh), as amended by section 2(a), is amended by adding at the end the following new subsection:

''(e)(1)(A) A substantive change in regulations, manual instructions, interpretative rules, statements of policy, or guidelines of general applicability under this title shall not be applied (by extrapolation or otherwise) retroactively to items and services furnished before the date the change was issued, unless the Secretary determines that such retroactive application would have a positive impact on beneficiaries or providers of services, physicians, practitioners, and other suppliers or would be necessary to comply with statutory requirements.

''(B) No compliance action shall be made against a provider of services, physician, practitioner, or other supplier with respect to noncompliance with such a substantive change for items and services furnished on or before the date that is 30 days after the date of issuance of the change, unless the Secretary provides otherwise.''.

(b) RELIANCE ON GUIDANCE.—Section 1871(e), as added by subsection (a), is further amended by adding at the end the following new paragraph:

''(2) If—

''(A) a provider of services, physician, practitioner, or other supplier follows the written guidance provided by the Secretary or by a medicare contractor (as defined in section 1889(f)) acting within the scope of the contractor's contract authority with respect to the furnishing of items or services and submission of a claim for benefits for such items or services;

''(B) the Secretary determines that the provider of services, physician, practitioner, or supplier has accurately presented the circumstances relating to such items, services, and claim to the contractor in writing; and

''(C) the guidance was in error;

the provider of services, physician, practitioner or supplier shall not be subject to any sanction if the provider of services, physician, practitioner, or supplier reasonably relied on such guidance.''.

SEC. 4. INCREASED FLEXIBILITY IN MEDICARE ADMINISTRATION.

(a) CONSOLIDATION AND FLEXIBILITY IN MEDICARE ADMINISTRATION.—

(1) IN GENERAL.—Title XVIII is amended by inserting after section 1874 the following new section:

''CONTRACTS WITH MEDICARE ADMINISTRATIVE CONTRACTORS

''SEC. 1874A. (a) AUTHORITY.—

''(1) AUTHORITY TO ENTER INTO CONTRACTS.—The Secretary may enter into contracts with any entity to serve as a medicare administrative contractor with respect to the performance of any or all of the functions described in paragraph (3) or parts of those functions (or, to the extent provided in a contract, to secure performance thereof by other entities).

''(2) MEDICARE ADMINISTRATIVE CONTRACTOR DEFINED.—For purposes of this title and title XI:

''(A) IN GENERAL.—The term 'medicare administrative contractor' means an agency, organization, or other person with a contract under this section.

''(B) APPROPRIATE MEDICARE ADMINISTRATIVE CONTRACTOR.—With respect to the performance of a particular function or activity in relation to an individual entitled to benefits under part A or enrolled under part B, or both, a specific provider of services, physician, practitioner, or supplier (or class of such providers of services, physicians, practitioners, or suppliers), the 'appropriate' medicare administrative contractor is the medicare administrative contractor that has a contract under this section with respect to the performance of that function or activity in relation to that individual, provider of services, physician, practitioner, or supplier or class of provider of services, physician, practitioner, or supplier.

''(3) FUNCTIONS DESCRIBED.—The functions referred to in paragraph (1) are payment functions, provider services functions, and beneficiary services functions as follows:

''(A) DETERMINATION OF PAYMENT AMOUNTS.—Determining (subject to the provisions of section 1878 and to such review by the Secretary as may be provided for by the contracts) the amount of the payments required pursuant to this title to be made to providers of services, physicians, practitioners, and suppliers.

''(B) MAKING PAYMENTS.—Making payments described in subparagraph (A).

''(C) BENEFICIARY EDUCATION AND ASSISTANCE.—Serving as a center for, and communicating to individuals entitled to benefits under part A or enrolled under part B, or both, with respect to education and outreach for those individuals, and assistance with specific issues, concerns or problems of those individuals.

''(D) PROVIDER CONSULTATIVE SERVICES.—Providing consultative services to institutions, agencies, and other persons to enable them to establish and maintain fiscal records necessary for purposes of this title and otherwise to qualify as providers of services, physicians, practitioners, or suppliers.

''(E) COMMUNICATION WITH PROVIDERS.—Serving as a center for, and communicating to providers of services, physicians, practitioners, and suppliers, any information or instructions furnished to the medicare administrative contractor by the Secretary, and serving as a channel of communication from such providers, physicians, practitioners, and suppliers to the Secretary.

''(F) PROVIDER EDUCATION AND TECHNICAL ASSISTANCE.—Performing the functions described in subsections (e) and (f), relating to provider education, training, and technical assistance.

''(G) ADDITIONAL FUNCTIONS.—Performing such other functions as are necessary to carry out the purposes of this title.

''(4) RELATIONSHIP TO MIP CONTRACTS.—

''(A) NONDUPLICATION OF DUTIES.—In entering into contracts under this section, the Secretary shall assure that functions of medicare administrative contractors in carrying out activities under parts A and B do not duplicate functions carried out under the Medicare Integrity Program under section 1893. The previous sentence shall not apply with respect to the activity described in section 1893(b)(5) (relating to prior authorization of certain items of durable medical equipment under section 1834(a)(15)).

''(B) CONSTRUCTION.—An entity shall not be treated as a medicare administrative contractor merely by reason of having entered into a contract with the Secretary under section 1893.

''(b) CONTRACTING REQUIREMENTS.—

''(1) USE OF COMPETITIVE PROCEDURES.—

''(A) IN GENERAL.—Notwithstanding any law with general applicability to Federal acquisition and procurement and except as provided in subparagraph (B), the Secretary shall use competitive procedures when entering into contracts with medicare administrative contractors under this section.

''(B) RENEWAL OF CONTRACTS.—The Secretary may renew a contract with a medicare administrative contractor under this section from term to term without regard to section 5 of title 41, United States Code, or any other provision of law requiring competition, if the medicare administrative contractor has met or exceeded the performance requirements applicable with respect to the contract and contractor.

''(C) TRANSFER OF FUNCTIONS.—Functions may be transferred among medicare administrative contractors in accordance with the provisions of this paragraph. The Secretary shall ensure that performance quality is considered in such transfers.

''(D) INCENTIVES FOR QUALITY.—The Secretary shall provide financial incentives and such other incentives as the Secretary determines appropriate for medicare administrative contractors to provide quality service and to promote efficiency.

''(2) COMPLIANCE WITH REQUIREMENTS.—No contract under this section shall be entered into with any medicare administrative contractor unless the Secretary finds that such medicare administrative contractor will perform its obligations under the contract efficiently and effectively and will meet such requirements as to financial responsibility, legal authority, and other matters as the Secretary finds pertinent.

''(3) DEVELOPMENT OF SPECIFIC PERFORMANCE REQUIREMENTS.—In developing contract performance requirements, the Secretary shall develop performance requirements to carry out the specific requirements applicable under this title to a function described in subsection (a)(3).

''(4) INFORMATION REQUIREMENTS.—The Secretary shall not enter into a contract with a medicare administrative contractor under this section unless the contractor agrees—

''(A) to furnish to the Secretary such timely information and reports as the Secretary may find necessary in performing his functions under this title; and

''(B) to maintain such records and afford such access thereto as the Secretary finds necessary to assure the correctness and verification of the information and reports under subparagraph (A) and otherwise to carry out the purposes of this title.

''(5) SURETY BOND.—A contract with a medicare administrative contractor under this section may require the medicare administrative contractor, and any of its officers or employees certifying payments or disbursing funds pursuant to the contract, or otherwise participating in carrying out the contract, to give surety bond to the United States in such amount as the Secretary may deem appropriate.

''(c) TERMS AND CONDITIONS.—

''(1) IN GENERAL.—A contract with any medicare administrative contractor under this section may contain such terms and conditions as the Secretary finds necessary or appropriate and may provide for advances of funds to the medicare administrative contractor for the making of payments by it under subsection (a)(3)(B).

''(2) PROHIBITION ON MANDATES FOR CERTAIN DATA COLLECTION.—The Secretary may not require, as a condition of entering into a contract under this section, that the medicare administrative contractor match data obtained other than in its activities under this title with data used in the administration of this title for purposes of identifying situations in which the provisions of section 1862(b) may apply.

''(d) LIMITATION ON LIABILITY OF MEDICARE ADMINISTRATIVE CONTRACTORS AND CERTAIN OFFICERS.—

''(1) CERTIFYING OFFICER.—No individual designated pursuant to a contract under this section as a certifying officer shall, in the absence of negligence or intent to defraud the United States, be liable with respect to any payments certified by the individual under this section.

''(2) DISBURSING OFFICER.—No disbursing officer shall, in the absence of negligence or intent to defraud the United States, be liable with respect to any payment by such officer under this section if it was based upon an authorization (which meets the applicable requirements for such internal controls established by the Comptroller General) of a certifying officer designated as provided in paragraph (1) of this subsection.

''(3) LIABILITY OF MEDICARE ADMINISTRATIVE CONTRACTOR.—A medicare administrative contractor shall be liable to the United States for a payment referred to in paragraph (1) or (2) if, in connection with such payment, an individual referred to in either such paragraph acted with gross negligence or intent to defraud the United States.''.

(2) CONSIDERATION OF INCORPORATION OF CURRENT LAW STANDARDS.—In developing contract performance requirements under section 1874A(b) of the Social Security Act, as inserted by paragraph (1), the Secretary of Health and Human Services shall consider inclusion of the performance standards described in sections 1816(f)(2) of such Act (relating to timely processing of reconsiderations and applications for exemptions) and section 1842(b)(2)(B) of such Act (relating to timely review of determinations and fair hearing requests), as such sections were in effect before the date of the enactment of this Act.

(b) CONFORMING AMENDMENTS TO SECTION 1816 (RELATING TO FISCAL INTERMEDIARIES).—Section 1816 (42 U.S.C. 1395h) is amended as follows:

(1) The heading is amended to read as follows:

''PROVISIONS RELATING TO THE ADMINISTRATION OF PART A''.

(2) Subsection (a) is amended to read as follows:

''(a) The administration of this part shall be conducted through contracts with medicare administrative contractors under section 1874A.''.

(3) Subsection (b) is repealed.

(4) Subsection (c) is amended—

(A) by striking paragraph (1); and

(B) in each of paragraphs (2)(A) and (3)(A), by striking ''agreement under this section'' and inserting ''contract under section 1874A that provides for making payments under this part''.

(5) Subsections (d) through (i) are repealed.

(6) Subsections (j) and (k) are each amended—

(A) by striking ''An agreement with an agency or organization under this section'' and inserting ''A contract with a medicare administrative contractor under section 1874A with respect to the administration of this part''; and

(B) by striking ''such agency or organization'' and inserting ''such medicare administrative contractor'' each place it appears.

(7) Subsection (l) is repealed.

(c) CONFORMING AMENDMENTS TO SECTION 1842 (RELATING TO CARRIERS).—Section 1842 (42 U.S.C. 1395u) is amended as follows:

(1) The heading is amended to read as follows:

''PROVISIONS RELATING TO THE ADMINISTRATION OF PART B''.

(2) Subsection (a) is amended to read as follows:

''(a) The administration of this part shall be conducted through contracts with medicare administrative contractors under section 1874A.''.

(3) Subsection (b) is amended—

(A) by striking paragraph (1);

(B) in paragraph (2)—

(i) by striking subparagraphs (A) and (B);

(ii) in subparagraph (C), by striking ''carriers'' and inserting ''medicare administrative contractors''; and

(iii) by striking subparagraphs (D) and (E);

(C) in paragraph (3)—

(i) in the matter before subparagraph (A), by striking ''Each such contract shall provide that the carrier'' and inserting ''The Secretary'';

(ii) in subparagraph (B), in the matter before clause (i), by striking ''to the policyholders and subscribers of the carrier'' and inserting ''to the policyholders and subscribers of the medicare administrative contractor'';

(iii) by striking subparagraphs (C), (D), and (E);

(iv) in subparagraph (H)—

(I) by striking ''it'' and inserting ''the Secretary''; and

(II) by striking ''carrier'' and inserting ''medicare administrative contractor''; and

(v) in the seventh sentence, by inserting ''medicare administrative contractor,'' after ''carrier,''; and

(D) by striking paragraph (5); and

(E) in paragraph (7) and succeeding paragraphs, by striking ''the carrier'' and inserting ''the Secretary'' each place it appears.

(4) Subsection (c) is amended—

(A) by striking paragraph (1);

(B) in paragraph (2), by striking ''contract under this section which provides for the disbursement of funds, as described in subsection (a)(1)(B),'' and inserting ''contract under section 1874A that provides for making payments under this part shall provide that the medicare administrative contractor'';

(C) in paragraph (4), by striking ''a carrier'' and inserting ''medicare administrative contractor'';

(D) in paragraph (5), by striking ''contract under this section which provides for the disbursement of funds, as described in subsection (a)(1)(B), shall require the carrier'' and inserting ''contract under section 1874A that provides for making payments under this part shall require the medicare administrative contractor''; and

(E) by striking paragraph (6).

(5) Subsections (d), (e), and (f) are repealed.

(6) Subsection (g) is amended by striking ''carrier or carriers'' and inserting ''medicare administrative contractor or contractors''.

(7) Subsection (h) is amended—

(A) in paragraph (2)—

(i) by striking ''Each carrier having an agreement with the Secretary under subsection (a)'' and inserting ''The Secretary''; and

(ii) by striking ''Each such carrier'' and inserting ''The Secretary''; and

(B) in paragraph (3)(A)—

(i) by striking ''a carrier having an agreement with the Secretary under subsection (a)'' and inserting ''medicare administrative contractor having a contract under section 1874A that provides for making payments under this part''; and

(ii) by striking ''such carrier'' and inserting ''such contractor''.

(d) EFFECTIVE DATE; TRANSITION RULE.—

(1) EFFECTIVE DATE.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on October 1, 2003, and the Secretary of Health and Human Services is authorized to take such steps before such date as may be necessary to implement such amendments on a timely basis.

(2) GENERAL TRANSITION RULES.—(A) The Secretary shall take such steps as are necessary to provide for an appropriate transition from contracts under section 1816 and section 1842 of the Social Security Act (42 U.S.C. 1395h, 1395u) to contracts under section 1874A, as added by subsection (a)(1).

(B) Any such contract under such sections 1816 or 1842 whose periods begin before or during the 1-year period that begins on the first day of the fourth calendar month that begins after the date of enactment of this Act may be entered into without regard to any provision of law requiring the use of competitive procedures.

(3) AUTHORIZING CONTINUATION OF MIP FUNCTIONS UNDER CURRENT CONTRACTS AND AGREEMENTS AND UNDER ROLLOVER CONTRACTS.—The provisions contained in the exception in section 1893(d)(2) of the Social Security Act (42 U.S.C. 1395ddd(d)(2)) shall continue to apply notwithstanding the amendments made by this section, and any reference in such provisions to an agreement or contract shall be deemed to include a contract under section 1874A of such Act, as inserted by subsection (a)(1), that continues the activities referred to in such provisions.

(e) REFERENCES.—On and after the effective date provided under subsection (d), any reference to a fiscal intermediary or carrier under title XI or XVIII of the Social Security Act (or any regulation, manual instruction, interpretative rule, statement of policy, or guideline issued to carry out such titles) shall be deemed a reference to an appropriate medicare administrative contractor (as provided under section 1874A of the Social Security Act).

(f) SECRETARIAL SUBMISSION OF LEGISLATIVE PROPOSAL.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to the appropriate committees of Congress a legislative proposal providing for such technical and conforming amendments in the law as are required by the provisions of this section.

SEC. 5. PROVIDER EDUCATION AND TECHNICAL ASSISTANCE.

(a) COORDINATION OF EDUCATION FUNDING.—

(1) IN GENERAL.—The Social Security Act is amended by inserting after section 1888 the following new section:

''PROVIDER EDUCATION AND TECHNICAL ASSISTANCE

''SEC. 1889. (a) COORDINATION OF EDUCATION FUNDING.—The Secretary shall coordinate the educational activities provided through medicare contractors (as defined in subsection (i), including under section 1893) in order to maximize the effectiveness of Federal education efforts for providers of services, physicians, practitioners, and suppliers.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(3) REPORT.—Not later than October 1, 2002, the Secretary of Health and Human Services shall submit to Congress a report that includes a description and evaluation of the steps taken to coordinate the funding of provider education under section 1889(a) of the Social Security Act, as added by paragraph (1).

(b) INCENTIVES TO IMPROVE CONTRACTOR PERFORMANCE.—

(1) IN GENERAL.—Section 1874A, as added by section 4(a)(1), is amended by adding at the end the following new subsection:

''(e) INCENTIVES TO IMPROVE CONTRACTOR PERFORMANCE IN PROVIDER EDUCATION AND OUTREACH.—

''(1) METHODOLOGY TO MEASURE CONTRACTOR ERROR RATES.—In order to give medicare administrative contractors an incentive to implement effective education and outreach programs for providers of services, physicians, practitioners, and suppliers, the Secretary shall develop and implement by October 1, 2002, a methodology to measure the specific claims payment error rates of such contractors in the processing or reviewing of medicare claims.

''(2) IDENTIFICATION OF BEST PRACTICES.—The Secretary shall identify the best practices developed by individual medicare administrative contractors for educating providers of services, physicians, practitioners, and suppliers and how to encourage the use of such best practices nationwide.''.

(2) REPORT.—Not later than October 1, 2003, the Secretary of Health and Human Services shall submit to Congress a report that describes how the Secretary intends to use the methodology developed under section 1874A(e)(1) of the Social Security Act, as added by paragraph (1), in assessing medicare contractor performance in implementing effective education and outreach programs, including whether to use such methodology as the basis for performance bonuses.

(c) PROVISION OF ACCESS TO AND PROMPT RESPONSES FROM MEDICARE ADMINISTRATIVE CONTRACTORS.—

(1) IN GENERAL.—Section 1874A, as added by section 4(a)(1) and as amended by subsection (b), is further amended by adding at the end the following new subsection:

''(f) RESPONSE TO INQUIRIES; TOLL-FREE LINES.—

''(1) CONTRACTOR RESPONSIBILITY.—Each medicare administrative contractor shall, for those providers of services, physicians, practitioners, and suppliers which submit claims to the contractor for claims processing—

''(A) respond in a clear, concise, and accurate manner to specific billing and cost reporting questions of providers of services, physicians, practitioners, and suppliers;

''(B) maintain a toll-free telephone number at which providers of services, physicians, practitioners, and suppliers may obtain information regarding billing, coding, and other appropriate information under this title;

''(C) maintain a system for identifying who provides the information referred to in subparagraphs (A) and (B); and

''(D) monitor the accuracy, consistency, and timeliness of the information so provided.

''(2) EVALUATION.—In conducting evaluations of individual medicare administrative contractors, the Secretary shall take into account the results of the monitoring conducted under paragraph (1)(D). The Secretary shall, in consultation with organizations representing providers of services, physicians, practitioners, and suppliers, establish standards relating to the accuracy, consistency, and timeliness of the information so provided.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect October 1, 2002.

(d) IMPROVED PROVIDER EDUCATION AND TRAINING.—

(1) IN GENERAL.—Section 1889, as added by subsection (a), is amended by adding at the end the following new subsections:

''(b) ENHANCED EDUCATION AND TRAINING.—

''(1) ADDITIONAL RESOURCES.—For each of fiscal years 2003 and 2004, there are authorized to be appropriated to the Secretary (in appropriate part from the Federal Hospital

Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund) $10,000,000.

''(2) USE.—The funds made available under paragraph (1) shall be used to increase the conduct by medicare contractors of education and training of providers of services, physicians, practitioners, and suppliers regarding billing, coding, and other appropriate items.

''(c) TAILORING EDUCATION AND TRAINING ACTIVITIES FOR SMALL PROVIDERS OR SUPPLIERS.—

''(1) IN GENERAL.—Insofar as a medicare contractor conducts education and training activities, it shall tailor such activities to meet the special needs of small providers of services or suppliers (as defined in paragraph (2)).

''(2) SMALL PROVIDER OF SERVICES OR SUPPLIER.—In this subsection, the term 'small provider of services or supplier' means—

''(A) an institutional provider of services with fewer than 25 full-time-equivalent employees; or

''(B) a physician, practitioner, or supplier with fewer than 10 full-time-equivalent employees.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on October 1, 2002.

(e) REQUIREMENT TO MAINTAIN INTERNET SITES.—

(1) IN GENERAL.—Section 1889, as added by subsection (a) and as amended by subsection (d), is further amended by adding at the end the following new subsection:

''(c) INTERNET SITES; FAQS.—The Secretary, and each medicare contractor insofar as it provides services (including claims processing) for providers of services, physicians, practitioners, or suppliers, shall maintain an Internet site which provides answers in an easily accessible format to frequently asked questions relating to providers of services, physicians, practitioners, and suppliers under the programs under this title and title XI insofar as it relates to such programs.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on October 1, 2002.

(f) ADDITIONAL PROVIDER EDUCATION PROVISIONS.—

(1) IN GENERAL.—Section 1889, as added by subsection (a) and as amended by subsections (d) and (e), is further amended by adding at the end the following new subsections:

''(d) ENCOURAGEMENT OF PARTICIPATION IN EDUCATION PROGRAM ACTIVITIES.—A medicare contractor may not use a record of attendance at (or failure to attend) educational activities or other information gathered during an educational program conducted under this section or otherwise by the Secretary to select or track providers of services, physicians, practitioners, or suppliers for the purpose of conducting any type of audit or prepayment review.

''(e) CONSTRUCTION.—Nothing in this section or section 1893(g) shall be construed as providing for disclosure by a medicare contractor—

''(1) of the screens used for identifying claims that will be subject to medical review; or

''(2) of information that would compromise pending law enforcement activities or reveal findings of law enforcement-related audits.

''(f) DEFINITIONS.—For purposes of this section, the term 'medicare contractor' includes the following:

''(1) A medicare administrative contractor with a contract under section 1874A, including a fiscal intermediary with a contract under section 1816 and a carrier with a contract under section 1842.

''(2) An eligible entity with a contract under section 1893. Such term does not include, with respect to activities of a specific provider of services, physician, practitioner, or supplier an entity that has no authority under this title or title IX with respect to such activities and such provider of services, physician, practitioner, or supplier.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

SEC. 6. SMALL PROVIDER TECHNICAL ASSISTANCE DEMONSTRATION PROGRAM.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall establish a demonstration program (in this section referred to as the ''demonstration program'') under which technical assistance is made available, upon request on a voluntary basis, to small providers of services or suppliers to evaluate their billing and related systems for compliance with the applicable requirements of the programs under medicare program under title XVIII of the Social Security Act (including provisions of title XI of such Act insofar as they relate to such title and are not administered by the Office of the Inspector General of the Department of Health and Human Services).

(2) SMALL PROVIDERS OF SERVICES OR SUPPLIERS.—In this section, the term ''small providers of services or suppliers'' means—

(A) an institutional provider of services with fewer than 25 full-time-equivalent employees; or

(B) a physician, practitioner, or supplier with fewer than 10 full-time-equivalent employees.

(b) QUALIFICATION OF CONTRACTORS.—In conducting the demonstration program, the Secretary of Health and Human Services shall enter into contracts with qualified organizations (such as peer review organizations or entities described in section 1889(f)(2) of the Social Security Act, as inserted by section 5(f)(1)) with appropriate expertise with billing systems of the full range of providers of services, physicians, practitioners, and suppliers to provide the technical assistance. In awarding such contracts, the Secretary shall consider any prior investigations of the entity's work by the Inspector General of Department of Health and Human Services or the Comptroller General of the United States.

(c) DESCRIPTION OF TECHNICAL ASSISTANCE.—The technical assistance provided under the demonstration program shall include a direct and in-person examination of billing systems and internal controls of small providers of services or suppliers to determine program compliance and to suggest more efficient or effective means of achieving such compliance.

(d) AVOIDANCE OF RECOVERY ACTIONS FOR PROBLEMS IDENTIFIED AS CORRECTED.—The Secretary of Health and Human Services may provide that, absent evidence of fraud and notwithstanding any other provision of law, any errors found in a compliance review for a small provider of services or supplier that participates in the demonstration program shall not be subject to recovery action if the technical assistance personnel under the program determine that—

(1) the problem that is the subject of the compliance review has been corrected to their satisfaction within 30 days of the date of the visit by such personnel to the small provider of services or supplier; and

(2) such problem remains corrected for such period as is appropriate.

(e) GAO EVALUATION.—Not later than 2 years after the date of the date the demonstration program is first implemented, the Comptroller General, in consultation with the Inspector General of the Department of Health and Human Services, shall conduct an evaluation of the demonstration program. The evaluation shall include a determination of whether claims error rates are reduced for small providers of services or suppliers who participated in the program. The Comptroller General shall submit a report to the Secretary and the Congress on such evaluation and shall include in such report recommendations regarding the continuation or extension of the demonstration program.

(f) FINANCIAL PARTICIPATION BY PROVIDERS.—The provision of technical assistance to a small provider of services or supplier under the demonstration program is conditioned upon the small provider of services or supplier paying for 25 percent of the cost of the technical assistance.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Health and Human Services (in appropriate part from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund) to carry out the demonstration program—

(1) for fiscal year 2003, $1,000,000, and

(2) for fiscal year 2004, $6,000,000.

SEC. 7. MEDICARE PROVIDER OMBUDSMAN.

(a) IN GENERAL.—Section 1868 (42 U.S.C. 1395ee) is amended—

(1) by adding at the end of the heading the following: ''; MEDICARE PROVIDER OMBUDSMAN'';

(2) by inserting ''PRACTICING PHYSICIANS ADVISORY COUNCIL.—(1)'' after ''(a)'';

(3) in paragraph (1), as so redesignated under paragraph (2), by striking ''in this section'' and inserting ''in this subsection'';

(4) by redesignating subsections (b) and (c) as paragraphs (2) and (3), respectively; and

(5) by adding at the end the following new subsection:

''(b) MEDICARE PROVIDER OMBUDSMAN.—The Secretary shall appoint a Medicare Provider Ombudsman. The Ombudsman shall—

''(1) provide assistance, on a confidential basis, to providers of services, physicians, practitioners, and suppliers with respect to complaints, grievances, and requests for information concerning the programs under this title (including provisions of title XI insofar as they relate to this title and are not administered by the Office of the Inspector General of the Department of Health and Human Services) and in the resolution of unclear or conflicting guidance given by the Secretary and medicare contractors to such providers of services, physicians, practitioners, and suppliers regarding such programs and provisions and requirements under this title and such provisions; and

''(2) submit recommendations to the Secretary for improvement in the administration of this title and such provisions, including—

''(A) recommendations to respond to recurring patterns of confusion in this title and such provisions (including recommendations regarding suspending imposition of sanctions where there is widespread confusion in program administration), and

''(B) recommendations to provide for an appropriate and consistent response (including not providing for audits) in cases of self-identified overpayments by providers of services, physicians, practitioners, and suppliers.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Health and Human Services (in appropriate part from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund) to carry out the provisions of subsection (b) of section 1868 (relating to the Medicare Provider Ombudsman), as added by subsection (a)(5), amounts as follows:

(1) For fiscal year 2002, such sums as are necessary.

(2) For fiscal year 2003, $8,000,000.

(3) For fiscal year 2004, $17,000,000.

(c) REPORT ON ADDITIONAL FUNDING.—Not later than October 1, 2003, the Secretary of Health and Human Services shall submit to Congress a report that includes the Secretary's estimate of the amount of additional funding necessary to carry out such provisions of subsection (b) of section 1868, as so added, in fiscal year 2005 and subsequent fiscal years.

SEC. 8. PROVIDER APPEALS.

(a) MEDICARE ADMINISTRATIVE LAW JUDGES.—Section 1869 (42 U.S.C. 1395ff), as amended by section 521(a) of Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A–534), as enacted into law by section 1(a)(6) of Public Law 106–554, is amended by adding at the end the following new subsection:

''(g) MEDICARE ADMINISTRATIVE LAW JUDGES.—

''(1) TRANSITION PLAN.—Not later than October 1, 2003, the Commissioner of Social Security and the Secretary shall develop and implement a plan under which administrative law judges responsible solely for hearing cases under this title (and related provisions in title XI) shall be transferred from the responsibility of the Commissioner and the Social Security Administration to the Secretary and the Department of Health and Human Services. The plan shall include recommendations with respect to—

''(A) the number of such administrative law judges and support staff required to hear and decide such cases in a timely manner; and

''(B) funding levels required for fiscal year 2004 and subsequent fiscal years under this subsection to hear such cases in a timely manner.

''(2) INCREASED FINANCIAL SUPPORT.—In addition to any amounts otherwise appropriated, there are authorized to be appropriated (in appropriate part from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund) to the Secretary to increase the number of administrative law judges under paragraph (1) and to improve education and training opportunities for such judges and their staffs, $5,000,000 for fiscal year 2003 and such sums as are necessary for fiscal year 2004 and each subsequent fiscal year.''.

(b) PROCESS FOR EXPEDITED ACCESS TO JUDICIAL REVIEW.—

(1) IN GENERAL.—Section 1869(b) (42 U.S.C. 1395ff(b)) as amended by Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A–534), as enacted into law by section 1(a)(6) of Public Law 106–554, is amended—

(A) in paragraph (1)(A), by inserting '', subject to paragraph (2),'' before ''to judicial review of the Secretary's final decision''; and

(B) by adding at the end the following new paragraph:

''(2) EXPEDITED ACCESS TO JUDICIAL REVIEW.—

''(A) IN GENERAL.—The Secretary shall establish a process under which a provider of service or supplier that furnishes an item or service or a beneficiary who has filed an appeal under paragraph (1) (other than an appeal filed under paragraph (1)(F)) may obtain access to judicial review when a review panel (described in subparagraph (D)), on its own motion or at the request of the appellant, determines that it does not have the authority to decide the question of law or regulation relevant to the matters in controversy and that there is no material issue of fact in dispute. The appellant may make such request only once with respect to a question of law or regulation in a case of an appeal.

''(B) PROMPT DETERMINATIONS.—If, after or coincident with appropriately filing a request for an administrative hearing, the appellant requests a determination by the appropriate review panel that no review panel has the authority to decide the question of law or regulations relevant to the matters in controversy and that there is no material issue of fact in dispute and if such request is accompanied by the documents and materials as the appropriate review panel shall require for purposes of making such determination, such review panel shall make a determination on the request in writing within 60 days after the date such review panel receives the request and such accompanying documents and materials. Such a determination by such review panel shall be considered a final decision and not subject to review by the Secretary.

''(C) ACCESS TO JUDICIAL REVIEW.—

''(i) IN GENERAL.—If the appropriate review panel—

''(I) determines that there are no material issues of fact in dispute and that the only issue is one of law or regulation that no review panel has the authority to decide; or

''(II) fails to make such determination within the period provided under subparagraph (B);

then the appellant may bring a civil action as described in this subparagraph.

''(ii) DEADLINE FOR FILING.—Such action shall be filed, in the case described in—

''(I) clause (i)(I), within 60 days of date of the determination described in such subparagraph; or

''(II) clause (i)(II), within 60 days of the end of the period provided under subparagraph (B) for the determination.

''(iii) VENUE.—Such action shall be brought in the district court of the United States for the judicial district in which the appellant is located (or, in the case of an action brought jointly by more than one applicant, the judicial district in which the greatest number of applicants are located) or in the district court for the District of Columbia.

''(iv) INTEREST ON AMOUNTS IN CONTROVERSY.—Where a provider of services or supplier seeks judicial review pursuant to this paragraph, the amount in controversy shall be subject to annual interest beginning on the first day of the first month beginning after the 60-day period as determined pursuant to clause (ii) and equal to the rate of interest on obligations issued for purchase by the Federal Hospital Insurance Trust Fund for the month in which the civil action authorized under this paragraph is commenced, to be awarded by the reviewing court in favor of the prevailing party. No interest awarded pursuant to the preceding sentence shall be deemed income or cost for the purposes of determining reimbursement due providers of services or suppliers under this Act.

''(D) REVIEW PANELS.—For purposes of this subsection, a 'review panel' is an administrative law judge, the Departmental Appeals Board, a qualified independent contractor (as defined in subsection (c)(2)), or an entity designated by the Secretary for purposes of making determinations under this paragraph.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to appeals filed on or after October 1, 2002.

(c) REQUIRING FULL AND EARLY PRESENTATION OF EVIDENCE.—

(1) IN GENERAL.—Section 1869(b) (42 U.S.C. 1395ff(b)), as amended by Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A–534), as enacted into law by section 1(a)(6) of Public Law 106–554, and as amended by subsection (b), is further amended by adding at the end the following new paragraph:

''(3) REQUIRING FULL AND EARLY PRESENTATION OF EVIDENCE BY PROVIDERS.—A provider of services or supplier may not introduce evidence in any appeal under this section that was not presented at the first external hearing or appeal at which it could be introduced under this section, unless there is good cause which precluded the introduction of such evidence at a previous hearing or appeal.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on October 1, 2002.

(d) PROVIDER APPEALS ON BEHALF OF DECEASED BENEFICIARIES.—

(1) IN GENERAL.—Section 1869(b)(1)(C) (42 U.S.C. 1395ff(b)(1)(C)), as amended by Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A–534), as enacted into law by section 1(a)(6) of Public Law 106–554, is amended by adding at the end the following: ''The Secretary shall establish a process under which, if such an individual is deceased, the individual is deemed to have provided written consent to the assignment of the individual's right of appeal under this section to the provider of services or supplier of the item or service involved, so long as the estate of the individual, and the individual's family and heirs, are not liable for paying for the item or service and are not liable for any increased coinsurance or deductible amounts resulting from any decision increasing the reimbursement amount for the provider of services or supplier.''.

(2) EFFECTIVE DATE.—Notwithstanding section 521(d) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, as enacted into law by section 1(a)(6) of Public Law 106–554, the amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

SEC. 9. RECOVERY OF OVERPAYMENTS AND PREPAYMENT REVIEW; ENROLLMENT OF PROVIDERS.

(a) RECOVERY OF OVERPAYMENTS AND PREPAYMENT REVIEW.—Section 1893 (42 U.S.C. 1395ddd) is amended by adding at the end the following new subsections:

''(f) RECOVERY OF OVERPAYMENTS AND PREPAYMENT REVIEW.—

''(1) USE OF REPAYMENT PLANS.—

''(A) IN GENERAL.—If the repayment, within 30 days by a provider of services, physician, practitioner, or other supplier, of an overpayment under this title would constitute a hardship (as defined in subparagraph (B)), subject to subparagraph (C), the Secretary shall enter into a plan (which meets terms and conditions determined to be appropriate by the Secretary) with the provider of services, physician, practitioner, or supplier for the offset or repayment of such overpayment over a period of not longer than 3 years. Interest shall accrue on the balance through the period of repayment.

''(B) HARDSHIP.—

''(i) IN GENERAL.—For purposes of subparagraph (A), the repayment of an overpayment (or overpayments) within 30 days is deemed to constitute a hardship if—

''(I) in the case of a provider of services that files cost reports, the aggregate amount of the overpayments exceeds 10 percent of the amount paid under this title to the provider of services for the cost reporting period covered by the most recently submitted cost report; or

''(II) in the case of another provider of services, physician, practitioner, or supplier, the aggregate amount of the overpayments exceeds 10 percent of the amount paid under this title to the provider of services or supplier for the previous calendar year.

''(ii) RULE OF APPLICATION.—The Secretary shall establish rules for the application of this subparagraph in the case of a provider of

services, physician, practitioner, or supplier that was not paid under this title during the previous year or was paid under this title only during a portion of that year.

''(iii) TREATMENT OF PREVIOUS OVERPAYMENTS.—If a provider of services, physician, practitioner, or supplier has entered into a repayment plan under subparagraph (A) with respect to a specific overpayment amount, such payment amount shall not be taken into account under clause (i) with respect to subsequent overpayment amounts.

''(C) EXCEPTIONS.—Subparagraph (A) shall not apply if the Secretary has reason to suspect that the provider of services, physician, practitioner, or supplier may file for bankruptcy or otherwise cease to do business or if there is an indication of fraud or abuse committed against the program.

''(D) IMMEDIATE COLLECTION IF VIOLATION OF REPAYMENT PLAN.—If a provider of services, physician, practitioner, or supplier fails to make a payment in accordance with a repayment plan under this paragraph, the Secretary may immediately seek to offset or otherwise recover the total balance outstanding (including applicable interest) under the repayment plan.

''(2) LIMITATION ON RECOUPMENT UNTIL RECONSIDERATION EXERCISED.—

''(A) IN GENERAL.—In the case of a provider of services, physician, practitioner, or supplier that is determined to have received an overpayment under this title and that seeks a reconsideration of such determination under section 1869(b)(1), the Secretary may not take any action (or authorize any other person, including any medicare contractor, as defined in paragraph (9)) to recoup the overpayment until the date the decision on the reconsideration has been rendered.

''(B) COLLECTION WITH INTEREST.—Insofar as the determination on such appeal is against the provider of services, physician, practitioner, or supplier, interest on the overpayment shall accrue on and after the date of the original notice of overpayment. Insofar as such determination against the provider of services, physician, practitioner, or supplier is later reversed, the Secretary shall provide for repayment of the amount recouped plus interest at the same rate as would apply under the previous sentence for the period in which the amount was recouped.

''(3) STANDARDIZATION OF RANDOM PREPAYMENT REVIEW.—

''(A) IN GENERAL.—A medicare contractor may conduct random prepayment review only to develop a contractor-wide or program-wide claims payment error rates.

''(B) CONSTRUCTION.—Nothing in subparagraph (A) shall be construed as preventing the denial of payments for claims actually reviewed under a random prepayment review.

''(4) LIMITATION ON USE OF EXTRAPOLATION.—A medicare contractor may not use extrapolation to determine overpayment amounts to be recovered by recoupment, offset, or otherwise unless—

''(A) there is a sustained or high level of payment error (as defined by the Secretary); or

''(B) documented educational intervention has failed to correct the payment error (as determined by the Secretary).

''(5) PROVISION OF SUPPORTING DOCUMENTATION.—In the case of a provider of services, physician, practitioner, or supplier with respect to which amounts were previously overpaid, a medicare contractor may request the periodic production of records or supporting documentation for a limited sample of submitted claims to ensure that the previous practice is not continuing.

''(6) CONSENT SETTLEMENT REFORMS.—

''(A) IN GENERAL.—The Secretary may use a consent settlement (as defined in subparagraph (D)) to settle a projected overpayment.

''(B) OPPORTUNITY TO SUBMIT ADDITIONAL INFORMATION BEFORE CONSENT SETTLEMENT OFFER.—Before offering a provider of services, physician, practitioner, or supplier a consent settlement, the Secretary shall—

''(i) communicate to the provider of services, physician, practitioner, or supplier in a non-threatening manner that, based on a review of the medical records requested by the Secretary, a preliminary indication appears that there would be an overpayment; and

''(ii) provide for a 45-day period during which the provider of services, physician, practitioner, or supplier may furnish additional information concerning the medical records for the claims that had been reviewed.

''(C) CONSENT SETTLEMENT OFFER.—The Secretary shall review any additional information furnished by the provider of services, physician, practitioner, or supplier under subparagraph (B)(ii). Taking into consideration such information, the Secretary shall determine if there still appears to be an overpayment. If so, the Secretary—

''(i) shall provide notice of such determination to the provider of services, physician, practitioner, or supplier, including an explanation of the reason for such determination; and

''(ii) in order to resolve the overpayment, may offer the provider of services, physician, practitioner, or supplier—

''(I) the opportunity for a statistically valid random sample; or

''(II) a consent settlement.

The opportunity provided under clause (ii)(I) does not waive any appeal rights with respect to the alleged overpayment involved.

''(D) CONSENT SETTLEMENT DEFINED.—For purposes of this paragraph, the term 'consent settlement' means an agreement between the Secretary and a provider of services, physician, practitioner, or supplier whereby both parties agree to settle a projected overpayment based on less than a statistically valid sample of claims and the provider of services, physician, practitioner, or supplier agrees not to appeal the claims involved.

''(7) LIMITATIONS ON NON-RANDOM PREPAYMENT REVIEW.—

''(A) LIMITATION ON INITIATION OF NON-RANDOM PREPAYMENT REVIEW.—A medicare contractor may not initiate non-random prepayment review of a provider of services, physician, practitioner, or supplier based on the initial identification by that provider of services, physician, practitioner, or supplier of an improper billing practice unless there is a sustained or high level of payment error (as defined in paragraph (4)(A)).

''(B) TERMINATION OF NON-RANDOM PREPAYMENT REVIEW.—The Secretary shall issue regulations relating to the termination, including termination dates, of non-random prepayment review. Such regulations may vary such a termination date based upon the differences in the circumstances triggering prepayment review.

''(8) PAYMENT AUDITS

''(A) WRITTEN NOTICE FOR POST-PAYMENT AUDITS.—Subject to subparagraph (C), if a medicare contractor decides to conduct a post-payment audit of a provider of services, physician, practitioner, or supplier under this title, the contractor shall provide the provider of services, physician, practitioner, or supplier with written notice of the intent to conduct such an audit.

''(B) EXPLANATION OF FINDINGS FOR ALL AUDITS.—Subject to subparagraph (C), if a medicare contractor audits a provider of services, physician, practitioner, or supplier under this title, the contractor shall—

''(i) give the provider of services, physician, practitioner, or supplier a full review and explanation of the findings of the audit in a manner that is understandable to the provider of services, physician, practitioner, or supplier and permits the development of an appropriate corrective action plan;

''(ii) inform the provider of services, physician, practitioner, or supplier of the appeal rights under this title; and

''(iii) give the provider of services, physician, practitioner, or supplier an opportunity to provide additional information to the contractor.

''(C) EXCEPTION.—Subparagraphs (A) and (B) shall not apply if the provision of notice or findings would compromise pending law enforcement activities or reveal findings of law enforcement-related audits.

''(9) DEFINITIONS.—For purposes of this subsection:

''(A) MEDICARE CONTRACTOR.—The term 'medicare contractor' has the meaning given such term in section 1889(f).

''(B) RANDOM PREPAYMENT REVIEW.—The term 'random prepayment review' means a demand for the production of records or documentation absent cause with respect to a claim.

''(g) NOTICE OF OVER-UTILIZATION OF CODES.—The Secretary shall establish a process under which the Secretary provides for notice to classes of providers of services, physicians, practitioners, and suppliers served by the contractor in cases in which the contractor has identified that particular billing codes may be overutilized by that class of providers of services, physicians, practitioners, or suppliers under the programs under this title (or provisions of title XI insofar as they relate to such programs).''.

(b) PROVIDER ENROLLMENT PROCESS; RIGHT OF APPEAL.—

(1) IN GENERAL.—Section 1866 (42 U.S.C. 1395cc) is amended—

(A) by adding at the end of the heading the following: ''; ENROLLMENT PROCESSES''; and

(B) by adding at the end the following new subsection:

''(j) ENROLLMENT PROCESS FOR PROVIDERS OF SERVICES, PHYSICIANS, PRACTITIONERS, AND SUPPLIERS.—

''(1) IN GENERAL.—The Secretary shall establish by regulation a process for the enrollment of providers of services, physicians, practitioners, and suppliers under this title.

''(2) APPEAL PROCESS.—Such process shall provide—

''(A) a method by which providers of services, physicians, practitioners, and suppliers whose application to enroll (or, if applicable, to renew enrollment) are denied are provided a mechanism to appeal such denial; and

''(B) prompt deadlines for actions on applications for enrollment (and, if applicable, renewal of enrollment) and for consideration of appeals.''.

(2) EFFECTIVE DATE.—The Secretary of Health and Human Services shall provide for the establishment of the enrollment and appeal process under the amendment made by paragraph (1) within 6 months after the date of the enactment of this Act.

(c) PROCESS FOR CORRECTION OF MINOR ERRORS AND OMISSIONS ON CLAIMS WITHOUT PURSUING APPEALS PROCESS.—The Secretary of Health and Human Services shall develop, in consultation with appropriate medicare contractors (as defined in section 1889(f) of the Social Security Act, as inserted by section 5(f)(1)) and representatives of providers of services, physicians, practitioners, and suppliers, a process whereby, in the case of minor errors or omissions that are detected in the submission of claims under the programs under title XVIII of such Act, a provider of services, physician, practitioner, or

supplier is given an opportunity to correct such an error or omission without the need to initiate an appeal. Such process may include the ability to resubmit corrected claims.

SEC. 10. BENEFICIARY OUTREACH DEMONSTRATION PROGRAM.

(a) IN GENERAL.—The Secretary of Health and Human Services shall establish a demonstration program (in this section referred to as the ''demonstration program'') under which medicare specialists employed by the Department of Health and Human Services provide advice and assistance to medicare beneficiaries at the location of existing local offices of the Social Security Administration.

(b) LOCATIONS.—

(1) IN GENERAL.—The demonstration program shall be conducted in at least 6 offices or areas. Subject to paragraph (2), in selecting such offices and areas, the Secretary shall provide preference for offices with a high volume of visits by medicare beneficiaries.

(2) ASSISTANCE FOR RURAL BENEFICIARIES.—The Secretary shall provide for the selection of at least 2 rural areas to participate in the demonstration program. In conducting the demonstration program in such rural areas, the Secretary shall provide for medicare specialists to travel among local offices in a rural area on a scheduled basis.

(c) DURATION.—The demonstration program shall be conducted over a 3-year period.

(d) EVALUATION AND REPORT.—

(1) EVALUATION.—The Secretary shall provide for an evaluation of the demonstration program. Such evaluation shall include an analysis of—

(A) utilization of, and beneficiary satisfaction with, the assistance provided under the program; and

(B) the cost-effectiveness of providing beneficiary assistance through out-stationing medicare specialists at local social security offices.

(2) REPORT.—The Secretary shall submit to Congress a report on such evaluation and shall include in such report recommendations regarding the feasibility of permanently out-stationing medical specialists at local social security offices.

SEC. 11. POLICY DEVELOPMENT REGARDING EVALUATION AND MANAGEMENT (E & M) DOCUMENTATION GUIDELINES.

(a) IN GENERAL.—The Secretary of Health and Human Services may not implement any documentation guidelines for evaluation and management physician services under the title XVIII of the Social Security Act on or after the date of the enactment of this Act unless the Secretary—

(1) has developed the guidelines in collaboration with practicing physicians and provided for an assessment of the proposed guidelines by the physician community;

(2) has established a plan that contains specific goals, including a schedule, for improving the use of such guidelines;

(3) has conducted appropriate and representative pilot projects under subsection (b) to test modifications to the evaluation and management documentation guidelines; and

(4) finds that the objectives described in subsection (c) will be met in the implementation of such guidelines.

The Secretary may make changes to the manner in which existing evaluation and management documentation guidelines are implemented to reduce paperwork burdens on physicians.

(b) PILOT PROJECTS TO TEST EVALUATION AND MANAGEMENT DOCUMENTATION GUIDELINES.—

(1) LENGTH AND CONSULTATION.—Each pilot project under this subsection shall—

(A) be of sufficient length to allow for preparatory physician and medicare contractor education, analysis, and use and assessment of potential evaluation and management guidelines; and

(B) be conducted, in development and throughout the planning and operational stages of the project, in consultation with practicing physicians.

(2) RANGE OF PILOT PROJECTS.—Of the pilot projects conducted under this subsection—

(A) at least one shall focus on a peer review method by physicians (not employed by a medicare contractor) which evaluates medical record information for claims submitted by physicians identified as statistical outliers relative to definitions published in the Current Procedures Terminology (CPT) code book of the American Medical Association;

(B) at least one shall be conducted for services furnished in a rural area and at least one for services furnished outside such an area; and

(C) at least one shall be conducted in a setting where physicians bill under physicians services in teaching settings and at one shall be conducted in a setting other than a teaching setting.

(3) BANNING OF TARGETING OF PILOT PROJECT PARTICIPANTS.—Data collected under this subsection shall not be used as the basis for overpayment demands or post-payment audits.

(4) STUDY OF IMPACT.—Each pilot project shall examine the effect of the modified evaluation and management documentation guidelines on—

(A) different types of physician practices, including those with fewer than 10 full-time-equivalent employees (including physicians); and

(B) the costs of physician compliance, including education, implementation, auditing, and monitoring.

(c) OBJECTIVES FOR EVALUATION AND MANAGEMENT GUIDELINES.—The objectives for modified evaluation and management documentation guidelines developed by the Secretary shall be to—

(1) enhance clinically relevant documentation needed to code accurately and assess coding levels accurately;

(2) decrease the level of non-clinically pertinent and burdensome documentation time and content in the physician's medical record;

(3) increase accuracy by reviewers; and

(4) educate both physicians and reviewers.

(d) STUDY OF SIMPLER, ALTERNATIVE SYSTEMS OF DOCUMENTATION FOR PHYSICIAN CLAIMS.—

(1) STUDY.—The Secretary of Health and Human Services shall carry out a study of the matters described in paragraph (2).

(2) MATTERS DESCRIBED.—The matters referred to in paragraph (1) are—

(A) the development of a simpler, alternative system of requirements for documentation accompanying claims for evaluation and management physician services for which payment is made under title XVIII of the Social Security Act; and

(B) consideration of systems other than current coding and documentation requirements for payment for such physician services.

(3) CONSULTATION WITH PRACTICING PHYSICIANS.—In designing and carrying out the study under paragraph (1), the Secretary shall consult with practicing physicians, including physicians who are part of group practices.

(4) APPLICATION OF HIPAA UNIFORM CODING REQUIREMENTS.—In developing an alternative system under paragraph (2), the Secretary shall consider requirements of administrative simplification under part C of title XI of the Social Security Act.

(5) REPORT TO CONGRESS.—The Secretary shall submit to Congress a report on the results of the study conducted under paragraph (1).

(e) DEFINITIONS.—In this section—

(1) the term ''rural area'' has the meaning given that term in section 1886(d)(2)(D) of the Social Security Act, 42 U.S.C. 1395ww(d)(2)(D); and

(2) the term ''teaching settings'' are those settings described in section 415.150 of title 42, Code of Federal Regulations.

By Mr. ROBERTS:

S. 1546. A bill to provide additional funding to combat bioterrorism; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. ROBERTS. Mr. President, I rise today to introduce the Bio-Security in Agriculture Act of 2001. I refer to the security of agriculture, our crops, our livestock production.

In the wake of September 11, we increased security of the Capitol, our government buildings, airports, sports venues, and businesses.

We should do the same for our agriculture and our nation's food supply.

I served 2 years as chairman of the Armed Services Subcommittee on Emerging Threats, and now as ranking member of the subcommittee. I'm also on the Intelligence Committee and a member of the Agriculture Committee.

In numerous hearings on terrorism, we repeatedly asked top scientists and biowarfare experts to assess the greatest threats to our nation. One of their greatest concerns has been the susceptibility of U.S. agriculture and the impact an attack on it could have on the agriculture economy and the Nation's food supply.

It would not be difficult to take a disease such as foot-and-mouth so prevalent in Europe and introduce it into the U.S. livestock herd. With the large number of cattle and livestock operations in close proximity to each other in our feedlots and hog facilities it could quickly become an epidemic.

I consider this threat to be real. I know of no specific threat, but I can tell you 2 years ago, when we asked the FBI where is the probability and where is the risk, the probability was rather low. Since the foot-and-mouth disease epidemic overseas and since the events of September 11, I can assure my colleagues the probability is rated much higher. I am not going to get into classified information, but the risk would cause utter chaos in our country.

Such an attack would be devastating. One estimate for California is a loss of $14 billion should foot and mouth disease break out in that state.

We know that the former Soviet Union developed ''tons'' of biowarfare agents aimed at North American agriculture. These include FMD, glanders, rust diseases for wheat and rice, and Karnal Bunt in wheat. There are other diseases that could be introduced as well.

The threat is real. Yet, our federal facilities to test and do research on

both containment and prevention of these diseases are outdated and in need of repair. We have approximately $700 million in the pipeline to upgrade these facilities over the next 6 to 10 years. But we cannot wait for 6 to 10 years. We need to make the investment in these facilities and the research dollars now.

Why is protecting agriculture from terrorist attack important? There are several reasons: Agriculture is one of the few sectors of the economy with a trade surplus; using numbers from 1999; agriculture and agribusiness related industries accounted for approximately 22 million jobs and 16.4 percent of GDP; The overall contribution to the Nation's GDP in 1999 was $1.5 trillion; and the cheap U.S. food supply kept the total portion of individual income spent on food to 10.4 percent, or 10 and one half cents of every dollar, on food in 1999. The lowest percent of income spent on food of any country in the world.

The loss of export markets resulting from the intentional introduction of these pathogens would be dramatic. The introduction of FMD or Karmal Bunt on a widespread basis could mean the total collapse of U.S. export markets.

This would be devastating for a commodity such as wheat where 32 percent of total production was exported in 1999 and to agriculture in general which is one of the few sectors of the economy that operates in a trade surplus. Also, when an outbreak of FMD occurs, many of the animals are often killed to control the spread of the disease.

If a massive herd reduction occurred, it could take several years to replace the lost numbers. Again the ripple effects are enormous. Individual producers will be impacted, feedlots and hog operations could be devastated, meat packers and their employees could be put out of business due to reduced slaughter numbers, and the grain markets would take enormous hits as there would be no where for the excess feed usage to go.

The impact on our Nation of a widespread attack on agriculture could dwarf the airline and travel industry's loss from September 11.

To keep this nightmare scenario from occurring, legislation is necessary to complete the facility upgrades needed to deal with this threat and to provide funding for the additional research to develop risk control methods, first responder response mechanisms, and development of vaccines and plant resistant varieties that are immune to these threats. The need is real, the timing is crucial, and it needs to be done now.

The legislation I am introducing today will provide approximately $3.5 billion to improve and invest on a ''crash course'' to do the building upgrades and research we should have been doing for years.

In fiscal year 2002, the bill calls for $1.1 billion, including: $101 million to allow USDA to meet the security levels required under Presidential Decision Directive, PDD–67, for the animal and plant disease facilities at: Plum Island, NY; the National Animal Disease Center, Ames, IA; the Southeast Poultry Research Laboratory, Athens, GA; the Arthropod-Borne Animal Disease Research Laboratory, Laramie, WY; and the Foreign Disease Weed Science Laboratory, Fort Detrick, MD.

We also provide $722.8 million in fiscal year 2002 to accelerate the planning, upgrading, and construction of four of the above named facilities, including: $234 million for the Plum Island facility; $129 million to renovate the existing Biolevel 3 facilities and $105 million for planning and construction of a Biosafety level 4 facility; $381 million for modernization of the facilities in Ames, IA; $78 million for the planning and design of the biocontainment laboratory for poultry research in Athens, GA; and $29.8 million for the Arthropod-Born Animal Disease Laboratory, Laramie, WY.

The bill provides $10 million in fiscal year 2002 for USDA to purchase, and distribute to each of the states, rapid diagnostic field tests that can give a definitive answer on suspected cases of FMD, Karnal bunt, anthrax, etc., in only 45 minutes.

These test would represent a strengthened line of security replacing the current process where the sample is trucked to an airport, flown to one of the disease labs, tested, and then results are released anywhere from a day to 4 or 5 days later.

We also make a significant investment in research with $2.71 billion provided over the next 10 years to continue work ARS is already doing with state universities and private industry, provide competitive grants for USDA to award to qualified universities and private organizations, and general funding for USDA to use in those areas where it determines we have the most pressing need.

We have worked to keep from tying USDA's hands on this in order to allow them to respond to future needs or threats that may arise, but generally the research could include: Expanding on-the-spot diagnostic capabilities; conducting mapping of microorganisms and pests to pinpoint their geographical origins; genetically engineer diseases that will be effective against agents of bioterrorism concerns; improve plant resistance to potential introduced pathogens; create mass vaccine delivery systems for animals, poultry, and fish; conduct research with foreign countries to help reduce disease threats at the source and remove the natural sources of infectious agents and pests that terrorists or nations might easily access to threaten the United States; develop counter toxins; and develop economic models to assist in risk assessment and prioritization of efforts. Currently, it is difficult to determine the exact economic effect of an attack on the United States because the proper economic models do not exist.

Finally, the bill provides $12 million each year for USDA to work in collaboration with the Oklahoma City counter-terrorism Institute.

This is a significant amount of money. But it is an investment that requires our immediate attention. I do not want us to ignore this issue until it is too late.

Nearly 2½ years ago, as chairman of the Emerging Threats Subcommittee, I warned at our first hearing that the World Trade Center was at risk of terrorist attack because of its symbolism of U.S. economic strength and indulgence. At the time, no one wanted to listen to the warning.

I take no please in my prediction and the events of September 11. But I do not want us to ignore similar warnings and threats on agroterrorism until it is too late. If we do our 10.5 percent of disposable income spent on food in this country could well be a thing of the past.

I urge my colleagues to support me in enacting the Biosecurity for Agriculture Act of 2001.

By Mr. SHELBY:

S. 1547. A bill amend the Internal Revenue Code of 1986 to extend and modify the credit for producing fuel from a nonconventional source, to the Committee on Finance.

Mr. SHELBY. Mr. President, I rise today to introduce the Nonconventional Natural Gas Reliability Act. This body has moved forcefully and responsibly since the tragic events of September 11 to address the most pressing and immediate needs of the country. However, action on priorities such as comprehensive energy legislation, has been delayed but remains vitally important. As Congress moves forward to address this pressing issue, it is my belief that any comprehensive energy legislation must include provisions designed to increase access to North American natural gas supplies.

Following the energy crisis of the 1970's, Section 29 of the Internal Revenue Code was enacted to provide a tax credit to encourage production of oil and gas from unconventional sources such as Coalbed Methane, Devonian Shale, Tight Rock Formations, and Tight Gas Sands. This credit has helped the industry invest in new technologies that allow us to recover large oil and gas deposits locked in various formations that are very expensive to develop.

In 1998, the United States consumed 22 trillion cubic feet of natural gas. Over the next fifteen years that number is expected to exceed 31 trillion cubic feet. Significant growth in consumption will be particularly evident in the area of electric generation, where environmental issues make natural gas the fuel of choice. The National Petroleum Council predicts that natural gas production by conventional means will remain relatively constant

over the next several years, ultimately falling 7 to 9 trillion cubic feet short of what is needed.

The Gas Technology Institute and the National Petroleum Council estimate that economic incentives may allow nonconventional natural gas to bridge to gap by providing an annual addition of 7 to 9 trillion cubic feet of natural gas to our domestic supply. Section 29 of the Internal Revenue code was designed to provide this economic incentive. For current production, ''section 29'' benefits expire at the end of next year and there are no incentives for new production.

Today I am introducing ''section 29'' legislation which is designed to keep current ''section 29'' wells in production and provide the incentive for new wells to be brought on line. Providing a ''clean'' alternative to conventional natural gas, and keeping all of our existing sources of energy online will continue to be a priority for this great nation in the years to come. My legislation would provide section 29 credits for qualifying new wells and facilities through 2009, and for the continuation of benefits to wells and facilities currently in production through 2006.

Whether it is artificial fracturing of gas bearing formations, extensive dewatering, gas clean-up issues, these nonconventional resources can be significant more expensive to drill, to maintain, and to produce. Thus, it is important to support continued production at existing wells and facilities.

There are few instances where the facts are more compelling and the conclusion so clear. Giving section 29 a new lease on life is a wise investment of taxpayer dollars that will result in lower natural gas prices and greater domestic energy supply. I encourage my colleagues to join with me in support of the Nonconventional Natural Gas Reliability Act.

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. 1547

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 ''Nonconventional Natural Gas Reliability Act''.

SEC. 2. EXTENSION AND MODIFICATION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

(a) IN GENERAL.—Section 29 of the Internal Revenue Code of 1986 (relating to credit for producing fuel from a nonconventional source) is amended by adding at the end the following new subsection:

''(h) EXTENSION FOR OTHER FACILITIES.—

''(1) EXTENSION FOR OIL AND CERTAIN GAS.—In the case of a well for producing qualified fuels described in subparagraph (A) or (B)(i) of subsection (c)(1)—

''(A) APPLICATION OF CREDIT FOR NEW WELLS.—Notwithstanding subsection (f), this section shall apply with respect to such fuels—

''(i) which are produced from a well drilled after the date of the enactment of this subsection and before January 1, 2007, and

''(ii) which are sold not later than the close of the 4-year period beginning on the date that such well is drilled, or, if earlier, December 31, 2009.

''(B) EXTENSION OF CREDIT FOR OLD WELLS.—Subsection (f)(2) shall be applied by substituting '2007' for '2003' with respect to wells described in subsection (f)(1)(A) with respect to such fuels.

''(2) EXTENSION PERIOD TO COMMENCE WITH UNADJUSTED CREDIT AMOUNT.—In determining the amount of credit allowable under this section solely by reason of this subsection—

''(A) in the case of fuels sold during 2001 and 2002, the dollar amount applicable under subsection (a)(1) shall be $3 (without regard to subsection (b)(2)), and

''(B) in the case of fuels sold after 2002, subparagraph (B) of subsection (d)(2) shall be applied by substituting '2002' for '1979'.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to fuel sold after the date of the enactment of this Act.

By Mr. LIEBERMAN (for himself, Ms. MIKULSKI, Mr. BOND, Mr. FRIST, and Mr. DOMENICI):

S. 1549. A bill to provide for increasing the technically trained workforce in the United States; to the Committee on Health, Education, Labor, and Pensions.

Mr. LIEBERMAN. Mr. President, I am proud to join Senators MIKULSKI, BOND, FRIST, and DOMENICI in introducing an innovative response to one of the greatest challenges to the growth of the Innovation Economy, America's widening talent gap.

Our technological prowess is unequaled in the world today, which is why, despite our recent slowdown and the aftershocks of the September 11 attacks, we still have the strongest, most vibrant economy on the planet, and we obviously have no deficit of ingenuity and inventiveness.

But our long-term competitive standing and economic security could well be at risk if we do not address a troubling trendline in our workforce, the mismatch between the demand and supply of workers with science and engineering training.

The fact is, the number of jobs requiring significant technical skills is projected to grow by more than 50 percent in the United States over the next ten years. But outside of the life sciences, the number of degrees awarded in science and engineering has been flat or declining.

This has helped fuel a well-chronicled shortage of qualified New Economy workers. We have tried to temporarily plug this human capital hole with a stopgap of foreign workers. But there is a broad consensus among high-tech leaders and policymakers that it would be a serious mistake to prolong this dependence and essentially put our GDP at the mercy of H1B's.

That may sound like a bit of an overstatement to some. But the reality is that technological innovation is now widely understood to be the major driver of economic growth, not to mention a critical factor in our military superiority. And it is widely understood that we cannot expand our economy in the future if we don't take steps now to expand our domestic pool of brainpower, the next generation of people who will incubate and implement the next generation of ideas.

Now, most answers to serious economic challenges flow from the private sector, which is where growth ultimately occurs. But there are things that the federal government can do to help, particularly when it comes to educating and training our workforce. We can provide leadership, focus, and not least of all resources, and that is the purpose of the bill we are introducing today.

Our plan aims to fix a critical link in this ''tech talent'' gap, undergraduate education in science, math, engineering, and technology. It would create a new competitive grant program within the National Science Foundation that would encourage institutions of higher learning, from universities to community colleges, to increase the number of graduates in these disciplines.

This is not another scholarship program, but a targeted, results-driven initiative that goes straight to the gatekeepers. We're not asking them to change their admissions policies, but, in effect, to design new ''e-missions'' policies. Come up with effective ideas, and we will provide the dollars to make them work.

For example, institutions could propose to add or strengthen the interdisciplinary components of undergraduate science education. Or they could establish targeted support programs for women and minorities, who are 54 percent of our total workforce, but only 22 percent of scientists and engineers, to increase enrollment in these fields. Or they could partner with local technology companies to provide summer industry internships for ongoing research experience.

The pilot program is authorized at $25 million for Fiscal Year 2002, but our bipartisan coalition hopes the level will rise over the next several years to approximately $200 million annually, based upon pilot program results. With that kind of seed money, we're optimistic thousands of promising new scientists and engineers will soon bloom.

We realize that solving the undergraduate problem is not going to singlehandedly close our talent gap. We must also dramatically reform our K–12 public education system, through innovative initiatives such as Congressman BOEHLERT'S math and science partnerships bill, and strengthen our national investment in R&D. But it is a vitally important piece of the productivity puzzle.

For evidence of that, just look at the collection of letters of support we have received from industry, academia, and professional organizations, including letters from TechNet, a national network of CEOs and senior executives from the leading technology and biotechnology companies; the National Alliance of Business; and STANCO 25 Professor of Economics at Stanford University, Paul Romer, a leading

growth economist, whose pioneering research underscores the long-term talent crisis facing our Nation, and who helped us think through this bill.

These industry, academic, and educational leaders recognize as do we, that in our knowledge-based economy, we must have people who know what they're doing, and that is why they have made this problem and our legislation a top priority. We are grateful for their knowledge and their support, and we look forward to working with them to better harvest the enormous potential of America's workforce.

I ask unanimous consent that letters of support for the Tech Talent bill, from the following organizations and individuals, be printed in the RECORD: TechNet, Professor Paul Romer, National Alliance of Business, Semiconductor Industry Association, American Astronomical Society, K–12 Science, Mathematics, Engineering & Technology Coalition, General Electric, American Association of State Colleges and Universities, and the American Society for Engineering Education.

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

TECHNET,
Palo Alto, CA, October 8, 2001.

Hon. JOSEPH LIEBERMAN,
Hon. BILL FRIST,
Hon. BARBARA MIKULSKI,
Hon. CHRISTOPHER S. ''KIT'' BOND,
Hon. PETE DOMENICI,
Hon. SHERWOOD BOEHLERT,
Hon. JOHN B. LARSON.

DEAR SENATORS LIEBERMAN, FRIST, MIKULSKI, BOND, AND DOMENICI, AND REPRESENTATIVES BOEHLERT, AND LARSON: On behalf of TechNet's 250 technology industry executives, we are writing to lend our strong endorsement and support for your legislation to increase the technically trained workforce in the United States: the Tech Talent Bill. TechNet considers the lack of a highly skilled American workforce a serious threat to our nation's future economic and technology growth.

Recent economic studies have shown that technological progress accounts for more then half of the U.S. economic growth in the post-war period. Correspondingly, a workforce highly trained in science, mathematics, engineering and technology (SMET) is fundamental to our nation's ability to remain competitive. Yet despite predictions that the number of jobs requiring technical skills will grow by 51% over the next decade, from the late 80's to the late 90's the number of earned bachelor's degrees has decreased by 18% in engineering and by 36% in math and computer science.

We commend you for taking the lead with a bold and innovative approach to reverse this perilous trend. The Tech Talent bill would authorize funding for the National Science Foundation (NSF) to distribute grants to colleges and universities that agree to specific increases in the number of students who are U.S. citizens or permanent residents obtaining degrees in science, math, engineering and technology. The NSF would solicit and competitively award grants, based on a peer-review evaluation, to proposals from colleges and universities with promising and innovative programs to increase the number of graduates in the specified disciplines.

A well-prepared workforce coupled with a strong emphasis on R&D is the only way to ensure a healthier, economically solid, and technologically advanced future for America. We appreciate your steadfast support of policies toward this end, and we urge you to press forward with this legislation in both chambers. Please let us know how we can best support a swift passage of the Tech Talent bill. Thank you for considering our views on this important issue.

Best regards,

Jim Barksdale, Partner, The Barksdale Group.

John Doerr, Partner, Kleiner, Perkins, Claufield, & Byers.

Rick White, President & CEO, TechNet.

Carol Bartz, CEO & Chairman of the Board, Autodesk, Inc.

Craig Barrett, CEO, Intel Corporation.

Eric Benhamou, Chairman, 3Com.

Hale Boggs, Partner, Manatt, Phelps & Phillips, LLP.

Bob Brisco, CEO, CARSDIRECT.COM.

Sheryle Bolton, Chairman & CEO, Scientific Learning Corporation.

Richard M. Burnes, Jr., Partner, Charles River Ventures.

Daniel H. Case III, Chairman & CEO, JP Morgan H & Q.

Bruce Claflin, President & CEO, 3Com.

Ron Conway, Founder and General Partner, Angel Investors, LLP.

Joe Cullinane, CEO Telum Group, Inc.

Dean DeBiase, Chairman Autoweb.

Aart de Geus, CEO and Chairman, Synopsys.

Paul Deninger, Chairman & CEO, Broadview International LLC.

Gary Dickerson, Chief Operating Officer, KLA-Tencor Corporation.

William H. Draper III, General Partner, Draper Richards L.P.

Thomas J. Engibous, Chairman, President & CEO, Texas Instruments.

Carl Feldbaum, President, Biotechnology Industry Organization.

Boris Feldman, Partner, Wilson, Sonsini, Goodrich & Rosati.

Ken Goldman, CFO, Siebel Systems.

Christopher Greene, President & CEO, Greene Engineers.

Michael D. Goldberg, Managing Director, JasperCapital.

Nancy Heinen, Senior VP, General Counsel, Apple.

Jeffrey O. Henley, Executive VP & CFO, Oracle Corporation.

Bob Herbold, Executive Vice President & COO, Microsoft Corporation.

Casey Hoffman, CEO & Founder, Supportkids.com.

Guy Hoffman, Venture Partner, TL Ventures.

Kingdon R. Hughes, President, Rush Network.

Scott Jones, Chairman & Chief Executive Officer, Escient.

Nicholas Konidaris, CEO, Advantest America, Inc.

David Lane, Partner, Diamondhead Venture Management LLC.

Paul Lippe, CEO, SKOLAR.

Arthur D. Levinson, PhD, Chairman & CEO, Genetech.

Ken Levy, Chairman, KLA-Tencor Corporation.

Lori P. Mirek, President & CEO, Currenex—Global Financial Exchange.

Henry Samueli, PhD, Co-Chairman & CTO, Broadcom Corporation.

Douglas G. Scrivner, General Counsel, Accenture.

Stratton Sclavos, President & CEO, VeriSign Inc.

Gary Shapiro, President & CEO, Consumer Electronics Association.

Rohit Shukla, President & CEO, LARTA.

Gregory W. Slayton, President and CEO, ClickAction.

Ted Smith, Chairman, FileNET.

Robert W. Sterns, Principal, Sternhill Partners.

George Sundheim III, President, Doty, Sundheim & Gilmore.

John Young, Retired President & CEO, Hewlett Packard.

STANFORD UNIVERSITY,
GRADUATE SCHOOL OF BUSINESS,
Stanford, CA, October 10, 2001.

Senator CHRISTOPHER BOND,
Senator PETE DOMENICI,
Senator WILLIAM FRIST,
Senator JOSEPH LIEBERMAN,
Senator BARBARA MIKULSKI,
U.S. Senate,
Washington, DC.

DEAR SENATORS BOND, DOMENICI, FRIST, LIEBERMAN, AND MIKULSKI: Your Tech Talent bill will reinvigorate one of the most successful policies in the history of our nation—government support for broad undergraduate training in science and engineering. Since the end of the 19th century, people trained in these areas have turned scientific opportunity into technological progress. With their help, we harnessed the twin engines of the market and technology. Together, these engines powered the United States into our current position of unchallenged worldwide political and economic leadership.

Unfortunately, success breeds complacency. In recent decades, our achievements in undergraduate science education have fallen behind those in many other countries.

In the domain of the market, our government fostered growth by doing less. It stood aside and gave people the freedom to start new ventures, introduce new products, and improve on old ways of doing things. By contrast, in the domain of technology, our government fostered growth by doing more, but in a way that supported market competition. The Morrill Acts of 1862 and 1890 created a new type of university, one committed not to an elite study of art or science for its own sake. Instead, these new institutions emphasized the practical application of knowledge. They offered instruction in the ''agricultural and mechanic arts'' and the various branches of science, with ''special reference to their application in the industries of life.'' The land grant universities created and supported by these acts helped many more farmers and miners, tinkerers and inventors, entrepreneurs and managers, engineers and researchers compete in the market by developing new technologies or applying technologies developed by others.

Since World War II, the federal government has wisely increased its support for basic research by current university professors and graduate training of future professors. Unfortunately, this support seems to have come at the expense of our early commitment to undergraduate education in science and engineering. At the beginning of the 20th century, this commitment put us far ahead of the rest of the world. At the beginning of the 21st century, we lag behind many other countries according to such basic measures as the fraction of all 24-year-olds who receive an undergraduate degree in engineering or the natural sciences.

Your bill can begin our return to worldwide leadership in undergraduate science and engineering education. It will reward colleges and universities that devote more effort to teaching, that develop innovative instructional materials, that pull students into science instead of ''weeding them out.''

If we can increase the number of undergraduates who receive science and engineering degrees our companies will have more highly skilled workers. Our schools will have more math and science teachers. Our Ph.D.

programs will have more qualified applicants. Our economy will grow faster and our nation will be stronger.

Sincerely yours,

PAUL M. ROMER.

OCTOBER 5, 2001.

Hon. JOSEPH I. LIEBERMAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR LIEBERMAN: We commend you for your leadership in sponsoring the Technology Talent bill. This bill focuses attention on an important workforce issue for business and for America's growing knowledge-based economy—the need to increase the number of U.S. students graduating with degrees in mathematics, science, engineering, and technology from the nation's universities and community colleges.

American businesses face a constant challenge to find sufficient numbers of professionals with proficiency in these key disciplines. The number of students graduating with degrees in these fields has both failed to keep pace with an ever-increasing demand, and actually declined. Since 1990, for example the number of bachelor degrees in electrical engineering awarded at U.S. universities has declined 37 percent. We must address this need if the United States is to maintain its economic and technological leadership.

The demonstration grant program established by the Tech Talent bill will provide new incentives for universities, colleges, and community colleges to increase the number of graduates with bachelor and associate degrees in science, mathematics, engineering and technology. The bill also will encourage mentoring, bridge programs from secondary to postsecondary education, and creative approaches for traditionally underrepresented groups to earn degrees in these disciplines.

We look forward to working with you and your colleagues to secure enactment of this legislation.

Sincerely,

3M Company; AeA.; AT&T.; Business-Higher Education Forum; Compaq Computer Corporation; IBM Corporation; Information Technology Association of America; Intel Corporation; Minority Business RoundTable; Motorola; National Alliance of Business; National Venture Capital Association; Northern Virginia Technology Council; SchoolTone Alliance; Semiconductor Industry Association; Software and Information Industry Association; TechNet; Texas Instruments; Verizon; and Williams.

SIA,
San Jose, CA, October 3, 2001.

Re Tech Talent Act.

Hon. JOSEPH LIEBERMAN,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR LIEBERMAN: The Semiconductor Industry Association applauds your introduction of the Technology Talent Act as an important action to expand the technically trained workforce in the United States.

Over the next five to fifteen years, the semiconductor manufacturing process that the industry has used for the past thirty years will have reached its physical limits. It will take significant investments to develop the human resources necessary to develop replacement processes and electronic device structures. Absent these investments, the continued productivity gains that our economy has enjoyed from information technology advances will be lost.

The demonstration program established by the Tech Talent bill will provide incentive for universities, colleges and community colleges to increase the number of graduates with bachelors and associates' degrees in science, mathematics, engineering and technology. We are pleased that the bill encourages mentoring programs, bridge programs and other innovative approaches to helping increase the number of U.S. students graduating with degrees in these disciplines. That should not only help to increase the supply by retaining more of the students who are already enrolled, but also help attract more students from traditionally under-represented groups to pursue careers in our industry and other high tech sectors.

We look forward to working with you and your colleagues to help ensure the legislation's swift and favorable consideration. Thank you again for your leadership on this issue.

Sincerely,

GEORGE SCALISE,
President.

AAS,
Pasadena, CA, September 10, 2001.

Re Tech Talent Bill.

Hon. JOSEPH LIEBERMAN,
Washington, DC.

DEAR SENATOR LIEBERMAN: I am writing to thank you and your colleagues for introducing the ''Tech Talent Bill''. I will work to support this legislation as it moves through Congress.

As you know, the decline in our technical workforce is negatively affecting our national economy and worldwide competitiveness. The American Institute of Physics (AIP) has tracked the number of students earning doctorates from U.S. institutions in the physical sciences since 1962. Today, roughly 1,350 doctorates are awarded each year. In 1970, this number was nearly 1,600. Although this statistic does fluctuate from year to year, it has steadily declined over the last several years, dropping 11% between 1994 and 1998. Additionally, the fraction of foreign students earning doctorates has increased dramatically. According to AIP statistics, 46% of physics doctorates are foreign nationals.

The Administrator of NASA, Dan Goldin, highlighted this problem in a recent article in the Atlantic magazine (September 2001). In this article, he points out that due to the small number of qualified engineers and physical scientists, design, construction and operation of space probes is becoming difficult. Although not for certain, he suggests that this shortage may have played a role in the recent failures of the Mars Polar Lander and Mars Climate Orbiter. According to Mr. Goldin, nearly as many students earn undergraduate degrees in parks, recreation and leisure as earn degrees in electrical engineering. This is a shocking fact for a Nation built on technology and science.

By motivating universities to increase the number of students earning physical science degrees, this legislation will have a direct impact on this problem. I strongly support the ''Tech Talent Bill'' and hope to work with you to ensure its passage in this Congressional term.

Sincerely,

ANNEILA SARGENT,
President.

K–12 SCIENCE, MATHEMATICS, ENGINEERING & TECHNOLOGY EDUCATION COALITION,
October 15, 2001.

Hon. JOSEPH LIEBERMAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR LIEBERMAN: The K–12 Science, Mathematics, Engineering, and Technology Education Coalition commends you and Senators Frist, Mikulski, and Bond for introducing the ''Tech Talent'' bill, designed to increase the United States' technically trained workforce. It is imperative to develop a highly skilled workforce to maintain our national security and foster future economic growth. We believe that the journey begins before college.

We are pleased that your legislation encourages universities to partner with community colleges, industry organizations, professional societies and local schools to pave the way for students of all ages and backgrounds to further their interests in science, mathematics, engineering and technology (SMET) coursework and career paths.

In October of this year, the deans of engineering and the deans of education from 50 universities met in concert to develop strategic collaborations to enhance K–12 teacher preparation in SMET and to invigorate engineering education. Collaborations of this type can and should be replicated by more universities and across all science, mathematics, engineering, and technological disciplines.

This bill will assist in the development and implementation of innovative approaches to increasing enrollments and graduates in key SMET degrees, which is critical to our economy, our national security, and the future job prospects of our children. Providing incentives and rewards to educational institutions for increasing SMET enrollments and graduates is an excellent approach to jumpstart that process.

We applaud your dedication and foresight in protecting and enhancing America's future workforce.

If we can be of further assistance, please contact Patti Burgio at 202.785.7385.

GE CORPORATE RESEARCH & DEVELOPMENT, THE GENERAL ELECTRIC COMPANY,
October 12, 2001.

Hon. JOSEPH LIEBERMAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR LIEBERMAN: The General Electric Company highly commends you, along with Senators Bond, Mikulski, Frist, and Domenici and Representatives Boehlert and Larson, for introducing the ''Tech Talent'' bill. We fully endorse and support the revival of a highly technical workforce in the United States.

While our company embraces technical expertise from around the globe, we believe it is vital to our nation's long-term economic strength to grow and develop our domestic talent as well. This legislation will create that strength without discriminating against global technical talent.

We applaud your approach to creating a grant program that itself inspires colleges and universities to take a creative and innovative approach to broadening science, mathematics, engineering and technology enrollment. We believe that this approach will not result in a one-time spike in enrollment, instead it enables a fundamental change in philosophy for a long-term increase in technical education.

There is no better time for this legislation. Our nation's economy is heavily dependent on a highly skilled workforce, with more than 50 percent of our economic growth stemming from technological progress. We look forward to assisting you in any way possible with this legislation. Thank you for your continued support of technology and innovation initiatives in America.

Sincerely,

SCOTT C. DONNELLY,
Senior Vice President.

AMERICAN ASSOCIATION OF
STATE COLLEGES AND UNIVERSITIES,
Washington, DC, October 12, 2001.

Hon. JOSEPH LIEBERMAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR LIEBERMAN: On behalf of the American Association of State Colleges and Universities (AASCU) I am writing to express our strong support for the, ''Technology Talent Act of 2001.'' AASCU is comprised of more than 430 public colleges, universities and systems of public higher education located throughout the United States and its territories. Our Connecticut members include: Central Connecticut State University, Eastern Connecticut State University, Southern Connecticut State University, Western Connecticut State University and the Connecticut State University System.

AASCU truly appreciates your leadership in recognizing the need to increase the nation's technically trained workforce, as well as your commitment to address this need by introducing legislation that will, if adequately funded, go a long way towards achieving this goal. AASCU strongly supports the legislation's requirement that at least one principal investigator be in a position of administrative leadership at the institution of higher education. This requirement will ensure that the commitment for increasing the number of bachelor's degrees will be institution wide. Additionally, we believe the legislation's priority to award grants to institutions that draw on previous and existing efforts in improving undergraduate learning and teaching is right on target.

Again, thank you for your leadership on this issue. We look forward to working with you as the ''Technology Talent Act of 2001'' progresses through the legislative process.

Sincerely,

EDWARD M. ELMENDORF,
Vice President for Government Relations and Policy Analysis.

AMERICAN SOCIETY FOR
ENGINEERING EDUCATION,
Washington, DC, October 12, 2001.

Hon. JOSEPH LIEBERMAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR LIEBERMAN: On behalf of the members of the Engineering Deans Council (EDC) of the American Society for Engineering Education (ASEE), we are writing to thank you for introducing the Tech Talent bill, which is intended to increase the technically trained workforce of our nation. Now more than ever it is important for Americans to focus on strengthening and increasing the science and technology workforce of the United States.

Engineering schools have a major role to play in efforts to expand the nation's technical workforce. We are very interested in examining the provisions of the competitive grant program to be established at the National Science Foundation. Those that are intended to increase the number of U.S. citizens or permanent residents obtaining degrees in science, mathematics, engineering or technology (SMET) can be helpful to all of us in engineering education. The incentives to degree-granting institutions to encourage creative ways of recruiting students who may not earlier have felt they could succeed in these fields will insure innovative, aggressive program proposal submissions. We are glad to see that strong emphasis will be placed on an evaluation of methods employed in the grant activities.

This legislation will provide an opportunity to build on the activities that many of our colleges have underway, including mentoring high school students and engaging them in other activities designed to interest them in enrolling in SMET programs. Earlier this year we held the first Engineering Deans Council panel discussion on opportunities for collaboration between engineering and education schools. At the beginning of October pairs of deans of engineering and deans of education met for the ''Deans Summit'' in Baltimore. The purpose of this conference was to stimulate these deans to develop collaborations, which would result in programs to improve the quality of preparation of students for SMET careers. As participants in the Deans Summit, we can testify that many innovative programs were developed by pairs of deans from the institutions represented. We think this legislation will be very helpful to these collaborations. Many of the institutions will be very eager to develop proposals in response to its provisions. The incentives provided in this bill will certainly attract attention, and we think will achieve the purpose of increasing enrollments as well as improve the quality of preparation.

The Engineering Deans Council of the American Society for Engineering Education (ASEE) is the leadership organization of the more than 300 deans of engineering in the United States. Founded in 1893, ASEE is a nonprofit association dedicated to the improvement of engineering and engineering technology education.

We greatly appreciate your strong and continuing interest in and support for the development of our nation's scientific and technical workforce. If we can be of further assistance, please do not hesitate to get in touch with us.

Sincerely,

CARL E. LOCKE, Jr.,
Dean of Engineering, University of Kansas-Lawrence, Chair, Engineering Deans Council.

DAVID N. WORMLEY,
Dean of Engineering, Pennsylvania State University, Vice Chair, Engineering Deans Council.

Mr. FRIST. Mr. President, I am proud to join Senators LIEBERMAN, MIKULSKI, BOND and DOMENICI in introducing the Tech Talent bill. This legislation will build on and compliment legislation I introduced earlier this year, the Math and Science Partnership Act.

Today, we are talking about college math and science majors and their role in our economic and scientific future. But, precollege science and math instruction has an important relationship to the future supply of U.S. scientific and technological personnel as well. For example, students who take rigorous mathematics and science courses in high school are much more likely to go on to college than those who do not.

Data from the National Educational Longitudinal Study reveal that 83 percent of students who took algebra I and geometry, and nearly 89 percent of students who took chemistry, went on to college, compared to only 36 percent of students who did not take algebra and geometry and 43 percent of students who did not take chemistry. Yet 31 percent of our college bound high school seniors did not take four years or more of mathematics, and 51 percent of college bound high school seniors did not take four years or more of science.

There is another link between precollege and college math and science instruction: before you can major in science or math in college, you must have a strong understanding of the basics. Yet, the most recent NAEP science assessments showed that only approximately one-third of our 4th, 8th and 12th grade students were performing at the basic level. And only 3 percent of the students at all three grade levels reached the advanced level of scientific proficiency.

The Math and Science Partnership program, which is now part of the education reform bill, authorizes $900 million in 2002 to enhance K–12 math and science education. It will help more of our children learn the basics of math and science and encourage more of them to go to college.

The Tech Talent Bill will make sure that once they get to college, they are encouraged to complete the loop: major in science, engineering or computer science so that we can fill the high tech jobs that are fundamental to our nation's future prosperity and to our ability to remain competitive in an increasingly global marketplace.

The Tech Talent Bill rewards colleges and universities that increase the number of math and science majors that graduate. And the bill lets the universities figure out the best way to do so. It will not stifle creativity. Our economy needs a workforce highly trained in science, mathematics, engineering and technology, and that is why I believe this bill is very important, and should be a top priority.

I am proud to support this bill, and I commend Senator LIEBERMAN for his leadership on this issue.

Mr. DOMENICI. Mr. President, innovation drives a significant part of our domestic economy; it's absolutely vital in maintaining our standard of living. Estimates are that at least half of our economic growth in the post-WWII period was driven by advanced technologies.

Innovation is especially critical today at a time when our economy has shown significant weaknesses. We need to continue to look toward our ability to innovate, to bring new products and processes to the market place, to help spur recovery.

Innovation depends on many factors, ranging from the research done in our superb universities and laboratories to the flow of capital investments into entrepreneurial start-up companies. One of the very key factors is the existence of a well qualified workforce, ready to support high technology industries. Increasingly, preparation of that workforce is at risk in the United States, this should be cause for great concern.

That's why I welcome this opportunity to join with Senators LIEBERMAN, BOND, MIKULSKI, and FRIST, as well as with Congressmen BOEHLERT and LARSON, to provide my support as an original co-sponsor of the

Tech Talent Bill. This bill can help to reverse disturbing trends in the technical credentials of our future workforce.

Studies show that the number of jobs requiring technical training will increase by 51 percent over the next decade. Six million new technical openings are projected to be needed by 2008. But the trend is exactly the opposite, our number of bachelor's degrees has dropped 21 percent in engineering and 32 percent in math and computer science over the last decade.

In the last few years, we've filled many technical positions with foreign workers, and we've heard repeated cries from our high tech industries about their need for larger visa programs to allow these workers to enter the country. In addition, increasing numbers of our undergraduate and graduate students are citizens of another country.

Frequently, both foreign students who have completed technical studies in the United States and foreign technical workers admitted under special visas return to their native lands. That fuels a continuing outflow of technical expertise from our country.

That's good for other countries, who are striving to build up their technical capabilities, but it sure isn't good for the United States. The trend is ominous. In 1985, we led most countries in the number of research personnel as a percent of our workforce. In 1998, we were well behind countries like Japan.

This trend is even worse if we look at young technical workers, because much of our strength is from older workers from past years when technical education was more popular here. If we look at the fraction of 24 year-old workers with technical training, the U.S. lags behind many countries including Japan, Korea, Germany, Ireland, Canada, France and the United Kingdom.

This problem is even more evident if we look at the fraction of bachelor-level degrees awarded in science and engineering. In the United States, the figure is about one-third. But in China, our one-third is replaced by their 72 percent, and Japan, Russia and Brazil exceed 60 percent. In all of Asia, 47 percent of all degrees are in science and engineering. It's even worse if we focus on engineering, where 5 percent of our bachelor's degrees are awarded. In China, that figure is 46 percent. And that figure is 30 or more percent in countries like Germany, Russia, Singapore, and Finland, and over 20 percent in many countries including Japan, France and Sweden.

Traditionally, the United States has led the world in patents. But if we look at the growth in patenting in the U.S. and elsewhere, the trend is serious. Countries like Japan have higher growth rates in patenting then we do.

I already noted the importance of innovation in driving our economic growth. We don't compete well in the international marketplace on manufacture of low-tech goods. In fact, where a product has been on the market for awhile, other countries tend to capture the manufacturing market. That's why it's so critical that we maintain a strong flow of innovative products it's in the newest, highest technology, products that we are most competitive.

We can't afford to maintain some of the current trends. We were graduating about 18,000 students a year with bachelor's degrees in the physical sciences in the 1970s, today that figure is around 15,000. As another bad example, our graduates in mathematics have fallen to about half the 25,000 graduates per year in the 1970s.

We need to reverse these trends. We need to excite more students to pursue technical careers. We need to do far better at showing students the opportunities that can open for them if they pursue technical paths in their education.

This bill will help in this quest. By providing grants to schools and community colleges to increase their production of technical workers, we are providing direct motivation to the schools which have a significant hand in guiding students into various fields. These grants will serve to challenge schools to find better, more convincing, approaches to encourage student behavior.

It was particularly important to me that this bill offer these incentives at the community college level. Students are increasingly finding that these institutions offer the best match to their educational needs. It will be at the community college level that we can excite many new students who might have chosen other specialities.

Reversing the trends I've described won't happen overnight, it will take many years. But the future benefits to our your people and to our nation are immense. I'm pleased to join the cosponsors of this important bill in seeking to address this very real issue.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1902. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill H.R. 2506, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 1902. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill H.R. 2506, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table, as follows:

On page 125, line 16, before the period at the end of the line insert the following: '': *Provided further*, That, of the funds appropriated under this heading, not less than $400,000 shall be made available on a grant basis as a cash transfer for support of the Foundation for Children at Risk Donald J. Cohen and Irving B. Harris Center for Trauma and Disaster Intervention, housed at the Tel Aviv Mental Health Center, whose counseling of children and families and training of mental health professionals are crucial to reducing the human suffering and repairing the societal damage from violence against civilians of all faiths in Israel, Israeli settlements, and territory administered by the Palestinian Authority''.

AVIATION SECURITY ACT

On October 11, 2001, the Senate passed S 1447, as follows:

S. 1447

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 ''Aviation Security Act''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—AVIATION SECURITY

SEC. 101. FINDINGS.

The Congress finds the following:

(1) The safety and security of the civil air transportation system is critical to the United States' security and its national defense.

(2) A safe and secure United States civil air transportation system is essential to the basic freedom of Americans to move in intrastate, interstate, and international transportation.

(3) The terrorist hijackings and crashes of passenger aircraft on September 11, 2001, converting civil aircraft into guided bombs for strikes against civilian and military targets requires the United States to change fundamentally the way it approaches the task of ensuring the safety and security of the civil air transportation system.

(4) The existing fragmentation of responsibility for that safety and security among government agencies and between government and nongovernment entities is inefficient and unacceptable in light of the hijackings and crashes on September 11, 2001.

(5) The General Accounting Office has recommended that security functions and security personnel at United States airports should become a Federal government responsibility.

(6) Although the number of Federal air marshals is classified, their presence on both international and domestic flights would have a deterrent effect on hijacking and would further bolster public confidence in the safety of air travel.

(7) The effectiveness of existing security measures, including employee background checks and passenger pre-screening, is impaired because of the inaccessibility of, or the failure to share information among, data bases maintained by different Federal and international agencies for criminal behavior or pertinent intelligence information.

SEC. 102. TRANSPORTATION SECURITY FUNCTION.

(a) IN GENERAL.—Section 102 of title 49, United States Code, is amended—

(1) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g); and

(2) by inserting after subsection (c) the following:

''(d) DEPUTY SECRETARY FOR TRANSPORTATION SECURITY.—

''(1) IN GENERAL.—The Department has a Deputy Secretary for Transportation Security, who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Secretary for Transportation Security shall carry out duties and powers prescribed by the Secretary relating to security for all modes of transportation.

''(2) AVIATION-RELATED DUTIES.—The Deputy Secretary—

''(A) shall coordinate and direct, as appropriate, the functions and responsibilities of the Secretary of Transportation and the Administrator of the Federal Aviation Administration under chapter 449;

''(B) shall work in conjunction with the Administrator of the Federal Aviation Administration with respect to any actions or activities that may affect aviation safety or air carrier operations; and

''(C) shall actively cooperate and coordinate with the Attorney General, the Secretary of Defense, and the heads of other appropriate Federal agencies and departments with responsibilities for national security and criminal justice enforcement activities that are related to aviation security through the Aviation Security Coordination Council.

''(3) NATIONAL EMERGENCY RESPONSIBILITIES.—Subject to the direction and control of the Secretary, the Deputy Secretary shall have the following responsibilities:

''(A) To coordinate domestic transportation during a national emergency, including aviation, rail, and other surface transportation, and maritime transportation (including port security).

''(B) To coordinate and oversee during a national emergency the transportation-related responsibilities of other departments and agencies of the Federal Government other than the Department of Defense and the military departments.

''(C) To establish uniform national standards and practices for transportation during a national emergency.

''(D) To coordinate and provide notice to other departments and agencies of the Federal Government, and appropriate agencies of State and local governments, including departments and agencies for transportation, law enforcement, and border control, about threats to transportation during a national emergency.

''(E) To carry out such other duties, and exercise such other powers, relating to transportation during a national emergency as the Secretary of Transportation shall prescribe.

''(4) RELATIONSHIP TO OTHER TRANSPORTATION AUTHORITY.—The authority of the Deputy Secretary under paragraph (3) to coordinate and oversee transportation and transportation-related responsibilities during a national emergency shall not supersede the authority of any other department or agency of the Federal Government under law with respect to transportation or transportation-related matters, whether or not during a national emergency.

''(5) ANNUAL REPORT.—The Deputy Secretary shall submit to the Congress on an annual basis a report on the activities of the Deputy Secretary under paragraph (3) during the preceding year.

''(6) NATIONAL EMERGENCY.—The Secretary of Transportation shall prescribe the circumstances constituting a national emergency for purposes of paragraph (3).''.

(b) ATTORNEY GENERAL RESPONSIBILITIES.—The Attorney General of the United States—

(1) is responsible for day-to-day Federal security screening operations for passenger air transportation or intrastate air transportation under sections 44901 and 44935 of title 49, United States Code;

(2) shall work in conjunction with the Administrator of the Federal Aviation Administration with respect to any actions or activities that may affect aviation safety or air carrier operations;

(3) is responsible for hiring and training personnel to provide security screening at all United States airports involved in passenger air transportation or intrastate air transportation, in consultation with the Secretary of Transportation, the Secretary of Defense, and the heads of other appropriate Federal agencies and departments; and

(4) shall actively cooperate and coordinate with the Secretary of Transportation, the Secretary of Defense, and the heads of other appropriate Federal agencies and departments with responsibilities for national security and criminal justice enforcement activities that are related to aviation security through the Aviation Security Coordination Council.

(c) REVIEW AND DEVELOPMENT OF WAYS TO STRENGTHEN SECURITY.—Section 44932(c) of title 49, United States Code, is amended—

(1) by striking ''x-ray'' in paragraph (4);

(2) by striking ''and'' at the end of paragraph (4);

(3) by striking ''passengers.'' in paragraph (5) and inserting ''passengers;''; and

(4) by adding at the end the following:

''(6) to strengthen and enhance the ability to detect nonexplosive weapons, such as biological, chemical, or similar substances; and

''(7) to evaluate such additional measures as may be appropriate to enhance physical inspection of passengers, luggage, and cargo.''.

(d) TRANSITION.—Until the Deputy Secretary for Transportation Security takes office, the functions of the Deputy Secretary that relate to aviation security shall be carried out by the Assistant Administrator for Civil Aviation Security of the Federal Aviation Administration.

SEC. 103. AVIATION SECURITY COORDINATION COUNCIL.

(a) IN GENERAL.—Section 44911 of title 49, United States Code, is amended by adding at the end the following:

''(f) AVIATION SECURITY COORDINATION COUNCIL.—

''(1) IN GENERAL.—There is established an Aviation Security Coordination Council.

''(2) FUNCTION.—The Council shall work with the intelligence community to coordinate intelligence, security, and criminal enforcement activities affecting the safety and security of aviation at all United States airports and air navigation facilities involved in air transportation or intrastate air transportation.

''(3) CHAIR.—The Council shall be chaired by the Secretary of Transportation or the Secretary's designee.

''(4) MEMBERSHIP.—The members of the Council are:

''(A) The Secretary of Transportation, or the Secretary's designee.

''(B) The Attorney General, or the Attorney General's designee.

''(C) The Secretary of Defense, or the Secretary's designee.

''(D) The Secretary of the Treasury, or the Secretary's designee.

''(E) The Director of the Central Intelligence Agency, or the Director's designee.

''(F) The head, or an officer or employee designated by the head, of any other Federal agency the participation of which is determined by the Secretary of Transportation, in consultation with the Attorney General, to be appropriate.

''(g) CROSS-CHECKING DATA BASE INFORMATION.—The Secretary of Transportation, acting through the Aviation Security Coordination Council, shall—

''(1) explore the technical feasibility of developing a common database of individuals who may pose a threat to aviation or national security;

''(2) enter into memoranda of understanding with other Federal agencies to share or otherwise cross-check data on such individuals identified on Federal agency data bases, and may utilize other available data bases as necessary; and

''(3) evaluate and assess technologies in development or use at Federal departments, agencies, and instrumentalities that might

be useful in improving the safety and security of aviation in the United States.''.

(b) POLICIES AND PROCEDURES.—Section 44911(b) of title 49, United States Code, is amended by striking ''international''.

(c) STRATEGIC PLANNING.—Section 44911(c) of title 49, United States Code, is amended by striking ''consider placing'' and inserting ''place''.

SEC. 104. IMPROVED FLIGHT DECK INTEGRITY MEASURES.

(a) IN GENERAL.—As soon as possible after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall—

(1) issue an order (without regard to the provisions of chapter 5 of title 5, United States Code)—

(A) prohibiting access to the flight deck of aircraft engaged in passenger air transportation or intrastate air transportation except to authorized personnel;

(B) requiring the strengthening of the flight deck door and locks on any such aircraft operating in air transportation or intrastate air transportation that has a rigid door in a bulkhead between the flight deck and the passenger area to ensure that the door cannot be forced open from the passenger compartment;

(C) requiring that such flight deck doors remain locked while any such aircraft is in flight except when necessary to permit the flight deck crew access and egress; and

(D) prohibiting the possession of a key to any such flight deck door by any member of the flight crew who is not assigned to the flight deck; and

(2) take such other action, including modification of safety and security procedures, as may be necessary to ensure the safety and security of the aircraft.

(b) COMMUTER AIRCRAFT.—The Administrator shall investigate means of securing, to the greatest feasible extent, the flight deck of aircraft operating in air transportation or intrastate air transportation that do not have a rigid fixed door with a lock between the passenger compartment and the flight deck and issue such an order as the Administrator deems appropriate (without regard to the provisions of chapter 5 of title 5, United States Code) to ensure the inaccessibility, to the greatest extent feasible, of the flight deck while the aircraft is so engaged.

SEC. 105. DEPLOYMENT OF FEDERAL AIR MARSHALS.

(a) AIR MARSHALS UNDER ATTORNEY GENERAL GUIDELINES.—The Attorney General shall prescribe guidelines for the training and deployment of individuals authorized, with the approval of the Attorney General, to carry firearms and make arrests under section 44903(d) of title 49, United States Code. The Secretary of Transportation shall administer the air marshal program under that section in accordance with the guidelines prescribed by the Attorney General.

(b) DEPLOYMENT.—Section 44903(d) of title 49, United States Code, is amended—

(1) by inserting ''(1)'' before ''With'';

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B); and

(3) by adding at the end the following:

''(2) The Secretary—

''(A) may place Federal air marshals on every scheduled passenger flight in air transportation and intrastate air transportation; and

''(B) shall place them on every such flight determined by the Secretary to present high security risks.

''(3) In making the determination under paragraph (2)(B), nonstop longhaul flights, such as those targeted on September 11, 2001, should be a priority.''.

(c) TRAINING, SUPERVISION, AND FLIGHT ASSIGNMENT.—Within 30 days after the date of enactment of this Act, the Secretary of Transportation, under the authority of subsections (d) and (e) of section 44903 of title 49, United States Code, shall—

(1) provide for deployment of Federal air marshals on flights in air transportation and intrastate air transportation;

(2) provide for appropriate background and fitness checks for candidates for appointment as Federal air marshals;

(3) provide for appropriate training, supervision, and equipment of Federal air marshals; and

(4) require air carriers to provide seating for Federal air marshals on any flight without regard to the availability of seats on that flight.

(d) INTERNATIONAL FLIGHTS.—The Secretary shall work with the International Civil Aviation Organization and with appropriate civil aviation authorities of foreign governments under section 44907 of title 49, United States Code, to address security concerns on flights by foreign air carriers to and from the United States.

(e) INTERIM MEASURES.—The Secretary may, after consultation with the heads of other Federal agencies and departments, use personnel from those agencies and departments to provide air marshal service on domestic and international flights, and may use the authority provided by section 324 of title 49, United States Code, for such purpose.

(f) REPORTS.—

(1) IN GENERAL.—The Attorney General and the Secretary of Transportation shall submit the following reports in classified form, if necessary, to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure:

(A) Within 18 months after the date of enactment of this Act, an assessment of the program carried out under section 44903(d) of title 49, United States Code.

(B) Within 120 days after such date, an assessment of the effectiveness of the security screening process for carry-on baggage and checked baggage.

(C) Within 6 months after the date of enactment of this Act, an assessment of the safety and security-related training provided to flight and cabin crews.

(2) RECOMMENDATIONS.—The Attorney General and the Secretary may submit, as part of any report under this subsection or separately, any recommendations they may have for improving the effectiveness of the Federal air marshal program or the security screening process.

(g) COOPERATION WITH OTHER AGENCIES.—The last sentence of section 106(m) of title 49, United States Code, is amended by striking ''supplies and'' and inserting ''supplies, personnel, services, and''.

(h) AUTHORITY TO APPOINT RETIRED LAW ENFORCEMENT OFFICERS.—Notwithstanding any other provision of law, the Secretary of Transportation may appoint an individual who is a retired law enforcement officer or a retired member of the Armed Forces as a Federal air marshal, regardless of age, or an individual discharged or furloughed from a commercial airline cockpit crew position, if the individual otherwise meets the background and fitness qualifications required for Federal air marshals.

SEC. 106. IMPROVED AIRPORT PERIMETER ACCESS SECURITY.

(a) IN GENERAL.—Section 44903 of title 49, United States Code, is amended by adding at the end the following:

''(h) IMPROVED AIRPORT PERIMETER ACCESS SECURITY.—

''(1) IN GENERAL.—The Secretary of Transportation, in consultation with the airport operator and law enforcement authorities, may order the deployment of such personnel at any secure area of the airport as necessary to counter the risk of criminal violence, the risk of aircraft piracy at the airport, the risk to air carrier aircraft operations at the airport, or to meet national security concerns.

''(2) SECURITY OF AIRCRAFT AND GROUND ACCESS TO SECURE AREAS.—In determining where to deploy such personnel, the Secretary shall consider the physical security needs of air traffic control facilities, parked aircraft, aircraft servicing equipment, aircraft supplies (including fuel), automobile parking facilities within airport perimeters or adjacent to secured facilities, and access and transition areas at airports served by other means of ground or water transportation. The Secretary of Transportation, after consultation with the Aviation Security Coordination Council, shall consider whether airport, air carrier personnel, and other individuals with access to such areas should be screened to prevent individuals who present a risk to aviation security or national security from gaining access to such areas.

''(3) DEPLOYMENT OF FEDERAL LAW ENFORCEMENT PERSONNEL.—The Secretary of Transportation may enter into a memorandum of understanding or other agreement with the Attorney General or the head of any other appropriate Federal law enforcement agency to deploy Federal law enforcement personnel at an airport in order to meet aviation safety and security concerns.''.

(b) SMALL AND MEDIUM AIRPORTS.—The Administrator of the Federal Aviation Administration shall develop a plan to provide technical support to small and medium airports to enhance security operations, including screening operations, and to provide financial assistance to those airports to defray the costs of enhancing security. The Federal Aviation Administration in consultation with the appropriate State or local government law enforcement authorities, shall reexamine the safety requirements for small community airports, to reflect a reasonable level of threat to those individual small community airports, including the parking of passenger vehicles within 300 feet of the airport terminal building with respect to that airport.

(c) CHEMICAL AND BIOLOGICAL WEAPON DETECTION.—Section 44903(c)(2)(C) of title 49, United States Code, is amended to read as follows:

''(C) MAXIMUM USE OF CHEMICAL AND BIOLOGICAL WEAPON DETECTION EQUIPMENT.—The Secretary of Transportation shall require airports to maximize the use of technology and equipment that is designed to detect potential chemical or biological weapons.''.

(d) IMPROVEMENT OF SECURED-AREA ACCESS CONTROL.—Section 44903(g)(2) of title 49, United States Code, is amended—

(1) by striking ''weaknesses by January 31, 2001;'' in subparagraph (A) and inserting ''weaknesses;'';

(2) by striking subparagraph (D) and inserting the following:

''(D) on an ongoing basis, assess and test for compliance with access control requirements, report annually findings of the assessments, and assess the effectiveness of penalties in ensuring compliance with security procedures and take any other appropriate enforcement actions when noncompliance is found;'';

(3) by striking ''program by January 31, 2001;'' in subparagraph (F) and inserting ''program;''; and

(4) by striking subparagraph (G) and inserting the following:

''(G) work with airport operators to strengthen access control points in secured

areas (including air traffic control operations areas, maintenance areas, crew lounges, baggage handling areas, concessions, and catering delivery areas) to ensure the security of passengers and aircraft and consider the deployment of biometric or similar technologies that identify individuals based on unique personal characteristics.''.

(e) AIRPORT SECURITY PILOT PROGRAM.—Section 44903(c) of title 49, United States Code, is amended by adding at the end the following:

''(3) The Administrator shall establish pilot programs in no fewer than 20 airports to test and evaluate new and emerging technology for providing access control and other security protections for closed or secure areas of the airports. Such technology may include biometric or other technology that ensures only authorized access to secure areas.''.

(f) AIRPORT SECURITY AWARENESS PROGRAMS.—The Secretary of Transportation shall require air carriers and airports involved in air transportation or intrastate air transportation to develop security awareness programs for airport employees, ground crews, and other individuals employed at such airports.

SEC. 107. ENHANCED ANTI-HIJACKING TRAINING FOR FLIGHT CREWS.

(a) IN GENERAL.—The Secretary of Transportation shall develop a mandatory air carrier program of training for flight and cabin crews of aircraft providing air transportation or intrastate air transportation in dealing with attempts to commit aircraft piracy (as defined in section 46502(a)(1)(A) of title 49, United States Code). The Secretary shall ensure that the training curriculum is developed in consultation with Federal law enforcement agencies with expertise in terrorism, self-defense, hijacker psychology, and current threat conditions.

(b) NOTIFICATION PROCEDURES.—The Administrator of the Federal Aviation Administration shall revise the procedures by which cabin crews of aircraft can notify flight deck crews of security breaches and other emergencies and implement any new measures as soon as practicable.

SEC. 108. PASSENGER AND PROPERTY SCREENING.

(a) IN GENERAL.—Section 44901 of title 49, United States Code, is amended to read as follows:

''§ 44901. Screening passengers, individuals with access to secure areas, and property

''(a) IN GENERAL.—The Attorney General, in consultation with the Secretary of Transportation, shall provide for the screening of all passengers and property, including United States mail, cargo, carry-on and checked baggage, and other articles, that will be carried aboard an aircraft in air transportation or intrastate air transportation. The screening shall take place before boarding and, except as provided in subsection (c), shall be carried out by a Federal government employee (as defined in section 2105 of title 5, United States Code). The Attorney General, in consultation with the Secretary, shall provide for the screening of all persons, including airport, air carrier, foreign air carrier, and airport concessionaire employees, before they are allowed into sterile or secure areas of the airport, as determined by the Attorney General. The screening of airport, air carrier, foreign air carrier, and airport concessionaire employees, and other nonpassengers with access to secure areas, shall be conducted in the same manner as passenger screenings are conducted, except that the Attorney General may authorize alternative screening procedures for personnel engaged in providing airport or aviation security at an airport. In carrying out this subsection, the Attorney General shall maximize the use of available nonintrusive and other inspection and detection technology that is approved by the Administrator of the Federal Aviation Administration for the purpose of screening passengers, baggage, mail, or cargo.

''(b) DEPLOYMENT OF ARMED PERSONNEL.—

''(1) IN GENERAL.—The Attorney General shall order the deployment of law enforcement personnel authorized to carry firearms at each airport security screening location to ensure passenger safety and national security.

''(2) MINIMUM REQUIREMENTS.—Except at airports required to enter into agreements under subsection (c), the Attorney General shall order the deployment of at least 1 law enforcement officer at each airport security screening location. At the 100 largest airports in the United States, in terms of annual passenger enplanements for the most recent calendar year for which data are available, the Attorney General shall order the deployment of additional law enforcement personnel at airport security screening locations if the Attorney General determines that the additional deployment is necessary to ensure passenger safety and national security.

''(c) SECURITY AT SMALL COMMUNITY AIRPORTS.—

''(1) PASSENGER SCREENING.—In carrying out subsection (a) and subsection (b)(1), the Attorney General may require any nonhub airport (as defined in section 41731(a)(4)) or smaller airport with scheduled passenger operations to enter into an agreement under which screening of passengers and property will be carried out by qualified, trained State or local law enforcement personnel if—

''(A) the screening services are equivalent to the screening services that would be carried out by Federal personnel under subsection (a);

''(B) the training and evaluation of individuals conducting the screening or providing security services meets the standards set forth in section 44935 for training and evaluation of Federal personnel conducting screening or providing security services under subsection (a);

''(C) the airport is reimbursed by the United States, using funds made available by the Aviation Security Act, for the costs incurred in providing the required screening, training, and evaluation; and

''(D) the Attorney General has consulted the airport sponsor.

''(2) DETERMINATION OF LIMITED REQUIREMENTS.—The Attorney General, in consultation with the Secretary of Transportation, may prescribe modified aviation security measures for a nonhub airport if the Attorney General determines that specific security measures are not required at a nonhub airport at all hours of airport operation because of—

''(A) the types of aircraft that use the airport;

''(B) seasonal variations in air traffic and types of aircraft that use the airport; or

''(C) other factors that warrant modification of otherwise applicable security requirements.

''(3) ADDITIONAL FEDERAL SECURITY MEASURES.—At any airport required to enter into a reimbursement agreement under paragraph (1), the Attorney General—

''(A) may provide or require additional security measures;

''(B) may conduct random security inspections; and

''(C) may provide assistance to enhance airport security at that airport.

''(d) MANUAL PROCESS.—

''(1) IN GENERAL.—The Attorney General shall require a manual process, at explosive detection system screening locations in airports where explosive detection equipment is underutilized, which will augment the Computer Assisted Passenger Prescreening System by randomly selecting additional checked bags for screening so that a minimum number of bags, as prescribed by the Attorney General, are examined.

''(2) LIMITATION ON STATUTORY CONSTRUCTION.—Paragraph (1) shall not be construed to limit the ability of the Attorney General or the Secretary of Transportation to impose additional security measures when a specific threat warrants such additional measures.

''(3) MAXIMUM USE OF EXPLOSIVE DETECTION EQUIPMENT.—In prescribing the minimum number of bags to be examined under paragraph (1), the Attorney General shall seek to maximize the use of the explosive detection equipment.

''(e) FLEXIBILITY OF ARRANGEMENTS.—In carrying out subsections (a), (b), and (c), the Attorney General may use memoranda of understanding or other agreements with the heads of appropriate Federal law enforcement agencies covering the utilization and deployment of personnel of the Department of Justice or such other agencies.''.

(b) DEPUTIZING OF STATE AND LOCAL LAW ENFORCEMENT OFFICERS.—Section 512 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century is amended—

(1) by striking ''purpose of'' in subsection (b)(1)(A) and inserting ''purposes of (i)'';

(2) by striking ''transportation;'' in subsection (b)(1)(A) and inserting ''transportation, and (ii) regulate the provisions of security screening services under section 44901(c) of title 49, United States Code;'';

(3) by striking ''NOT FEDERAL RESPONSIBILITY'' in the heading of subsection (b)(3)(b);

(4) by striking ''shall not be responsible for providing'' in subsection (b)(3)(B) and inserting ''may provide'';

(5) by striking ''flight.'' in subsection (c)(2) and inserting ''flight and security screening functions under section 44901(c) of title 49, United States Code.'';

(6) by striking ''General'' in subsection (e) and inserting ''General, in consultation with the Secretary of Transportation,''; and

(7) by striking subsection (f).

(c) TRANSITION.—The Attorney General shall complete the full implementation of section 44901 of title 49, United States Code, as amended by subsection (a), as soon as is practicable but in no event later than 9 months after the date of enactment of this Act. The Attorney General may make or continue such arrangements, including arrangements under the authority of sections 40110 and 40111 of that title, for the screening of passengers and property under that section as the Attorney General determines necessary pending full implementation of that section as so amended.

SEC. 109. TRAINING AND EMPLOYMENT OF SECURITY SCREENING PERSONNEL.

(a) IN GENERAL.—Section 44935 of title 49, United States Code, is amended—

(1) by redesignating subsection (f) as subsection (i); and

(2) by striking subsection (e) and inserting the following:

''(e) SECURITY SCREENERS.—

''(1) TRAINING PROGRAM.—The Attorney General, in consultation with the Secretary of Transportation, shall establish a program for the hiring and training of security screening personnel.

''(2) HIRING.—

''(A) QUALIFICATIONS.—The Attorney General shall establish, within 30 days after the date of enactment of the Aviation Security Act, qualification standards for individuals

to be hired by the United States as security screening personnel. Notwithstanding any provision of law to the contrary, those standards shall, at a minimum, require an individual—

''(i) to have a satisfactory or better score on a Federal security screening personnel selection examination;

''(ii) to have been a national of the United States, as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)), for a minimum of 5 consecutive years;

''(iii) to have passed an examination for recent consumption of a controlled substance;

''(iv) to meet, at a minimum, the requirements set forth in subsection (f); and

''(v) to meet such other qualifications as the Attorney General may establish.

''(B) BACKGROUND CHECKS.—The Attorney General shall require that an individual to be hired as a security screener undergo an employment investigation (including a criminal history record check) under section 44936(a)(1).

''(C) DISQUALIFICATION OF INDIVIDUALS WHO PRESENT NATIONAL SECURITY RISKS.—The Attorney General, in consultation with the heads of other appropriate Federal agencies, shall establish procedures, in addition to any background check conducted under section 44936, to ensure that no individual who presents a threat to national security is employed as a security screener.

''(3) EXAMINATION; REVIEW OF EXISTING RULES.—The Attorney General shall develop a security screening personnel examination for use in determining the qualification of individuals seeking employment as security screening personnel. The Attorney General shall also review, and revise as necessary, any standard, rule, or regulation governing the employment of individuals as security screening personnel.

''(f) EMPLOYMENT STANDARDS FOR SCREENING PERSONNEL.—

''(1) SCREENER REQUIREMENTS.—Notwithstanding any provision of law to the contrary, an individual may not be employed as a security screener unless that individual meets the following requirements:

''(A) The individual shall possess a high school diploma, a General Equivalency Diploma, or experience that the Attorney General has determined to have equipped the individual to perform the duties of the position.

''(B) The individual shall possess basic aptitudes and physical abilities including color perception, visual and aural acuity, physical coordination, and motor skills to the following standards:

''(i) Screeners operating screening equipment shall be able to distinguish on the screening equipment monitor the appropriate imaging standard specified by the Attorney General. Wherever the screening equipment system displays colors, the operator shall be able to perceive each color.

''(ii) Screeners operating any screening equipment shall be able to distinguish each color displayed on every type of screening equipment and explain what each color signifies.

''(iii) Screeners shall be able to hear and respond to the spoken voice and to audible alarms generated by screening equipment in an active checkpoint environment.

''(iv) Screeners performing physical searches or other related operations shall be able to efficiently and thoroughly manipulate and handle such baggage, containers, and other objects subject to security processing.

''(v) Screeners who perform pat-downs or hand-held metal detector searches of individuals shall have sufficient dexterity and capability to thoroughly conduct those procedures over a individual's entire body.

''(C) The individual shall be able to read, speak, and write English well enough to—

''(i) carry out written and oral instructions regarding the proper performance of screening duties;

''(ii) read English language identification media, credentials, airline tickets, and labels on items normally encountered in the screening process;

''(iii) provide direction to and understand and answer questions from English-speaking individuals undergoing screening; and

''(iv) write incident reports and statements and log entries into security records in the English language.

''(D) The individual shall have satisfactorily completed all initial, recurrent, and appropriate specialized training required by the security program, except as provided in paragraph (2).

''(2) EXCEPTIONS.—An individual who has not completed the training required by this section may be employed during the on-the-job portion of training to perform functions if that individual—

''(A) is closely supervised; and

''(B) does not make independent judgments as to whether individuals or property may enter a sterile area or aircraft without further inspection.

''(3) REMEDIAL TRAINING.—No individual employed as a security screener may perform a screening function after that individual has failed an operational test related to that function until that individual has successfully completed the remedial training specified in the security program.

''(4) ANNUAL PROFICIENCY REVIEW.—The Attorney General shall provide that an annual evaluation of each individual assigned screening duties is conducted and documented. An individual employed as a security screener may not continue to be employed in that capacity unless the evaluation demonstrates that the individual—

''(A) continues to meet all qualifications and standards required to perform a screening function;

''(B) has a satisfactory record of performance and attention to duty based on the standards and requirements in the security program; and

''(C) demonstrates the current knowledge and skills necessary to courteously, vigilantly, and effectively perform screening functions.

''(5) OPERATIONAL TESTING.—In addition to the annual proficiency review conducted under paragraph (4), the Attorney General shall provide for the operational testing of such personnel.

''(g) TRAINING.—

''(1) USE OF OTHER AGENCIES.—The Attorney General shall enter into a memorandum of understanding or other arrangement with any other Federal agency or department with appropriate law enforcement responsibilities, to provide personnel, resources, or other forms of assistance in the training of security screening personnel.

''(2) TRAINING PLAN.—The Attorney General shall, within 60 days after the date of enactment of the Aviation Security Act, develop a plan for the training of security screening personnel. The plan shall, at a minimum, require that before being deployed as a security screener, an individual—

''(A) has completed 40 hours of classroom instruction or successfully completed a program that the Attorney General determines will train individuals to a level of proficiency equivalent to the level that would be achieved by such classroom instruction;

''(B) has completed 60 hours of on-the-job instruction; and

''(C) has successfully completed an on-the-job training examination prescribed by the Attorney General.

''(3) EQUIPMENT-SPECIFIC TRAINING.—An individual employed as a security screener may not use any security screening device or equipment in the scope of that individual's employment unless the individual has been trained on that device or equipment and has successfully completed a test on the use of the device or equipment.

''(h) TECHNOLOGICAL TRAINING.—The Attorney General shall require training to ensure that screeners are proficient in using the most up-to-date new technology and to ensure their proficiency in recognizing new threats and weapons. The Attorney General shall make periodic assessments to determine if there are dual use items and inform security screening personnel of the existence of such items. Current lists of dual use items shall be part of the ongoing training for screeners. For purposes of this subsection, the term 'dual use' item means an item that may seem harmless but that may be used as a weapon.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 44936(a)(1)(A) is amended by inserting ''as a security screener under section 44935(e) or a position'' after ''a position''.

(2) Section 44936(b) of title 49, United States Code, is amended—

(A) by inserting ''the Attorney General,'' after ''subsection,'' in paragraph (1); and

(B) by striking ''An'' in paragraph (3) and inserting ''The Attorney General, an''.

(3) Section 44936(a)(1)(E) is amended by striking clause (iv).

(c) TRANSITION.—The Attorney General shall complete the full implementation of section 44935 (e), (f), (g), and (h) of title 49, United States Code, as amended by subsection (a), as soon as is practicable. The Attorney General may make or continue such arrangements for the training of security screeners under that section as the Attorney General determines necessary pending full implementation of that section as so amended.

(d) SCREENER PERSONNEL.—Notwithstanding any other provision of law, the Attorney General may employ, appoint, discipline, terminate, and fix the compensation, terms, and conditions of employment of Federal service for such a number of individuals as the Attorney General determines to be necessary to carry out the passenger security screening functions of the Attorney General under section 44901 of title 49, United States Code.

(e) STRIKES PROHIBITED.—An individual employed as a security screener under section 44901 of title 49, United States Code, is prohibited from participating in a strike or asserting the right to strike pursuant to section 7311(3) or 7116(b)(7) of title 5, United States Code.

(f) BACKGROUND CHECKS FOR EXISTING EMPLOYEES.—

(1) IN GENERAL.—Section 44936 of title 49, United States Code, is amended by inserting ''is or'' before ''will'' in subsection (a)(1)(B)(i).

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) apply with respect to individuals employed on or after the date of enactment of the Aviation Security Act in a position described in subparagraph (A) or (B) of section 44936(a)(1) of title 49, United States Code. The Secretary of Transportation may provide by order for a phased-in implementation of the requirements of section 44936 of that title made applicable to individuals employed in such positions at airports on the date of enactment of this Act.

SEC. 110. RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—Section 44912(b)(1) of title 49, United States Code, is amended—

(1) by striking ''complete an intensive review of'' and inserting ''periodically review'';

(2) by striking ''commercial aircraft in service and expected to be in service in the 10-year period beginning on November 16, 1990;'' in subparagraph (B) and inserting ''aircraft in air transportation;''; and

(3) by redesignating subparagraphs (D) through (F) as subparagraphs (E) through (G), respectively, and inserting after subparagraph (C) the following:

''(D) the potential release of chemical, biological, or similar weapons or devices either within an aircraft or within an airport;''.

(b) ADDITIONAL MATTERS REGARDING RESEARCH AND DEVELOPMENT.—

(1) ADDITIONAL PROGRAM REQUIREMENTS.—Subsection (a) of section 44912 of title 49, United States Code, is amended—

(A) by redesignating paragraph (4) as paragraph (5); and

(B) by inserting after paragraph (3) the following new paragraph (4):

''(4)(A) In carrying out the program established under this subsection, the Administrator shall designate an individual to be responsible for engineering, research, and development with respect to security technology under the program.

''(B) The individual designated under subparagraph (A) shall use appropriate systems engineering and risk management models in making decisions regarding the allocation of funds for engineering, research, and development with respect to security technology under the program.

''(C) The individual designated under subparagraph (A) shall, on an annual basis, submit to the Research, Engineering and Development Advisory Committee a report on activities under this paragraph during the preceding year. Each report shall include, for the year covered by such report, information on—

''(i) progress made in engineering, research, and development with respect to security technology;

''(ii) the allocation of funds for engineering, research, and development with respect to security technology; and

''(iii) engineering, research, and development with respect to any technologies drawn from other agencies, including the rationale for engineering, research, and development with respect to such technologies.''.

(2) REVIEW OF THREATS.—Subsection (b)(1) of that section is amended—

(A) by redesignating subparagraphs (A) through (F) as subparagraphs (B) through (G), respectively; and

(B) by inserting before subparagraph (B), as so redesignated, the following new subparagraph (A):

''(A) a comprehensive systems analysis (employing vulnerability analysis, threat attribute definition, and technology roadmaps) of the civil aviation system, including—

''(i) the destruction, commandeering, or diversion of civil aircraft or the use of civil aircraft as a weapon; and

''(ii) the disruption of civil aviation service, including by cyber attack;''.

(3) SCIENTIFIC ADVISORY PANEL.—Subsection (c) of that section is amended to read as follows:

''(c) SCIENTIFIC ADVISORY PANEL.—(1) The Administrator shall establish a scientific advisory panel, as a subcommittee of the Research, Engineering, and Development Advisory Committee, to review, comment on, advise the progress of, and recommend modifications in, the program established under subsection (a) of this section, including the need for long-range research programs to detect and prevent catastrophic damage to commercial aircraft, commercial aviation facilities, commercial aviation personnel and passengers, and other components of the commercial aviation system by the next generation of terrorist weapons.

''(2)(A) The advisory panel shall consist of individuals who have scientific and technical expertise in—

''(i) the development and testing of effective explosive detection systems;

''(ii) aircraft structure and experimentation to decide on the type and minimum weights of explosives that an effective explosive detection technology must be capable of detecting;

''(iii) technologies involved in minimizing airframe damage to aircraft from explosives; and

''(iv) other scientific and technical areas the Administrator considers appropriate.

''(B) In appointing individuals to the advisory panel, the Administrator should consider individuals from academia and the national laboratories, as appropriate.

''(3) The Administrator shall organize the advisory panel into teams capable of undertaking the review of policies and technologies upon request.

''(4) Not later than 90 days after the date of the enactment of the Aviation Security Act, and every two years thereafter, the Administrator shall review the composition of the advisory panel in order to ensure that the expertise of the individuals on the panel is suited to the current and anticipated duties of the panel.''.

(c) COORDINATION WITH ATTORNEY GENERAL.—Section 44912(b) of title 49, United States Code, is amended by adding at the end the following:

''(3) Beginning on the date of enactment of the Aviation Security Act, the Administrator shall conduct all research related to screening technology and procedures in conjunction with the Attorney General.''.

SEC. 111. FLIGHT SCHOOL SECURITY.

(a) PROHIBITION.—Chapter 449 of title 49, United States Code, is amended by adding at the end the following new section:

''§ 44939. Training to operate jet-propelled aircraft

''(a) PROHIBITION.—No person subject to regulation under this part may provide training in the operation of any jet-propelled aircraft to any alien (or other individual specified by the Secretary of Transportation under this section) within the United States unless the Attorney General issues to that person a certification of the completion of a background investigation of the alien or other individual under subsection (b).

''(b) INVESTIGATION.—

''(1) REQUEST.—Upon the joint request of a person subject to regulation under this part and an alien (or individual specified by the Secretary) for the purposes of this section, the Attorney General shall—

''(A) carry out a background investigation of the alien or individual within 30 days after the Attorney General receives the request; and

''(B) upon completing the investigation, issue a certification of the completion of the investigation to the person.

''(2) SCOPE.—A background investigation of an alien or individual under this subsection shall consist of the following:

''(A) A determination of whether there is a record of a criminal history for the alien or individual and, if so, a review of the record.

''(B) A determination of the status of the alien under the immigration laws of the United States.

''(C) A determination of whether the alien or individual presents a national security risk to the United States.

''(3) RECURRENT TRAINING.—The Attorney General shall develop expedited procedures for requests that relate to recurrent training of an alien or other individual for whom a certification has previously been issued under paragraph (1).

''(c) SANCTIONS.—A person who violates subsection (a) shall be subject to administrative sanctions that the Secretary of Transportation shall prescribe in regulations. The sanctions may include suspension and revocation of licenses and certificates issued under this part.

''(d) COVERED TRAINING.—For the purposes of subsection (a), training includes in-flight training, training in a simulator, and any other form or aspect of training.

''(e) REPORTING REQUIREMENT.—Each person subject to regulation under this part that provides training in the operation of any jet-propelled aircraft shall report to the Secretary of Transportation, at such time and in such manner as the Secretary may prescribe, the name, address, and such other information as the Secretary may require concerning—

''(1) each alien to whom such training is provided; and

''(2) every other individual to whom such training is provided as the Secretary may require.

''(f) ALIEN DEFINED.—In this section, the term 'alien' has the meaning given the term in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3)).''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''44939. Training to operate jet-propelled aircraft.''.

(c) INTERNATIONAL COOPERATION.—The Secretary of Transportation, in consultation with the Secretary of State, shall work with the International Civil Aviation Organization and the civil aviation authorities of other countries to improve international aviation security through screening programs for flight instruction candidates.

SEC. 112. REPORT TO CONGRESS ON SECURITY.

Within 60 days after the date of enactment of this Act, the Attorney General and the Secretary of Transportation shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure containing their joint recommendations on additional measures for the Federal Government to address transportation security functions.

SEC. 113. GENERAL AVIATION AND AIR CHARTERS.

The Secretary of Transportation shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 3 months after the date of enactment of this Act a report on how to improve security with respect to general aviation and air charter operations in the United States.

SEC. 114. INCREASED PENALTIES FOR INTERFERENCE WITH SECURITY PERSONNEL.

(a) IN GENERAL.—Chapter 465 of title 49, United States Code, is amended by inserting after section 46502 the following:

''§ 46503. Interference with security screening personnel

''An individual in an area within a commercial service airport in the United States who, by assaulting or intimidating a Federal, airport, or air carrier employee who has security duties within the airport, interferes with the performance of the duties of the employee or lessens the ability of the employee to perform those duties, shall be fined under title 18, imprisoned for not more than 10 years, or both. If the individual used a

dangerous weapon in committing the assault, intimidation, or interference, the individual may be imprisoned for any term of years or life imprisonment.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 465 of such title is amended by inserting after the item relating to section 46502 the following:

''46503. Interference with security screening personnel''.

SEC. 115. SECURITY-RELATED STUDY BY FAA.

Within 120 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report setting forth the Administrator's findings and recommendations on the following aviation security-related issues:

(1) A requirement that individuals employed at an airport with scheduled passenger service, and law enforcement personnel at such an airport, be screened via electronic identity verification or, until such verification is possible, have their identity verified by visual inspection.

(2) The installation of switches in the cabin for use by cabin crew to notify the flight crew discreetly that there is a security breach in the cabin.

(3) A requirement that air carriers and airports revalidate all employee identification cards using hologram stickers, through card re-issuance, or through electronic revalidation.

(4) The updating of the common strategy used by the Administration, law enforcement agencies, air carriers, and flight crews during hijackings to include measures to deal with suicidal hijackers and other extremely dangerous events not currently dealt with by the strategy.

(5) The use of technology that will permit enhanced instant communications and information between airborne passenger aircraft and appropriate individuals or facilities on the ground.

SEC. 116. AIR TRANSPORTATION ARRANGEMENTS IN CERTAIN STATES.

(a) IN GENERAL.—Notwithstanding any provision of section 41309(a) of title 49, United States Code, to the contrary, air carriers providing air transportation on flights which both originate and terminate at points within the same State may file an agreement, request, modification, or cancellation of an agreement within the scope of that section with the Secretary of Transportation upon a declaration by the Governor of the State that such agreement, request, modification, or cancellation is necessary to ensure the continuing availability of such air transportation within that State.

(b) APPROVAL OF SECRETARY.—The Secretary may approve any such agreement, request, modification, or cancellation and grant an exemption under section 41308(c) of title 49, United States Code, to the extent necessary to effectuate such agreement, request, modification, or cancellation, without regard to the provisions of section 41309(b) or (c) of that title.

(c) PUBLIC INTEREST REQUIREMENT.—The Secretary may approve such an agreement, request, modification, or cancellation if the Secretary determines that—

(1) the State to which it relates has extraordinary air transportation needs and concerns; and

(2) approval is in the public interest.

(d) TERMINATION.—An approval under subsection (b) and an exemption under section 41308(c) of title 49, United States Code, granted under subsection (b) shall terminate on the earlier of the 2 following dates:

(1) A date established by the Secretary in the Secretary's discretion.

(2) October 1, 2002.

(e) EXTENSION.—Notwithstanding subsection (d), if the Secretary determines that it is in the public interest, the Secretary may extend the termination date under subsection (d)(2) until a date no later than October 1, 2003.

SEC. 117. AIRLINE COMPUTER RESERVATION SYSTEMS.

(a) IN GENERAL.—In order to ensure that all airline computer reservation systems maintained by United States air carriers are secure from unauthorized access by persons seeking information on reservations, passenger manifests, or other non-public information, the Secretary of Transportation shall require all such air carriers to utilize to the maximum extent practicable the best technology available to secure their computer reservation system against such unauthorized access.

(b) REPORT.—The Secretary shall transmit an annual report to the Senate Committee on Commerce, Science, and Transportation and to the House of Representatives Committee on Transportation and Infrastructure on compliance by United States air carriers with the requirements of subsection (a).

SEC. 118. SECURITY FUNDING.

(a) USER FEE FOR SECURITY SERVICES.—

(1) IN GENERAL.—Chapter 481 is amended by adding at the end thereof the following:

''§ 48114. User fee for security services charge

''(a) IN GENERAL.—The Secretary of Transportation shall collect a user fee from air carriers. Amounts collected under this section shall be treated as offsetting collections to offset annual appropriations for the costs of providing aviation security services.

''(b) AMOUNT OF FEE.—Air carriers shall remit $2.50 for each passenger enplanement.

''(c) USE OF FEES.—A fee collected under this section shall be used solely for the costs associated with providing aviation security services and may be used only to the extent provided in advance in an appropriation law.''.

(2) CLERICAL AMENDMENT.—The table of sections for chapter 481 is amended by adding at the end thereof the following:

''48114. User fee for security services''.

(3) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to transportation beginning after the date which is 180 days after the date of enactment of this Act.

(b) SPECIFIC AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—Part C of subtitle VII of title 49, United States Code, is amended by adding at the end the following:

''CHAPTER 483. AVIATION SECURITY FUNDING.

''Sec.

''48301. Aviation security funding

''§ 48301. Aviation security funding

''There are authorized to be appropriated for fiscal years 2002, 2003, and 2004, such sums as may be necessary to carry out chapter 449 and related aviation security activities under this title.''.

(2) CONFORMING AMENDMENT.—The subtitle analysis for subtitle VII of title 49, United States Code, is amended by inserting after the item relating to chapter 482 the following:

''483. Aviation Security Funding ..... 48301''.

SEC. 119. INCREASED FUNDING FLEXIBILITY FOR AVIATION SECURITY.

(a) LIMITED USE OF AIRPORT IMPROVEMENT PROGRAM FUNDS.—

(1) BLANKET AUTHORITY.—Notwithstanding any provision of law to the contrary, including any provision of chapter 471 of title 49, United States Code, or any rule, regulation, or agreement thereunder, for fiscal year 2002 the Administrator of the Federal Aviation Administration may permit an airport operator to use amounts made available under that chapter to defray additional direct security-related expenses imposed by law or rule after September 11, 2001, for which funds are not otherwise specifically appropriated or made available under this or any other Act.

(2) AIRPORT DEVELOPMENT FUNDS.—Section 47102(3) of title 49, United States Code, is amended by adding at the end the following:

''(J) after September 11, 2001, and before October 1, 2002, for fiscal year 2002, additional operational requirements, improvement of facilities, purchase and deployment of equipment, hiring, training, and providing appropriate personnel, or an airport or any aviation operator at an airport, that the Secretary determines will enhance and ensure the security of passengers and other persons involved in air travel.''.

(3) ALLOWABLE COSTS.—Section 47110(b)(2) of title 49, United States Code, is amended—

(A) by striking ''or'' in subparagraph (B);

(B) by inserting ''or'' after ''executed;'' in subparagraph (C); and

(C) by adding at the end the following:

''(D) if the cost is incurred after September 11, 2001, for a project described in section 47102(3)(J), and shall not depend upon the date of execution of a grant agreement made under this subchapter;''.

(4) DISCRETIONARY GRANTS.—Section 47115 of title 49, United States Code, is amended by adding at the end the following:

''(i) CONSIDERATIONS FOR PROJECT UNDER EXPANDED SECURITY ELIGIBILITY.—In order to assure that funding under this subchapter is provided to the greatest needs, the Secretary, in selecting a project described in section 47102(3)(J) for a grant, shall consider the nonfederal resources available to sponsor, the use of such nonfederal resources, and the degree to which the sponsor is providing increased funding for the project.''.

(5) FEDERAL SHARE.—Section 47109(a) of title 49, United States Code, is amended—

(A) by striking ''and'' in paragraph (3);

(B) by striking ''47134.'' in paragraph (4) and inserting ''47134; and''; and

(C) by adding at the end the following:

''(5) for fiscal year 2002, 100 percent for a project described in section 47102(3)(J).''.

(b) APPORTIONED FUNDS.—For the purpose of carrying out section 47114 of title 49, United States Code, for fiscal year 2003, the Secretary shall use, in lieu of passenger boardings at an airport during the prior calendar year, the greater of—

(1) the number of passenger boardings at that airport during 2000; or

(2) the number of passenger boardings at that airport during 2001.

(c) EXPEDITED PROCESSING OF SECURITY-RELATED PFC REQUESTS.—The Administrator of the Federal Aviation Administration shall, to the extent feasible, expedite the processing and approval of passenger facility fee requests under subchapter I of chapter 471 of title 49, United States Code, for projects described in section 47192(3)(J) of title 49, United States Code.

SEC. 120. AUTHORIZATION OF FUNDS FOR REIMBURSEMENT OF AIRPORTS FOR SECURITY MANDATES.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation such sums as may be necessary for fiscal year 2002 to compensate airport operators for eligible security costs.

(b) REIMBURSABLE COSTS.—The Secretary may reimburse an airport operator (from amounts made available for obligation under subsection (a)) for the direct costs incurred

by the airport operator in complying with new, additional, or revised security requirements imposed on airport operators by the Federal Aviation Administration on or after September 11, 2001.

(c) DOCUMENTATION OF COSTS; AUDIT.—The Secretary may not reimburse an airport operator under this section for any cost for which the airport operator does not demonstrate to the satisfaction of the Secretary, using sworn financial statements or other appropriate data, that—

(1) the cost is eligible for reimbursement under subsection (b); and

(2) the cost was incurred by the airport operator.

The Inspector General of the Department of Transportation and the Comptroller General of the United States may audit such statements and may request any other information that necessary to conduct such an audit.

(d) CLAIM PROCEDURE.—Within 30 days after the date of enactment of this Act, the Secretary, after consultation with airport operators, shall publish in the Federal Register the procedures for filing claims for reimbursement under this section of eligible costs incurred by airport operators.

SEC. 121. ENCOURAGING AIRLINE EMPLOYEES TO REPORT SUSPICIOUS ACTIVITIES.

(a) IN GENERAL.—Subchapter II of chapter 449 of title 49, United States Code, is amended by inserting at the end the following:

"§ 44940. Immunity for reporting suspicious activities

''(a) IN GENERAL.—Any air carrier or foreign air carrier or any employee of an air carrier or foreign air carrier who makes a voluntary disclosure of any suspicious transaction relevant to a possible violation of law or regulation, relating to air piracy, a threat to aircraft or passenger safety, or terrorism, as defined by section 3077 of title 18, United States Code, to any employee or agent of the Department of Transportation, the Department of Justice, any Federal, State, or local law enforcement officer, or any airport or airline security officer shall not be civilly liable to any person under any law or regulation of the United States, any constitution, law, or regulation of any State or political subdivision of any State, for such disclosure.

''(b) APPLICATION.—Subsection (a) shall not apply to—

''(1) any disclosure made with actual knowledge that the disclosure was false, inaccurate, or misleading; or

''(2) any disclosure made with reckless disregard as to the truth or falsity of that disclosure.

"§ 44941. Sharing security risk information

''The Attorney General, in consultation with the Deputy Secretary for Transportation Security and the Director of the Federal Bureau of Investigation, shall establish procedures for notifying the Administrator of the Federal Aviation Administration, and airport or airline security officers, of the identity of persons known or suspected by the Attorney General to pose a risk of air piracy or terrorism or a threat to airline or passenger safety.''.

(b) REPORT.—Not later than 120 days after the date of enactment of this Act, the Attorney General shall report to the Senate Committee on Commerce, Science, and Transportation, the House Committe on Transportation and Infrastructure, and the Judiciary Committees of the Senate and the House of Representatives on the implementation of the procedures required under section 44941 of title 49, United States Code, as added by this section.

(c) CHAPTER ANALYSIS.—The chapter analysis for chapter 449 of title 49, United States Code, is amended by inserting at the end the following:

''44940. Immunity for reporting suspicious activities.

''44941. Sharing security risk information.''.

SEC. 122. LESS-THAN-LETHAL WEAPONRY FOR FLIGHT DECK CREWS.

(a) NATIONAL INSTITUTE OF JUSTICE STUDY.—The National Institute of Justice shall assess the range of less-than-lethal weaponry available for use by a flight deck crewmember temporarily to incapacitate an individual who presents a clear and present danger to the safety of the aircraft, its passengers, or individuals on the ground and report its findings and recommendations to the Secretary of Transportation within 90 days after the date of enactment of this Act.

Section 44903 of title 49, United States Code, is amended by adding at the end the following:

''(h) AUTHORITY TO ARM FLIGHT DECK CREW WITH LESS-THAN-LETHAL WEAPONS.—

''(1) IN GENERAL.—If the Secretary, after receiving the recommendations of the National Institute of Justice, determines, with the approval of the Attorney General and the Secretary of State, that it is appropriate and necessary and would effectively serve the public interest in avoiding air piracy, the Secretary may authorize members of the flight deck crew on any aircraft providing air transportation or intrastate air transportation to carry a less-than-lethal weapon while the aircraft is engaged in providing such transportation.

''(2) USAGE.—If the Secretary grants authority under paragraph (1) for flight deck crew members to carry a less-than-lethal weapon while engaged in providing air transportation or intrastate air transportation, the Secretary shall—

''(A) prescribe rules requiring that any such crew member be trained in the proper use of the weapon; and

''(B) prescribe guidelines setting forth the circumstances under which such weapons may be used.''.

SEC. 123. MAIL AND FREIGHT WAIVERS.

During a national emergency affecting air transportation or intrastate air transportation, the Secretary of Transportation, after consultation with the Aviation Security Coordination Council, may grant a complete or partial waiver of any restrictions on the carriage by aircraft of freight, mail, emergency medical supplies, personnel, or patients on aircraft, imposed by the Department of Transportation (or other Federal agency or department) that would permit such carriage of freight, mail, emergency medical supplies, personnel, or patients on flights, to, from, or within States with extraordinary air transportation needs or concerns if the Secretary determines that the waiver is in the public interest, taking into consideration the isolation of and dependence on air transportation of such States. The Secretary may impose reasonable limitations on any such waivers.

SEC. 124. SAFETY AND SECURITY OF ON-BOARD SUPPLIES.

(a) IN GENERAL.—The Secretary of Transportation shall establish procedures to ensure the safety and integrity of all supplies, including catering and passenger amenities, placed aboard aircraft providing passenger air transportation or intrastate air transportation.

(b) MEASURES.—In carrying out subsection (a), the Secretary may require—

(1) security procedures for suppliers and their facilities;

(2) the sealing of supplies to ensure easy visual detection of tampering; and

(3) the screening of personnel, vehicles, and supplies entering secured areas of the airport or used in servicing aircraft.

SEC. 125. FLIGHT DECK SECURITY

(a) SHORT TITLE.—This section may be cited as the ''Flight Deck Security Act of 2001''.

(b) FINDINGS.—Congress makes the following findings:

(1) On September 11, 2001, terrorists hijacked four civilian aircraft, crashing two of the aircraft into the towers of the World Trade Center in New York, New York, and a third into the Pentagon outside Washington, District of Columbia.

(2) Thousands of innocent Americans and citizens of other countries were killed or injured as a result of these attacks, including the passengers and crew of the four aircraft, workers in the World Trade Center and in the Pentagon, rescue workers, and bystanders.

(3) These attacks destroyed both towers of the World Trade Center, as well as adjacent buildings, and seriously damaged the Pentagon.

(4) These attacks were by far the deadliest terrorist attacks ever launched against the United States and, by targeting symbols of America, clearly were intended to intimidate our Nation and weaken its resolve.

(5) Armed pilots, co-pilots, and flight engineers with proper training will be the last line of defense against terrorist by providing cockpit security and aircraft security.

(6) Secured doors separating the flight deck from the passenger cabin have been effective in deterring hijackings in other nations and will serve as a deterrent to future contemplated acts of terrorism in the United States.

(c) AVIATION SAFETY AND THE SUPPRESSION OF TERRORISM BY COMMERCIAL AIRCRAFT.—

(1) POSSESSION OF FIREARMS ON COMMERCIAL FLIGHTS.—The Federal Aviation Administration (FAA) is authorized to permit a pilot, co-pilot, or flight engineer of a commercial aircraft who has successfully completed the requirements of paragraph (2), or who is not otherwise prohibited by law from possessing a firearm, from possessing or carrying a firearm approved by the FAA for the protection of the aircraft under procedures or regulations as necessary to ensure the safety and integrity of flight.

(2) FEDERAL PILOT OFFICERS.—(A) In addition to the protections provided by paragraph (1), the FAA shall also establish a voluntary program to train and supervise commercial airline pilots.

(B) Under the program, the FAA shall make available appropriate training and supervision for all such pilots, which may include training by private entities.

(C) The power granted to such persons shall be limited to enforcing Federal law in the cockpit of commercial aircraft and, under reasonable circumstances the passenger compartment to protect the integrity of the commercial aircraft and the lives of the passengers.

(D) The FAA shall make available appropriate training to any qualified pilot who requests such training pursuant to this title.

(E) The FAA may prescribe regulations for purposes of this section.

(d) REPORTS TO CONGRESS.—Not later than six months after the date of the enactment of this Act, and every six months thereafter, the Secretary of Transportation shall submit to Congress a report on the effectiveness of the requirements in this section in facilitating commercial aviation safety and the suppression of terrorism by commercial aircraft.

SEC. 126. AMENDMENTS TO AIRMEN REGISTRY AUTHORITY.

Section 44703(g) of title 49, United States Code, is amended—

(1) in the first sentence of paragraph (1)—

(A) by striking ''pilots'' and inserting ''airmen''; and

(B) by striking the period and inserting ''and related to combating acts of terrorism.''; and

(2) by adding at the end, the following new paragraphs:

''(3) For purposes of this section, the term 'acts of terrorism' means an activity that involves a violent act or an act dangerous to human life that is a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State, and appears to be intended to intimidate or coerce a civilian population to influence the policy of a government by intimidation or coercion or to affect the conduct of a government by assassination or kidnaping.

''(4) The Administrator is authorized and directed to work with State and local authorities, and other Federal agencies, to assist in the identification of individuals applying for or holding airmen certificates.''.

SEC. 127. RESULTS-BASED MANAGEMENT.

Subchapter II of chapter 449 of title 49, United States Code, is amended by adding at the end the following:

''§ 44942. Performance Goals and Objectives

''(a) SHORT TERM TRANSITION.—

''(1) IN GENERAL.—Within 60 days of enactment, the Deputy Secretary for Transportation Security shall, in consultation with Congress—

''(A) establish acceptable levels of performance for aviation security, including screening operations and access control, and

''(B) provide Congress with an action plan, containing measurable goals and milestones, that outlines how those levels of performance will be achieved.

''(2) BASICS OF ACTION PLAN.—The action plan shall clarify the responsibilities of the Department of Transportation, the Federal Aviation Administration and any other agency or organization that may have a role in ensuring the safety and security of the civil air transportation system.

''(b) LONG-TERM RESULTS-BASED MANAGEMENT.—

''(1) PERFORMANCE PLAN AND REPORT.—

''(A) PERFORMANCE PLAN.—(i) Each year, consistent with the requirements of the Government Performance and Results Act of 1993 (GPRA), the Secretary and the Deputy Secretary for Transportation Security shall agree on a performance plan for the succeeding 5 years that establishes measurable goals and objectives for aviation security. The plan shall identify action steps necessary to achieve such goals.

''(ii) In addition to meeting the requirements of GPRA, the performance plan shall clarify the responsibilities of the Secretary, the Deputy Secretary for Transportation Security and any other agency or organization that may have a role in ensuring the safety and security of the civil air transportation system.

''(iii) The performance plan shall be available to the public. The Deputy Secretary for Transportation Security may prepare a nonpublic appendix covering performance goals and indicators that, if revealed to the public, would likely impede achievement of those goals and indicators.

''(B) PERFORMANCE REPORT.—(i) Each year, consistent with the requirements of GPRA, the Deputy Secretary for Transportation Security shall prepare and submit to Congress an annual report including an evaluation of the extent goals and objectives were met. The report shall include the results achieved during the year relative to the goals established in the performance plan.

''(ii) The performance report shall be available to the public. The Deputy Secretary for Transportation Security may prepare a nonpublic appendix covering performance goals and indicators that, if revealed to the public, would likely impede achievement of those goals and indicators.

''§ 44943. Performance Management System

''(a) ESTABLISHING A FAIR AND EQUITABLE SYSTEM FOR MEASURING STAFF PERFORMANCE.—The Deputy Secretary for Transportation Security shall establish a performance management system which strengthens the organization's effectiveness by providing for the establishment of goals and objectives for managers, employees, and organizational performance consistent with the performance plan.

''(b) ESTABLISHING MANAGEMENT ACCOUNTABILITY FOR MEETING PERFORMANCE GOALS.—(1) Each year, the Secretary and Deputy Secretary for Transportation Security shall enter into an annual performance agreement that shall set forth organizational and individual performance goals for the Deputy Secretary.

''(2) Each year, the Deputy Secretary for Transportation Security and each senior manager who reports to the Deputy Secretary for Transportation Security shall enter into an annual performance agreement that sets forth organization and individual goals for those managers. All other employees hired under the authority of the Deputy Secretary for Transportation Security shall enter into an annual performance agreement that sets forth organization and individual goals for those employees.

''(c) COMPENSATION FOR THE DEPUTY SECRETARY FOR TRANSPORTATION SECURITY.—

''(1) IN GENERAL.—The Deputy Secretary for Transportation Security is authorized to be paid at an annual rate of pay payable to level II of the Executive Schedule.

''(2) BONUSES OR OTHER INCENTIVES.—In addition, the Deputy Secretary for Transportation Security may receive bonuses or other incentives, based upon the Secretary's evaluation of the Deputy Secretary's performance in relation to the goals set forth in the agreement. Total compensation cannot exceed the Secretary's salary.

''(d) COMPENSATION FOR MANAGERS AND OTHER EMPLOYEES.—

''(1) IN GENERAL.—A senior manager reporting directly to the Deputy Secretary for Transportation Security may be paid at an annual rate of basic pay of not more than the maximum rate of basic pay for the Senior Executive Service under section 5382 of title 5, United States Code.

''(2) BONUSES OR OTHER INCENTIVES.—In addition, senior managers can receive bonuses or other incentives based on the Deputy Secretary for Transportation Security's evaluation of their performance in relation to goals in agreements. Total compensation cannot exceed 125 percent of the maximum rate of base pay for the Senior Executive Service. Further, the Deputy Secretary for Transportation Security shall establish, within the performance management system, a program allowing for the payment of bonuses or other incentives to other managers and employees. Such a program shall provide for bonuses or other incentives based on their performance.

''(e) PERFORMANCE-BASED SERVICE CONTRACTING.—To the extent contracts, if any, are used to implement the Aviation Security Act, the Deputy Secretary for Transportation Security shall, to the extent practical, maximize the use of performance-based service contracts. These contracts should be consistent with guidelines published by the Office of Federal Procurement Policy.''.

SEC. 128. USE OF FACILITIES.

(a) EMPLOYOMENT REGISTER.—Notwithstanding any other provision of law, the Secretary of Transportation shall establish and maintain an employment register.

(b) TRAINING FACILITY.—The Secretary of Transportation may, where feasible, use the existing Federal Aviation Administration's training facilities, to design, develop, or conduct training of security screening personnel.

SEC. 129. REPORT ON NATIONAL AIR SPACE RESTRICTIONS PUT IN PLACE AFTER TERRORIST ATTACKS THAT REMAIN IN PLACE.

(a) REPORT.—Within 30 days of the enactment of this Act, the President shall submit to the committees of Congress specified in subsection (b) a report containing—

(1) a description of each restriction, if any, on the use of national airspace put in place as a result of the September 11, 2001, terrorist attacks that remains in place as of the date of the enactment of this Act; and

(2) a justification for such restriction remaining in place.

(b) COMMITTEES OF CONGRESS.—The committees of Congress specified in this subsection are the following:

(1) The Select Committee on Intelligence of the Senate.

(2) The Permanent Select Committee on Intelligence of the House of Representatives.

(3) The Committee on Commerce, Science, and Transportation of the Senate.

(4) The Committee on Transportation and Infrastructure of the House of Representatives.

SEC. 130. VOLUNTARY PROVISION OF EMERGENCY SERVICES DURING COMMERCIAL FLIGHTS.

(a) PROGRAM FOR PROVISION OF VOLUNTARY SERVICES.—

(1) PROGRAM.—The Secretary of Transportation shall carry out a program to permit qualified law enforcement officers, firefighters, and emergency medical technicians to provide emergency services on commercial air flights during emergencies.

(2) REQUIREMENTS.—The Secretary shall establish such requirements for qualifications of providers of voluntary services under the program under paragraph (1), including training requirements, as the Secretary considers appropriate.

(3) CONFIDENTIALITY OF REGISTRY.—If as part of the program under paragraph (1) the Secretary requires or permits registration of law enforcement officers, firefighters, or emergency medical technicians who are willing to provide emergency services on commercial flights during emergencies, the Secretary shall take appropriate actions to ensure that the registry is available only to appropriate airline personnel and otherwise remains confidential.

(4) CONSULTATION.—The Secretary shall consult with appropriate representatives of the commercial airline industry, and organizations representing community-based law enforcement, firefighters, and emergency medical technicians, in carrying out the program under paragraph (1), including the actions taken under paragraph (3).

(b) PROTECTION FROM LIABILITY.—

(1) IN GENERAL.—Subchapter II of chapter 449 of title 49, United States Code, is amended by adding at the end the following new section:

''§ 44944. Exemption of volunteers from liability

''(a) IN GENERAL.—An individual shall not be liable for damages in any action brought in a Federal or State court that arises from an act or omission of the individual in providing or attempting to provide assistance in the case of an inflight emergency in an aircraft of an air carrier if the individual meets such qualifications as the Secretary shall prescribe for purposes of this section.

''(b) EXCEPTION.—The exemption under subsection (a) shall not apply in any case in

which an individual provides, or attempts to provide, assistance described in that paragraph in a manner that constitutes gross negligence or willful misconduct.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''44944. Exemption of volunteers from liability.''.

(c) CONSTRUCTION REGARDING POSSESSION OF FIREARMS.—Nothing in this section may be construed to require any modification of regulations of the Department of Transportation governing the possession of firearms while in aircraft or air transportation facilities or to authorize the possession of a firearm in an aircraft or any such facility not authorized under those regulations.

SEC. 131. ENHANCED SECURITY FOR AIRCRAFT.

(a) SECURITY FOR LARGER AIRCRAFT.—

(1) PROGRAM REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall commence implementation of a program to provide security screening for all aircraft operations conducted with respect to any aircraft having a maximum certified takeoff weight of more than 12,500 pounds that is not operating as of the date of the implementation of the program under security procedures prescribed by the Administrator.

(2) WAIVER.—

(A) AUTHORITY TO WAIVE.—The Administrator may waive the applicability of the program under this section with respect to any aircraft or class of aircraft otherwise described by this section if the Administrator determines that aircraft described in this section can be operated safely without the applicability of the program to such aircraft or class of aircraft, as the case may be.

(B) LIMITATIONS.—A waiver under subparagraph (A) may not go into effect—

(i) unless approved by the Secretary of Transportation; and

(ii) until 10 days after the date on which notice of the waiver has been submitted to the appropriate committees of Congress.

(3) PROGRAM ELEMENTS.—The program under paragraph (1) shall require the following:

(A) The search of any aircraft covered by the program before takeoff.

(B) The screening of all crew members, passengers, and other persons boarding any aircraft covered by the program, and their property to be brought on board such aircraft, before boarding.

(4) PROCEDURES FOR SEARCHES AND SCREENING.—The Administrator shall develop procedures for searches and screenings under the program under paragraph (1). Such procedures may not be implemented until approved by the Secretary.

(b) SECURITY FOR SMALLER AIRCRAFT.—

(1) PROGRAM REQUIRED.—Not later than one year after the date of the enactment of this Act, the Administrator shall commence implementation of a program to provide security for all aircraft operations conducted with respect to any aircraft having a maximum certified takeoff weight of 12,500 pounds or less that is not operating as of the date of the implementation of the program under security procedures prescribed by the Administrator. The program shall address security with respect to crew members, passengers, baggage handlers, maintenance workers, and other individuals with access to aircraft covered by the program, and to baggage.

(2) REPORT ON PROGRAM.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the appropriate committees of Congress a report containing a proposal for the program to be implemented under paragraph (1).

(c) BACKGROUND CHECKS FOR ALIENS ENGAGED IN CERTAIN TRANSACTIONS REGARDING AIRCRAFT.—

(1) REQUIREMENT.—Notwithstanding any other provision of law and subject to paragraph (2), no person or entity may sell, lease, or charter any aircraft to an alien, or any other individual specified by the Secretary for purposes of this subsection, within the United States unless the Attorney General issues a certification of the completion of a background investigation of the alien, or other individual, as the case may be, that meets the requirements of section 44939(b) of title 49, United States Code, as added by section 111 of this title.

(2) EXPIRATION.—The prohibition in paragraph (1) shall expire as follows:

(A) In the case of an aircraft having a maximum certified takeoff weight of more than 12,500 pounds, upon implementation of the program required by subsection (a).

(B) In the case of an aircraft having a maximum certified takeoff weight of 12,500 pounds or less, upon implementation of the program required by subsection (b).

(3) ALIEN DEFINED.—In this subsection, the term ''alien'' has the meaning given that term in section 44939(f) of title 49, United States Code, as so added.

(d) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term ''appropriate committees of Congress'' means—

(1) the Committee on Commerce, Science, and Transportation of the Senate; and

(2) the Committee on Commerce of the House of Representatives.

SEC. 132. IMPLEMENTATION OF CERTAIN DETECTION TECHNOLOGIES.

(a) IN GENERAL.—Not later than September 30, 2002, the Assistant Administrator for Civil Aviation Security shall review and make a determination on the feasibility of implementing technologies described in subsection (b).

(b) TECHNOLOGIES DESCRIBED.—The technologies described in this subsection are technologies that are—

(1) designed to protect passengers, aviation employees, air cargo, airport facilities, and airplanes; and

(2) material specific and able to automatically and non-intrusively detect, without human interpretation and without regard to shape or method of concealment, explosives, illegal narcotics, hazardous chemical agents, and nuclear devices.

SEC. 133. REPORT ON NEW RESPONSIBILITIES OF THE DEPARTMENT OF JUSTICE FOR AVIATION SECURITY.

Not later than 120 days after the date of enactment of this Act, the Attorney General shall report to the House Committee on the Judiciary, the Senate Committee on the Judiciary, the House Committee on Transportation and Infrastructure, and the Senate Committee on Commerce, Science, and Transportation on the new responsibilities of the Department of Justice for aviation security under this title.

SEC. 134. DEFINITIONS.

Except as otherwise explicitly provided, any term used in this title that is defined in section 40102 of title 49, United States Code, has the meaning given that term in that section.

TITLE II—DEPLOYMENT AND USE OF SECURITY TECHNOLOGIES

Subtitle A—Expanded Deployment and Utilization of Current Security Technologies and Procedures

SEC. 201. EXPANDED DEPLOYMENT AND UTILIZATION OF CURRENT SECURITY TECHNOLOGIES AND PROCEDURES.

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall require that employment investigations, including criminal history record checks, for all individuals described in section 44936(a)(1) of title 49, United States Code, who are existing employees, at airports regularly serving an air carrier holding a certificate issued by the Secretary of Transportation, should be completed within 9 months unless such individuals have had such investigations and checks within 5 years of the date of enactment of this Act. The Administrator shall devise an alternative method for background checks for a person applying for any airport security position who has lived in the United States less than 5 years and shall have such alternative background check in place as soon as possible. The Administrator shall work with the International Civil Aviation Organization and with appropriate authorities of foreign governments in devising such alternative method.

(b) EXPLOSIVE DETECTION.—

(1) IN GENERAL.—The Administrator of the Federal Aviation Administration shall deploy and oversee the usage of existing bulk explosives detection technology already at airports for checked baggage. Not later than 60 days after the date of enactment of this Act, the Administrator shall establish confidential goals for—

(A) deploying by a specific date all existing bulk explosives detection scanners purchased but not yet deployed by the Federal Aviation Administration;

(B) a specific percentage of checked baggage to be scanned by bulk explosives detection machines within 6 months, and annual goals thereafter with an eventual goal of scanning 100 percent of checked baggage; and

(C) the number of new bulk explosives detection machines that will be purchased by the Federal Aviation Administration for deployment at the Federal Aviation Administration-identified midsized airports within 6 months.

(2) USE OF FUNDS.—For purposes of carrying out this subtitle, airport operators may use funds available under the Airport Improvement Program described in chapter 471 of title 49, United States Code, to reconfigure airport baggage handling areas to accommodate the equipment described in paragraph (1), if necessary. Not later than 12 months after the date of enactment of this Act, and annually thereafter, the Administrator shall report, on a confidential basis, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives, the Government Accounting Office, and the Inspector General of the Department of Transportation, regarding the goals and progress the Administration is making in achieving those goals described in paragraph (1).

(3) AIRPORT DEVELOPMENT.—Section 47102(3)(B) of title 49, United States Code, is amended—

(A) by striking ''and'' at the end of clause (viii);

(B) by striking the period at the end of clause (ix) and inserting ''; and''; and

(C) by inserting after clause (ix) the following new clause:

''(x) replacement of baggage conveyor systems, and reconfiguration of terminal luggage areas, that the Secretary determines are necessary to install bulk explosive detection devices.''.

(c) BAG MATCHING SYSTEM.—The Administrator of the Federal Aviation Administration shall require air carriers to improve the passenger bag matching system. Not later than 60 days after the date of enactment of this Act, the Administrator shall establish goals for upgrading the Passenger Bag

Matching System, including interim measures to match a higher percentage of bags until Explosives Detection Systems are used to scan 100 percent of checked baggage. The Administrator shall report, on a confidential basis, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives, the Government Accounting Office, and the Inspector General of the Department of Transportation, regarding the goals and the progress made in achieving those goals within 12 months after the date of enactment of this Act.

(d) COMPUTER-ASSISTED PASSENGER PRESCREENING.—

(1) IN GENERAL.—The Administrator of the Federal Aviation Administration shall require air carriers to expand the application of the current Computer-Assisted Passenger Prescreening System (CAPPS) to all passengers, regardless of baggage. Passengers selected under this system shall be subject to additional security measures, including checks of carry-on baggage and person, before boarding.

(2) REPORT.—The Administrator shall report back to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Transportation and Infrastructure of the House of Representatives within 3 months of the date of enactment of this Act on the implementation of the expanded CAPPS system.

Subtitle B—Short-Term Assessment and Deployment of Emerging Security Technologies and Procedures

SEC. 211. SHORT-TERM ASSESSMENT AND DEPLOYMENT OF EMERGING SECURITY TECHNOLOGIES AND PROCEDURES.

Section 44903 of title 49, United States Code, is amended by adding at the end the following:

''(i) SHORT-TERM ASSESSMENT AND DEPLOYMENT OF EMERGING SECURITY TECHNOLOGIES AND PROCEDURES.—

''(1) IN GENERAL.—The Deputy Secretary for Transportation Security shall recommend to airport operators, within 6 months after the date of enactment of this Act, commercially available measures or procedures to prevent access to secure airport areas by unauthorized persons. As part of the 6-month assessment, the Deputy Secretary for Transportation Security shall—

''(A) review the effectiveness of biometrics systems currently in use at several United States airports, including San Francisco International;

''(B) review the effectiveness of increased surveillance at access points;

''(C) review the effectiveness of card- or keypad-based access systems;

''(D) review the effectiveness of airport emergency exit systems and determine whether those that lead to secure areas of the airport should be monitored or how breaches can be swiftly responded to; and

''(E) specifically target the elimination of the ''piggy-backing'' phenomenon, where another person follows an authorized person through the access point.

The 6-month assessment shall include a 12-month deployment strategy for currently available technology at all category X airports, as defined in the Federal Aviation Administration approved air carrier security programs required under part 108 of title 14, Code of Federal Regulations. Not later than 18 months after the date of enactment of this Act, the Secretary of Transportation shall conduct a review of reductions in unauthorized access at these airports.

''(2) 90-DAY REVIEW.—

''(A) IN GENERAL.—The Deputy Secretary for Transportation Security, as part of the Aviation Security Coordination Council, shall conduct a 90-day review of—

''(i) currently available or short-term deployable upgrades to the Computer-Assisted Passenger Prescreening System (CAPPS); and

''(ii) deployable upgrades to the coordinated distribution of information regarding persons listed on the ''watch list'' for any Federal law enforcement agencies who could present an aviation security threat.

''(B) DEPLOYMENT OF UPGRADES.—The Deputy Secretary for Transportation Security shall commence deployment of recommended short-term upgrades to CAPPS and to the coordinated distribution of ''watch list'' information within 6 months after the date of enactment of this Act. Within 18 months after the date of enactment of this Act, the Deputy Secretary for Transportation Security shall report to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Transportation and Infrastructure of the House of Representatives, the Government Accounting Office, and the Inspector General of the Department of Transportation, on progress being made in deploying recommended upgrades.

''(3) STUDY.—The Deputy Secretary for Transportation Security shall conduct a study of options for improving positive identification of passengers at check-in counters and boarding areas, including the use of biometrics and ''smart'' cards. Within 6 months after the date of enactment of this Act, the Deputy Secretary shall report to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Transportation and Infrastructure of the House of Representatives on the feasibility and costs of implementing each identification method and a schedule for requiring air carriers to deploy identification methods determined to be effective.''.

Subtitle C—Research and Development of Aviation Security Technology

SEC. 221. RESEARCH AND DEVELOPMENT OF AVIATION SECURITY TECHNOLOGY.

(a) FUNDING.—To augment the programs authorized in section 44912(a)(1) of title 49, United States Code, there is authorized to be appropriated an additional $50,000,000 for each of fiscal years 2002 through 2006 and such sums as are necessary for each fiscal year thereafter to the Federal Aviation Administration, for research, development, testing, and evaluation of the following technologies which may enhance aviation security in the future. Grants to industry, academia, and Government entities to carry out the provisions of this section shall be available for fiscal years 2002 and 2003 for—

(1) the acceleration of research, development, testing, and evaluation of explosives detection technology for checked baggage, specifically, technology that is—

(A) more cost-effective for deployment for explosives detection in checked baggage at small- to medium-sized airports, and is currently under development as part of the Argus research program at the Federal Aviation Administration;

(B) faster, to facilitate screening of all checked baggage at larger airports; or

(C) more accurate, to reduce the number of false positives requiring additional security measures;

(2) acceleration of research, development, testing, and evaluation of new screening technology for carry-on items to provide more effective means of detecting and identifying weapons, explosives, and components of weapons of mass destruction, including advanced x-ray technology;

(3) acceleration of research, development, testing, and evaluation of threat screening technology for other categories of items being loaded onto aircraft, including cargo, catering, and duty-free items;

(4) acceleration of research, development, testing, and evaluation of threats carried on persons boarding aircraft or entering secure areas, including detection of weapons, explosives, and components of weapons of mass destruction;

(5) acceleration of research, development, testing and evaluation of integrated systems of airport security enhancement, including quantitative methods of assessing security factors at airports selected for testing such systems;

(6) expansion of the existing program of research, development, testing, and evaluation of improved methods of education, training, and testing of key airport security personnel; and

(7) acceleration of research, development, testing, and evaluation of aircraft hardening materials, and techniques to reduce the vulnerability of aircraft to terrorist attack.

(b) GRANTS.—Grants awarded under this subtitle shall identify potential outcomes of the research, and propose a method for quantitatively assessing effective increases in security upon completion of the research program. At the conclusion of each grant, the grant recipient shall submit a final report to the Federal Aviation Administration that shall include sufficient information to permit the Administrator to prepare a cost-benefit analysis of potential improvements to airport security based upon deployment of the proposed technology. The Administrator shall begin awarding grants under this subtitle within 90 days of the date of enactment of this Act.

(c) BUDGET SUBMISSION.—A budget submission and detailed strategy for deploying the identified security upgrades recommended upon completion of the grants awarded under subsection (b), shall be submitted to Congress as part of the Department of Transportation's annual budget submission.

(d) DEFENSE RESEARCH.—There is authorized to be appropriated $20,000,000 to the Federal Aviation Administration to issue research grants in conjunction with the Defense Advanced Research Projects Agency. Grants may be awarded under this section for—

(1) research and development of longer-term improvements to airport security, including advanced weapons detection;

(2) secure networking and sharing of threat information between Federal agencies, law enforcement entities, and other appropriate parties;

(3) advances in biometrics for identification and threat assessment; or

(4) other technologies for preventing acts of terrorism in aviation.

UNITING AND STRENGTHENING AMERICA ACT

On October 11, 2001, the Senate passed S. 1510, as follows:

S. 1510

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

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Uniting and Strengthening America Act'' or the ''USA Act of 2001''.

(b) TABLE OF CONTENTS.— The table of contents for this Act is as follows:

SEC. 2. CONSTRUCTION; SEVERABILITY.

Any provision of this Act held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, shall be construed so as to give it the maximum effect permitted by law, unless such holding shall be one of utter invalidity or unenforceability, in which event such provision shall be deemed severable from this Act and shall not affect the remainder thereof or the application of such provision to other persons not similarly situated or to other, dissimilar circumstances.

TITLE I—ENHANCING DOMESTIC SECURITY AGAINST TERRORISM

SEC. 101. COUNTERTERRORISM FUND.

(a) ESTABLISHMENT; AVAILABILITY.—There is hereby established in the Treasury of the United States a separate fund to be known as the ''Counterterrorism Fund'', amounts in which shall remain available without fiscal year limitation—

(1) to reimburse any Department of Justice component for any costs incurred in connection with—

(A) reestablishing the operational capability of an office or facility that has been damaged or destroyed as the result of any domestic or international terrorism incident;

(B) providing support to counter, investigate, or prosecute domestic or international terrorism, including, without limitation, paying rewards in connection with these activities; and

(C) conducting terrorism threat assessments of Federal agencies and their facilities; and

(2) to reimburse any department or agency of the Federal Government for any costs incurred in connection with detaining in foreign countries individuals accused of acts of terrorism that violate the laws of the United States.

(b) NO EFFECT ON PRIOR APPROPRIATIONS.—Subsection (a) shall not be construed to affect the amount or availability of any appropriation to the Counterterrorism Fund made before the date of enactment of this Act.

SEC. 102. SENSE OF CONGRESS CONDEMNING DISCRIMINATION AGAINST ARAB AND MUSLIM AMERICANS.

(a) FINDINGS.—Congress makes the following findings:

(1) Arab Americans, Muslim Americans, and Americans from South Asia play a vital role in our Nation and are entitled to nothing less than the full rights of every American.

(2) The acts of violence that have been taken against Arab and Muslim Americans since the September 11, 2001, attacks against the United States should be and are condemned by all Americans who value freedom.

(3) The concept of individual responsibility for wrongdoing is sacrosanct in American society, and applies equally to all religious, racial, and ethnic groups.

(4) When American citizens commit acts of violence against those who are, or are perceived to be, of Arab or Muslim descent, they should be punished to the full extent of the law.

(5) Muslim Americans have become so fearful of harassment that many Muslim women are changing the way they dress to avoid becoming targets.

(6) Many Arab Americans and Muslim Americans have acted heroically during the attacks on the United States, including Mohammed Salman Hamdani, a 23-year-old New Yorker of Pakistani descent, who is believed to have gone to the World Trade Center to offer rescue assistance and is now missing.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the civil rights and civil liberties of all Americans, including Arab Americans, Muslim Americans, and Americans from South Asia, must be protected, and that every effort must be taken to preserve their safety;

(2) any acts of violence or discrimination against any Americans be condemned; and

(3) the Nation is called upon to recognize the patriotism of fellow citizens from all ethnic, racial, and religious backgrounds.

SEC. 103. INCREASED FUNDING FOR THE TECHNICAL SUPPORT CENTER AT THE FEDERAL BUREAU OF INVESTIGATION.

There are authorized to be appropriated for the Technical Support Center established in section 811 of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132) to help meet the demands for activities to combat terrorism and support and enhance the technical support and tactical operations of the FBI, $200,000,000 for each of the fiscal years 2002, 2003, and 2004.

SEC. 104. REQUESTS FOR MILITARY ASSISTANCE TO ENFORCE PROHIBITION IN CERTAIN EMERGENCIES.

Section 2332e of title 18, United States Code, is amended—

(1) by striking ''2332c'' and inserting ''2332a''; and

(2) by striking ''chemical''.

SEC. 105. EXPANSION OF NATIONAL ELECTRONIC CRIME TASK FORCE INITIATIVE.

The Director of the United States Secret Service shall take appropriate actions to develop a national network of electronic crime task forces, based on the New York Electronic Crimes Task Force model, throughout the United States, for the purpose of preventing, detecting, and investigating various forms of electronic crimes, including potential terrorist attacks against critical infrastructure and financial payment systems.

SEC. 106. PRESIDENTIAL AUTHORITY.

Section 203 of the International Emergency Powers Act (50 U.S.C. 1702) is amended—

(1) in subsection (a)(1)—

(A) at the end of subparagraph (A) (flush to that subparagraph), by striking ''; and'' and inserting a comma and the following:

''by any person, or with respect to any property, subject to the jurisdiction of the United States;'';

(B) in subparagraph (B)—

(i) by inserting '', block during the pendency of an investigation'' after ''investigate''; and

(ii) by striking ''interest;'' and inserting ''interest by any person, or with respect to any property, subject to the jurisdiction of the United States; and''; and

(C) by inserting at the end the following:

''(C) when the United States is engaged in armed hostilities or has been attacked by a foreign country or foreign nationals, confiscate any property, subject to the jurisdiction of the United States, of any foreign person, foreign organization, or foreign country that he determines has planned, authorized, aided, or engaged in such hostilities or attacks against the United States; and all right, title, and interest in any property so confiscated shall vest, when, as, and upon the terms directed by the President, in such agency or person as the President may designate from time to time, and upon such terms and conditions as the President may prescribe, such interest or property shall be held, used, administered, liquidated, sold, or otherwise dealt with in the interest of and for the benefit of the United States, and such designated agency or person may perform any and all acts incident to the accomplishment or furtherance of these purposes.''; and

(2) by inserting at the end the following:

''(c) CLASSIFIED INFORMATION.—In any judicial review of a determination made under this section, if the determination was based on classified information (as defined in section 1(a) of the Classified Information Procedures Act) such information may be submitted to the reviewing court ex parte and in camera. This subsection does not confer or imply any right to judicial review.''.

TITLE II—ENHANCED SURVEILLANCE PROCEDURES

SEC. 201. AUTHORITY TO INTERCEPT WIRE, ORAL, AND ELECTRONIC COMMUNICATIONS RELATING TO TERRORISM.

Section 2516(1) of title 18, United States Code, is amended—

(1) by redesignating paragraph (p), as so redesignated by section 434(2) of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132; 110 Stat. 1274), as paragraph (r); and

(2) by inserting after paragraph (p), as so redesignated by section 201(3) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 110 Stat. 3009–565), the following new paragraph:

''(q) any criminal violation of section 229 (relating to chemical weapons); or sections 2332, 2332a, 2332b, 2332d, 2339A, or 2339B of this title (relating to terrorism); or''.

SEC. 202. AUTHORITY TO INTERCEPT WIRE, ORAL, AND ELECTRONIC COMMUNICATIONS RELATING TO COMPUTER FRAUD AND ABUSE OFFENSES.

Section 2516(1)(c) of title 18, United States Code, is amended by striking ''and section 1341 (relating to mail fraud),'' and inserting ''section 1341 (relating to mail fraud), a felony violation of section 1030 (relating to computer fraud and abuse),''.

SEC. 203. AUTHORITY TO SHARE CRIMINAL INVESTIGATIVE INFORMATION.

(a) AUTHORITY TO SHARE GRAND JURY INFORMATION.—

(1) IN GENERAL.—Rule 6(e)(3)(C) of the Federal Rules of Criminal Procedure is amended—

(A) in clause (iii), by striking ''or'' at the end;

(B) in clause (iv), by striking the period at the end and inserting ''; or''; and

(C) by inserting at the end the following:

''(v) when the matters involve foreign intelligence or counterintelligence (as defined

in section 3 of the National Security Act of 1947 (50 U.S.C. 401a)), or foreign intelligence information (as defined in Rule 6(e)(3)(C)(ii)) to any other Federal law enforcement, intelligence, protective, immigration, national defense, or national security official in order to assist the official receiving that information in the performance of his official duties.

Any Federal official who receives information pursuant to clause (v) may use that information only as necessary in the conduct of that person's official duties subject to any limitations on the unauthorized disclosure of such information.''.

(2) DEFINITION.—Rule 6(e)(3)(C) of the Federal Rules of Criminal Procedure, as amended by paragraph (1), is amended by—

(A) inserting ''(i)'' after ''(C)'';

(B) redesignating clauses (i) through (v) as subclauses (I) through (IV), respectively; and

(C) inserting at the end the following:

''(ii) In this subparagraph, the term 'foreign intelligence information' means—

''(I) information, whether or not concerning a United States person, that relates to the ability of the United States to protect against—

''(aa) actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power;

''(bb) sabotage or international terrorism by a foreign power or an agent of a foreign power; or

''(cc) clandestine intelligence activities by an intelligence service or network of a foreign power or by an agent of a foreign power; or

''(II) information, whether or not concerning a United States person, with respect to a foreign power or foreign territory that relates to—

''(aa) the national defense or the security of the United States; or

''(bb) the conduct of the foreign affairs of the United States.''.

(b) AUTHORITY TO SHARE ELECTRONIC, WIRE, AND ORAL INTERCEPTION INFORMATION.—

(1) LAW ENFORCEMENT.—Section 2517 of title 18, United States Code, is amended by inserting at the end the following:

''(6) Any investigative or law enforcement officer, or attorney for the Government, who by any means authorized by this chapter, has obtained knowledge of the contents of any wire, oral, or electronic communication, or evidence derived therefrom, may disclose such contents to any other Federal law enforcement, intelligence, protective, immigration, national defense, or national security official to the extent that such contents include foreign intelligence or counterintelligence (as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 401a)), or foreign intelligence information (as defined in subsection (19) of section 2510 of this title), to assist the official who is to receive that information in the performance of his official duties. Any Federal official who receives information pursuant to this provision may use that information only as necessary in the conduct of that person's official duties subject to any limitations on the unauthorized disclosure of such information.''.

(2) DEFINITION.—Section 2510 of title 18, United States Code, is amended by—

(A) in paragraph (17), by striking ''and'' after the semicolon;

(B) in paragraph (18), by striking the period and inserting ''; and''; and

(C) by inserting at the end the following:

''(19) 'foreign intelligence information' means—

''(A) information, whether or not concerning a United States person, that relates to the ability of the United States to protect against—

''(i) actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power;

''(ii) sabotage or international terrorism by a foreign power or an agent of a foreign power; or

''(iii) clandestine intelligence activities by an intelligence service or network of a foreign power or by an agent of a foreign power; or

''(B) information, whether or not concerning a United States person, with respect to a foreign power or foreign territory that relates to—

''(i) the national defense or the security of the United States; or

''(ii) the conduct of the foreign affairs of the United States.''.

(c) PROCEDURES.—The Attorney General shall establish procedures for the disclosure of information pursuant to section 2517(6) and Rule 6(e)(3)(C)(v) of the Federal Rules of Criminal Procedure that identifies a United States person, as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801)).

(d) FOREIGN INTELLIGENCE INFORMATION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, it shall be lawful for foreign intelligence or counterintelligence (as defined section 3 of the National Security Act of 1947 (50 U.S.C. 401a)) or foreign intelligence information obtained as part of a criminal investigation to be disclosed to any Federal law enforcement, intelligence, protective, immigration, national defense, or national security official in order to assist the official receiving that information in the performance of his official duties. Any Federal official who receives information pursuant to this provision may use that information only as necessary in the conduct of that person's official duties subject to any limitations on the unauthorized disclosure of such information.

(2) DEFINITION.—In this subsection, the term ''foreign intelligence information'' means—

(A) information, whether or not concerning a United States person, that relates to the ability of the United States to protect against—

(i) actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power;

(ii) sabotage or international terrorism by a foreign power or an agent of a foreign power; or

(iii) clandestine intelligence activities by an intelligence service or network of a foreign power or by an agent of a foreign power; or

(B) information, whether or not concerning a United States person, with respect to a foreign power or foreign territory that relates to—

(i) the national defense or the security of the United States; or

(ii) the conduct of the foreign affairs of the United States.

SEC. 204. CLARIFICATION OF INTELLIGENCE EXCEPTIONS FROM LIMITATIONS ON INTERCEPTION AND DISCLOSURE OF WIRE, ORAL, AND ELECTRONIC COMMUNICATIONS.

Section 2511(2)(f) of title 18, United States Code, is amended—

(1) by striking ''this chapter or chapter 121'' and inserting ''this chapter or chapter 121 or 206 of this title''; and

(2) by striking ''wire and oral'' and inserting ''wire, oral, and electronic''.

SEC. 205. EMPLOYMENT OF TRANSLATORS BY THE FEDERAL BUREAU OF INVESTIGATION.

(a) AUTHORITY.—The Director of the Federal Bureau of Investigation is authorized to expedite the employment of personnel as translators to support counterterrorism investigations and operations without regard to applicable Federal personnel requirements and limitations.

(b) SECURITY REQUIREMENTS.—The Director of the Federal Bureau of Investigation shall establish such security requirements as are necessary for the personnel employed as translators under subsection (a).

(c) REPORT.—The Attorney General shall report to the Committees on the Judiciary of the House of Representatives and the Senate on—

(1) the number of translators employed by the FBI and other components of the Department of Justice;

(2) any legal or practical impediments to using translators employed by other Federal, State, or local agencies, on a full, part-time, or shared basis; and

(3) the needs of the FBI for specific translation services in certain languages, and recommendations for meeting those needs.

SEC. 206. ROVING SURVEILLANCE AUTHORITY UNDER THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

Section 105(c)(2)(B) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805(c)(2)(B)) is amended by inserting '', or in circumstances where the Court finds that the actions of the target of the application may have the effect of thwarting the identification of a specified person, such other persons,'' after ''specified person''.

SEC. 207. DURATION OF FISA SURVEILLANCE OF NON-UNITED STATES PERSONS WHO ARE AGENTS OF A FOREIGN POWER.

(a) DURATION.—

(1) SURVEILLANCE.—Section 105(d)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805(d)(1)) is amended by—

(A) inserting ''(A)'' after ''except that''; and

(B) inserting before the period the following: '', and (B) an order under this Act for a surveillance targeted against an agent of a foreign power, as defined in section 101(b)(A) may be for the period specified in the application or for 120 days, whichever is less''.

(2) PHYSICAL SEARCH.—Section 304(d)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1824(d)(1)) is amended by—

(A) striking ''forty-five'' and inserting ''90'';

(B) inserting ''(A)'' after ''except that''; and

(C) inserting before the period the following: '', and (B) an order under this section for a physical search targeted against an agent of a foreign power as defined in section 101(b)(A) may be for the period specified in the application or for 120 days, whichever is less''.

(b) EXTENSION.—

(1) IN GENERAL.—Section 105(d)(2) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805(d)(2)) is amended by—

(A) inserting ''(A)'' after ''except that''; and

(B) inserting before the period the following: '', and (B) an extension of an order under this Act for a surveillance targeted against an agent of a foreign power as defined in section 101(b)(1)(A) may be for a period not to exceed 1 year''.

(2) DEFINED TERM.—Section 304(d)(2) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1824(d)(2) is amended by inserting after ''not a United States person,'' the following: ''or against an agent of a foreign power as defined in section 101(b)(1)(A)''.

SEC. 208. DESIGNATION OF JUDGES.

Section 103(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(a)) is amended by—

(1) striking ''seven district court judges'' and inserting ''11 district court judges''; and

(2) inserting ''of whom no less than 3 shall reside within 20 miles of the District of Columbia'' after ''circuits''.

SEC. 209. SEIZURE OF VOICE-MAIL MESSAGES PURSUANT TO WARRANTS.

Title 18, United States Code, is amended—

(1) in section 2510—

(A) in paragraph (1), by striking beginning with ''and such'' and all that follows through ''communication''; and

(B) in paragraph (14), by inserting ''wire or'' after ''transmission of''; and

(2) in subsections (a) and (b) of section 2703—

(A) by striking ''CONTENTS OF ELECTRONIC'' and inserting ''CONTENTS OF WIRE OR ELECTRONIC'' each place it appears;

(B) by striking ''contents of an electronic'' and inserting ''contents of a wire or electronic'' each place it appears; and

(C) by striking ''any electronic'' and inserting ''any wire or electronic'' each place it appears.

SEC. 210. SCOPE OF SUBPOENAS FOR RECORDS OF ELECTRONIC COMMUNICATIONS.

Section 2703(c)(2) of title 18, United States Code, as redesignated by section 212, is amended—

(1) by striking ''entity the name, address, local and long distance telephone toll billing records, telephone number or other subscriber number or identity, and length of service of the subscriber'' and inserting the following: ''entity the—

''(A) name;

''(B) address;

''(C) local and long distance telephone connection records, or records of session times and durations;

''(D) length of service (including start date) and types of service utilized;

''(E) telephone or instrument number or other subscriber number or identity, including any temporarily assigned network address; and

''(F) means and source of payment (including any credit card or bank account number),

of a subscriber''; and

(2) by striking ''and the types of services the subscriber or customer utilized,''.

SEC. 211. CLARIFICATION OF SCOPE.

Section 631 of the Communications Act of 1934 (47 U.S.C. 551) is amended—

(1) in subsection (c)(2)—

(A) in subparagraph (B), by striking ''or'';

(B) in subparagraph (C), by striking the period at the end and inserting''; or''; and

(C) by inserting at the end the following:

''(D) authorized under chapters 119, 121, or 206 of title 18, United States Code, except that such disclosure shall not include records revealing customer cable television viewing activity.''; and

(2) in subsection (h) by striking ''A governmental entity'' and inserting ''Except as provided in subsection (c)(2)(D), a governmental entity''.

SEC. 212. EMERGENCY DISCLOSURE OF ELECTRONIC COMMUNICATIONS TO PROTECT LIFE AND LIMB.

(a) DISCLOSURE OF CONTENTS.—

(1) IN GENERAL.—Section 2702 of title 18, United States Code, is amended—

(A) by striking the section heading and inserting the following:

''§ 2702. Voluntary disclosure of customer communications or records'';

(B) in subsection (a)—

(i) in paragraph (2)(A), by striking ''and'' at the end;

(ii) in paragraph (2)(B), by striking the period and inserting ''; and''; and

(iii) by inserting after paragraph (2) the following:

''(3) a provider of remote computing service or electronic communication service to the public shall not knowingly divulge a record or other information pertaining to a subscriber to or customer of such service (not including the contents of communications covered by paragraph (1) or (2)) to any governmental entity.'';

(C) in subsection (b), by striking ''EXCEPTIONS.—A person or entity'' and inserting ''EXCEPTIONS FOR DISCLOSURE OF COMMUNICATIONS.— A provider described in subsection (a)'';

(D) in subsection (b)(6)—

(i) in subparagraph (A)(ii), by striking ''or'';

(ii) in subparagraph (B), by striking the period and inserting ''; or''; and

(iii) by adding after subparagraph (B) the following:

''(C) if the provider reasonably believes that an emergency involving immediate danger of death or serious physical injury to any person requires disclosure of the information without delay.''; and

(E) by inserting after subsection (b) the following:

''(c) EXCEPTIONS FOR DISCLOSURE OF CUSTOMER RECORDS.—A provider described in subsection (a) may divulge a record or other information pertaining to a subscriber to or customer of such service (not including the contents of communications covered by subsection (a)(1) or (a)(2))—

''(1) as otherwise authorized in section 2703;

''(2) with the lawful consent of the customer or subscriber;

''(3) as may be necessarily incident to the rendition of the service or to the protection of the rights or property of the provider of that service;

''(4) to a governmental entity, if the provider reasonably believes that an emergency involving immediate danger of death or serious physical injury to any person justifies disclosure of the information; or

''(5) to any person other than a governmental entity.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 121 of title 18, United States Code, is amended by striking the item relating to section 2702 and inserting the following:

''2702. Voluntary disclosure of customer communications or records.''.

(b) REQUIREMENTS FOR GOVERNMENT ACCESS.—

(1) IN GENERAL.—Section 2703 of title 18, United States Code, is amended—

(A) by striking the section heading and inserting the following:

''§ 2703. Required disclosure of customer communications or records'';

(B) in subsection (c) by redesignating paragraph (2) as paragraph (3);

(C) in subsection (c)(1)—

(i) by striking ''(A) Except as provided in subparagraph (B), a provider of electronic communication service or remote computing service may'' and inserting ''A governmental entity may require a provider of electronic communication service or remote computing service to'';

(ii) by striking ''covered by subsection (a) or (b) of this section) to any person other than a governmental entity.

''(B) A provider of electronic communication service or remote computing service shall disclose a record or other information pertaining to a subscriber to or customer of such service (not including the contents of communications covered by subsection (a) or (b) of this section) to a governmental entity'' and inserting '')'';

(iii) by redesignating subparagraph (C) as paragraph (2);

(iv) by redesignating clauses (i), (ii), (iii), and (iv) as subparagraphs (A), (B), (C), and (D), respectively;

(v) in subparagraph (D) (as redesignated) by striking the period and inserting ''; or''; and

(vi) by inserting after subparagraph (D) (as redesignated) the following:

''(E) seeks information under paragraph (2).''; and

(D) in paragraph (2) (as redesignated) by striking ''subparagraph (B)'' and insert ''paragraph (1)''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 121 of title 18, United States Code, is amended by striking the item relating to section 2703 and inserting the following:

''2703. Required disclosure of customer communications or records.''.

SEC. 213. AUTHORITY FOR DELAYING NOTICE OF THE EXECUTION OF A WARRANT.

Section 3103a of title 18, United States Code, is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''In addition''; and

(2) by adding at the end the following:

''(b) DELAY.—With respect to the issuance of any warrant or court order under this section, or any other rule of law, to search for and seize any property or material that constitutes evidence of a criminal offense in violation of the laws of the United States, any notice required, or that may be required, to be given may be delayed if—

''(1) the court finds reasonable cause to believe that providing immediate notification of the execution of the warrant may have an adverse result (as defined in section 2705);

''(2) the warrant prohibits the seizure of any tangible property, any wire or electronic communication (as defined in section 2510), or, except as expressly provided in chapter 121, any stored wire or electronic information, except where the court finds reasonable necessity for the seizure; and

''(3) the warrant provides for the giving of such notice within a reasonable period of its execution, which period may thereafter be extended by the court for good cause shown.''.

SEC. 214. PEN REGISTER AND TRAP AND TRACE AUTHORITY UNDER FISA.

(a) APPLICATIONS AND ORDERS.—Section 402 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1842) is amended—

(1) in subsection (a)(1), by striking ''for any investigation to gather foreign intelligence information or information concerning international terrorism'' and inserting ''for any investigation to protect against international terrorism or clandestine intelligence activities, provided that such investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment to the Constitution'';

(2) by amending subsection (c)(2) to read as follows:

''(2) a certification by the applicant that the information likely to be obtained is relevant to an ongoing investigation to protect against international terrorism or clandestine intelligence activities, provided that such investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment to the Constitution.'';

(3) by striking subsection (c)(3); and

(4) by amending subsection (d)(2)(A) to read as follows:

''(A) shall specify—

''(i) the identity, if known, of the person who is the subject of the investigation;

''(ii) the identity, if known, of the person to whom is leased or in whose name is listed the telephone line or other facility to which the pen register or trap and trace device is to be attached or applied;

''(iii) the attributes of the communications to which the order applies, such as the number or other identifier, and, if known, the location of the telephone line or other facility to which the pen register or trap and trace device is to be attached or applied and, in the case of a trap and trace device, the geographic limits of the trap and trace order.''.

(b) AUTHORIZATION DURING EMERGENCIES.—Section 403 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1843) is amended—

(1) in subsection (a), by striking ''foreign intelligence information or information concerning international terrorism'' and inserting ''information to protect against international terrorism or clandestine intelligence activities, provided that such investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment to the Constitution''; and

(2) in subsection (b)(1), by striking ''foreign intelligence information or information concerning international terrorism'' and inserting ''information to protect against international terrorism or clandestine intelligence activities, provided that such investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment to the Constitution''.

SEC. 215. ACCESS TO RECORDS AND OTHER ITEMS UNDER THE FOREIGN INTELLIGENCE SURVEILLANCE ACT.

Title V of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861 et seq.) is amended by striking sections 501 through 503 and inserting the following:

''SEC. 501. ACCESS TO CERTAIN BUSINESS RECORDS FOR FOREIGN INTELLIGENCE AND INTERNATIONAL TERRORISM INVESTIGATIONS.

''(a)(1) The Director of the Federal Bureau of Investigation or a designee of the Director (whose rank shall be no lower than Assistant Special Agent in Charge) may make an application for an order requiring the production of any tangible things (including books, records, papers, documents, and other items) for an investigation to protect against international terrorism or clandestine intelligence activities, provided that such investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment to the Constitution.

''(2) An investigation conducted under this section shall—

''(A) be conducted under guidelines approved by the Attorney General under Executive Order 12333 (or a successor order); and

''(B) not be conducted of a United States person solely upon the basis of activities protected by the first amendment to the Constitution of the United States.

''(b) Each application under this section—

''(1) shall be made to—

''(A) a judge of the court established by section 103(a); or

''(B) a United States Magistrate Judge under chapter 43 of title 28, United States Code, who is publicly designated by the Chief Justice of the United States to have the power to hear applications and grant orders for the production of tangible things under this section on behalf of a judge of that court; and

''(2) shall specify that the records concerned are sought for an authorized investigation conducted in accordance with subsection (a)(2) to protect against international terrorism or clandestine intelligence activities.

''(c)(1) Upon an application made pursuant to this section, the judge shall enter an ex parte order as requested, or as modified, approving the release of records if the judge finds that the application meets the requirements of this section.

''(2) An order under this subsection shall not disclose that it is issued for purposes of an investigation described in subsection (a).

''(d) No person shall disclose to any other person (other than those persons necessary to produce the tangible things under this section) that the Federal Bureau of Investigation has sought or obtained tangible things under this section.

''(e) A person who, in good faith, produces tangible things under an order pursuant to this section shall not be liable to any other person for such production. Such production shall not be deemed to constitute a waiver of any privilege in any other proceeding or context.

''SEC. 502. CONGRESSIONAL OVERSIGHT.

''(a) On a semiannual basis, the Attorney General shall fully inform the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate concerning all requests for the production of tangible things under section 402.

''(b) On a semiannual basis, the Attorney General shall provide to the Committees on the Judiciary of the House of Representatives and the Senate a report setting forth with respect to the preceding 6-month period—

''(1) the total number of applications made for orders approving requests for the production of tangible things under section 402; and

''(2) the total number of such orders either granted, modified, or denied.''.

SEC. 216. MODIFICATION OF AUTHORITIES RELATING TO USE OF PEN REGISTERS AND TRAP AND TRACE DEVICES.

(a) GENERAL LIMITATIONS.—Section 3121(c) of title 18, United States Code, is amended—

(1) by inserting ''or trap and trace device'' after ''pen register'';

(2) by inserting '', routing, addressing,'' after ''dialing''; and

(3) by striking ''call processing'' and inserting ''the processing and transmitting of wire or electronic communications so as not to include the contents of any wire or electronic communications''.

(b) ISSUANCE OF ORDERS.—

(1) IN GENERAL.—Section 3123(a) of title 18, United States Code, is amended to read as follows:

''(a) IN GENERAL.—

''(1) ATTORNEY FOR THE GOVERNMENT.—Upon an application made under section 3122(a)(1), the court shall enter an ex parte order authorizing the installation and use of a pen register or trap and trace device anywhere within the United States, if the court finds that the attorney for the Government has certified to the court that the information likely to be obtained by such installation and use is relevant to an ongoing criminal investigation. The order, upon service of that order, shall apply to any person or entity providing wire or electronic communication service in the United States whose assistance may facilitate the execution of the order. Whenever such an order is served on any person or entity not specifically named in the order, upon request of such person or entity, the attorney for the Government or law enforcement or investigative officer that is serving the order shall provide written or electronic certification that the order applies to the person or entity being served.

''(2) STATE INVESTIGATIVE OR LAW ENFORCEMENT OFFICER.—Upon an application made under section 3122(a)(2), the court shall enter an ex parte order authorizing the installation and use of a pen register or trap and trace device within the jurisdiction of the court, if the court finds that the State law enforcement or investigative officer has certified to the court that the information likely to be obtained by such installation and use is relevant to an ongoing criminal investigation.''.

(2) CONTENTS OF ORDER.—Section 3123(b)(1) of title 18, United States Code, is amended—

(A) in subparagraph (A)—

(i) by inserting ''or other facility'' after ''telephone line''; and

(ii) by inserting before the semicolon at the end ''or applied''; and

(B) by striking subparagraph (C) and inserting the following:

''(C) the attributes of the communications to which the order applies, including the number or other identifier and, if known, the location of the telephone line or other facility to which the pen register or trap and trace device is to be attached or applied, and, in the case of an order authorizing installation and use of a trap and trace device under subsection (a)(2), the geographic limits of the order; and''.

(3) NONDISCLOSURE REQUIREMENTS.—Section 3123(d)(2) of title 18, United States Code, is amended—

(A) by inserting ''or other facility'' after ''the line''; and

(B) by striking '', or who has been ordered by the court'' and inserting ''or applied, or who is obligated by the order''.

(c) DEFINITIONS.—

(1) COURT OF COMPETENT JURISDICTION.—Section 3127(2) of title 18, United States Code, is amended by striking subparagraph (A) and inserting the following:

''(A) any district court of the United States (including a magistrate judge of such a court) or any United States court of appeals having jurisdiction over the offense being investigated; or''.

(2) PEN REGISTER.—Section 3127(3) of title 18, United States Code, is amended—

(A) by striking ''electronic or other impulses'' and all that follows through ''is attached'' and inserting ''dialing, routing, addressing, or signaling information transmitted by an instrument or facility from which a wire or electronic communication is transmitted, provided, however, that such information shall not include the contents of any communication''; and

(B) by inserting ''or process'' after ''device'' each place it appears.

(3) TRAP AND TRACE DEVICE.—Section 3127(4) of title 18, United States Code, is amended—

(A) by striking ''of an instrument'' and all that follows through the semicolon and inserting ''or other dialing, routing, addressing, and signaling information reasonably likely to identify the source of a wire or electronic communication, provided, however, that such information shall not include the contents of any communication;''; and

(B) by inserting ''or process'' after ''a device''.

(4) CONFORMING AMENDMENT.—Section 3127(1) of title 18, United States Code, is amended—

(A) by striking ''and''; and

(B) by inserting '', and 'contents'' after ''electronic communication service''.

(5) TECHNICAL AMENDMENT.—Section 3124(d) of title 18, United States Code, is amended by striking ''the terms of''.

SEC. 217. INTERCEPTION OF COMPUTER TRESPASSER COMMUNICATIONS.

Chapter 119 of title 18, United States Code, is amended—

(1) in section 2510—

(A) in paragraph (17), by striking ''and'' at the end;

(B) in paragraph (18), by striking the period and inserting a semicolon; and

(C) by inserting after paragraph (18) the following:

''(19) 'protected computer' has the meaning set forth in section 1030; and

''(20) 'computer trespasser'—

''(A) means a person who accesses a protected computer without authorization and thus has no reasonable expectation of privacy in any communication transmitted to, through, or from the protected computer; and

''(B) does not include a person known by the owner or operator of the protected computer to have an existing contractual relationship with the owner or operator of the protected computer for access to all or part of the protected computer.''; and

(2) in section 2511(2), by inserting at the end the following:

''(i) It shall not be unlawful under this chapter for a person acting under color of law to intercept the wire or electronic communications of a computer trespasser, if—

''(i) the owner or operator of the protected computer authorizes the interception of the computer trespasser's communications on the protected computer;

''(ii) the person acting under color of law is lawfully engaged in an investigation;

''(iii) the person acting under color of law has reasonable grounds to believe that the contents of the computer trespasser's communications will be relevant to the investigation; and

''(iv) such interception does not acquire communications other than those transmitted to or from the computer trespasser.''.

SEC. 218. FOREIGN INTELLIGENCE INFORMATION.

Sections 104(a)(7)(B) and section 303(a)(7)(B) (50 U.S.C. 1804(a)(7)(B) and 1823(a)(7)(B)) of the Foreign Intelligence Surveillance Act of 1978 are each amended by striking ''the purpose'' and inserting ''a significant purpose''.

SEC. 219. SINGLE-JURISDICTION SEARCH WARRANTS FOR TERRORISM.

Rule 41(a) of the Federal Rules of Criminal Procedure is amended by inserting after ''executed'' the following: ''and (3) in an investigation of domestic terrorism or international terrorism (as defined in section 2331 of title 18, United States Code), by a Federal magistrate judge in any district in which activities related to the terrorism may have occurred, for a search of property or for a person within or outside the district''.

SEC. 220. NATIONWIDE SERVICE OF SEARCH WARRANTS FOR ELECTRONIC EVIDENCE.

Chapter 121 of title 18, United States Code, is amended—

(1) in section 2703, by striking ''under the Federal Rules of Criminal Procedure'' every place it appears and inserting ''using the procedures described in the Federal Rules of Criminal Procedure by a court with jurisdiction over the offense under investigation''; and

(2) in section 2711—

(A) in paragraph (1), by striking ''and'';

(B) in paragraph (2), by striking the period and inserting ''; and''; and

(C) by inserting at the end the following:

''(3) the term 'court of competent jurisdiction' has the meaning assigned by section 3127, and includes any Federal court within that definition, without geographic limitation.''.

SEC. 221. TRADE SANCTIONS.

(a) IN GENERAL.—The Trade Sanctions Reform and Export Enhancement Act of 2000 (Public Law 106–387; 114 Stat. 1549A–67) is amended—

(1) by amending section 904(2)(C) to read as follows:

''(C) used to facilitate the design, development, or production of chemical or biological weapons, missiles, or weapons of mass destruction.'';

(2) in section 906(a)(1)—

(A) by inserting '', the Taliban or the territory of Afghanistan controlled by the Taliban,'' after ''Cuba''; and

(B) by inserting '', or in the territory of Afghanistan controlled by the Taliban,'' after ''within such country''; and

(3) in section 906(a)(2), by inserting '', or to any other entity in Syria or North Korea'' after ''Korea''.

(b) APPLICATION OF THE TRADE SANCTIONS REFORM AND EXPORT ENHANCEMENT ACT.—Nothing in the Trade Sanctions Reform and Export Enhancement Act of 2000 shall limit the application or scope of any law establishing criminal or civil penalties, including any executive order or regulation promulgated pursuant to such laws (or similar or successor laws), for the unlawful export of any agricultural commodity, medicine, or medical device to—

(1) a foreign organization, group, or person designated pursuant to Executive Order 12947 of June 25, 1995;

(2) a Foreign Terrorist Organization pursuant to the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132);

(3) a foreign organization, group, or person designated pursuant to Executive Order 13224 (September 23, 2001);

(4) any narcotics trafficking entity designated pursuant to Executive Order 12978 (October 21, 1995) or the Foreign Narcotics Kingpin Designation Act (Public Law 106–120); or

(5) any foreign organization, group, or persons subject to any restriction for its involvement in weapons of mass destruction or missile proliferation.

SEC. 222. ASSISTANCE TO LAW ENFORCEMENT AGENCIES.

Nothing in this Act shall impose any additional technical obligation or requirement on a provider of wire or electronic communication service or other person to furnish facilities or technical assistance. A provider of a wire or electronic communication service, landlord, custodian, or other person who furnishes facilities or technical assistance pursuant to section 216 shall be reasonably compensated for such reasonable expenditures incurred in providing such facilities or assistance.

TITLE III—INTERNATIONAL MONEY LAUNDERING ABATEMENT AND ANTI-TERRORIST FINANCING ACT OF 2001.

SEC. 301. SHORT TITLE.

This title may be cited as the ''International Money Laundering Abatement and Anti-Terrorist Financing Act of 2001''.

SEC. 302. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) money laundering, estimated by the International Monetary Fund to amount to between 2 and 5 percent of global gross domestic product, which is at least $600,000,000,000 annually, provides the financial fuel that permits transnational criminal enterprises to conduct and expand their operations to the detriment of the safety and security of American citizens;

(2) money laundering, and the defects in financial transparency on which money launderers rely, are critical to the financing of global terrorism and the provision of funds for terrorist attacks;

(3) money launderers subvert legitimate financial mechanisms and banking relationships by using them as protective covering for the movement of criminal proceeds and the financing of crime and terrorism, and, by so doing, can threaten the safety of United States citizens and undermine the integrity of United States financial institutions and of the global financial and trading systems upon which prosperity and growth depend;

(4) certain jurisdictions outside of the United States that offer ''offshore'' banking and related facilities designed to provide anonymity, coupled with special tax advantages and weak financial supervisory and enforcement regimes, provide essential tools to disguise ownership and movement of criminal funds, derived from, or used to commit, offenses ranging from narcotics trafficking, terrorism, arms smuggling, and trafficking in human beings, to financial frauds that prey on law-abiding citizens;

(5) transactions involving such offshore jurisdictions make it difficult for law enforcement officials and regulators to follow the trail of money earned by criminals, organized international criminal enterprises, and global terrorist organizations;

(6) correspondent banking facilities are one of the banking mechanisms susceptible in some circumstances to manipulation by foreign banks to permit the laundering of funds by hiding the identity of real parties in interest to financial transactions;

(7) private banking services can be susceptible to manipulation by money launderers, for example corrupt foreign government officials, particularly if those services include the creation of offshore accounts and facilities for large personal funds transfers to channel funds into accounts around the globe;

(8) United States anti-money laundering efforts are impeded by outmoded and inadequate statutory provisions that make investigations, prosecutions, and forfeitures more difficult, particularly in cases in which money laundering involves foreign persons, foreign banks, or foreign countries;

(9) the ability to mount effective countermeasures to international money launderers requires national, as well as bilateral and multilateral action, using tools specially designed for that effort; and

(10) the Basle Committee on Banking Regulation and Supervisory Practices and the Financial Action Task Force on Money Laundering, of both of which the United States is a member, have each adopted international anti-money laundering principles and recommendations.

(b) PURPOSES.—The purposes of this title are—

(1) to increase the strength of United States measures to prevent, detect, and prosecute international money laundering and the financing of terrorism;

(2) to ensure that—

(A) banking transactions and financial relationships and the conduct of such transactions and relationships, do not contravene the purposes of subchapter II of chapter 53 of title 31, United States Code, section 21 of the Federal Deposit Insurance Act, or chapter 2 of title I of Public Law 91–508 (84 Stat. 1116), or facilitate the evasion of any such provision; and

(B) the purposes of such provisions of law continue to be fulfilled, and that such provisions of law are effectively and efficiently administered;

(3) to strengthen the provisions put into place by the Money Laundering Control Act of 1986 (18 U.S.C. 981 note), especially with respect to crimes by non-United States nationals and foreign financial institutions;

(4) to provide a clear national mandate for subjecting to special scrutiny those foreign jurisdictions, financial institutions operating outside of the United States, and classes of international transactions that pose particular, identifiable opportunities for criminal abuse;

(5) to provide the Secretary of the Treasury (in this title referred to as the ''Secretary'') with broad discretion, subject to the safeguards provided by the Administrative Procedures Act under title 5, United States Code, to take measures tailored to the particular money laundering problems

presented by specific foreign jurisdictions, financial institutions operating outside of the United States, and classes of international transactions;

(6) to ensure that the employment of such measures by the Secretary permits appropriate opportunity for comment by affected financial institutions;

(7) to provide guidance to domestic financial institutions on particular foreign jurisdictions, financial institutions operating outside of the United States, and classes of international transactions that are of primary money laundering concern to the United States Government;

(8) to ensure that the forfeiture of any assets in connection with the anti-terrorist efforts of the United States permits for adequate challenge consistent with providing due process rights;

(9) to clarify the terms of the safe harbor from civil liability for filing suspicious activity reports;

(10) to strengthen the authority of the Secretary to issue and administer geographic targeting orders, and to clarify that violations of such orders or any other requirement imposed under the authority contained in chapter 2 of title I of Public Law 91–508 and subchapters II and III of chapter 53 of title 31, United States Code, may result in criminal and civil penalties;

(11) to ensure that all appropriate elements of the financial services industry are subject to appropriate requirements to report potential money laundering transactions to proper authorities, and that jurisdictional disputes do not hinder examination of compliance by financial institutions with relevant reporting requirements;

(12) to fix responsibility for high level coordination of the anti-money laundering efforts of the Department of the Treasury;

(13) to strengthen the ability of financial institutions to maintain the integrity of their employee population; and

(14) to strengthen measures to prevent the use of the United States financial system for personal gain by corrupt foreign officials and to facilitate the repatriation of any stolen assets to the citizens of countries to whom such assets belong.

SEC. 303. 4-YEAR CONGRESSIONAL REVIEW-EXPEDITED CONSIDERATION.

(a) IN GENERAL.—Effective on and after the first day of fiscal year 2005, the provisions of this title and the amendments made by this title shall terminate if the Congress enacts a joint resolution, the text after the resolving clause of which is as follows: ''That provisions of the International Money Laundering Abatement and Anti-Terrorist Financing Act of 2001, and the amendments made thereby, shall no longer have the force of law.''.

(b) EXPEDITED CONSIDERATION.—Any joint resolution submitted pursuant to this section shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Control Act of 1976. For the purpose of expediting the consideration and enactment of a joint resolution under this section, a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee, shall be treated as highly privileged in the House of Representatives.

Subtitle A—International Counter Money Laundering and Related Measures

SEC. 311. SPECIAL MEASURES FOR JURISDICTIONS, FINANCIAL INSTITUTIONS, OR INTERNATIONAL TRANSACTIONS OF PRIMARY MONEY LAUNDERING CONCERN.

(a) IN GENERAL.—Subchapter II of chapter 53 of title 31, United States Code, is amended by inserting after section 5318 the following new section:

''SEC. 5318A. SPECIAL MEASURES FOR JURISDICTIONS, FINANCIAL INSTITUTIONS, OR INTERNATIONAL TRANSACTIONS OF PRIMARY MONEY LAUNDERING CONCERN.

''(a) INTERNATIONAL COUNTER-MONEY LAUNDERING REQUIREMENTS.—

''(1) IN GENERAL.—The Secretary may require domestic financial institutions and domestic financial agencies to take 1 or more of the special measures described in subsection (b) if the Secretary finds that reasonable grounds exist for concluding that a jurisdiction outside of the United States, 1 or more financial institutions operating outside of the United States, 1 or more classes of transactions within, or involving, a jurisdiction outside of the United States, or 1 or more types of accounts is of primary money laundering concern, in accordance with subsection (c).

''(2) FORM OF REQUIREMENT.—The special measures described in—

''(A) subsection (b) may be imposed in such sequence or combination as the Secretary shall determine;

''(B) paragraphs (1) through (4) of subsection (b) may be imposed by regulation, order, or otherwise as permitted by law; and

''(C) subsection (b)(5) may be imposed only by regulation.

''(3) DURATION OF ORDERS; RULEMAKING.—Any order by which a special measure described in paragraphs (1) through (4) of subsection (b) is imposed (other than an order described in section 5326)—

''(A) shall be issued together with a notice of proposed rulemaking relating to the imposition of such special measure; and

''(B) may not remain in effect for more than 120 days, except pursuant to a rule promulgated on or before the end of the 120-day period beginning on the date of issuance of such order.

''(4) PROCESS FOR SELECTING SPECIAL MEASURES.—In selecting which special measure or measures to take under this subsection, the Secretary—

''(A) shall consult with the Chairman of the Board of Governors of the Federal Reserve System, any other appropriate Federal banking agency, as defined in section 3 of the Federal Deposit Insurance Act, the Securities and Exchange Commission, the National Credit Union Administration Board, and in the sole discretion of the Secretary such other agencies and interested parties as the Secretary may find to be appropriate; and

''(B) shall consider—

''(i) whether similar action has been or is being taken by other nations or multilateral groups;

''(ii) whether the imposition of any particular special measure would create a significant competitive disadvantage, including any undue cost or burden associated with compliance, for financial institutions organized or licensed in the United States; and

''(iii) the extent to which the action or the timing of the action would have a significant adverse systemic impact on the international payment, clearance, and settlement system, or on legitimate business activities involving the particular jurisdiction, institution, or class of transactions.

''(5) NO LIMITATION ON OTHER AUTHORITY.—This section shall not be construed as superseding or otherwise restricting any other authority granted to the Secretary, or to any other agency, by this subchapter or otherwise.

''(b) SPECIAL MEASURES.—The special measures referred to in subsection (a), with respect to a jurisdiction outside of the United States, financial institution operating outside of the United States, class of transaction within, or involving, a jurisdiction outside of the United States, or 1 or more types of accounts are as follows:

''(1) RECORDKEEPING AND REPORTING OF CERTAIN FINANCIAL TRANSACTIONS.—

''(A) IN GENERAL.—The Secretary may require any domestic financial institution or domestic financial agency to maintain records, file reports, or both, concerning the aggregate amount of transactions, or concerning each transaction, with respect to a jurisdiction outside of the United States, 1 or more financial institutions operating outside of the United States, 1 or more classes of transactions within, or involving, a jurisdiction outside of the United States, or 1 or more types of accounts if the Secretary finds any such jurisdiction, institution, or class of transactions to be of primary money laundering concern.

''(B) FORM OF RECORDS AND REPORTS.—Such records and reports shall be made and retained at such time, in such manner, and for such period of time, as the Secretary shall determine, and shall include such information as the Secretary may determine, including—

''(i) the identity and address of the participants in a transaction or relationship, including the identity of the originator of any funds transfer;

''(ii) the legal capacity in which a participant in any transaction is acting;

''(iii) the identity of the beneficial owner of the funds involved in any transaction, in accordance with such procedures as the Secretary determines to be reasonable and practicable to obtain and retain the information; and

''(iv) a description of any transaction.

''(2) INFORMATION RELATING TO BENEFICIAL OWNERSHIP.—In addition to any other requirement under any other provision of law, the Secretary may require any domestic financial institution or domestic financial agency to take such steps as the Secretary may determine to be reasonable and practicable to obtain and retain information concerning the beneficial ownership of any account opened or maintained in the United States by a foreign person (other than a foreign entity whose shares are subject to public reporting requirements or are listed and traded on a regulated exchange or trading market), or a representative of such a foreign person, that involves a jurisdiction outside of the United States, 1 or more financial institutions operating outside of the United States, 1 or more classes of transactions within, or involving, a jurisdiction outside of the United States, or 1 or more types of accounts if the Secretary finds any such jurisdiction, institution, or transaction to be of primary money laundering concern.

''(3) INFORMATION RELATING TO CERTAIN PAYABLE-THROUGH ACCOUNTS.—If the Secretary finds a jurisdiction outside of the United States, 1 or more financial institutions operating outside of the United States, or 1 or more classes of transactions within, or involving, a jurisdiction outside of the United States to be of primary money laundering concern, the Secretary may require any domestic financial institution or domestic financial agency that opens or maintains a payable-through account in the United States for a foreign financial institution involving any such jurisdiction or any such financial institution operating outside of the United States, or a payable through account through which any such transaction may be conducted, as a condition of opening or maintaining such account—

''(A) to identify each customer (and representative of such customer) of such financial institution who is permitted to use, or whose transactions are routed through, such payable-through account; and

''(B) to obtain, with respect to each such customer (and each such representative), information that is substantially comparable

to that which the depository institution obtains in the ordinary course of business with respect to its customers residing in the United States.

''(4) INFORMATION RELATING TO CERTAIN CORRESPONDENT ACCOUNTS.—If the Secretary finds a jurisdiction outside of the United States, 1 or more financial institutions operating outside of the United States, or 1 or more classes of transactions within, or involving, a jurisdiction outside of the United States to be of primary money laundering concern, the Secretary may require any domestic financial institution or domestic financial agency that opens or maintains a correspondent account in the United States for a foreign financial institution involving any such jurisdiction or any such financial institution operating outside of the United States, or a correspondent account through which any such transaction may be conducted, as a condition of opening or maintaining such account—

''(A) to identify each customer (and representative of such customer) of any such financial institution who is permitted to use, or whose transactions are routed through, such correspondent account; and

''(B) to obtain, with respect to each such customer (and each such representative), information that is substantially comparable to that which the depository institution obtains in the ordinary course of business with respect to its customers residing in the United States.

''(5) PROHIBITIONS OR CONDITIONS ON OPENING OR MAINTAINING CERTAIN CORRESPONDENT OR PAYABLE-THROUGH ACCOUNTS.—If the Secretary finds a jurisdiction outside of the United States, 1 or more financial institutions operating outside of the United States, or 1 or more classes of transactions within, or involving, a jurisdiction outside of the United States to be of primary money laundering concern, the Secretary, in consultation with the Secretary of State, the Attorney General, and the Chairman of the Board of Governors of the Federal Reserve System, may prohibit, or impose conditions upon, the opening or maintaining in the United States of a correspondent account or payable-through account by any domestic financial institution or domestic financial agency for or on behalf of a foreign banking institution, if such correspondent account or payable-through account involves any such jurisdiction or institution, or if any such transaction may be conducted through such correspondent account or payable-through account.

''(c) CONSULTATIONS AND INFORMATION TO BE CONSIDERED IN FINDING JURISDICTIONS, INSTITUTIONS, TYPES OF ACCOUNTS, OR TRANSACTIONS TO BE OF PRIMARY MONEY LAUNDERING CONCERN.—

''(1) IN GENERAL.—In making a finding that reasonable grounds exist for concluding that a jurisdiction outside of the United States, 1 or more financial institutions operating outside of the United States, 1 or more classes of transactions within, or involving, a jurisdiction outside of the United States, or 1 or more types of accounts is of primary money laundering concern so as to authorize the Secretary to take 1 or more of the special measures described in subsection (b), the Secretary shall consult with the Secretary of State, and the Attorney General.

''(2) ADDITIONAL CONSIDERATIONS.—In making a finding described in paragraph (1), the Secretary shall consider in addition such information as the Secretary determines to be relevant, including the following potentially relevant factors:

''(A) JURISDICTIONAL FACTORS.—In the case of a particular jurisdiction—

''(i) evidence that organized criminal groups, international terrorists, or both, have transacted business in that jurisdiction;

(ii) the extent to which that jurisdiction or financial institutions operating in that jurisdiction offer bank secrecy or special tax or regulatory advantages to nonresidents or nondomiciliaries of that jurisdiction;

''(iii) the substance and quality of administration of the bank supervisory and countermoney laundering laws of that jurisdiction;

''(iv) the relationship between the volume of financial transactions occurring in that jurisdiction and the size of the economy of the jurisdiction;

''(v) the extent to which that jurisdiction is characterized as a tax haven or offshore banking or secrecy haven by credible international organizations or multilateral expert groups;

''(vi) whether the United States has a mutual legal assistance treaty with that jurisdiction, and the experience of United States law enforcement officials, regulatory officials, and tax administrators in obtaining information about transactions originating in or routed through or to such jurisdiction; and

''(vii) the extent to which that jurisdiction is characterized by high levels of official or institutional corruption.

''(B) INSTITUTIONAL FACTORS.—In the case of a decision to apply 1 or more of the special measures described in subsection (b) only to a financial institution or institutions, or to a transaction or class of transactions, or to a type of account, or to all 3, within or involving a particular jurisdiction—

''(i) the extent to which such financial institutions, transactions, or types of accounts are used to facilitate or promote money laundering in or through the jurisdiction;

''(ii) the extent to which such institutions, transactions, or types of accounts are used for legitimate business purposes in the jurisdiction; and

''(iii) the extent to which such action is sufficient to ensure, with respect to transactions involving the jurisdiction and institutions operating in the jurisdiction, that the purposes of this subchapter continue to be fulfilled, and to guard against international money laundering and other financial crimes.

''(d) NOTIFICATION OF SPECIAL MEASURES INVOKED BY THE SECRETARY.—Not later than 10 days after the date of any action taken by the Secretary under subsection (a)(1), the Secretary shall notify, in writing, the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate of any such action.

''(e) STUDY AND REPORT ON FOREIGN NATIONALS.—

''(1) STUDY.—The Secretary, in consultation with the appropriate Federal agencies, including the Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), shall conduct a study to—

''(A) determine the most timely and effective way to require foreign nationals to provide domestic financial institutions and agencies with appropriate and accurate information, comparable to that which is required of United States nationals, concerning their identity, address, and other related information necessary to enable such institutions and agencies to comply with the reporting, information gathering, and other requirements of this section; and

''(B) consider the need for requiring foreign nationals to apply for and obtain an identification number, similar to what is required for United States citizens through a social security number or tax identification number, prior to opening an account with a domestic financial institution.

''(2) REPORT.—The Secretary shall report to Congress not later than 180 days after the date of enactment of this section with recommendations for implementing such action referred to in paragraph (1) in a timely and effective manner.

''(f) DEFINITIONS.—Notwithstanding any other provision of this subchapter, for purposes of this section, the following definitions shall apply:

''(1) BANK DEFINITIONS.—The following definitions shall apply with respect to a bank:

''(A) ACCOUNT.—The term 'account'—

''(i) means a formal banking or business relationship established to provide regular services, dealings, and other financial transactions; and

''(ii) includes a demand deposit, savings deposit, or other transaction or asset account and a credit account or other extension of credit.

''(B) CORRESPONDENT ACCOUNT.—The term 'correspondent account' means an account established to receive deposits from, make payments on behalf of a foreign financial institution, or handle other financial transactions related to such institution.

''(C) PAYABLE-THROUGH ACCOUNT.—The term 'payable-through account' means an account, including a transaction account (as defined in section 19(b)(1)(C) of the Federal Reserve Act), opened at a depository institution by a foreign financial institution by means of which the foreign financial institution permits its customers to engage, either directly or through a subaccount, in banking activities usual in connection with the business of banking in the United States.

''(2) DEFINITIONS APPLICABLE TO INSTITUTIONS OTHER THAN BANKS.—With respect to any financial institution other than a bank, the Secretary shall, after consultation with the Securities and Exchange Commission, define by regulation the term 'account', and shall include within the meaning of that term, to the extent, if any, that the Secretary deems appropriate, arrangements similar to payable-through and correspondent accounts.

''(3) REGULATORY DEFINITION.—The Secretary shall promulgate regulations defining beneficial ownership of an account for purposes of this section. Such regulations shall address issues related to an individual's authority to fund, direct, or manage the account (including, without limitation, the power to direct payments into or out of the account), and an individual's material interest in the income or corpus of the account, and shall ensure that the identification of individuals under this section does not extend to any individual whose beneficial interest in the income or corpus of the account is immaterial.''.

''(4) OTHER TERMS.—The Secretary may, by regulation, further define the terms in paragraphs (1) and (2) and define other terms for the purposes of this section, as the Secretary deems appropriate.''.

(b) CLERICAL AMENDMENT.—The table of sections for subchapter II of chapter 53 of title 31, United States Code, is amended by inserting after the item relating to section 5318 the following new item:

''5318A. Special measures for jurisdictions, financial institutions, or international transactions of primary money laundering concern.''.

SEC. 312. SPECIAL DUE DILIGENCE FOR CORRESPONDENT ACCOUNTS AND PRIVATE BANKING ACCOUNTS.

(a) IN GENERAL.—Section 5318 of title 31, United States Code, is amended by adding at the end the following:

''(i) DUE DILIGENCE FOR UNITED STATES PRIVATE BANKING AND CORRESPONDENT BANK ACCOUNTS INVOLVING FOREIGN PERSONS.—

''(1) IN GENERAL.—Each financial institution that establishes, maintains, administers, or manages a private banking account or a correspondent account in the United States for a non-United States person, including a foreign individual visiting the United States, or a representative of a non-United States person shall establish appropriate, specific, and, where necessary, enhanced, due diligence policies, procedures, and controls to detect and report instances of money laundering through those accounts.

''(2) MINIMUM STANDARDS FOR CORRESPONDENT ACCOUNTS.—

''(A) IN GENERAL.—Subparagraph (B) shall apply if a correspondent account is requested or maintained by, or on behalf of, a foreign bank operating—

''(i) under an offshore banking license; or

''(ii) under a banking license issued by a foreign country that has been designated—

''(I) as noncooperative with international anti-money laundering principles or procedures by an intergovernmental group or organization of which the United States is a member; or

''(II) by the Secretary as warranting special measures due to money laundering concerns.

''(B) POLICIES, PROCEDURES, AND CONTROLS.—The enhanced due diligence policies, procedures, and controls required under paragraph (1) shall, at a minimum, ensure that the financial institution in the United States takes reasonable steps—

''(i) to ascertain for any such foreign bank, the shares of which are not publicly traded, the identity of each of the owners of the foreign bank, and the nature and extent of the ownership interest of each such owner;

''(ii) to conduct enhanced scrutiny of such account to guard against money laundering and report any suspicious transactions under section 5318(g); and

''(iii) to ascertain whether such foreign bank provides correspondent accounts to other foreign banks and, if so, the identity of those foreign banks and related due diligence information, as appropriate under paragraph (1).

''(3) MINIMUM STANDARDS FOR PRIVATE BANKING ACCOUNTS.—If a private banking account is requested or maintained by, or on behalf of, a non-United States person, then the due diligence policies, procedures, and controls required under paragraph (1) shall, at a minimum, ensure that the financial institution takes reasonable steps—

''(A) to ascertain the identity of the nominal and beneficial owners of, and the source of funds deposited into, such account as needed to guard against money laundering and report any suspicious transactions under section 5318(g); and

''(B) to conduct enhanced scrutiny of any such account that is requested or maintained by, or on behalf of, a senior foreign political figure, or any immediate family member or close associate of a senior foreign political figure, to prevent, detect, and report transactions that may involve the proceeds of foreign corruption.

''(4) DEFINITIONS AND REGULATORY AUTHORITY.—

''(A) OFFSHORE BANKING LICENSE.—For purposes of this subsection, the term 'offshore banking license' means a license to conduct banking activities which, as a condition of the license, prohibits the licensed entity from conducting banking activities with the citizens of, or with the local currency of, the country which issued the license.

''(B) REGULATORY AUTHORITY.—The Secretary, in consultation with the appropriate functional regulators of the affected financial institutions, may further delineate, by regulation the due diligence policies, procedures, and controls required under paragraph (1).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect beginning 180 days after the date of enactment of this Act with respect to accounts covered by section 5318(i) of title 31, United States Code, as added by this section, that are opened before, on, or after the date of enactment of this Act.

SEC. 313. PROHIBITION ON UNITED STATES CORRESPONDENT ACCOUNTS WITH FOREIGN SHELL BANKS.

(a) IN GENERAL.—Section 5318 of title 31, United States Code, is amended by inserting after section 5318(i), as added by section 312 of this title, the following:

''(j) PROHIBITION ON UNITED STATES CORRESPONDENT ACCOUNTS WITH FOREIGN SHELL BANKS.—

''(1) IN GENERAL.—A financial institution described in subparagraphs (A) through (F) of section 5312(a)(2) (in this subsection referred to as a 'covered financial institution') shall not establish, maintain, administer, or manage a correspondent account in the United States for, or on behalf of, a foreign bank that does not have a physical presence in any country.

''(2) PREVENTION OF INDIRECT SERVICE TO FOREIGN SHELL BANKS.—A covered financial institution shall take reasonable steps to ensure that any correspondent account established, maintained, administered, or managed by that covered financial institution in the United States for a foreign bank is not being used by that foreign bank to indirectly provide banking services to another foreign bank that does not have a physical presence in any country. The Secretary shall, by regulation, delineate the reasonable steps necessary to comply with this paragraph.

''(3) EXCEPTION.—Paragraphs (1) and (2) do not prohibit a covered financial institution from providing a correspondent account to a foreign bank, if the foreign bank—

''(A) is an affiliate of a depository institution, credit union, or foreign bank that maintains a physical presence in the United States or a foreign country, as applicable; and

''(B) is subject to supervision by a banking authority in the country regulating the affiliated depository institution, credit union, or foreign bank described in subparagraph (A), as applicable.

''(4) DEFINITIONS.—For purposes of this subsection—

''(A) the term 'affiliate' means a foreign bank that is controlled by or is under common control with a depository institution, credit union, or foreign bank; and

''(B) the term 'physical presence' means a place of business that—

''(i) is maintained by a foreign bank;

''(ii) is located at a fixed address (other than solely an electronic address) in a country in which the foreign bank is authorized to conduct banking activities, at which location the foreign bank—

''(I) employs 1 or more individuals on a full-time basis; and

''(II) maintains operating records related to its banking activities; and

''(iii) is subject to inspection by the banking authority which licensed the foreign bank to conduct banking activities.''.

SEC. 314. COOPERATIVE EFFORTS TO DETER MONEY LAUNDERING.

(a) COOPERATION AMONG FINANCIAL INSTITUTIONS, REGULATORY AUTHORITIES, AND LAW ENFORCEMENT AUTHORITIES.—

(1) REGULATIONS.—The Secretary shall, within 120 days after the date of enactment of this Act, adopt regulations to encourage further cooperation among financial institutions, their regulatory authorities, and law enforcement authorities, with the specific purpose of encouraging regulatory authorities and law enforcement authorities to share with financial institutions information regarding individuals, entities, and organizations engaged in or reasonably suspected based on credible evidence of engaging in terrorist acts or money laundering activities.

(2) CONTENTS.—The regulations promulgated pursuant to paragraph (1) may—

(A) require that each financial institution designate 1 or more persons to receive information concerning, and to monitor accounts of individuals, entities, and organizations identified, pursuant to paragraph (1); and

(B) further establish procedures for the protection of the shared information, consistent with the capacity, size, and nature of the institution to which the particular procedures apply.

(3) RULE OF CONSTRUCTION.—The receipt of information by a financial institution pursuant to this section shall not relieve or otherwise modify the obligations of the financial institution with respect to any other person or account.

(4) USE OF INFORMATION.—Information received by a financial institution pursuant to this section shall not be used for any purpose other than identifying and reporting on activities that may involve terrorist acts or money laundering activities.

(b) COOPERATION AMONG FINANCIAL INSTITUTIONS.—Upon notice provided to the Secretary, 2 or more financial institutions and any association of financial institutions may share information with one another regarding individuals, entities, organizations, and countries suspected of possible terrorist or money laundering activities. A financial institution or association that transmits, receives, or shares such information for the purposes of identifying and reporting activities that may involve terrorist acts or money laundering activities shall not be liable to any person under any law or regulation of the United States, any constitution, law, or regulation of any State or political subdivision thereof, or under any contract or other legally enforceable agreement (including any arbitration agreement), for such disclosure or for any failure to provide notice of such disclosure to the person who is the subject of such disclosure, or any other person identified in the disclosure, except where such transmission, receipt, or sharing violates this section or regulations promulgated pursuant to this section.

(c) RULE OF CONSTRUCTION.—Compliance with the provisions of this title requiring or allowing financial institutions and any association of financial institutions to disclose or share information regarding individuals, entities, and organizations engaged in or suspected of engaging in terrorist acts or money laundering activities shall not constitute a violation of the provisions of title V of the Gramm-Leach-Bliley Act (Public Law 106–102).

SEC. 315. INCLUSION OF FOREIGN CORRUPTION OFFENSES AS MONEY LAUNDERING CRIMES.

Section 1956(c)(7)(B) of title 18, United States Code, is amended—

(1) in clause (ii), by striking ''or destruction of property by means of explosive or fire'' and inserting ''destruction of property by means of explosive or fire, or a crime of violence (as defined in section 16)'';

(2) in clause (iii), by striking ''1978'' and inserting ''1978)''; and

(3) by adding at the end the following:

''(iv) bribery of a public official, or the misappropriation, theft, or embezzlement of public funds by or for the benefit of a public official;

''(v) smuggling or export control violations involving—

''(I) an item controlled on the United States Munitions List established under section 38 of the Arms Export Control Act (22 U.S.C. 2778); or

''(II) an item controlled under regulations under the Export Administration Act of 1977 (15 C.F.R. Parts 730–774);

''(vi) an offense with respect to which the United States would be obligated by a multilateral treaty, either to extradite the alleged offender or to submit the case for prosecution, if the offender were found within the territory of the United States; or

''(vii) the misuse of funds of, or provided by, the International Monetary Fund in contravention of the Articles of Agreement of the Fund or the misuse of funds of, or provided by, any other international financial institution (as defined in section 1701(c)(2) of the International Financial Institutions Act (22 U.S.C. 262r(c)(2)) in contravention of any treaty or other international agreement to which the United States is a party, including any articles of agreement of the members of the international financial institution;''.

SEC. 316. ANTI-TERRORIST FORFEITURE PROTECTION.

(a) RIGHT TO CONTEST.—An owner of property that is confiscated under any provision of law relating to the confiscation of assets of suspected international terrorists, may contest that confiscation by filing a claim in the manner set forth in the Federal Rules of Civil Procedure (Supplemental Rules for Certain Admiralty and Maritime Claims), and asserting as an affirmative defense that—

(1) the property is not subject to confiscation under such provision of law; or

(2) the innocent owner provisions of section 983(d) of title 18, United States Code, apply to the case.

(b) EVIDENCE.—In considering a claim filed under this section, the Government may rely on evidence that is otherwise inadmissible under the Federal Rules of Evidence, if a court determines that such reliance is necessary to protect the national security interests of the United States.

(c) OTHER REMEDIES.—Nothing in this section shall limit or otherwise affect any other remedies that may be available to an owner of property under section 983 of title 18, United States Code, or any other provision of law.

SEC. 317. LONG-ARM JURISDICTION OVER FOREIGN MONEY LAUNDERERS.

Section 1956(b) of title 18, United States Code, is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and moving the margins 2 ems to the right;

(2) by inserting after ''(b)'' the following: ''PENALTIES.—

''(1) IN GENERAL.—'';

(3) by inserting '', or section 1957'' after ''or (a)(3)''; and

(4) by adding at the end the following:

''(2) JURISDICTION OVER FOREIGN PERSONS.—For purposes of adjudicating an action filed or enforcing a penalty ordered under this section, the district courts shall have jurisdiction over any foreign person, including any financial institution authorized under the laws of a foreign country, against whom the action is brought, if service of process upon the foreign person is made under the Federal Rules of Civil Procedure or the laws of the country in which the foreign person is found, and—

''(A) the foreign person commits an offense under subsection (a) involving a financial transaction that occurs in whole or in part in the United States;

''(B) the foreign person converts, to his or her own use, property in which the United States has an ownership interest by virtue of the entry of an order of forfeiture by a court of the United States; or

''(C) the foreign person is a financial institution that maintains a bank account at a financial institution in the United States.

''(3) COURT AUTHORITY OVER ASSETS.—A court described in paragraph (2) may issue a pretrial restraining order or take any other action necessary to ensure that any bank account or other property held by the defendant in the United States is available to satisfy a judgment under this section.

''(4) FEDERAL RECEIVER.—

''(A) IN GENERAL.—A court described in paragraph (2) may appoint a Federal Receiver, in accordance with subparagraph (B) of this paragraph, to collect, marshal, and take custody, control, and possession of all assets of the defendant, wherever located, to satisfy a judgment under this section or section 981, 982, or 1957, including an order of restitution to any victim of a specified unlawful activity.

''(B) APPOINTMENT AND AUTHORITY.—A Federal Receiver described in subparagraph (A)—

''(i) may be appointed upon application of a Federal prosecutor or a Federal or State regulator, by the court having jurisdiction over the defendant in the case;

''(ii) shall be an officer of the court, and the powers of the Federal Receiver shall include the powers set out in section 754 of title 28, United States Code; and

''(iii) shall have standing equivalent to that of a Federal prosecutor for the purpose of submitting requests to obtain information regarding the assets of the defendant—

''(I) from the Financial Crimes Enforcement Network of the Department of the Treasury; or

''(II) from a foreign country pursuant to a mutual legal assistance treaty, multilateral agreement, or other arrangement for international law enforcement assistance, provided that such requests are in accordance with the policies and procedures of the Attorney General.''.

SEC. 318. LAUNDERING MONEY THROUGH A FOREIGN BANK.

Section 1956(c) of title 18, United States Code, is amended by striking paragraph (6) and inserting the following:

''(6) the term 'financial institution' includes—

''(A) any financial institution, as defined in section 5312(a)(2) of title 31, United States Code, or the regulations promulgated thereunder; and

''(B) any foreign bank, as defined in section 1 of the International Banking Act of 1978 (12 U.S.C. 3101).''.

SEC. 319. FORFEITURE OF FUNDS IN UNITED STATES INTERBANK ACCOUNTS.

(a) FORFEITURE FROM UNITED STATES INTERBANK ACCOUNT.—Section 981 of title 18, United States Code, is amended by adding at the end the following:

''(k) INTERBANK ACCOUNTS.—

''(1) IN GENERAL.—

''(A) IN GENERAL.—For the purpose of a forfeiture under this section or under the Controlled Substances Act (21 U.S.C. 801 et seq.), if funds are deposited into an account at a foreign bank, and that foreign bank has an interbank account in the United States with a covered financial institution (as defined in section 5318A of title 31), the funds shall be deemed to have been deposited into the interbank account in the United States, and any restraining order, seizure warrant, or arrest warrant in rem regarding the funds may be served on the covered financial institution, and funds in the interbank account, up to the value of the funds deposited into the account at the foreign bank, may be restrained, seized, or arrested.

''(B) AUTHORITY TO SUSPEND.—The Attorney General, in consultation with the Secretary, may suspend or terminate a forfeiture under this section if the Attorney General determines that a conflict of law exists between the laws of the jurisdiction in which the foreign bank is located and the laws of the United States with respect to liabilities arising from the restraint, seizure, or arrest of such funds, and that such suspension or termination would be in the interest of justice and would not harm the national interests of the United States.

''(2) NO REQUIREMENT FOR GOVERNMENT TO TRACE FUNDS.—If a forfeiture action is brought against funds that are restrained, seized, or arrested under paragraph (1), it shall not be necessary for the Government to establish that the funds are directly traceable to the funds that were deposited into the foreign bank, nor shall it be necessary for the Government to rely on the application of section 984.

''(3) CLAIMS BROUGHT BY OWNER OF THE FUNDS.—If a forfeiture action is instituted against funds restrained, seized, or arrested under paragraph (1), the owner of the funds deposited into the account at the foreign bank may contest the forfeiture by filing a claim under section 983.

''(4) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

''(A) INTERBANK ACCOUNT.—The term 'interbank account' has the same meaning as in section 984(c)(2)(B).

''(B) OWNER.—

''(i) IN GENERAL.—Except as provided in clause (ii), the term 'owner'—

''(I) means the person who was the owner, as that term is defined in section 983(d)(6), of the funds that were deposited into the foreign bank at the time such funds were deposited; and

''(II) does not include either the foreign bank or any financial institution acting as an intermediary in the transfer of the funds into the interbank account.

''(ii) EXCEPTION.—The foreign bank may be considered the 'owner' of the funds (and no other person shall qualify as the owner of such funds) only if—

''(I) the basis for the forfeiture action is wrongdoing committed by the foreign bank; or

''(II) the foreign bank establishes, by a preponderance of the evidence, that prior to the restraint, seizure, or arrest of the funds, the foreign bank had discharged all or part of its obligation to the prior owner of the funds, in which case the foreign bank shall be deemed the owner of the funds to the extent of such discharged obligation.''.

(b) BANK RECORDS.—Section 5318 of title 31, United States Code, is amended by adding at the end the following:

''(k) BANK RECORDS RELATED TO ANTI-MONEY LAUNDERING PROGRAMS.—

''(1) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

''(A) APPROPRIATE FEDERAL BANKING AGENCY.—The term 'appropriate Federal banking agency' has the same meaning as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

''(B) INCORPORATED TERMS.—The terms 'correspondent account', 'covered financial institution', and 'foreign bank' have the same meanings as in section 5318A.

''(2) 120-HOUR RULE.—Not later than 120 hours after receiving a request by an appropriate Federal banking agency for information related to anti-money laundering compliance by a covered financial institution or a customer of such institution, a covered financial institution shall provide to the appropriate Federal banking agency, or make

available at a location specified by the representative of the appropriate Federal banking agency, information and account documentation for any account opened, maintained, administered or managed in the United States by the covered financial institution.

''(3) FOREIGN BANK RECORDS.—

''(A) SUMMONS OR SUBPOENA OF RECORDS.—

''(i) IN GENERAL.—The Secretary or the Attorney General may issue a summons or subpoena to any foreign bank that maintains a correspondent account in the United States and request records related to such correspondent account, including records maintained outside of the United States relating to the deposit of funds into the foreign bank.

''(ii) SERVICE OF SUMMONS OR SUBPOENA.—A summons or subpoena referred to in clause (i) may be served on the foreign bank in the United States if the foreign bank has a representative in the United States, or in a foreign country pursuant to any mutual legal assistance treaty, multilateral agreement, or other request for international law enforcement assistance.

''(B) ACCEPTANCE OF SERVICE.—

''(i) MAINTAINING RECORDS IN THE UNITED STATES.—Any covered financial institution which maintains a correspondent account in the United States for a foreign bank shall maintain records in the United States identifying the owners of such foreign bank and the name and address of a person who resides in the United States and is authorized to accept service of legal process for records regarding the correspondent account.

''(ii) LAW ENFORCEMENT REQUEST.—Upon receipt of a written request from a Federal law enforcement officer for information required to be maintained under this paragraph, the covered financial institution shall provide the information to the requesting officer not later than 7 days after receipt of the request.

''(C) TERMINATION OF CORRESPONDENT RELATIONSHIP.—

''(i) TERMINATION UPON RECEIPT OF NOTICE.—A covered financial institution shall terminate any correspondent relationship with a foreign bank not later than 10 business days after receipt of written notice from the Secretary or the Attorney General that the foreign bank has failed—

''(I) to comply with a summons or subpoena issued under subparagraph (A); or

''(II) to initiate proceedings in a United States court contesting such summons or subpoena.

''(ii) LIMITATION ON LIABILITY.—A covered financial institution shall not be liable to any person in any court or arbitration proceeding for terminating a correspondent relationship in accordance with this subsection.

''(iii) FAILURE TO TERMINATE RELATIONSHIP.—Failure to terminate a correspondent relationship in accordance with this subsection shall render the covered financial institution liable for a civil penalty of up to $10,000 per day until the correspondent relationship is so terminated.''.

(c) GRACE PERIOD.—Financial institutions affected by section 5333 of title 31 United States Code, as amended by this title, shall have 60 days from the date of enactment of this Act to comply with the provisions of that section.

(d) REQUESTS FOR RECORDS.—Section 3486(a)(1) of title 18, United States Code, is amended by striking '', or (II) a Federal offense involving the sexual exploitation or abuse of children'' and inserting '', (II) a Federal offense involving the sexual exploitation or abuse of children, or (III) money laundering, in violation of section 1956, 1957, or 1960 of this title''.

(e) AUTHORITY TO ORDER CONVICTED CRIMINAL TO RETURN PROPERTY LOCATED ABROAD.—

(1) FORFEITURE OF SUBSTITUTE PROPERTY.—Section 413(p) of the Controlled Substances Act (21 U.S.C. 853) is amended to read as follows:

''(p) FORFEITURE OF SUBSTITUTE PROPERTY.—

''(1) IN GENERAL.—Paragraph (2) of this subsection shall apply, if any property described in subsection (a), as a result of any act or omission of the defendant—

''(A) cannot be located upon the exercise of due diligence;

''(B) has been transferred or sold to, or deposited with, a third party;

''(C) has been placed beyond the jurisdiction of the court;

''(D) has been substantially diminished in value; or

''(E) has been commingled with other property which cannot be divided without difficulty.

''(2) SUBSTITUTE PROPERTY.—In any case described in any of subparagraphs (A) through (E) of paragraph (1), the court shall order the forfeiture of any other property of the defendant, up to the value of any property described in subparagraphs (A) through (E) of paragraph (1), as applicable.

''(3) RETURN OF PROPERTY TO JURISDICTION.—In the case of property described in paragraph (1)(C), the court may, in addition to any other action authorized by this subsection, order the defendant to return the property to the jurisdiction of the court so that the property may be seized and forfeited.''.

(2) PROTECTIVE ORDERS.—Section 413(e) of the Controlled Substances Act (21 U.S.C. 853(e)) is amended by adding at the end the following:

''(4) ORDER TO REPATRIATE AND DEPOSIT.—

''(A) IN GENERAL.—Pursuant to its authority to enter a pretrial restraining order under this section, including its authority to restrain any property forfeitable as substitute assets, the court may order a defendant to repatriate any property that may be seized and forfeited, and to deposit that property pending trial in the registry of the court, or with the United States Marshals Service or the Secretary of the Treasury, in an interest-bearing account, if appropriate.

''(B) FAILURE TO COMPLY.—Failure to comply with an order under this subsection, or an order to repatriate property under subsection (p), shall be punishable as a civil or criminal contempt of court, and may also result in an enhancement of the sentence of the defendant under the obstruction of justice provision of the Federal Sentencing Guidelines.''.

SEC. 320. PROCEEDS OF FOREIGN CRIMES.

Section 981(a)(1)(B) of title 18, United States Code, is amended to read as follows:

''(B) Any property, real or personal, within the jurisdiction of the United States, constituting, derived from, or traceable to, any proceeds obtained directly or indirectly from an offense against a foreign nation, or any property used to facilitate such an offense, if the offense—

''(i) involves the manufacture, importation, sale, or distribution of a controlled substance (as that term is defined for purposes of the Controlled Substances Act), or any other conduct described in section 1956(c)(7)(B);

''(ii) would be punishable within the jurisdiction of the foreign nation by death or imprisonment for a term exceeding 1 year; and

''(iii) would be punishable under the laws of the United States by imprisonment for a term exceeding 1 year, if the act or activity constituting the offense had occurred within the jurisdiction of the United States.''.

SEC. 321. EXCLUSION OF ALIENS INVOLVED IN MONEY LAUNDERING.

Section 212(a)(2) of the Immigration and Nationality Act of 1952 (8 U.S.C. 1182(a)(2)) is amended by adding at the end the following:

''(I) MONEY LAUNDERING ACTIVITIES.—Any alien who the consular officer or the Attorney General knows or has reason to believe is or has been engaged in activities which, if engaged in within the United States would constitute a violation of section 1956 or 1957 of title 18, United States Code, or has been a knowing assister, abettor, conspirator, or colluder with others in any such illicit activity is inadmissible.''.

SEC. 322. CORPORATION REPRESENTED BY A FUGITIVE.

Section 2466 of title 18, United States Code, is amended by designating the present matter as subsection (a), and adding at the end the following:

''(b) Subsection (a) may be applied to a claim filed by a corporation if any majority shareholder, or individual filing the claim on behalf of the corporation is a person to whom subsection (a) applies.''.

SEC. 323. ENFORCEMENT OF FOREIGN JUDGMENTS.

Section 2467 of title 28, United States Code, is amended—

(1) in subsection (d), by adding the following after paragraph (2):

''(3) PRESERVATION OF PROPERTY.—To preserve the availability of property subject to a foreign forfeiture or confiscation judgment, the Government may apply for, and the court may issue, a restraining order pursuant to section 983(j) of title 18, United States Code, at any time before or after an application is filed pursuant to subsection (c)(1). The court, in issuing the restraining order—

''(A) may rely on information set forth in an affidavit describing the nature of the proceeding investigation underway in the foreign country, and setting forth a reasonable basis to believe that the property to be restrained will be named in a judgment of forfeiture at the conclusion of such proceeding; or

''(B) may register and enforce a restraining order has been issued by a court of competent jurisdiction in the foreign country and certified by the Attorney General pursuant to subsection (b)(2).

No person may object to the restraining order on any ground that is the subject to parallel litigation involving the same property that is pending in a foreign court.'';

(2) in subsection (b)(1)(C), by striking ''establishing that the defendant received notice of the proceedings in sufficient time to enable the defendant'' and inserting ''establishing that the foreign nation took steps, in accordance with the principles of due process, to give notice of the proceedings to all persons with an interest in the property in sufficient time to enable such persons'';

(3) in subsection (d)(1)(D), by striking ''the defendant in the proceedings in the foreign court did not receive notice'' and inserting ''the foreign nation did not take steps, in accordance with the principles of due process, to give notice of the proceedings to a person with an interest in the property''; and

(4) in subsection (a)(2)(A), by inserting '', any violation of foreign law that would constitute a violation of an offense for which property could be forfeited under Federal law if the offense were committed in the United States'' after ''United Nations Convention''.

SEC. 324. INCREASE IN CIVIL AND CRIMINAL PENALTIES FOR MONEY LAUNDERING.

(a) CIVIL PENALTIES.—Section 5321(a) of title 31, United States Code, is amended by adding at the end the following:

''(7) PENALTIES FOR INTERNATIONAL COUNTER MONEY LAUNDERING VIOLATIONS.—The Secretary may impose a civil money penalty in an amount equal to not less than 2 times the amount of the transaction, but not more than $1,000,000, on any financial institution or agency that violates any provision of subsection (i) or (j) of section 5318 or any special measures imposed under section 5318A.''.

(b) CRIMINAL PENALTIES.—Section 5322 of title 31, United States Code, is amended by adding at the end the following:

''(d) A financial institution or agency that violates any provision of subsection (i) or (j) of section 5318, or any special measures imposed under section 5318A, or any regulation prescribed under subsection (i) or (j) of section 5318 or section 5318A, shall be fined in an amount equal to not less than 2 times the amount of the transaction, but not more than $1,000,000.''.

SEC. 325. REPORT AND RECOMMENDATION.

Not later than 30 months after the date of enactment of this Act, the Secretary, in consultation with the Attorney General, the Federal banking agencies (as defined at section 3 of the Federal Deposit Insurance Act), the Securities and Exchange Commission, and such other agencies as the Secretary may determine, at the discretion of the Secretary, shall evaluate the operations of the provisions of this subtitle and make recommendations to Congress as to any legislative action with respect to this subtitle as the Secretary may determine to be necessary or advisable.

SEC. 326. REPORT ON EFFECTIVENESS.

The Secretary shall report annually on measures taken pursuant to this subtitle, and shall submit the report to the Committee on Banking, Housing, and Urban Affairs of the Senate and to the Committee on Financial Services of the House of Representatives.

SEC. 327. CONCENTRATION ACCOUNTS AT FINANCIAL INSTITUTIONS.

Section 5318(h) of title 31, United States Code, as amended by section 202 of this title, is amended by adding at the end the following:

''(3) CONCENTRATION ACCOUNTS.—The Secretary may issue regulations under this subsection that govern maintenance of concentration accounts by financial institutions, in order to ensure that such accounts are not used to prevent association of the identity of an individual customer with the movement of funds of which the customer is the direct or beneficial owner, which regulations shall, at a minimum—

''(A) prohibit financial institutions from allowing clients to direct transactions that move their funds into, out of, or through the concentration accounts of the financial institution;

''(B) prohibit financial institutions and their employees from informing customers of the existence of, or the means of identifying, the concentration accounts of the institution; and

''(C) require each financial institution to establish written procedures governing the documentation of all transactions involving a concentration account, which procedures shall ensure that, any time a transaction involving a concentration account commingles funds belonging to 1 or more customers, the identity of, and specific amount belonging to, each customer is documented.''.

Subtitle B—Currency Transaction Reporting Amendments and Related Improvements

SEC. 331. AMENDMENTS RELATING TO REPORTING OF SUSPICIOUS ACTIVITIES.

(a) AMENDMENT RELATING TO CIVIL LIABILITY IMMUNITY FOR DISCLOSURES.—Section 5318(g)(3) of title 31, United States Code, is amended to read as follows:

''(3) LIABILITY FOR DISCLOSURES.—

''(A) IN GENERAL.—Any financial institution that makes a voluntary disclosure of any possible violation of law or regulation to a government agency or makes a disclosure pursuant to this subsection or any other authority, and any director, officer, employee, or agent of such institution who makes, or requires another to make any such disclosure, shall not be liable to any person under any law or regulation of the United States, any constitution, law, or regulation of any State or political subdivision of any State, or under any contract or other legally enforceable agreement (including any arbitration agreement), for such disclosure or for any failure to provide notice of such disclosure to the person who is the subject of such disclosure or any other person identified in the disclosure.

''(B) RULE OF CONSTRUCTION.—Subparagraph (A) shall not be construed as creating—

''(i) any inference that the term 'person', as used in such subparagraph, may be construed more broadly than its ordinary usage so as to include any government or agency of government; or

''(ii) any immunity against, or otherwise affecting, any civil or criminal action brought by any government or agency of government to enforce any constitution, law, or regulation of such government or agency.''.

(b) PROHIBITION ON NOTIFICATION OF DISCLOSURES.—Section 5318(g)(2) of title 31, United States Code, is amended to read as follows:

''(2) NOTIFICATION PROHIBITED.—

''(A) IN GENERAL.—If a financial institution or any director, officer, employee, or agent of any financial institution, voluntarily or pursuant to this section or any other authority, reports a suspicious transaction to a government agency—

''(i) the financial institution, director, officer, employee, or agent may not notify any person involved in the transaction that the transaction has been reported; and

''(ii) no officer or employee of the Federal Government or of any State, local, tribal, or territorial government within the United States, who has any knowledge that such report was made may disclose to any person involved in the transaction that the transaction has been reported, other than as necessary to fulfill the official duties of such officer or employee.

''(B) DISCLOSURES IN CERTAIN EMPLOYMENT REFERENCES.—

''(i) RULE OF CONSTRUCTION.—Notwithstanding the application of subparagraph (A) in any other context, subparagraph (A) shall not be construed as prohibiting any financial institution, or any director, officer, employee, or agent of such institution, from including information that was included in a report to which subparagraph (A) applies—

''(I) in a written employment reference that is provided in accordance with section 18(v) of the Federal Deposit Insurance Act in response to a request from another financial institution, except that such written reference may not disclose that such information was also included in any such report or that such report was made; or

''(II) in a written termination notice or employment reference that is provided in accordance with the rules of the self-regulatory organizations registered with the Securities and Exchange Commission, except that such written notice or reference may not disclose that such information was also included in any such report or that such report was made.

''(ii) INFORMATION NOT REQUIRED.—Clause (i) shall not be construed, by itself, to create any affirmative duty to include any information described in clause (i) in any employment reference or termination notice referred to in clause (i).''.

SEC. 332. ANTI-MONEY LAUNDERING PROGRAMS.

Section 5318(h) of title 31, United States Code, is amended to read as follows:

''(h) ANTI-MONEY LAUNDERING PROGRAMS.—

''(1) IN GENERAL.—In order to guard against money laundering through financial institutions, each financial institution shall establish anti-money laundering programs, including, at a minimum—

''(A) the development of internal policies, procedures, and controls;

''(B) the designation of a compliance officer;

''(C) an ongoing employee training program; and

''(D) an independent audit function to test programs.

''(2) REGULATIONS.—The Secretary may prescribe minimum standards for programs established under paragraph (1), and may exempt from the application of those standards any financial institution that is not subject to the provisions of the rules contained in part 103 of title 31, of the Code of Federal Regulations, or any successor rule thereto, for so long as such financial institution is not subject to the provisions of such rules.''.

SEC. 333. PENALTIES FOR VIOLATIONS OF GEOGRAPHIC TARGETING ORDERS AND CERTAIN RECORDKEEPING REQUIREMENTS, AND LENGTHENING EFFECTIVE PERIOD OF GEOGRAPHIC TARGETING ORDERS.

(a) CIVIL PENALTY FOR VIOLATION OF TARGETING ORDER.—Section 5321(a)(1) of title 31, United States Code, is amended—

(1) by inserting ''or order issued'' after ''subchapter or a regulation prescribed''; and

(2) by inserting '', or willfully violating a regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91–508,'' after ''sections 5314 and 5315)''.

(b) CRIMINAL PENALTIES FOR VIOLATION OF TARGETING ORDER.—Section 5322 of title 31, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting ''or order issued'' after ''willfully violating this subchapter or a regulation prescribed''; and

(B) by inserting '', or willfully violating a regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91–508,'' after ''under section 5315 or 5324)''; and

(2) in subsection (b)—

(A) by inserting ''or order issued'' after ''willfully violating this subchapter or a regulation prescribed''; and

(B) by inserting ''or willfully violating a regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91–508,'' after ''under section 5315 or 5324),''.

(c) STRUCTURING TRANSACTIONS TO EVADE TARGETING ORDER OR CERTAIN RECORDKEEPING REQUIREMENTS.—Section 5324(a) of title 31, United States Code, is amended—

(1) by inserting a comma after ''shall'';

(2) by striking ''section—'' and inserting ''section, the reporting or recordkeeping requirements imposed by any order issued under section 5326, or the recordkeeping requirements imposed by any regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91–508—'';

(3) in paragraph (1), by inserting '', to file a report or to maintain a record required by an order issued under section 5326, or to maintain a record required pursuant to any regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91–508'' after ''regulation prescribed under any such section''; and

(4) in paragraph (2), by inserting '', to file a report or to maintain a record required by

any order issued under section 5326, or to maintain a record required pursuant to any regulation prescribed under section 5326, or to maintain a record required pursuant to any regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91–508,'' after ''regulation prescribed under any such section''.

(d) LENGTHENING EFFECTIVE PERIOD OF GEOGRAPHIC TARGETING ORDERS.—Section 5326(d) of title 31, United States Code, is amended by striking ''more than 60'' and inserting ''more than 180''.

SEC. 334. ANTI-MONEY LAUNDERING STRATEGY.

(b) STRATEGY.—Section 5341(b) of title 31, United States Code, is amended by adding at the end the following:

''(12) DATA REGARDING FUNDING OF TERRORISM.—Data concerning money laundering efforts related to the funding of acts of international terrorism, and efforts directed at the prevention, detection, and prosecution of such funding.''.

SEC. 335. AUTHORIZATION TO INCLUDE SUSPICIONS OF ILLEGAL ACTIVITY IN WRITTEN EMPLOYMENT REFERENCES.

Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following:

''(v) WRITTEN EMPLOYMENT REFERENCES MAY CONTAIN SUSPICIONS OF INVOLVEMENT IN ILLEGAL ACTIVITY.—

''(1) AUTHORITY TO DISCLOSE INFORMATION.—Notwithstanding any other provision of law, any insured depository institution, and any director, officer, employee, or agent of such institution, may disclose in any written employment reference relating to a current or former institution-affiliated party of such institution which is provided to another insured depository institution in response to a request from such other institution, information concerning the possible involvement of such institution-affiliated party in potentially unlawful activity.

''(2) INFORMATION NOT REQUIRED.—Nothing in paragraph (1) shall be construed, by itself, to create any affirmative duty to include any information described in paragraph (1) in any employment reference referred to in paragraph (1).

''(3) MALICIOUS INTENT.—Notwithstanding any other provision of this subsection, voluntary disclosure made by an insured depository institution, and any director, officer, employee, or agent of such institution under this subsection concerning potentially unlawful activity that is made with malicious intent, shall not be shielded from liability from the person identified in the disclosure.

''(4) DEFINITION.—For purposes of this subsection, the term 'insured depository institution' includes any uninsured branch or agency of a foreign bank.''.

SEC. 336. BANK SECRECY ACT ADVISORY GROUP.

Section 1564 of the Annunzio-Wylie Anti-Money Laundering Act (31 U.S.C. 5311 note) is amended—

(1) in subsection (a), by inserting '', of nongovernmental organizations advocating financial privacy,'' after ''Drug Control Policy''; and

(2) in subsection (c), by inserting '', other than subsections (a) and (d) of such Act which shall apply'' before the period at the end.

SEC. 337. AGENCY REPORTS ON RECONCILING PENALTY AMOUNTS.

Not later than 1 year after the date of enactment of this Act, the Secretary of the Treasury and the Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)) shall each submit their respective reports to the Congress containing recommendations on possible legislation to conform the penalties imposed on depository institutions (as defined in section 3 of the Federal Deposit Insurance Act) for violations of subchapter II of chapter 53 of title 31, United States Code, to the penalties imposed on such institutions under section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818).

SEC. 338. REPORTING OF SUSPICIOUS ACTIVITIES BY SECURITIES BROKERS AND DEALERS; INVESTMENT COMPANY STUDY.

(a) 270-DAY REGULATION DEADLINE.—Not later than 270 days after the date of enactment of this Act, the Secretary of the Treasury, after consultation with the Securities and Exchange Commission and the Board of Governors of the Federal Reserve System, shall issue final regulations requiring registered brokers and dealers to file reports of suspicious financial transactions, consistent with the requirements applicable to financial institutions, and directors, officers, employees, and agents of financial institutions under section 5318(g) of title 31, United States Code.

(b) REPORT ON INVESTMENT COMPANIES.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, Secretary of the Treasury, the Board of Governors of the Federal Reserve System, and the Securities and Exchange Commission shall jointly submit a report to Congress on recommendations for effective regulations to apply the requirements of subchapter II of chapter 53 of title 31, United States Code, to investment companies, pursuant to section 5312(a)(2)(I) of title 31, United States Code.

(2) DEFINITION.—For purposes of this section, the term ''investment company''—

(A) has the same meaning as in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a–3); and

(B) any person that, but for the exceptions provided for in paragraph (1) or (7) of section 3(c) of the Investment Company Act of 1940 (15 U.S.C. 80a–3(c)), would be an investment company.

(3) ADDITIONAL RECOMMENDATIONS.—In its report, the Securities and Exchange Commission may make different recommendations for different types of entities covered by this section.

(4) BENEFICIAL OWNERSHIP OF PERSONAL HOLDING COMPANIES.—The report described in paragraph (1) shall also include recommendations as to whether the Secretary should promulgate regulations to treat any corporation or business or other grantor trust whose assets are predominantly securities, bank certificates of deposit, or other securities or investment instruments (other than such as relate to operating subsidiaries of such corporation or trust) and that has 5 or fewer common shareholders or holders of beneficial or other equity interest, as a financial institution within the meaning of that phrase in section 5312(a)(2)(I) and whether to require such corporations or trusts to disclose their beneficial owners when opening accounts or initiating funds transfers at any domestic financial institution.

SEC. 339. SPECIAL REPORT ON ADMINISTRATION OF BANK SECRECY PROVISIONS.

(a) REPORT REQUIRED.—Not later than 6 months after the date of enactment of this Act, the Secretary shall submit a report to the Congress relating to the role of the Internal Revenue Service in the administration of subchapter II of chapter 53 of title 31, United States Code (commonly known as the ''Bank Secrecy Act'').

(b) CONTENTS.—The report required by subsection (a)—

(1) shall specifically address, and contain recommendations concerning—

(A) whether it is advisable to shift the processing of information reporting to the Department of the Treasury under the Bank Secrecy Act provisions to facilities other than those managed by the Internal Revenue Service; and

(B) whether it remains reasonable and efficient, in light of the objective of both anti-money-laundering programs and Federal tax administration, for the Internal Revenue Service to retain authority and responsibility for audit and examination of the compliance of money services businesses and gaming institutions with those Bank Secrecy Act provisions; and

(2) shall, if the Secretary determines that the information processing responsibility or the audit and examination responsibility of the Internal Revenue Service, or both, with respect to those Bank Secrecy Act provisions should be transferred to other agencies, include the specific recommendations of the Secretary regarding the agency or agencies to which any such function should be transferred, complete with a budgetary and resources plan for expeditiously accomplishing the transfer.

SEC. 340. BANK SECRECY PROVISIONS AND ANTI-TERRORIST ACTIVITIES OF UNITED STATES INTELLIGENCE AGENCIES.

(a) AMENDMENT RELATING TO THE PURPOSES OF THE BANK SECRECY ACT.—Section 5311 of title 31, United States Code, is amended by inserting before the period at the end the following: '', or in the conduct of intelligence or counterintelligence activities, including analysis, to protect against international terrorism''.

(b) AMENDMENT RELATING TO REPORTING OF SUSPICIOUS ACTIVITIES.—Section 5318(g)(4)(B) of title 31, United States Code, is amended by striking ''or supervisory agency'' and inserting '', supervisory agency, or United States intelligence agency for use in the conduct of intelligence or counterintelligence activities, including analysis, to protect against international terrorism''.

(c) AMENDMENT RELATING TO AVAILABILITY OF REPORTS.—Section 5319 of title 31, United States Code, is amended to read as follows:

''§ 5319. Availability of reports

''The Secretary of the Treasury shall make information in a report filed under this subchapter available to an agency, including any State financial institutions supervisory agency or United States intelligence agency, upon request of the head of the agency. The report shall be available for a purpose that is consistent with this subchapter. The Secretary may only require reports on the use of such information by any State financial institutions supervisory agency for other than supervisory purposes or by United States intelligence agencies. However, a report and records of reports are exempt from disclosure under section 552 of title 5.''.

(d) AMENDMENT RELATING TO THE PURPOSES OF THE BANK SECRECY ACT PROVISIONS.—Section 21(a) of the Federal Deposit Insurance Act (12 U.S.C. 1829b(a)) is amended to read as follows:

''(a) CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE.—

''(1) FINDINGS.—Congress finds that—

''(A) adequate records maintained by insured depository institutions have a high degree of usefulness in criminal, tax, and regulatory investigations or proceedings, and that, given the threat posed to the security of the Nation on and after the terrorist attacks against the United States on September 11, 2001, such records may also have a high degree of usefulness in the conduct of intelligence or counterintelligence activities, including analysis, to protect against domestic and international terrorism; and

''(B) microfilm or other reproductions and other records made by insured depository institutions of checks, as well as records kept by such institutions, of the identity of persons maintaining or authorized to act with

respect to accounts therein, have been of particular value in proceedings described in subparagraph (A).

''(2) PURPOSE.—It is the purpose of this section to require the maintenance of appropriate types of records by insured depository institutions in the United States where such records have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings, recognizes that, given the threat posed to the security of the Nation on and after the terrorist attacks against the United States on September 11, 2001, such records may also have a high degree of usefulness in the conduct of intelligence or counterintelligence activities, including analysis, to protect against international terrorism.''.

(e) AMENDMENT RELATING TO THE PURPOSES OF THE BANK SECRECY ACT.—Section 123(a) of Public Law 91–508 (12 U.S.C. 1953(a)) is amended to read as follows:

''(a) REGULATIONS.—If the Secretary determines that the maintenance of appropriate records and procedures by any uninsured bank or uninsured institution, or any person engaging in the business of carrying on in the United States any of the functions referred to in subsection (b), has a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings, and that, given the threat posed to the security of the Nation on and after the terrorist attacks against the United States on September 11, 2001, such records may also have a high degree of usefulness in the conduct of intelligence or counterintelligence activities, including analysis, to protect against international terrorism, he may by regulation require such bank, institution, or person.''.

(f) AMENDMENTS TO THE RIGHT TO FINANCIAL PRIVACY ACT.—The Right to Financial Privacy Act of 1978 is amended—

(1) in section 1112(a) (12 U.S.C. 3412(a)), by inserting '', or intelligence or counterintelligence activity, investigation or analysis related to international terrorism'' after ''legitimate law enforcement inquiry''; and

(2) in section 1114(a)(1) (12 U.S.C. 3414(a)(1))—

(A) in subparagraph (A), by striking ''or'' at the end;

(B) in subparagraph (B), by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(C) a Government authority authorized to conduct investigations of, or intelligence or counterintelligence analyses related to, international terrorism for the purpose of conducting such investigations or analyses.''.

(g) AMENDMENT TO THE FAIR CREDIT REPORTING ACT.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended by adding at the end the following new section:

''SEC. 626. DISCLOSURES TO GOVERNMENTAL AGENCIES FOR COUNTERTERRORISM PURPOSES.

''(a) DISCLOSURE.—Notwithstanding section 604 or any other provision of this title, a consumer reporting agency shall furnish a consumer report of a consumer and all other information in a consumer's file to a government agency authorized to conduct investigations of, or intelligence or counterintelligence activities or analysis related to, international terrorism when presented with a written certification by such government agency that such information is necessary for the agency's conduct or such investigation, activity or analysis.

''(b) FORM OF CERTIFICATION.—The certification described in subsection (a) shall be signed by the Secretary of the Treasury.

''(c) CONFIDENTIALITY.—No consumer reporting agency, or officer, employee, or agent of such consumer reporting agency, shall disclose to any person, or specify in any consumer report, that a government agency has sought or obtained access to information under subsection (a).

''(d) RULE OF CONSTRUCTION.—Nothing in section 625 shall be construed to limit the authority of the Director of the Federal Bureau of Investigation under this section.

''(e) SAFE HARBOR.—Notwithstanding any other provision of this subchapter, any consumer reporting agency or agent or employee thereof making disclosure of consumer reports or other information pursuant to this section in good-faith reliance upon a certification of a governmental agency pursuant to the provisions of this section shall not be liable to any person for such disclosure under this subchapter, the constitution of any State, or any law or regulation of any State or any political subdivision of any State.''.

SEC. 341. REPORTING OF SUSPICIOUS ACTIVITIES BY HAWALA AND OTHER UNDERGROUND BANKING SYSTEMS.

(a) DEFINITION FOR SUBCHAPTER.—Section 5312(a)(2)(R) of title 31, United States Code, is amended to read as follows:

''(R) a licensed sender of money or any other person who engages as a business in the transmission of funds, including through an informal value transfer banking system or network of people facilitating the transfer of value domestically or internationally outside of the conventional financial institutions system;''.

(b) MONEY TRANSMITTING BUSINESS.—Section 5330(d)(1)(A) of title 31, United States Code, is amended by inserting before the semicolon the following: ''or any other person who engages as a business in the transmission of funds, including through an informal value transfer banking system or network of people facilitating the transfer of value domestically or internationally outside of the conventional financial institutions system;''.

(d) APPLICABILITY OF RULES.—Section 5318 of title 31, United States Code, as amended by this title, is amended by adding at the end the following:

''(l) APPLICABILITY OF RULES.—Any rules promulgated pursuant to the authority contained in section 21 of the Federal Deposit Insurance Act (12 U.S.C. 1829b) shall apply, in addition to any other financial institution to which such rules apply, to any person that engages as a business in the transmission of funds, including through an informal value transfer banking system or network of people facilitating the transfer of value domestically or internationally outside of the conventional financial institutions system.''.

(e) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Treasury shall report to Congress on the need for any additional legislation relating to informal value transfer banking systems or networks of people facilitating the transfer of value domestically or internationally outside of the conventional financial institutions system, counter money laundering and regulatory controls relating to underground money movement and banking systems, such as the system referred to as 'hawala', including whether the threshold for the filing of suspicious activity reports under section 5318(g) of title 31, United States Code should be lowered in the case of such systems.

SEC. 342. USE OF AUTHORITY OF UNITED STATES EXECUTIVE DIRECTORS.

(a) ACTION BY THE PRESIDENT.—If the President determines that a particular foreign country has taken or has committed to take actions that contribute to efforts of the United States to respond to, deter, or prevent acts of international terrorism, the Secretary of the Treasury may, consistent with other applicable provisions of law, instruct the United States Executive Director of each international financial institution to use the voice and vote of the Executive Director to support any loan or other utilization of the funds of respective institutions for such country, or any public or private entity within such country.

(b) USE OF VOICE AND VOTE.—The Secretary of the Treasury may instruct the United States Executive Director of each international financial institution to aggressively use the voice and vote of the Executive Director to require an auditing of disbursements at such institutions to ensure that no funds are paid to persons who commit, threaten to commit, or support terrorism.

(c) DEFINITION.—For purposes of this section, the term ''international financial institution'' means an institution described in section 1701(c)(2) of the International Financial Institutions Act (22 U.S.C. 262r(c)(2)).

Subtitle C—Currency Crimes

SEC. 351. BULK CASH SMUGGLING.

(a) FINDINGS.—Congress finds that—

(1) effective enforcement of the currency reporting requirements of chapter 53 of title 31, United States Code (commonly referred to as the Bank Secrecy Act), and the regulations promulgated thereunder, has forced drug dealers and other criminals engaged in cash-based businesses to avoid using traditional financial institutions;

(2) in their effort to avoid using traditional financial institutions, drug dealers, and other criminals are forced to move large quantities of currency in bulk form to and through the airports, border crossings, and other ports of entry where it can be smuggled out of the United States and placed in a foreign financial institution or sold on the black market;

(3) the transportation and smuggling of cash in bulk form may, at the time of enactment of this Act, be the most common form of money laundering, and the movement of large sums of cash is one of the most reliable warning signs of drug trafficking, terrorism, money laundering, racketeering, tax evasion, and similar crimes;

(4) the intentional transportation into or out of the United States of large amounts of currency or monetary instruments, in a manner designed to circumvent the mandatory reporting provisions of chapter 53 of title 31, United States Code, is the equivalent of, and creates the same harm as, the smuggling of goods;

(5) the arrest and prosecution of bulk cash smugglers is an important part of law enforcement's effort to stop the laundering of criminal proceeds, but the couriers who attempt to smuggle the cash out of the United States are typically low-level employees of large criminal organizations, and are easily replaced, and therefore only the confiscation of the smuggled bulk cash can effectively break the cycle of criminal activity of which the laundering of bulk cash is a critical part;

(6) the penalties for violations of the currency reporting requirements of the chapter 53 of title 31, United States Code, are insufficient to provide a deterrent to the laundering of criminal proceeds;

(7) because the only criminal violation under Federal law before the date of enactment of this Act was a reporting offense, the law does not adequately provide for the confiscation of smuggled currency; and

(8) if the smuggling of bulk cash were itself an offense, the cash could be confiscated as the corpus delicti of the smuggling offense.

(b) PURPOSES.—The purposes of this section are—

(1) to make the act of smuggling bulk cash itself a criminal offense;

(2) to authorize forfeiture of any cash or instruments of the smuggling offense;

(3) to emphasize the seriousness of the act of bulk cash smuggling; and

(4) to prescribe guidelines for determining the amount of property subject to such forfeiture in various situations.

(c) BULK CASH SMUGGLING OFFENSE.—

(1) IN GENERAL.—Subchapter II of chapter 53 of title 31, United States Code, is amended by adding at the end the following:

"§ 5331. Bulk cash smuggling

''(a) CRIMINAL OFFENSE.—

''(1) IN GENERAL.—Whoever, with the intent to evade a currency reporting requirement under section 5316, knowingly conceals more than $10,000 in currency or other monetary instruments on his or her person or in any conveyance, article of luggage, merchandise, or other container, and transports or transfers or attempts to transport or transfer the currency or monetary instruments from a place within the United States to a place outside of the United States, or from a place outside of the United States to a place within the United States, shall be guilty of a currency smuggling offense and subject to punishment under subsection (b).

''(b) PENALTIES.—

''(1) PRISON TERM.—A person convicted of a currency smuggling offense under subsection (a), or a conspiracy to commit such an offense, shall be imprisoned for not more than 5 years.

''(2) FORFEITURE.—

''(A) IN GENERAL.—In addition to a prison term under paragraph (1), the court, in imposing sentence, shall order that the defendant forfeit to the United States any property, real or personal, involved in the offense, and any property traceable to such property, subject to subsection (d).

''(B) APPLICABILITY OF OTHER LAWS.—The seizure, restraint, and forfeiture of property under this section shall be governed by section 413 of the Controlled Substances Act (21 U.S.C. 853). If the property subject to forfeiture is unavailable, and the defendant has no substitute property that may be forfeited pursuant to section 413(p) of that Act, the court shall enter a personal money judgment against the defendant in an amount equal to the value of the unavailable property.

''(c) SEIZURE OF SMUGGLING CASH.—

''(1) IN GENERAL.—Any property involved in a violation of subsection (a), or a conspiracy to commit such violation, and any property traceable thereto, may be seized and, subject to subsection (d), forfeited to the United States.

''(2) APPLICABLE PROCEDURES.—A seizure and forfeiture under this subsection shall be governed by the procedures governing civil forfeitures under section 981(a)(1)(A) of title 18, United States Code.

''(d) PROPORTIONALITY OF FORFEITURE.—

''(1) MITIGATION.—Upon a showing by the property owner by a preponderance of the evidence that the currency or monetary instruments involved in the offense giving rise to the forfeiture were derived from a legitimate source and were intended for a lawful purpose, the court shall reduce the forfeiture to the maximum amount that is not grossly disproportional to the gravity of the offense.

''(2) CONSIDERATIONS.—In determining the amount of the forfeiture under paragraph (1), the court shall consider all aggravating and mitigating facts and circumstances that have a bearing on the gravity of the offense, including—

''(A) the value of the currency or other monetary instruments involved in the offense;

''(B) efforts by the person committing the offense to structure currency transactions, conceal property, or otherwise obstruct justice; and

''(C) whether the offense is part of a pattern of repeated violations of Federal law.

''(e) RULE OF CONSTRUCTION.—For purposes of subsections (b) and (c), any currency or other monetary instrument that is concealed or intended to be concealed in violation of subsection (a) or a conspiracy to commit such violation, any article, container, or conveyance used or intended to be used to conceal or transport the currency or other monetary instrument, and any other property used or intended to be used to facilitate the offense, shall be considered property involved in the offense.''.

(2) CLERICAL AMENDMENT.—The table of sections for chapter 53 of title 31, United States Code, is amended by inserting after the item relating to section 5330 the following new item:

''5331. Bulk cash smuggling.''.

(d) CURRENCY REPORTING VIOLATIONS.—Section 5317(c) of title 31, United States Code, is amended to read as follows:

''(c) FORFEITURE OF PROPERTY.—

''(1) IN GENERAL.—

''(A) CRIMINAL FORFEITURE.—The court, in imposing sentence for any violation of section 5313, 5316, or 5324, or any conspiracy to commit such violation, shall order the defendant to forfeit all property, real or personal, involved in the offense and any property traceable thereto.

''(B) APPLICABLE PROCEDURES.—Forfeitures under this paragraph shall be governed by the procedures set forth in section 413 of the Controlled Substances Act (21 U.S.C. 853), and the guidelines set forth in paragraph (3) of this subsection.

''(2) CIVIL FORFEITURE.—Any property involved in a violation of section 5313, 5316, or 5324, or any conspiracy to commit such violation, and any property traceable thereto, may be seized and, subject to paragraph (3), forfeited to the United States in accordance with the procedures governing civil forfeitures in money laundering cases pursuant to section 981(a)(1)(A) of title 18, United States Code.

''(3) MITIGATION.—In a forfeiture case under this subsection, upon a showing by the property owner by a preponderance of the evidence that any currency or monetary instruments involved in the offense giving rise to the forfeiture were derived from a legitimate source, and were intended for a lawful purpose, the court shall reduce the forfeiture to the maximum amount that is not grossly disproportional to the gravity of the offense. In determining the amount of the forfeiture, the court shall consider all aggravating and mitigating facts and circumstances that have a bearing on the gravity of the offense. Such circumstances include, but are not limited to, the following: the value of the currency or other monetary instruments involved in the offense; efforts by the person committing the offense to structure currency transactions, conceal property, or otherwise obstruct justice; and whether the offense is part of a pattern of repeated violations.

(e) CONFORMING AMENDMENTS.—Title 18, United States Code, is amended—

(1) in section 981(a)(1)(A) by striking ''of section 5313(a) or 5324(a) of title 31, or''; and

(2) in section 982(a)(1), striking ''of section 5313(a), 5316, or 5324 of title 31, or''.

Subtitle D—Anticorruption Measures

SEC. 361. CORRUPTION OF FOREIGN GOVERNMENTS AND RULING ELITES.

It is the sense of Congress that, in deliberations between the United States Government and any other country on money laundering and corruption issues, the United States Government should—

(1) emphasize an approach that addresses not only the laundering of the proceeds of traditional criminal activity but also the increasingly endemic problem of governmental corruption and the corruption of ruling elites;

(2) encourage the enactment and enforcement of laws in such country to prevent money laundering and systemic corruption;

(3) make clear that the United States will take all steps necessary to identify the proceeds of foreign government corruption which have been deposited in United States financial institutions and return such proceeds to the citizens of the country to whom such assets belong; and

(4) advance policies and measures to promote good government and to prevent and reduce corruption and money laundering, including through instructions to the United States Executive Director of each international financial institution (as defined in section 1701(c) of the International Financial Institutions Act) to advocate such policies as a systematic element of economic reform programs and advice to member governments.

SEC. 362. SUPPORT FOR THE FINANCIAL ACTION TASK FORCE ON MONEY LAUNDERING.

It is the sense of Congress that—

(1) the United States should continue to actively and publicly support the objectives of the Financial Action Task Force on Money Laundering (hereafter in this section referred to as the ''FATF'') with regard to combating international money laundering;

(2) the FATF should identify noncooperative jurisdictions in as expeditious a manner as possible and publicly release a list directly naming those jurisdictions identified;

(3) the United States should support the public release of the list naming noncooperative jurisdictions identified by the FATF;

(4) the United States should encourage the adoption of the necessary international action to encourage compliance by the identified noncooperative jurisdictions; and

(5) the United States should take the necessary countermeasures to protect the United States economy against money of unlawful origin and encourage other nations to do the same.

SEC. 363. TERRORIST FUNDING THROUGH MONEY LAUNDERING.

It is the sense of the Congress that, in deliberations and negotiations between the United States Government and any other country regarding financial, economic, assistance, or defense issues, the United States should encourage such other country—

(1) to take actions which would identify and prevent the transmittal of funds to and from terrorists and terrorist organizations; and

(2) to engage in bilateral and multilateral cooperation with the United States and other countries to identify suspected terrorists, terrorist organizations, and persons supplying funds to and receiving funds from terrorists and terrorist organizations.

TITLE IV—PROTECTING THE BORDER

Subtitle A—Protecting the Northern Border

SEC. 401. ENSURING ADEQUATE PERSONNEL ON THE NORTHERN BORDER.

The Attorney General is authorized to waive any FTE cap on personnel assigned to the Immigration and Naturalization Service to address the national security needs of the United States on the Northern border.

SEC. 402. NORTHERN BORDER PERSONNEL.

There are authorized to be appropriated—

(1) such sums as may be necessary to triple the number of Border Patrol personnel (from the number authorized under current law), and the necessary personnel and facilities to support such personnel, in each State along the Northern Border;

(2) such sums as may be necessary to triple the number of Customs Service personnel (from the number authorized under current

law), and the necessary personnel and facilities to support such personnel, at ports of entry in each State along the Northern Border;

(3) such sums as may be necessary to triple the number of INS inspectors (from the number authorized on the date of enactment of this Act), and the necessary personnel and facilities to support such personnel, at ports of entry in each State along the Northern Border; and

(4) an additional $50,000,000 each to the Immigration and Naturalization Service and the United States Customs Service for purposes of making improvements in technology for monitoring the Northern Border and acquiring additional equipment at the Northern Border.

SEC. 403. ACCESS BY THE DEPARTMENT OF STATE AND THE INS TO CERTAIN IDENTIFYING INFORMATION IN THE CRIMINAL HISTORY RECORDS OF VISA APPLICANTS AND APPLICANTS FOR ADMISSION TO THE UNITED STATES.

(a) AMENDMENT OF THE IMMIGRATION AND NATIONALITY ACT.—Section 105 of the Immigration and Nationality Act (8 U.S.C. 1105) is amended—

(1) in the section heading, by inserting ''; DATA EXCHANGE'' after ''SECURITY OFFICERS'';

(2) by inserting ''(a)'' after ''SEC. 105.'';

(3) in subsection (a), by inserting ''and border'' after ''internal'' the second place it appears; and

(4) by adding at the end the following:

''(b)(1) The Attorney General and the Director of the Federal Bureau of Investigation shall provide the Department of State and the Service access to the criminal history record information contained in the National Crime Information Center's Interstate Identification Index (NCIC-III), Wanted Persons File, and to any other files maintained by the National Crime Information Center that may be mutually agreed upon by the Attorney General and the agency receiving the access, for the purpose of determining whether or not a visa applicant or applicant for admission has a criminal history record indexed in any such file.

''(2) Such access shall be provided by means of extracts of the records for placement in the automated visa lookout or other appropriate database, and shall be provided without any fee or charge.

''(3) The Federal Bureau of Investigation shall provide periodic updates of the extracts at intervals mutually agreed upon with the agency receiving the access. Upon receipt of such updated extracts, the receiving agency shall make corresponding updates to its database and destroy previously provided extracts.

''(4) Access to an extract does not entitle the Department of State to obtain the full content of the corresponding automated criminal history record. To obtain the full content of a criminal history record, the Department of State shall submit the applicant's fingerprints and any appropriate fingerprint processing fee authorized by law to the Criminal Justice Information Services Division of the Federal Bureau of Investigation.

''(c) The provision of the extracts described in subsection (b) may be reconsidered by the Attorney General and the receiving agency upon the development and deployment of a more cost-effective and efficient means of sharing the information.

''(d) For purposes of administering this section, the Department of State shall, prior to receiving access to NCIC data but not later than 4 months after the date of enactment of this subsection, promulgate final regulations—

''(1) to implement procedures for the taking of fingerprints; and

''(2) to establish the conditions for the use of the information received from the Federal Bureau of Investigation, in order—

''(A) to limit the redissemination of such information;

''(B) to ensure that such information is used solely to determine whether or not to issue a visa to an alien or to admit an alien to the United States;

''(C) to ensure the security, confidentiality, and destruction of such information; and

''(D) to protect any privacy rights of individuals who are subjects of such information.''.

(b) REPORTING REQUIREMENT.—Not later than 2 years after the date of enactment of this Act, the Attorney General and the Secretary of State jointly shall report to Congress on the implementation of the amendments made by this section.

(c) TECHNOLOGY STANDARD TO CONFIRM IDENTITY.—

(1) IN GENERAL.—The Attorney General and the Secretary of State jointly, through the National Institute of Standards and Technology (NIST), and in consultation with the Secretary of the Treasury and other Federal law enforcement and intelligence agencies the Attorney General or Secretary of State deems appropriate, shall within 2 years after the date of enactment of this section, develop and certify a technology standard that can confirm the identity of a person applying for a United States visa or such person seeking to enter the United States pursuant to a visa.

(2) INTEGRATED.—The technology standard developed pursuant to paragraph (1), shall be the technological basis for a cross-agency, cross-platform electronic system that is a cost-effective, efficient, fully integrated means to share law enforcement and intelligence information necessary to confirm the identity of such persons applying for a United States visa or such person seeking to enter the United States pursuant to a visa.

(3) ACCESSIBLE.—The electronic system described in paragraph (2), once implemented, shall be readily and easily accessible to—

(A) all consular officers responsible for the issuance of visas;

(B) all Federal inspection agents at all United States border inspection points; and

(C) all law enforcement and intelligence officers as determined by regulation to be responsible for investigation or identification of aliens admitted to the United States pursuant to a visa.

(4) REPORT.—Not later than 18 months after the date of enactment of this Act, and every 2 years thereafter, the Attorney General and the Secretary of State shall jointly, in consultation with the Secretary of Treasury, report to Congress describing the development, implementation and efficacy of the technology standard and electronic database system described in this subsection.

(d) STATUTORY CONSTRUCTION.—Nothing in this section, or in any other law, shall be construed to limit the authority of the Attorney General or the Director of the Federal Bureau of Investigation to provide access to the criminal history record information contained in the National Crime Information Center's (NCIC) Interstate Identification Index (NCIC-III), or to any other information maintained by the NCIC, to any Federal agency or officer authorized to enforce or administer the immigration laws of the United States, for the purpose of such enforcement or administration, upon terms that are consistent with the National Crime Prevention and Privacy Compact Act of 1998 (subtitle A of title II of Public Law 105–251; 42 U.S.C. 14611–16) and section 552a of title 5, United States Code.

SEC. 404. LIMITED AUTHORITY TO PAY OVERTIME.

The matter under the headings ''Immigration And Naturalization Service: Salaries and Expenses, Enforcement And Border Affairs'' and ''Immigration And Naturalization Service: Salaries and Expenses, Citizenship And Benefits, Immigration And Program Direction'' in the Department of Justice Appropriations Act, 2001 (as enacted into law by Appendix B (H.R. 5548) of Public Law 106–553 (114 Stat. 2762A–58 to 2762A–59)) is amended by striking the following each place it occurs: ''*Provided*, That none of the funds available to the Immigration and Naturalization Service shall be available to pay any employee overtime pay in an amount in excess of $30,000 during the calendar year beginning January 1, 2001:''.

SEC. 405. REPORT ON THE INTEGRATED AUTOMATED FINGERPRINT IDENTIFICATION SYSTEM FOR POINTS OF ENTRY AND OVERSEAS CONSULAR POSTS.

(a) IN GENERAL.—The Attorney General, in consultation with the appropriate heads of other Federal agencies, including the Secretary of State, Secretary of the Treasury, and the Secretary of Transportation, shall report to Congress on the feasibility of enhancing the Integrated Automated Fingerprint Identification System (IAFIS) of the Federal Bureau of Investigation and other identification systems in order to better identify a person who holds a foreign passport or a visa and may be wanted in connection with a criminal investigation in the United States or abroad, before the issuance of a visa to that person or the entry or exit by that person from the United States.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated not less than $2,000,000 to carry out this section.

Subtitle B—Enhanced Immigration Provisions

SEC. 411. DEFINITIONS RELATING TO TERRORISM.

(a) GROUNDS OF INADMISSIBILITY.—Section 212(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)) is amended—

(1) in subparagraph (B)—

(A) in clause (i)—

(i) by amending subclause (IV) to read as follows:

''(IV) is a representative (as defined in clause (v)) of—

''(aa) a foreign terrorist organization, as designated by the Secretary of State under section 219, or

''(bb) a political, social or other similar group whose public endorsement of acts of terrorist activity the Secretary of State has determined undermines United States efforts to reduce or eliminate terrorist activities,'';

(ii) in subclause (V), by inserting ''or'' after ''section 219,''; and

(iii) by adding at the end the following new subclauses:

''(VI) has used the alien's position of prominence within any country to endorse or espouse terrorist activity, or to persuade others to support terrorist activity or a terrorist organization, in a way that the Secretary of State has determined undermines United States efforts to reduce or eliminate terrorist activities, or

''(VII) is the spouse or child of an alien who is inadmissible under this section, if the activity causing the alien to be found inadmissible occurred within the last 5 years,'';

(B) by redesignating clauses (ii), (iii), and (iv) as clauses (iii), (iv), and (v), respectively;

(C) in clause (i)(II), by striking ''clause (iii)'' and inserting ''clause (iv)'';

(D) by inserting after clause (i) the following:

''(ii) EXCEPTION.—Subclause (VII) of clause (i) does not apply to a spouse or child—

''(I) who did not know or should not reasonably have known of the activity causing the alien to be found inadmissible under this section; or

''(II) whom the consular officer or Attorney General has reasonable grounds to believe has renounced the activity causing the alien to be found inadmissible under this section.'';

(E) in clause (iii) (as redesignated by subparagraph (B))—

(i) by inserting ''it had been'' before ''committed in the United States''; and

(ii) in subclause (V)(b), by striking ''or firearm'' and inserting '', firearm, or other weapon or dangerous device'';

(F) by amending clause (iv) (as redesignated by subparagraph (B)) to read as follows:

''(iv) ENGAGE IN TERRORIST ACTIVITY DEFINED.—As used in this chapter, the term 'engage in terrorist activity' means, in an individual capacity or as a member of an organization—

''(I) to commit or to incite to commit, under circumstances indicating an intention to cause death or serious bodily injury, a terrorist activity;

''(II) to prepare or plan a terrorist activity;

''(III) to gather information on potential targets for terrorist activity;

''(IV) to solicit funds or other things of value for—

''(aa) a terrorist activity;

''(bb) a terrorist organization described in clauses (vi)(I) or (vi)(II); or

''(cc) a terrorist organization described in clause (vi)(III), unless the solicitor can demonstrate that he did not know, and should not reasonably have known, that the solicitation would further the organization's terrorist activity;

''(V) to solicit any individual—

''(aa) to engage in conduct otherwise described in this clause;

''(bb) for membership in a terrorist organization described in clauses (vi)(I) or (vi)(II); or

''(cc) for membership in a terrorist organization described in clause (vi)(III), unless the solicitor can demonstrate that he did not know, and should not reasonably have known, that the solicitation would further the organization's terrorist activity; or

''(VI) to commit an act that the actor knows, or reasonably should know, affords material support, including a safe house, transportation, communications, funds, transfer of funds or other material financial benefit, false documentation or identification, weapons (including chemical, biological, or radiological weapons), explosives, or training—

''(aa) for the commission of a terrorist activity;

''(bb) to any individual who the actor knows, or reasonably should know, has committed or plans to commit a terrorist activity;

''(cc) to a terrorist organization described in clauses (vi)(I) or (vi)(II); or

''(dd) to a terrorist organization described in clause (vi)(III), unless the actor can demonstrate that he did not know, and should not reasonably have known, that the act would further the organization's terrorist activity.

This clause shall not apply to any material support the alien afforded to an organization or individual that has committed terrorist activity, if the Secretary of State, after consultation with the Attorney General, or the Attorney General, after consultation with the Secretary of State, concludes in his sole unreviewable discretion, that this clause should not apply.''; and

(G) by adding at the end the following new clause:

''(vi) TERRORIST ORGANIZATION DEFINED.—As used in clause (i)(VI) and clause (iv), the term 'terrorist organization' means an organization—

''(I) designated under section 219;

''(II) otherwise designated, upon publication in the Federal Register, by the Secretary of State in consultation with or upon the request of the Attorney General, as a terrorist organization, after finding that it engages in the activities described in subclause (I), (II), or (III) of clause (iv), or that it provides material support to further terrorist activity; or

''(III) that is a group of two or more individuals, whether organized or not, which engages in the activities described in subclause (I), (II), or (III) of clause (iv).''; and

(2) by adding at the end the following new subparagraph:

''(F) ASSOCIATION WITH TERRORIST ORGANIZATIONS.—Any alien who the Secretary of State, after consultation with the Attorney General, or the Attorney General, after consultation with the Secretary of State, determines has been associated with a terrorist organization and intends while in the United States to engage solely, principally, or incidentally in activities that could endanger the welfare, safety, or security of the United States is inadmissible.''.

(b) CONFORMING AMENDMENT.—Section 237(a)(4)(B) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)(B)) is amended by striking ''section 212(a)(3)(B)(iii)'' and inserting ''section 212(a)(3)(B)(iv)''.

(c) RETROACTIVE APPLICATION OF AMENDMENTS.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on the date of enactment of this Act and shall apply to—

(A) actions taken by an alien before, on, or after such date; and

(B) all aliens, without regard to the date of entry or attempted entry into the United States—

(i) in removal proceedings on or after such date (except for proceedings in which there has been a final administrative decision before such date); or

(ii) seeking admission to the United States on or after such date.

(2) SPECIAL RULE FOR ALIENS IN EXCLUSION OR DEPORTATION PROCEEDINGS.—Notwithstanding any other provision of law, the amendments made by this section shall apply to all aliens in exclusion or deportation proceedings on or after the date of enactment of this Act (except for proceedings in which there has been a final administrative decision before such date) as if such proceedings were removal proceedings.

(3) SPECIAL RULE FOR SECTION 219 ORGANIZATIONS AND ORGANIZATIONS DESIGNATED UNDER SECTION 212(a)(3)(B)(vi)(II).—

(A) IN GENERAL.—Notwithstanding paragraphs (1) and (2), no alien shall be considered inadmissible under section 212(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)), or deportable under section 237(a)(4)(B) of such Act (8 U.S.C. 1227(a)(4)(B)), by reason of the amendments made by subsection (a), on the ground that the alien engaged in a terrorist activity described in subclause (IV)(bb), (V)(bb), or (VI)(cc) of section 212(a)(3)(B)(iv) of such Act (as so amended) with respect to a group at any time when the group was not a terrorist organization designated by the Secretary of State under section 219 of such Act (8 U.S.C. 1189) or otherwise designated under section 212(a)(3)(B)(vi)(II).

(B) STATUTORY CONSTRUCTION.—Subparagraph (A) shall not be construed to prevent an alien from being considered inadmissible or deportable for having engaged in a terrorist activity—

(i) described in subclause (IV)(bb), (V)(bb), or (VI)(cc) of section 212(a)(3)(B)(iv) of such Act (as so amended) with respect to a terrorist organization at any time when such organization was designated by the Secretary of State under section 219 of such Act or otherwise designated under section 212(a)(3)(B)(vi)(II); or

(ii) described in subclause (IV)(cc), (V)(cc), or (VI)(dd) of section 212(a)(3)(B)(iv) of such Act (as so amended) with respect to a terrorist organization described in section 212(a)(3)(B)(vi)(III).

(4) EXCEPTION.—The Secretary of State, in consultation with the Attorney General, may determine that the amendments made by this section shall not apply with respect to actions by an alien taken outside the United States before the date of enactment of this Act upon the recommendation of a consular officer who has concluded that there is not reasonable ground to believe that the alien knew or reasonably should have known that the actions would further a terrorist activity.

(c) DESIGNATION OF FOREIGN TERRORIST ORGANIZATIONS.—Section 219(a) of the Immigration and Nationality Act (8 U.S.C. 1189(a)) is amended—

(1) in paragraph (1)(B), by inserting ''or terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f(d)(2)) or retains the capability and intent to engage in terrorist activity or terrorism)'' after ''212(a)(3)(B))'';

(2) in paragraph (1)(C), by inserting ''or terrorism'' after ''terrorist activity'';

(3) by amending paragraph (2)(A) to read as follows:

''(A) NOTICE.—

''(i) TO CONGRESSIONAL LEADERS.—Seven days before making a designation under this subsection, the Secretary shall, by classified communication, notify the Speaker and Minority Leader of the House of Representatives, the President pro tempore, Majority Leader, and Minority Leader of the Senate, and the members of the relevant committees, in writing, of the intent to designate an organization under this subsection, together with the findings made under paragraph (1) with respect to that organization, and the factual basis therefor.

''(ii) PUBLICATION IN FEDERAL REGISTER.—The Secretary shall publish the designation in the Federal Register seven days after providing the notification under clause (i).'';

(4) in paragraph (2)(B)(i), by striking ''subparagraph (A)'' and inserting ''subparagraph (A)(ii)'';

(5) in paragraph (2)(C), by striking ''paragraph (2)'' and inserting ''paragraph (2)(A)(i)'';

(6) in paragraph (3)(B), by striking ''subsection (c)'' and inserting ''subsection (b)'';

(7) in paragraph (4)(B), by inserting after the first sentence the following: ''The Secretary also may redesignate such organization at the end of any 2-year redesignation period (but not sooner than 60 days prior to the termination of such period) for an additional 2-year period upon a finding that the relevant circumstances described in paragraph (1) still exist. Any redesignation shall be effective immediately following the end of the prior 2-year designation or redesignation period unless a different effective date is provided in such redesignation.'';

(8) in paragraph (6)(A)—

(A) by inserting ''or a redesignation made under paragraph (4)(B)'' after ''paragraph (1)'';

(B) in clause (i)—

(i) by inserting ''or redesignation'' after ''designation'' the first place it appears; and

(ii) by striking ''of the designation''; and

(C) in clause (ii), by striking ''of the designation'';

(9) in paragraph (6)(B)—

(A) by striking ''through (4)'' and inserting ''and (3)''; and

(B) by inserting at the end the following new sentence: ''Any revocation shall take effect on the date specified in the revocation or upon publication in the Federal Register if no effective date is specified.'';

(10) in paragraph (7), by inserting '', or the revocation of a redesignation under paragraph (6),'' after ''paragraph (5) or (6)''; and

(11) in paragraph (8)—

(A) by striking ''paragraph (1)(B)'' and inserting ''paragraph (2)(B), or if a redesignation under this subsection has become effective under paragraph (4)(B)'';

(B) by inserting ''or an alien in a removal proceeding'' after ''criminal action''; and

(C) by inserting ''or redesignation'' before ''as a defense''.

SEC. 412. MANDATORY DETENTION OF SUSPECTED TERRORISTS; HABEAS CORPUS; JUDICIAL REVIEW.

(a) IN GENERAL.—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting after section 236 the following:

''MANDATORY DETENTION OF SUSPECTED TERRORISTS; HABEAS CORPUS; JUDICIAL REVIEW

''SEC. 236A. (a) DETENTION OF TERRORIST ALIENS.—

''(1) CUSTODY.—The Attorney General shall take into custody any alien who is certified under paragraph (3).

''(2) RELEASE.—Except as provided in paragraph (5), the Attorney General shall maintain custody of such an alien until the alien is removed from the United States. Such custody shall be maintained irrespective of any relief from removal for which the alien may be eligible, or any relief from removal granted the alien, until the Attorney General determines that the alien is no longer an alien who may be certified under paragraph (3).

''(3) CERTIFICATION.—The Attorney General may certify an alien under this paragraph if the Attorney General has reasonable grounds to believe that the alien—

''(A) is described in section 212(a)(3)(A)(i), 212(a)(3)(A)(iii), 212(a)(3)(B), 237(a)(4)(A)(i), 237(a)(4)(A)(iii), or 237(a)(4)(B); or

''(B) is engaged in any other activity that endangers the national security of the United States.

''(4) NONDELEGATION.—The Attorney General may delegate the authority provided under paragraph (3) only to the Commissioner. The Commissioner may not delegate such authority.

''(5) COMMENCEMENT OF PROCEEDINGS.—The Attorney General shall place an alien detained under paragraph (1) in removal proceedings, or shall charge the alien with a criminal offense, not later than 7 days after the commencement of such detention. If the requirement of the preceding sentence is not satisfied, the Attorney General shall release the alien.

''(b) HABEAS CORPUS AND JUDICIAL REVIEW.—Judicial review of any action or decision relating to this section (including judicial review of the merits of a determination made under subsection (a)(3)) is available exclusively in habeas corpus proceedings in the United States District Court for the District of Columbia. Notwithstanding any other provision of law, including section 2241 of title 28, United States Code, except as provided in the preceding sentence, no court shall have jurisdiction to review, by habeas corpus petition or otherwise, any such action or decision.

''(c) STATUTORY CONSTRUCTION.—The provisions of this section shall not be applicable to any other provisions of the Immigration and Nationality Act.''.

(b) CLERICAL AMENDMENT.—The table of contents of the Immigration and Nationality Act is amended by inserting after the item relating to section 236 the following:

''Sec. 236A. Mandatory detention of suspected terrorist; habeas corpus; judicial review.''.

(c) REPORTS.—Not later than 6 months after the date of the enactment of this Act, and every 6 months thereafter, the Attorney General shall submit a report to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate, with respect to the reporting period, on—

(1) the number of aliens certified under section 236A(a)(3) of the Immigration and Nationality Act, as added by subsection (a);

(2) the grounds for such certifications;

(3) the nationalities of the aliens so certified;

(4) the length of the detention for each alien so certified; and

(5) the number of aliens so certified who—

(A) were granted any form of relief from removal;

(B) were removed;

(C) the Attorney General has determined are no longer aliens who may be so certified; or

(D) were released from detention.

SEC. 413. MULTILATERAL COOPERATION AGAINST TERRORISTS.

Section 222(f) of the Immigration and Nationality Act (8 U.S.C. 1202(f)) is amended—

(1) by striking ''except that in the discretion of'' and inserting the following: ''except that—

''(1) in the discretion of''; and

(2) by adding at the end the following:

''(2) the Secretary of State, in the Secretary's discretion and on the basis of reciprocity, may provide to a foreign government information in the Department of State's computerized visa lookout database and, when necessary and appropriate, other records covered by this section related to information in the database—

''(A) with regard to individual aliens, at any time on a case-by-case basis for the purpose of preventing, investigating, or punishing acts that would constitute a crime in the United States, including, but not limited to, terrorism or trafficking in controlled substances, persons, or illicit weapons; or

''(B) with regard to any or all aliens in the database, pursuant to such conditions as the Secretary of State shall establish in an agreement with the foreign government in which that government agrees to use such information and records for the purposes described in subparagraph (A) or to deny visas to persons who would be inadmissible to the United States.''.

TITLE V—REMOVING OBSTACLES TO INVESTIGATING TERRORISM

SEC. 501. PROFESSIONAL STANDARDS FOR GOVERNMENT ATTORNEYS ACT OF 2001.

(a) SHORT TITLE.—This title may be cited as the ''Professional Standards for Government Attorneys Act of 2001''.

(b) PROFESSIONAL STANDARDS FOR GOVERNMENT ATTORNEYS.—Section 530B of title 28, United States Code, is amended to read as follows:

''§ 530B. Professional Standards for Government Attorneys

''(a) DEFINITIONS.—In this section:

''(1) GOVERNMENT ATTORNEY.—The term 'Government attorney'—

''(A) means the Attorney General; the Deputy Attorney General; the Solicitor General; the Associate Attorney General; the head of, and any attorney employed in, any division, office, board, bureau, component, or agency of the Department of Justice; any United States Attorney; any Assistant United States Attorney; any Special Assistant to the Attorney General or Special Attorney appointed under section 515; any Special Assistant United States Attorney appointed under section 543 who is authorized to conduct criminal or civil law enforcement investigations or proceedings on behalf of the United States; any other attorney employed by the Department of Justice who is authorized to conduct criminal or civil law enforcement proceedings on behalf of the United States; any independent counsel, or employee of such counsel, appointed under chapter 40; and any outside special counsel, or employee of such counsel, as may be duly appointed by the Attorney General; and

''(B) does not include any attorney employed as an investigator or other law enforcement agent by the Department of Justice who is not authorized to represent the United States in criminal or civil law enforcement litigation or to supervise such proceedings.

''(2) STATE.—The term 'State' includes a Territory and the District of Columbia.

''(b) CHOICE OF LAW.—Subject to any uniform national rule prescribed by the Supreme Court under chapter 131, the standards of professional responsibility that apply to a Government attorney with respect to the attorney's work for the Government shall be—

''(1) for conduct in connection with a proceeding in or before a court, or conduct reasonably intended to lead to a proceeding in or before a court, the standards of professional responsibility established by the rules and decisions of the court in or before which the proceeding is brought or is intended to be brought;

''(2) for conduct in connection with a grand jury proceeding, or conduct reasonably intended to lead to a grand jury proceeding, the standards of professional responsibility established by the rules and decisions of the court under whose authority the grand jury was or will be impaneled; and

''(3) for all other conduct, the standards of professional responsibility established by the rules and decisions of the Federal district court for the judicial district in which the attorney principally performs his or her official duties.

''(c) LICENSURE.—A Government attorney (except foreign counsel employed in special cases)—

''(1) shall be duly licensed and authorized to practice as an attorney under the laws of a State; and

''(2) shall not be required to be a member of the bar of any particular State.

''(d) UNDERCOVER ACTIVITIES.—Notwithstanding any provision of State law, including disciplinary rules, statutes, regulations, constitutional provisions, or case law, a Government attorney may, for the purpose of enforcing Federal law, provide legal advice, authorization, concurrence, direction, or supervision on conducting undercover activities, and any attorney employed as an investigator or other law enforcement agent by the Department of Justice who is not authorized to represent the United States in criminal or civil law enforcement litigation or to supervise such proceedings may participate in such activities, even though such activities may require the use of deceit or misrepresentation, where such activities are consistent with Federal law.

''(e) ADMISSIBILITY OF EVIDENCE.—No violation of any disciplinary, ethical, or professional conduct rule shall be construed to permit the exclusion of otherwise admissible evidence in any Federal criminal proceedings.

''(f) RULEMAKING AUTHORITY.—The Attorney General shall make and amend rules of

the Department of Justice to ensure compliance with this section.''.

(c) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 31 of title 28, United States Code, is amended, in the item relating to section 530B, by striking ''Ethical standards for attorneys for the Government'' and inserting ''Professional standards for Government attorneys''.

(d) REPORTS.—

(1) UNIFORM RULE.—In order to encourage the Supreme Court to prescribe, under chapter 131 of title 28, United States Code, a uniform national rule for Government attorneys with respect to communications with represented persons and parties, not later than 1 year after the date of enactment of this Act, the Judicial Conference of the United States shall submit to the Chief Justice of the United States a report, which shall include recommendations with respect to amending the Federal Rules of Practice and Procedure to provide for such a uniform national rule.

(2) ACTUAL OR POTENTIAL CONFLICTS.—Not later than 2 years after the date of enactment of this Act, the Judicial Conference of the United States shall submit to the Chairmen and Ranking Members of the Committees on the Judiciary of the House of Representatives and the Senate a report, which shall include—

(A) a review of any areas of actual or potential conflict between specific Federal duties related to the investigation and prosecution of violations of Federal law and the regulation of Government attorneys (as that term is defined in section 530B of title 28, United States Code, as amended by this Act) by existing standards of professional responsibility; and

(B) recommendations with respect to amending the Federal Rules of Practice and Procedure to provide for additional rules governing attorney conduct to address any areas of actual or potential conflict identified pursuant to the review under subparagraph (A).

(3) REPORT CONSIDERATIONS.—In carrying out paragraphs (1) and (2), the Judicial Conference of the United States shall take into consideration—

(A) the needs and circumstances of multiforum and multijurisdictional litigation;

(B) the special needs and interests of the United States in investigating and prosecuting violations of Federal criminal and civil law; and

(C) practices that are approved under Federal statutory or case law or that are otherwise consistent with traditional Federal law enforcement techniques.

SEC. 502. ATTORNEY GENERAL'S AUTHORITY TO PAY REWARDS TO COMBAT TERRORISM.

(a) PAYMENT OF REWARDS TO COMBAT TERRORISM.—Funds available to the Attorney General may be used for the payment of rewards pursuant to public advertisements for assistance to the Department of Justice to combat terrorism and defend the Nation against terrorist acts, in accordance with procedures and regulations established or issued by the Attorney General.

(b) CONDITIONS.—In making rewards under this section—

(1) no such reward of $250,000 or more may be made or offered without the personal approval of either the Attorney General or the President;

(2) the Attorney General shall give written notice to the Chairmen and ranking minority members of the Committees on Appropriations and the Judiciary of the Senate and of the House of Representatives not later than 30 days after the approval of a reward under paragraph (1);

(3) any executive agency or military department (as defined, respectively, in sections 105 and 102 of title 5, United States Code) may provide the Attorney General with funds for the payment of rewards;

(4) neither the failure of the Attorney General to authorize a payment nor the amount authorized shall be subject to judicial review; and

(5) no such reward shall be subject to any per- or aggregate reward spending limitation established by law, unless that law expressly refers to this section, and no reward paid pursuant to any such offer shall count toward any such aggregate reward spending limitation.

SEC. 503. SECRETARY OF STATE'S AUTHORITY TO PAY REWARDS.

Section 36 of the State Department Basic Authorities Act of 1956 (Public Law 885, August 1, 1956; 22 U.S.C. 2708) is amended—

(1) in subsection (b)—

(A) in paragraph (4), by striking ''or'' at the end;

(B) in paragraph (5), by striking the period at the end and inserting '', including by dismantling an organization in whole or significant part; or''; and

(C) by adding at the end the following:

''(6) the identification or location of an individual who holds a key leadership position in a terrorist organization.'';

(2) in subsection (d), by striking paragraphs (2) and (3) and redesignating paragraph (4) as paragraph (2); and

(3) in subsection (e)(1), by inserting '', except as personally authorized by the Secretary of State if he determines that offer or payment of an award of a larger amount is necessary to combat terrorism or defend the Nation against terrorist acts.'' after ''$5,000,000''.

SEC. 504. DNA IDENTIFICATION OF TERRORISTS AND OTHER VIOLENT OFFENDERS.

Section 3(d)(2) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135a(d)(2)) is amended to read as follows:

''(2) In additional to the offenses described in paragraph (1), the following offenses shall be treated for purposes of this section as qualifying Federal offenses, as determined by the Attorney General:

''(A) Any offense listed in section 2332b(g)(5)(B) of title 18, United States Code.

''(B) Any crime of violence (as defined in section 16 of title 18, United States Code).

''(C) Any attempt or conspiracy to commit any of the above offenses.''.

SEC. 505. COORDINATION WITH LAW ENFORCEMENT.

(a) INFORMATION ACQUIRED FROM AN ELECTRONIC SURVEILLANCE.—Section 106 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1806), is amended by adding at the end the following:

''(k)(1) Federal officers who conduct electronic surveillance to acquire foreign intelligence information under this title may consult with Federal law enforcement officers to coordinate efforts to investigate or protect against—

''(A) actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power;

''(B) sabotage or international terrorism by a foreign power or an agent of a foreign power; or

''(C) clandestine intelligence activities by an intelligence service or network of a foreign power or by an agent of a foreign power.

''(2) Coordination authorized under paragraph (1) shall not preclude the certification required by section 104(a)(7)(B) or the entry of an order under section 105.''.

(b) INFORMATION ACQUIRED FROM A PHYSICAL SEARCH.—Section 305 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1825) is amended by adding at the end the following:

''(k)(1) Federal officers who conduct physical searches to acquire foreign intelligence information under this title may consult with Federal law enforcement officers to coordinate efforts to investigate or protect against—

''(A) actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power;

''(B) sabotage or international terrorism by a foreign power or an agent of a foreign power; or

''(C) clandestine intelligence activities by an intelligence service or network of a foreign power or by an agent of a foreign power.

''(2) Coordination authorized under paragraph (1) shall not preclude the certification required by section 303(a)(7) or the entry of an order under section 304.''.

SEC. 506. MISCELLANEOUS NATIONAL SECURITY AUTHORITIES.

(a) TELEPHONE TOLL AND TRANSACTIONAL RECORDS.—Section 2709(b) of title 18, United States Code, is amended—

(1) in the matter preceding paragraph (1), by inserting ''at Bureau headquarters or a Special Agent in Charge in a Bureau field office designated by the Director'' after ''Assistant Director'';

(2) in paragraph (1)—

(A) by striking ''in a position not lower than Deputy Assistant Director''; and

(B) by striking ''made that'' and all that follows and inserting the following: ''made that the name, address, length of service, and toll billing records sought are relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a United States person is not conducted solely on the basis of activities protected by the first amendment to the Constitution of the United States; and''; and

(3) in paragraph (2)—

(A) by striking ''in a position not lower than Deputy Assistant Director''; and

(B) by striking ''made that'' and all that follows and inserting the following: ''made that the information sought is relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment to the Constitution of the United States.''.

(b) FINANCIAL RECORDS.—Section 1114(a)(5)(A) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3414(a)(5)(A)) is amended—

(1) by inserting ''in a position not lower than Deputy Assistant Director at Bureau headquarters or a Special Agent in Charge in a Bureau field office designated by the Director'' after ''designee''; and

(2) by striking ''sought'' and all that follows and inserting ''sought for foreign counter intelligence purposes to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment to the Constitution of the United States.''.

(c) CONSUMER REPORTS.—Section 624 of the Fair Credit Reporting Act (15 U.S.C. 1681u) is amended—

(1) in subsection (a)—

(A) by inserting ''in a position not lower than Deputy Assistant Director at Bureau headquarters or a Special Agent in Charge of a Bureau field office designated by the Director'' after ''designee'' the first place it appears; and

(B) by striking ''in writing that'' and all that follows through the end and inserting the following: ''in writing, that such information is sought for the conduct of an authorized investigation to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment to the Constitution of the United States.'';

(2) in subsection (b)—

(A) by inserting ''in a position not lower than Deputy Assistant Director at Bureau headquarters or a Special Agent in Charge of a Bureau field office designated by the Director'' after ''designee'' the first place it appears; and

(B) by striking ''in writing that'' and all that follows through the end and inserting the following: ''in writing that such information is sought for the conduct of an authorized investigation to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment to the Constitution of the United States.''; and

(3) in subsection (c)—

(A) by inserting ''in a position not lower than Deputy Assistant Director at Bureau headquarters or a Special Agent in Charge in a Bureau field office designated by the Director'' after ''designee of the Director''; and

(B) by striking ''in camera that'' and all that follows through ''States.'' and inserting the following: ''in camera that the consumer report is sought for the conduct of an authorized investigation to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment to the Constitution of the United States.''.

SEC. 507. EXTENSION OF SECRET SERVICE JURISDICTION.

(a) CONCURRENT JURISDICTION UNDER 18 U.S.C. 1030.—Section 1030(d) of title 18, United States Code, is amended to read as follows:

''(d)(1) The United States Secret Service shall, in addition to any other agency having such authority, have the authority to investigate offenses under this section.

''(2) The Federal Bureau of Investigation shall have primary authority to investigate offenses under subsection (a)(1) for any cases involving espionage, foreign counterintelligence, information protected against unauthorized disclosure for reasons of national defense or foreign relations, or Restricted Data (as that term is defined in section 11y of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)), except for offenses affecting the duties of the United States Secret Service pursuant to section 3056(a) of this title.

''(3) Such authority shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury and the Attorney General.''.

(b) REAUTHORIZATION OF JURISDICTION UNDER 18 U.S.C. 1344.—Section 3056(b)(3) of title 18, United States Code, is amended by striking ''credit and debit card frauds, and false identification documents or devices'' and inserting ''access device frauds, false identification documents or devices, and any fraud or other criminal or unlawful activity in or against any federally insured financial institution''.

SEC. 508. DISCLOSURE OF EDUCATIONAL RECORDS.

Section 444 of the General Education Provisions Act (20 U.S.C. 1232g), is amended by adding after subsection (i) a new subsection (j) to read as follows:

''(j) INVESTIGATION AND PROSECUTION OF TERRORISM.—

''(1) IN GENERAL.—Notwithstanding subsections (a) through (i) or any provision of State law, the Attorney General (or any Federal officer or employee, in a position not lower than an Assistant Attorney General, designated by the Attorney General) may submit a written application to a court of competent jurisdiction for an ex parte order requiring an educational agency or institution to permit the Attorney General (or his designee) to—

''(A) collect education records in the possession of the educational agency or institution that are relevant to an authorized investigation or prosecution of an offense listed in section 2332b(g)(5)(B) of title 18 United States Code, or an act of domestic or international terrorism as defined in section 2331 of that title; and

''(B) for official purposes related to the investigation or prosecution of an offense described in paragraph (1)(A), retain, disseminate, and use (including as evidence at trial or in other administrative or judicial proceedings) such records, consistent with such guidelines as the Attorney General, after consultation with the Secretary, shall issue to protect confidentiality.

''(2) APPLICATION AND APPROVAL.—

''(A) IN GENERAL.—An application under paragraph (1) shall certify that there are specific and articulable facts giving reason to believe that the education records are likely to contain information described in paragraph (1)(A).

''(B) The court shall issue an order described in paragraph (1) if the court finds that the application for the order includes the certification described in subparagraph (A).

''(3) PROTECTION OF EDUCATIONAL AGENCY OR INSTITUTION.—An educational agency or institution that, in good faith, produces education records in accordance with an order issued under this subsection shall not be liable to any person for that production.

''(4) RECORD-KEEPING.—Subsection (b)(4) does not apply to education records subject to a court order under this subsection.''.

SEC. 509. DISCLOSURE OF INFORMATION FROM NCES SURVEYS.

Section 408 of the National Education Statistics Act of 1994 (20 U.S.C. 9007), is amended by adding after subsection (b) a new subsection (c) to read as follows:

''(c) INVESTIGATION AND PROSECUTION OF TERRORISM.—

''(1) IN GENERAL.—Notwithstanding subsections (a) and (b), the Attorney General (or any Federal officer or employee, in a position not lower than an Assistant Attorney General, designated by the Attorney General) may submit a written application to a court of competent jurisdiction for an ex parte order requiring the Secretary to permit the Attorney General (or his designee) to—

''(A) collect reports, records, and information (including individually identifiable information) in the possession of the center that are relevant to an authorized investigation or prosecution of an offense listed in section 2332b(g)(5)(B) of title 18, United States Code, or an act of domestic or international terrorism as defined in section 2331 of that title; and

''(B) for official purposes related to the investigation or prosecution of an offense described in paragraph (1)(A), retain, disseminate, and use (including as evidence at trial or in other administrative or judicial proceedings) such information, consistent with such guidelines as the Attorney General, after consultation with the Secretary, shall issue to protect confidentiality.

''(2) APPLICATION AND APPROVAL.—

''(A) IN GENERAL.—An application under paragraph (1) shall certify that there are specific and articulable facts giving reason to believe that the information sought is described in paragraph (1)(A).

''(B) The court shall issue an order described in paragraph (1) if the court finds that the application for the order includes the certification described in subparagraph (A).

''(3) PROTECTION.—An officer or employee of the Department who, in good faith, produces information in accordance with an order issued under this subsection does not violate subsection (b)(2) and shall not be liable to any person for that production.''.

TITLE VI—PROVIDING FOR VICTIMS OF TERRORISM, PUBLIC SAFETY OFFICERS, AND THEIR FAMILIES

Subtitle A—Aid to Families of Public Safety Officers

SEC. 601. EXPEDITED PAYMENT FOR PUBLIC SAFETY OFFICERS INVOLVED IN THE PREVENTION, INVESTIGATION, RESCUE, OR RECOVERY EFFORTS RELATED TO A TERRORIST ATTACK.

(a) IN GENERAL.—Notwithstanding the limitations of subsection (b) of section 1201 or the provisions of subsections (c), (d), and (e) of such section or section 1202 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796, 3796a), upon certification (containing identification of all eligible payees of benefits pursuant to section 1201 of such Act) by a public agency that a public safety officer employed by such agency was killed or suffered a catastrophic injury producing permanent and total disability as a direct and proximate result of a personal injury sustained in the line of duty as described in section 1201 of such Act in connection with prevention, investigation, rescue, or recovery efforts related to a terrorist attack, the Director of the Bureau of Justice Assistance shall authorize payment to qualified beneficiaries, said payment to be made not later than 30 days after receipt of such certification, benefits described under subpart 1 of part L of such Act (42 U.S.C. 3796 et seq.).

(b) DEFINITIONS.—For purposes of this section, the terms ''catastrophic injury'', ''public agency'', and ''public safety officer'' have the same meanings given such terms in section 1204 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b).

SEC. 602. TECHNICAL CORRECTION WITH RESPECT TO EXPEDITED PAYMENTS FOR HEROIC PUBLIC SAFETY OFFICERS.

Section 1 of Public Law 107-37 (an Act to provide for the expedited payment of certain benefits for a public safety officer who was killed or suffered a catastrophic injury as a direct and proximate result of a personal injury sustained in the line of duty in connection with the terrorist attacks of September 11, 2001) is amended by—

(1) inserting before ''by a'' the following: ''(containing identification of all eligible payees of benefits pursuant to section 1201)'';

(2) inserting ''producing permanent and total disability'' after ''suffered a catastrophic injury''; and

(3) striking ''1201(a)'' and inserting ''1201''.

SEC. 603. PUBLIC SAFETY OFFICERS BENEFIT PROGRAM PAYMENT INCREASE.

(a) PAYMENTS.—Section 1201(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796) is amended by striking ''$100,000'' and inserting ''$250,000''.

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply to any death or disability occurring on or after January 1, 2001.

SEC. 604. OFFICE OF JUSTICE PROGRAMS.

Section 112 of title I of section 101(b) of division A of Public Law 105–277 and section

108(a) of appendix A of Public Law 106–113 (113 Stat. 1501A–20) are amended—

(1) after ''that Office'', each place it occurs, by inserting ''(including, notwithstanding any contrary provision of law (unless the same should expressly refer to this section), any organization that administers any program established in title 1 of Public Law 90–351)''; and

(2) by inserting ''functions, including any'' after ''all''.

Subtitle B—Amendments to the Victims of Crime Act of 1984

SEC. 621. CRIME VICTIMS FUND.

(a) DEPOSIT OF GIFTS IN THE FUND.—Section 1402(b) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(b)) is amended—

(1) in paragraph (3), by striking ''and'' at the end;

(2) in paragraph (4), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(5) any gifts, bequests, or donations to the Fund from private entities or individuals.''.

(b) FORMULA FOR FUND DISTRIBUTIONS.—Section 1402(c) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(c)) is amended to read as follows:

''(c) FUND DISTRIBUTION; RETENTION OF SUMS IN FUND; AVAILABILITY FOR EXPENDITURE WITHOUT FISCAL YEAR LIMITATION.—

''(1) Subject to the availability of money in the Fund, in each fiscal year, beginning with fiscal year 2003, the Director shall distribute not less than 90 percent nor more than 110 percent of the amount distributed from the Fund in the previous fiscal year, except the Director may distribute up to 120 percent of the amount distributed in the previous fiscal year in any fiscal year that the total amount available in the Fund is more than 2 times the amount distributed in the previous fiscal year.

''(2) In each fiscal year, the Director shall distribute amounts from the Fund in accordance with subsection (d). All sums not distributed during a fiscal year shall remain in reserve in the Fund to be distributed during a subsequent fiscal year. Notwithstanding any other provision of law, all sums deposited in the Fund that are not distributed shall remain in reserve in the Fund for obligation in future fiscal years, without fiscal year limitation.''.

(c) ALLOCATION OF FUNDS FOR COSTS AND GRANTS.—Section 1402(d)(4) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(d)(4)) is amended—

(1) by striking ''deposited in'' and inserting ''to be distributed from'';

(2) in subparagraph (A), by striking ''48.5'' and inserting ''47.5'';

(3) in subparagraph (B), by striking ''48.5'' and inserting ''47.5''; and

(4) in subparagraph (C), by striking ''3'' and inserting ''5''.

(d) ANTITERRORISM EMERGENCY RESERVE.—Section 1402(d)(5) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(d)(5)) is amended to read as follows:

''(5)(A) In addition to the amounts distributed under paragraphs (2), (3), and (4), the Director may set aside up to $50,000,000 from the amounts transferred to the Fund for use in responding to the airplane hijackings and terrorist acts that occurred on September 11, 2001, as an antiterrorism emergency reserve. The Director may replenish any amounts expended from such reserve in subsequent fiscal years by setting aside up to 5 percent of the amounts remaining in the Fund in any fiscal year after distributing amounts under paragraphs (2), (3) and (4). Such reserve shall not exceed $50,000,000.

''(B) The antiterrorism emergency reserve referred to in subparagraph (A) may be used for supplemental grants under section 1404B and to provide compensation to victims of international terrorism under section 1404C.

''(C) Amounts in the antiterrorism emergency reserve established pursuant to subparagraph (A) may be carried over from fiscal year to fiscal year. Notwithstanding subsection (c) and section 619 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001 (and any similar limitation on Fund obligations in any future Act, unless the same should expressly refer to this section), any such amounts carried over shall not be subject to any limitation on obligations from amounts deposited to or available in the Fund.''.

(e) VICTIMS OF SEPTEMBER 11, 2001.—Amounts transferred to the Crime Victims Fund for use in responding to the airplane hijackings and terrorist acts (including any related search, rescue, relief, assistance, or other similar activities) that occurred on September 11, 2001, shall not be subject to any limitation on obligations from amounts deposited to or available in the Fund, notwithstanding—

(1) section 619 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001, and any similar limitation on Fund obligations in such Act for Fiscal Year 2002; and

(2) subsections (c) and (d) of section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601).

SEC. 622. CRIME VICTIM COMPENSATION.

(a) ALLOCATION OF FUNDS FOR COMPENSATION AND ASSISTANCE.—Paragraphs (1) and (2) of section 1403(a) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(a)) are amended by inserting ''in fiscal year 2002 and of 60 percent in subsequent fiscal years'' after ''40 percent''.

(b) LOCATION OF COMPENSABLE CRIME.—Section 1403(b)(6)(B) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(b)(6)(B)) is amended by striking ''are outside the United States (if the compensable crime is terrorism, as defined in section 2331 of title 18), or''.

(c) RELATIONSHIP OF CRIME VICTIM COMPENSATION TO MEANS-TESTED FEDERAL BENEFIT PROGRAMS.—Section 1403 of the Victims of Crime Act of 1984 (42 U.S.C. 10602) is amended by striking subsection (c) and inserting the following:

''(c) EXCLUSION FROM INCOME, RESOURCES, AND ASSETS FOR PURPOSES OF MEANS TESTS.—Notwithstanding any other law (other than title IV of Public Law 107–42), for the purpose of any maximum allowed income, resource, or asset eligibility requirement in any Federal, State, or local government program using Federal funds that provides medical or other assistance (or payment or reimbursement of the cost of such assistance), any amount of crime victim compensation that the applicant receives through a crime victim compensation program under this section shall not be included in the income, resources, or assets of the applicant, nor shall that amount reduce the amount of the assistance available to the applicant from Federal, State, or local government programs using Federal funds, unless the total amount of assistance that the applicant receives from all such programs is sufficient to fully compensate the applicant for losses suffered as a result of the crime.''.

(d) DEFINITIONS OF ''COMPENSABLE CRIME'' AND ''STATE''.—Section 1403(d) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(d)) is amended—

(1) in paragraph (3), by striking ''crimes involving terrorism,''; and

(2) in paragraph (4), by inserting ''the United States Virgin Islands,'' after ''the Commonwealth of Puerto Rico,''.

(e) RELATIONSHIP OF ELIGIBLE CRIME VICTIM COMPENSATION PROGRAMS TO THE SEPTEMBER 11TH VICTIM COMPENSATION FUND.—

(1) IN GENERAL.—Section 1403(e) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(e)) is amended by inserting ''including the program established under title IV of Public Law 107–42,'' after ''Federal program,''.

(2) COMPENSATION.—With respect to any compensation payable under title IV of Public Law 107–42, the failure of a crime victim compensation program, after the effective date of final regulations issued pursuant to section 407 of Public Law 107–42, to provide compensation otherwise required pursuant to section 1403 of the Victims of Crime Act of 1984 (42 U.S.C. 10602) shall not render that program ineligible for future grants under the Victims of Crime Act of 1984.

SEC. 623. CRIME VICTIM ASSISTANCE.

(a) ASSISTANCE FOR VICTIMS IN THE DISTRICT OF COLUMBIA, PUERTO RICO, AND OTHER TERRITORIES AND POSSESSIONS.—Section 1404(a) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(a)) is amended by adding at the end the following:

''(6) An agency of the Federal Government performing local law enforcement functions in and on behalf of the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, or any other territory or possession of the United States may qualify as an eligible crime victim assistance program for the purpose of grants under this subsection, or for the purpose of grants under subsection (c)(1).''.

(b) PROHIBITION ON DISCRIMINATION AGAINST CERTAIN VICTIMS.—Section 1404(b)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(b)(1)) is amended—

(1) in subparagraph (D), by striking ''and'' at the end;

(2) in subparagraph (E), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(F) does not discriminate against victims because they disagree with the way the State is prosecuting the criminal case.''.

(c) GRANTS FOR PROGRAM EVALUATION AND COMPLIANCE EFFORTS.—Section 1404(c)(1)(A) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(c)(1)(A)) is amended by inserting '', program evaluation, compliance efforts,'' after ''demonstration projects''.

(d) ALLOCATION OF DISCRETIONARY GRANTS.—Section 1404(c)(2) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(c)(2)) is amended—

(1) in subparagraph (A), by striking ''not more than'' and inserting ''not less than''; and

(2) in subparagraph (B), by striking ''not less than'' and inserting ''not more than''.

(e) FELLOWSHIPS AND CLINICAL INTERNSHIPS.—Section 1404(c)(3) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(c)(3)) is amended—

(1) in subparagraph (C), by striking ''and'' at the end;

(2) in subparagraph (D), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(E) use funds made available to the Director under this subsection—

''(i) for fellowships and clinical internships; and

''(ii) to carry out programs of training and special workshops for the presentation and dissemination of information resulting from demonstrations, surveys, and special projects.''.

SEC. 624. VICTIMS OF TERRORISM.

(a) COMPENSATION AND ASSISTANCE TO VICTIMS OF DOMESTIC TERRORISM.—Section 1404B(b) of the Victims of Crime Act of 1984 (42 U.S.C. 10603b(b)) is amended to read as follows:

''(b) VICTIMS OF TERRORISM WITHIN THE UNITED STATES.—The Director may make supplemental grants as provided in section

1402(d)(5) to States for eligible crime victim compensation and assistance programs, and to victim service organizations, public agencies (including Federal, State, or local governments) and nongovernmental organizations that provide assistance to victims of crime, which shall be used to provide emergency relief, including crisis response efforts, assistance, compensation, training and technical assistance, and ongoing assistance, including during any investigation or prosecution, to victims of terrorist acts or mass violence occurring within the United States.''.

(b) ASSISTANCE TO VICTIMS OF INTERNATIONAL TERRORISM.—Section 1404B(a)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10603b(a)(1)) is amended by striking ''who are not persons eligible for compensation under title VIII of the Omnibus Diplomatic Security and Antiterrorism Act of 1986''.

(c) COMPENSATION TO VICTIMS OF INTERNATIONAL TERRORISM.—Section 1404C(b) of the Victims of Crime of 1984 (42 U.S.C. 10603c(b)) is amended by adding at the end the following: ''The amount of compensation awarded to a victim under this subsection shall be reduced by any amount that the victim received in connection with the same act of international terrorism under title VIII of the Omnibus Diplomatic Security and Antiterrorism Act of 1986.''.

TITLE VII—INCREASED INFORMATION SHARING FOR CRITICAL INFRASTRUCTURE PROTECTION

SEC. 701. EXPANSION OF REGIONAL INFORMATION SHARING SYSTEM TO FACILITATE FEDERAL-STATE-LOCAL LAW ENFORCEMENT RESPONSE RELATED TO TERRORIST ATTACKS.

Section 1301 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796h) is amended—

(1) in subsection (a), by inserting ''and terrorist conspiracies and activities'' after ''activities'';

(2) in subsection (b)—

(A) in paragraph (3), by striking ''and'' after the semicolon;

(B) by redesignating paragraph (4) as paragraph (5);

(C) by inserting after paragraph (3) the following:

''(4) establishing and operating secure information sharing systems to enhance the investigation and prosecution abilities of participating enforcement agencies in addressing multi-jurisdictional terrorist conspiracies and activities; and (5)''; and

(3) by inserting at the end the following:

''(d) AUTHORIZATION OF APPROPRIATION TO THE BUREAU OF JUSTICE ASSISTANCE.—There are authorized to be appropriated to the Bureau of Justice Assistance to carry out this section $50,000,000 for fiscal year 2002 and $100,000,000 for fiscal year 2003.''.

TITLE VIII—STRENGTHENING THE CRIMINAL LAWS AGAINST TERRORISM

SEC. 801. TERRORIST ATTACKS AND OTHER ACTS OF VIOLENCE AGAINST MASS TRANSPORTATION SYSTEMS.

Chapter 97 of title 18, United States Code, is amended by adding at the end the following:

''§ 1993. Terrorist attacks and other acts of violence against mass transportation systems

''(a) GENERAL PROHIBITIONS.—Whoever willfully—

''(1) wrecks, derails, sets fire to, or disables a mass transportation vehicle or ferry;

''(2) places or causes to be placed any biological agent or toxin for use as a weapon, destructive substance, or destructive device in, upon, or near a mass transportation vehicle or ferry, without previously obtaining the permission of the mass transportation provider, and with intent to endanger the safety of any passenger or employee of the mass transportation provider, or with a reckless disregard for the safety of human life;

''(3) sets fire to, or places any biological agent or toxin for use as a weapon, destructive substance, or destructive device in, upon, or near any garage, terminal, structure, supply, or facility used in the operation of, or in support of the operation of, a mass transportation vehicle or ferry, without previously obtaining the permission of the mass transportation provider, and knowing or having reason to know such activity would likely derail, disable, or wreck a mass transportation vehicle or ferry used, operated, or employed by the mass transportation provider;

''(4) removes appurtenances from, damages, or otherwise impairs the operation of a mass transportation signal system, including a train control system, centralized dispatching system, or rail grade crossing warning signal;

''(5) interferes with, disables, or incapacitates any dispatcher, driver, captain, or person while they are employed in dispatching, operating, or maintaining a mass transportation vehicle or ferry, with intent to endanger the safety of any passenger or employee of the mass transportation provider, or with a reckless disregard for the safety of human life;

''(6) commits an act, including the use of a dangerous weapon, with the intent to cause death or serious bodily injury to an employee or passenger of a mass transportation provider or any other person while any of the foregoing are on the property of a mass transportation provider;

''(7) conveys or causes to be conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by this subsection; or

''(8) attempts, threatens, or conspires to do any of the aforesaid acts,

shall be fined under this title or imprisoned not more than twenty years, or both, if such act is committed, or in the case of a threat or conspiracy such act would be committed, on, against, or affecting a mass transportation provider engaged in or affecting interstate or foreign commerce, or if in the course of committing such act, that person travels or communicates across a State line in order to commit such act, or transports materials across a State line in aid of the commission of such act.

''(b) AGGRAVATED OFFENSE.—Whoever commits an offense under subsection (a) in a circumstance in which—

''(1) the mass transportation vehicle or ferry was carrying a passenger at the time of the offense; or

''(2) the offense has resulted in the death of any person,

shall be guilty of an aggravated form of the offense and shall be fined under this title or imprisoned for a term of years or for life, or both.

''(c) DEFINITIONS.—In this section—

''(1) the term 'biological agent' has the meaning given to that term in section 178(1) of this title;

''(2) the term 'dangerous weapon' has the meaning given to that term in section 930 of this title;

''(3) the term 'destructive device' has the meaning given to that term in section 921(a)(4) of this title;

''(4) the term 'destructive substance' has the meaning given to that term in section 31 of this title;

''(5) the term 'mass transportation' has the meaning given to that term in section 5302(a)(7) of title 49, United States Code, except that the term shall include schoolbus, charter, and sightseeing transportation;

''(6) the term 'serious bodily injury' has the meaning given to that term in section 1365 of this title;

''(7) the term 'State' has the meaning given to that term in section 2266 of this title; and

''(8) the term 'toxin' has the meaning given to that term in section 178(2) of this title.''.

(f) CONFORMING AMENDMENT.—The analysis of chapter 97 of title 18, United States Code, is amended by adding at the end:

''1993. Terrorist attacks and other acts of violence against mass transportation systems.''.

SEC. 802. EXPANSION OF THE BIOLOGICAL WEAPONS STATUTE.

Chapter 10 of title 18, United States Code, is amended—

(1) in section 175—

(A) in subsection (b)—

(i) by striking ''does not include'' and inserting ''includes'';

(ii) by inserting ''other than'' after ''system for''; and

(iii) by inserting ''bona fide research'' after ''protective'';

(B) by redesignating subsection (b) as subsection (c); and

(C) by inserting after subsection (a) the following:

''(b) ADDITIONAL OFFENSE.—Whoever knowingly possesses any biological agent, toxin, or delivery system of a type or in a quantity that, under the circumstances, is not reasonably justified by a prophylactic, protective, bona fide research, or other peaceful purpose, shall be fined under this title, imprisoned not more than 10 years, or both. In this subsection, the terms 'biological agent' and 'toxin' do not encompass any biological agent or toxin that is in its naturally occurring environment, if the biological agent or toxin has not been cultivated, collected, or otherwise extracted from its natural source.'';

(2) by inserting after section 175a the following:

''SEC. 175b. POSSESSION BY RESTRICTED PERSONS.

''(a) No restricted person described in subsection (b) shall ship or transport interstate or foreign commerce, or possess in or affecting commerce, any biological agent or toxin, or receive any biological agent or toxin that has been shipped or transported in interstate or foreign commerce, if the biological agent or toxin is listed as a select agent in subsection (j) of section 72.6 of title 42, Code of Federal Regulations, pursuant to section 511(d)(1) of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132), and is not exempted under subsection (h) of such section 72.6, or appendix A of part 72 of the Code of Regulations.

''(b) In this section:

''(1) The term 'select agent' does not include any such biological agent or toxin that is in its naturally-occurring environment, if the biological agent or toxin has not been cultivated, collected, or otherwise extracted from its natural source.

''(2) The term 'restricted person' means an individual who—

''(A) is under indictment for a crime punishable by imprisonment for a term exceeding 1 year;

''(B) has been convicted in any court of a crime punishable by imprisonment for a term exceeding 1 year;

''(C) is a fugitive from justice;

''(D) is an unlawful user of any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

''(E) is an alien illegally or unlawfully in the United States;

''(F) has been adjudicated as a mental defective or has been committed to any mental institution;

''(G) is an alien (other than an alien lawfully admitted for permanent residence) who is a national of a country as to which the Secretary of State, pursuant to section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)), section 620A of chapter 1 of part M of the Foreign Assistance Act of 1961 (22 U.S.C. 2371), or section 40(d) of chapter 3 of the Arms Export Control Act (22 U.S.C. 2780(d)), has made a determination (that remains in effect) that such country has repeatedly provided support for acts of international terrorism; or

''(H) has been discharged from the Armed Services of the United States under dishonorable conditions.

''(3) The term 'alien' has the same meaning as in section 1010(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3)).

''(4) The term 'lawfully admitted for permanent residence' has the same meaning as in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)).

''(c) Whoever knowingly violates this section shall be fined as provided in this title, imprisoned not more than 10 years, or both, but the prohibition contained in this section shall not apply with respect to any duly authorized United States governmental activity.''; and

(3) in the chapter analysis, by inserting after the item relating to section 175a the following:

''175b. Possession by restricted persons.''.

SEC. 803. DEFINITION OF DOMESTIC TERRORISM.

(a) DOMESTIC TERRORISM DEFINED.—Section 2331 of title 18, United States Code, is amended—

(1) in paragraph (1)(B)(iii), by striking ''by assassination or kidnapping'' and inserting ''by mass destruction, assassination, or kidnapping'';

(2) in paragraph (3), by striking ''and'';

(3) in paragraph (4), by striking the period at the end and inserting ''; and''; and

(4) by adding at the end the following:

''(5) the term 'domestic terrorism' means activities that—

''(A) involve acts dangerous to human life that are a violation of the criminal laws of the United States or of any State;

''(B) appear to be intended—

''(i) to intimidate or coerce a civilian population;

''(ii) to influence the policy of a government by intimidation or coercion; or

''(iii) to affect the conduct of a government by mass destruction, assassination, or kidnapping; and

''(C) occur primarily within the territorial jurisdiction of the United States.''.

(b) CONFORMING AMENDMENT.—Section 3077(1) of title 18, United States Code, is amended to read as follows:

''(1) 'act of terrorism' means an act of domestic or international terrorism as defined in section 2331;''.

SEC. 804. PROHIBITION AGAINST HARBORING TERRORISTS.

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, is amended by adding after section 2338 the following new section:

''§ 2339. Harboring or concealing terrorists

''(a) Whoever harbors or conceals any person who he knows, or has reasonable grounds to believe, has committed, or is about to commit, an offense under section 32 (relating to destruction of aircraft or aircraft facilities), section 175 (relating to biological weapons), section 229 (relating to chemical weapons), section 831 (relating to nuclear materials), paragraph (2) or (3) of section 844(f) (relating to arson and bombing of government property risking or causing injury or death), section 1366(a) (relating to the destruction of an energy facility), section 2280 (relating to violence against maritime navigation), section 2332a (relating to weapons of mass destruction), or section 2332b (relating to acts of terrorism transcending national boundaries) of this title, section 236(a) (relating to sabotage of nuclear facilities or fuel) of the Atomic Energy Act of 1954 (42 U.S.C. 2284(a)), or section 46502 (relating to aircraft piracy) of title 49, shall be fined under this title or imprisoned not more than ten years, or both.''.

''(b) A violation of this section may be prosecuted in any Federal judicial district in which the underlying offense was committed, or in any other Federal judicial district as provided by law.''.

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 113B of title 18, United States Code, is amended by inserting after the item for section 2338 the following:

''2339. Harboring or concealing terrorists.''.

SEC. 805. JURISDICTION OVER CRIMES COMMITTED AT U.S. FACILITIES ABROAD.

Section 7 of title 18, United States Code, is amended by adding at the end the following:

''(9) With respect to offenses committed by or against a United States national, as defined in section 1203(c) of this title—

''(A) the premises of United States diplomatic, consular, military or other United States Government missions or entities in foreign States, including the buildings, parts of buildings, and land appurtenant or ancillary thereto or used for purposes of those missions or entities, irrespective of ownership; and

''(B) residences in foreign States and the land appurtenant or ancillary thereto, irrespective of ownership, used for purposes of those missions or entities or used by United States personnel assigned to those missions or entities.

Nothing in this paragraph shall be deemed to supersede any treaty or international agreement in force on the date of enactment of this paragraph with which this paragraph conflicts. This paragraph does not apply with respect to an offense committed by a person described in section 3261(a) of this title.''.

SEC. 806. MATERIAL SUPPORT FOR TERRORISM.

(a) IN GENERAL.—Section 2339A of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking '', within the United States,'';

(B) by inserting ''229,'' after ''175,'';

(C) by inserting ''1993,'' after ''1992,'';

(D) by inserting '', section 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2284),'' after ''of this title'';

(E) by inserting ''or 60123(b)'' after ''46502''; and

(F) by inserting at the end the following: ''A violation of this section may be prosecuted in any Federal judicial district in which the underlying offense was committed, or in any other Federal judicial district as provided by law.''; and

(2) in subsection (b)—

(A) by striking ''or other financial securities'' and inserting ''or monetary instruments or financial securities''; and

(B) by inserting ''expert advice or assistance,'' after ''training,''.

(b) TECHNICAL AMENDMENT.—Section 1956(c)(7)(D) of title 18, United States Code, is amended by inserting ''or 2339B'' after ''2339A''.

SEC. 807. ASSETS OF TERRORIST ORGANIZATIONS.

Section 981(a)(1) of title 18, United States Code, is amended by inserting at the end the following:

''(G) All assets, foreign or domestic—

''(i) of any person, entity, or organization engaged in planning or perpetrating any act of domestic or international terrorism (as defined in section 2331) against the United States, citizens or residents of the United States, or their property, and all assets, foreign or domestic, affording any person a source of influence over any such entity or organization;

''(ii) acquired or maintained by any person for the purpose of supporting, planning, conducting, or concealing an act of domestic or international terrorism (as defined in section 2331) against the United States, citizens or residents of the United States, or their property; or

''(iii) derived from, involved in, or used or intended to be used to commit any act of domestic or international terrorism (as defined in section 2331) against the United States, citizens or residents of the United States, or their property.''.

SEC. 808. TECHNICAL CLARIFICATION RELATING TO PROVISION OF MATERIAL SUPPORT TO TERRORISM.

No provision of the Trade Sanctions Reform and Export Enhancement Act of 2000 (title IX of Public Law 106–387) shall be construed to limit or otherwise affect section 2339A or 2339B of title 18, United States Code.

SEC. 809. DEFINITION OF FEDERAL CRIME OF TERRORISM.

Section 2332b of title 18, United States Code, is amended—

(1) in subsection (f), by inserting after ''terrorism'' the following: ''and any violation of section 351(e), 844(e), 844(f)(1), 956(b), 1361, 1366(b), 1366(c), 1751(e), 2152, or 2156 of this title,'' before ''and the Secretary''; and

(2) in subsection (g)(5)(B), by striking clauses (i) through (iii) and inserting the following:

''(i) section 32 (relating to destruction of aircraft or aircraft facilities), 37 (relating to violence at international airports), 81 (relating to arson within special maritime and territorial jurisdiction), 175 or 175b (relating to biological weapons), 229 (relating to chemical weapons), 351 (a) through (d) (relating to congressional, cabinet, and Supreme Court assassination and kidnaping), 831 (relating to nuclear materials), 842(m) or (n) (relating to plastic explosives), 844(f) (2) through (3) (relating to arson and bombing of Government property risking or causing death), 844(i) (relating to arson and bombing of property used in interstate commerce), 930(c) (relating to killing or attempted killing during an attack on a Federal facility with a dangerous weapon), 956(a)(1) (relating to conspiracy to murder, kidnap, or maim within special maritime and territorial jurisdiction of the United States), 1030(a)(1) (relating to protection of computers), 1030(a)(5)(A)(i) resulting in damage as defined in 1030(a)(5)(B)(ii) through (v) (relating to protection of computers), 1114 (relating to killing or attempted killing of officers and employees of the United States), 1116 (relating to murder or manslaughter of foreign officials, official guests, or internationally protected persons), 1203 (relating to hostage taking), 1362 (relating to destruction of communication lines, stations, or systems), 1363 (relating to injury to buildings or property within special maritime and territorial jurisdiction of the United States), 1366(a) (relating to destruction of an energy facility), 1751 (a) through (d) (relating to Presidential and Presidential staff assassination and kidnaping), 1992 (relating to wrecking trains), 1993 (relating to terrorist attacks and other acts of violence against mass transportation systems), 2155 (relating to destruction of national defense materials, premises, or utilities), 2280 (relating to violence against maritime navigation), 2281 (relating to violence against maritime fixed platforms), 2332 (relating to certain homicides and other violence against United States nationals occurring outside of

the United States), 2332a (relating to use of weapons of mass destruction), 2332b (relating to acts of terrorism transcending national boundaries), 2339 (relating to harboring terrorists), 2339A (relating to providing material support to terrorists), 2339B (relating to providing material support to terrorist organizations), or 2340A (relating to torture) of this title;

''(ii) section 236 (relating to sabotage of nuclear facilities or fuel) of the Atomic Energy Act of 1954 (42 U.S.C. 2284); or

''(iii) section 46502 (relating to aircraft piracy), the second sentence of section 46504 (relating to assault on a flight crew with a dangerous weapon), section 46505(b)(3) or (c) (relating to explosive or incendiary devices, or endangerment of human life by means of weapons, on aircraft), section 46506 if homicide or attempted homicide is involved (relating to application of certain criminal laws to acts on aircraft), or section 60123(b) (relating to destruction of interstate gas or hazardous liquid pipeline facility) of title 49.''.

SEC. 810. NO STATUTE OF LIMITATION FOR CERTAIN TERRORISM OFFENSES.

(a) IN GENERAL.—Section 3286 of title 18, United States Code, is amended to read as follows:

''§ 3286. Extension of statute of limitation for certain terrorism offenses.

''(a) EIGHT-YEAR LIMITATION.—Notwithstanding section 3282, no person shall be prosecuted, tried, or punished for any noncapital offense involving a violation of any provision listed in section 2332b(g)(5)(B) other than a provision listed in section 3295, or a violation of section 112, 351(e), 1361, or 1751(e) of this title, or section 46504, 46505, or 46506 of title 49, unless the indictment is found or the information is instituted within 8 years after the offense was committed.

''(b) NO LIMITATION.—Notwithstanding any other law, an indictment may be found or an information instituted at any time without limitation for any offense listed in section 2332b(g)(5)(B), if the commission of such offense resulted in, or created a forseeable risk of, death or serious bodily injury to another person.''.

(b) APPLICATION.—The amendments made by this section shall apply to the prosecution of any offense committed before, on, or after the date of enactment of this section.

SEC. 811. ALTERNATE MAXIMUM PENALTIES FOR TERRORISM OFFENSES.

(a) ARSON.—Section 81 of title 18, United States Code, is amended in the second undesignated paragraph by striking ''not more than twenty years'' and inserting ''for any term of years or for life''.

(b) DESTRUCTION OF AN ENERGY FACILITY.—Section 1366 of title 18, United States Code, is amended—

(1) in subsection (a), by striking ''ten'' and inserting ''20''; and

(2) by adding at the end the following:

''(d) Whoever is convicted of a violation of subsection (a) or (b) that has resulted in the death of any person shall be subject to imprisonment for any term of years or life.''.

(c) MATERIAL SUPPORT TO TERRORISTS.—Section 2339A(a) of title 18, United States Code, is amended—

(1) by striking ''10'' and inserting ''15''; and

(2) by striking the period and inserting ''and, if the death of any person results, shall be imprisoned for any term of years or for life.''.

(d) MATERIAL SUPPORT TO DESIGNATED FOREIGN TERRORIST ORGANIZATIONS.—Section 2339B(a)(1) of title 18, United States Code, is amended—

(1) by striking ''10'' and inserting ''15''; and

(2) by striking the period after ''or both'' and inserting ''and, if the death of any person results, shall be imprisoned for any term of years or for life.''.

(e) DESTRUCTION OF NATIONAL-DEFENSE MATERIALS.—Section 2155(a) of title 18, United States Code, is amended—

(1) by striking ''ten'' and inserting ''20''; and

(2) by striking the period at the end and inserting '', and, if death results to any person, shall be imprisoned for any term of years or for life.''.

(f) SABOTAGE OF NUCLEAR FACILITIES OR FUEL.—Section 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2284), is amended—

(1) by striking ''ten'' each place it appears and inserting ''20'';

(2) in subsection (a), by striking the period at the end and inserting '', and, if death results to any person, shall be imprisoned for any term of years or for life.''; and

(3) in subsection (b), by striking the period at the end and inserting '', and, if death results to any person, shall be imprisoned for any term of years or for life.''.

(g) SPECIAL AIRCRAFT JURISDICTION OF THE UNITED STATES.—Section 46505(c) of title 49, United States Code, is amended—

(1) by striking ''15'' and inserting ''20''; and

(2) by striking the period at the end and inserting '', and, if death results to any person, shall be imprisoned for any term of years or for life.''.

(h) DAMAGING OR DESTROYING AN INTERSTATE GAS OR HAZARDOUS LIQUID PIPELINE FACILITY.—Section 60123(b) of title 49, United States Code, is amended—

(1) by striking ''15'' and inserting ''20''; and

(2) by striking the period at the end and inserting '', and, if death results to any person, shall be imprisoned for any term of years or for life.''.

SEC. 812. PENALTIES FOR TERRORIST CONSPIRACIES.

(a) ARSON.—Section 81 of title 18, United States Code, is amended in the first undesignated paragraph—

(1) by striking '', or attempts to set fire to or burn''; and

(2) by inserting ''or attempts or conspires to do such an act,'' before ''shall be imprisoned''.

(b) KILLINGS IN FEDERAL FACILITIES.—

(1) Section 930(c) of title 18, United States Code, is amended—

(A) by striking ''or attempts to kill'';

(B) by inserting ''or attempts or conspires to do such an act,'' before ''shall be punished''; and

(C) by striking ''and 1113'' and inserting ''1113, and 1117''.

(2) Section 1117 of title 18, United States Code, is amended by inserting ''930(c),'' after ''section''.

(c) COMMUNICATIONS LINES, STATIONS, OR SYSTEMS.—Section 1362 of title 18, United States Code, is amended in the first undesignated paragraph—

(1) by striking ''or attempts willfully or maliciously to injure or destroy''; and

(2) by inserting ''or attempts or conspires to do such an act,'' before ''shall be fined''.

(d) BUILDINGS OR PROPERTY WITHIN SPECIAL MARITIME AND TERRITORIAL JURISDICTION.—Section 1363 of title 18, United States Code, is amended—

(1) by striking ''or attempts to destroy or injure''; and

(2) by inserting ''or attempts or conspires to do such an act,'' before ''shall be fined'' the first place it appears.

(e) WRECKING TRAINS.—Section 1992 of title 18, United States Code, is amended by adding at the end the following:

''(c) A person who conspires to commit any offense defined in this section shall be subject to the same penalties (other than the penalty of death) as the penalties prescribed for the offense, the commission of which was the object of the conspiracy.''.

(f) MATERIAL SUPPORT TO TERRORISTS.—Section 2339A of title 18, United States Code, is amended by inserting ''or attempts or conspires to do such an act,'' before ''shall be fined''.

(g) TORTURE.—Section 2340A of title 18, United States Code, is amended by adding at the end the following:

''(c) CONSPIRACY.—A person who conspires to commit an offense under this section shall be subject to the same penalties (other than the penalty of death) as the penalties prescribed for the offense, the commission of which was the object of the conspiracy.''.

(h) SABOTAGE OF NUCLEAR FACILITIES OR FUEL.—Section 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2284), is amended—

(1) in subsection (a)—

(A) by striking '', or who intentionally and willfully attempts to destroy or cause physical damage to'';

(B) in paragraph (4), by striking the period at the end and inserting a comma; and

(C) by inserting ''or attempts or conspires to do such an act,'' before ''shall be fined''; and

(2) in subsection (b)—

(A) by striking ''or attempts to cause''; and

(B) by inserting ''or attempts or conspires to do such an act,'' before ''shall be fined''.

(i) INTERFERENCE WITH FLIGHT CREW MEMBERS AND ATTENDANTS.—Section 46504 of title 49, United States Code, is amended by inserting ''or attempts or conspires to do such an act,'' before ''shall be fined''.

(j) SPECIAL AIRCRAFT JURISDICTION OF THE UNITED STATES.—Section 46505 of title 49, United States Code, is amended by adding at the end the following:

''(e) CONSPIRACY.—If two or more persons conspire to violate subsection (b) or (c), and one or more of such persons do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be punished as provided in such subsection.''.

(k) DAMAGING OR DESTROYING AN INTERSTATE GAS OR HAZARDOUS LIQUID PIPELINE FACILITY.—Section 60123(b) of title 49, United States Code, is amended—

(1) by striking '', or attempting to damage or destroy,''; and

(2) by inserting '', or attempting or conspiring to do such an act,'' before ''shall be fined''.

SEC. 813. POST-RELEASE SUPERVISION OF TERRORISTS.

Section 3583 of title 18, United States Code, is amended by adding at the end the following:

''(j) SUPERVISED RELEASE TERMS FOR TERRORISM PREDICATES.—Notwithstanding subsection (b), the authorized term of supervised release for any offense listed in section 2332b(g)(5)(B), the commission of which resulted in, or created a foreseeable risk of, death or serious bodily injury to another person, is any term of years or life.''.

SEC. 814. INCLUSION OF ACTS OF TERRORISM AS RACKETEERING ACTIVITY.

Section 1961(1) of title 18, United States Code, is amended—

(1) by striking ''or (F)'' and inserting ''(F)''; and

(2) by inserting before the semicolon at the end the following: '', or (G) any act that is indictable as an offense listed in section 2332b(g)(5)(B)''.

SEC. 815. DETERRENCE AND PREVENTION OF CYBERTERRORISM.

(a) CLARIFICATION OF PROTECTION OF PROTECTED COMPUTERS.—Section 1030(a)(5) of title 18, United States Code, is amended—

(1) by inserting ''(i)'' after (A)'';

(2) by redesignating subparagraphs (B) and (C) as clauses (ii) and (iii), respectively;

(3) by adding ''and'' at the end of clause (iii), as so redesignated; and

(4) by adding at the end the following:

''(B) caused (or, in the case of an attempted offense, would, if completed, have caused) conduct described in clause (i), (ii), or (iii) of subparagraph (A) that resulted in—

''(i) loss to 1 or more persons during any 1-year period (including loss resulting from a related course of conduct affecting 1 or more other protected computers) aggregating at least $5,000 in value;

''(ii) the modification or impairment, or potential modification or impairment, of the medical examination, diagnosis, treatment, or care of 1 or more individuals;

''(iii) physical injury to any person;

''(iv) a threat to public health or safety; or

''(v) damage affecting a computer system used by or for a Government entity in furtherance of the administration of justice, national defense, or national security;''.

(b) PENALTIES.—Section 1030(c) of title 18, United States Code is amended—

(1) in paragraph (2)—

(A) in subparagraph (A) —

(i) by inserting ''except as provided in subparagraph (B),'' before ''a fine'';

(ii) by striking ''(a)(5)(C)'' and inserting ''(a)(5)(A)(iii)''; and

(iii) by striking ''and' at the end;

(B) in subparagraph (B), by inserting ''or an attempt to commit an offense punishable under this subparagraph,'' after ''subsection (a)(2),'' in the matter preceding clause (i); and

(C) in subparagraph (C), by striking ''and'' at the end;

(2) in paragraph (3)—

(A) by striking '', (a)(5)(A), (a)(5)(B),'' both places it appears; and

(B) by striking ''and'' at the end; and

(3) by striking ''(a)(5)(C)'' and inserting ''(a)(5)(A)(iii)''; and

(4) by adding at the end the following new paragraphs:

''(4)(A) a fine under this title, imprisonment for not more than 10 years, or both, in the case of an offense under subsection (a)(5)(A)(i), or an attempt to commit an offense punishable under that subsection;

''(B) a fine under this title, imprisonment for not more than 5 years, or both, in the case of an offense under subsection (a)(5)(A)(ii), or an attempt to commit an offense punishable under that subsection;

''(C) a fine under this title, imprisonment for not more than 20 years, or both, in the case of an offense under subsection (a)(5)(A)(i) or (a)(5)(A)(ii), or an attempt to commit an offense punishable under either subsection, that occurs after a conviction for another offense under this section.''.

(c) DEFINITIONS.—Subsection (e) of section 1030 of title 18, United States Code is amended—

(1) in paragraph (2)(B), by inserting '', including a computer located outside the United States'' before the semicolon;

(2) in paragraph (7), by striking ''and'' at the end;

(3) by striking paragraph (8) and inserting the following new paragraph (8):

''(8) the term 'damage' means any impairment to the integrity or availability of data, a program, a system, or information;'';

(4) in paragraph (9), by striking the period at the end and inserting a semicolon; and

(5) by adding at the end the following new paragraphs:

''(10) the term 'conviction' shall include a conviction under the law of any State for a crime punishable by imprisonment for more than 1 year, an element of which is unauthorized access, or exceeding authorized access, to a computer;

''(11) the term 'loss' includes any reasonable cost to any victim, including the cost of responding to an offense, conducting a damage assessment, and restoring the data, program, system, or information to its condition prior to the offense, and any revenue lost, cost incurred, or other consequential damages incurred because of interruption of service;

''(12) the term 'person' means any individual, firm, corporation, educational institution, financial institution, governmental entity, or legal or other entity;''.

(d) DAMAGES IN CIVIL ACTIONS.—Subsection (g) of section 1030 of title 18, United States Code is amended—

(1) by striking the second sentence and inserting the following new sentences: ''A suit for a violation of subsection (a)(5) may be brought only if the conduct involves one of the factors enumerated in subsection (a)(5)(B). Damages for a violation involving only conduct described in subsection (a)(5)(B)(i) are limited to economic damages.''; and

(2) by adding at the end the following: ''No action may be brought under this subsection for the negligent design or manufacture of computer hardware, computer software, or firmware.''.

(e) AMENDMENT OF SENTENCING GUIDELINES RELATING TO CERTAIN COMPUTER FRAUD AND ABUSE.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines to ensure that any individual convicted of a violation of section 1030 of title 18, United States Code, can be subjected to appropriate penalties, without regard to any mandatory minimum term of imprisonment.

SEC. 816. ADDITIONAL DEFENSE TO CIVIL ACTIONS RELATING TO PRESERVING RECORDS IN RESPONSE TO GOVERNMENT REQUESTS.

Section 2707(e)(1) of title 18, United States Code, is amended by inserting after ''or statutory authorization'' the following: ''(including a request of a governmental entity under section 2703(f) of this title)''.

SEC. 817. DEVELOPMENT AND SUPPORT OF CYBERSECURITY FORENSIC CAPABILITIES.

(a) IN GENERAL.—The Attorney General shall establish such regional computer forensic laboratories as the Attorney General considers appropriate, and provide support to existing computer forensic laboratories, in order that all such computer forensic laboratories have the capability—

(1) to provide forensic examinations with respect to seized or intercepted computer evidence relating to criminal activity (including cyberterrorism);

(2) to provide training and education for Federal, State, and local law enforcement personnel and prosecutors regarding investigations, forensic analyses, and prosecutions of computer-related crime (including cyberterrorism);

(3) to assist Federal, State, and local law enforcement in enforcing Federal, State, and local criminal laws relating to computer-related crime;

(4) to facilitate and promote the sharing of Federal law enforcement expertise and information about the investigation, analysis, and prosecution of computer-related crime with State and local law enforcement personnel and prosecutors, including the use of multijurisdictional task forces; and

(5) to carry out such other activities as the Attorney General considers appropriate.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) AUTHORIZATION.—There is hereby authorized to be appropriated in each fiscal year $50,000,000 for purposes of carrying out this section.

(2) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations in paragraph (1) shall remain available until expended.

TITLE IX—IMPROVED INTELLIGENCE

SEC. 901. RESPONSIBILITIES OF DIRECTOR OF CENTRAL INTELLIGENCE REGARDING FOREIGN INTELLIGENCE COLLECTED UNDER FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

Section 103(c) of the National Security Act of 1947 (50 U.S.C. 403–3(c)) is amended—

(1) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(2) by inserting after paragraph (5) the following new paragraph (6):

''(6) establish requirements and priorities for foreign intelligence information to be collected under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.), and provide assistance to the Attorney General to ensure that information derived from electronic surveillance or physical searches under that Act is disseminated so it may be used efficiently and effectively for foreign intelligence purposes, except that the Director shall have no authority to direct, manage, or undertake electronic surveillance operations pursuant to that Act unless otherwise authorized by statute or executive order;''.

SEC. 902. INCLUSION OF INTERNATIONAL TERRORIST ACTIVITIES WITHIN SCOPE OF FOREIGN INTELLIGENCE UNDER NATIONAL SECURITY ACT OF 1947.

Section 3 of the National Security Act of 1947 (50 U.S.C. 401a) is amended—

(1) in paragraph (2), by inserting before the period the following: '', or international terrorist activities''; and

(2) in paragraph (3), by striking ''and activities conducted'' and inserting '', and activities conducted,''.

SEC. 903. SENSE OF CONGRESS ON THE ESTABLISHMENT AND MAINTENANCE OF INTELLIGENCE RELATIONSHIPS TO ACQUIRE INFORMATION ON TERRORISTS AND TERRORIST ORGANIZATIONS.

It is the sense of Congress that officers and employees of the intelligence community of the Federal Government, acting within the course of their official duties, should be encouraged, and should make every effort, to establish and maintain intelligence relationships with any person, entity, or group for the purpose of engaging in lawful intelligence activities, including the acquisition of information on the identity, location, finances, affiliations, capabilities, plans, or intentions of a terrorist or terrorist organization, or information on any other person, entity, or group (including a foreign government) engaged in harboring, comforting, financing, aiding, or assisting a terrorist or terrorist organization.

SEC. 904. TEMPORARY AUTHORITY TO DEFER SUBMITTAL TO CONGRESS OF REPORTS ON INTELLIGENCE AND INTELLIGENCE-RELATED MATTERS.

(a) AUTHORITY TO DEFER.—The Secretary of Defense, Attorney General, and Director of Central Intelligence each may, during the effective period of this section, defer the date of submittal to Congress of any covered intelligence report under the jurisdiction of such official until February 1, 2002.

(b) COVERED INTELLIGENCE REPORT.—Except as provided in subsection (c), for purposes of subsection (a), a covered intelligence report is as follows:

(1) Any report on intelligence or intelligence-related activities of the United States Government that is required to be submitted to Congress by an element of the intelligence community during the effective period of this section.

(2) Any report or other matter that is required to be submitted to the Select Committee on Intelligence of the Senate and Permanent Select Committee on Intelligence of

the House of Representatives by the Department of Defense or the Department of Justice during the effective period of this section.

(c) EXCEPTION FOR CERTAIN REPORTS.—For purposes of subsection (a), any report required by section 502 or 503 of the National Security Act of 1947 (50 U.S.C. 413a, 413b) is not a covered intelligence report.

(d) NOTICE TO CONGRESS.—Upon deferring the date of submittal to Congress of a covered intelligence report under subsection (a), the official deferring the date of submittal of the covered intelligence report shall submit to Congress notice of the deferral. Notice of deferral of a report shall specify the provision of law, if any, under which the report would otherwise be submitted to Congress.

(e) EXTENSION OF DEFERRAL.—(1) Each official specified in subsection (a) may defer the date of submittal to Congress of a covered intelligence report under the jurisdiction of such official to a date after February 1, 2002, if such official submits to the committees of Congress specified in subsection (b)(2) before February 1, 2002, a certification that preparation and submittal of the covered intelligence report on February 1, 2002, will impede the work of officers or employees who are engaged in counterterrorism activities.

(2) A certification under paragraph (1) with respect to a covered intelligence report shall specify the date on which the covered intelligence report will be submitted to Congress.

(f) EFFECTIVE PERIOD.—The effective period of this section is the period beginning on the date of the enactment of this Act and ending on February 1, 2002.

(g) ELEMENT OF THE INTELLIGENCE COMMUNITY DEFINED.—In this section, the term ''element of the intelligence community'' means any element of the intelligence community specified or designated under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

SEC. 905. DISCLOSURE TO DIRECTOR OF CENTRAL INTELLIGENCE OF FOREIGN INTELLIGENCE-RELATED INFORMATION WITH RESPECT TO CRIMINAL INVESTIGATIONS.

(a) IN GENERAL.—Title I of the National Security Act of 1947 (50 U.S.C. 402 et seq.) is amended—

(1) by redesignating subsection 105B as section 105C; and

(2) by inserting after section 105A the following new section 105B:

''DISCLOSURE OF FOREIGN INTELLIGENCE ACQUIRED IN CRIMINAL INVESTIGATIONS; NOTICE OF CRIMINAL INVESTIGATIONS OF FOREIGN INTELLIGENCE SOURCES

''SEC. 105B. (a) DISCLOSURE OF FOREIGN INTELLIGENCE.—(1) Except as otherwise provided by law and subject to paragraph (2), the Attorney General, or the head of any other department or agency of the Federal Government with law enforcement responsibilities, shall expeditiously disclose to the Director of Central Intelligence, pursuant to guidelines developed by the Attorney General in consultation with the Director, foreign intelligence acquired by an element of the Department of Justice or an element of such department or agency, as the case may be, in the course of a criminal investigation.

''(2) The Attorney General by regulation and in consultation with the Director of Central Intelligence may provide for exceptions to the applicability of paragraph (1) for one or more classes of foreign intelligence, or foreign intelligence with respect to one or more targets or matters, if the Attorney General determines that disclosure of such foreign intelligence under that paragraph would jeopardize an ongoing law enforcement investigation or impair other significant law enforcement interests.

''(b) PROCEDURES FOR NOTICE OF CRIMINAL INVESTIGATIONS.—Not later than 180 days after the date of enactment of this section, the Attorney General, in consultation with the Director of Central Intelligence, shall develop guidelines to ensure that after receipt of a report from an element of the intelligence community of activity of a foreign intelligence source or potential foreign intelligence source that may warrant investigation as criminal activity, the Attorney General provides notice to the Director of Central Intelligence, within a reasonable period of time, of his intention to commence, or decline to commence, a criminal investigation of such activity.

''(c) PROCEDURES.—The Attorney General shall develop procedures for the administration of this section, including the disclosure of foreign intelligence by elements of the Department of Justice, and elements of other departments and agencies of the Federal Government, under subsection (a) and the provision of notice with respect to criminal investigations under subsection (b).''.

(b) CLERICAL AMENDMENT.—The table of contents in the first section of that Act is amended by striking the item relating to section 105B and inserting the following new items:

''Sec. 105B. Disclosure of foreign intelligence acquired in criminal investigations; notice of criminal investigations of foreign intelligence sources.

''Sec. 105C. Protection of the operational files of the National Imagery and Mapping Agency.''.

SEC. 906. FOREIGN TERRORIST ASSET TRACKING CENTER.

(a) REPORT ON RECONFIGURATION.—Not later than February 1, 2002, the Attorney General, the Director of Central Intelligence, and the Secretary of the Treasury shall jointly submit to Congress a report on the feasibility and desirability of reconfiguring the Foreign Terrorist Asset Tracking Center and the Office of Foreign Assets Control of the Department of the Treasury in order to establish a capability to provide for the effective and efficient analysis and dissemination of foreign intelligence relating to the financial capabilities and resources of international terrorist organizations.

(b) REPORT REQUIREMENTS.—(1) In preparing the report under subsection (a), the Attorney General, the Secretary, and the Director shall consider whether, and to what extent, the capacities and resources of the Financial Crimes Enforcement Center of the Department of the Treasury may be integrated into the capability contemplated by the report.

(2) If the Attorney General, Secretary, and the Director determine that it is feasible and desirable to undertake the reconfiguration described in subsection (a) in order to establish the capability described in that subsection, the Attorney General, the Secretary, and the Director shall include with the report under that subsection a detailed proposal for legislation to achieve the reconfiguration.

SEC. 907. NATIONAL VIRTUAL TRANSLATION CENTER.

(a) REPORT ON ESTABLISHMENT.—(1) Not later than February 1, 2002, the Director of Central Intelligence shall, in consultation with the Director of the Federal Bureau of Investigation, submit to the appropriate committees of Congress a report on the establishment and maintenance within the intelligence community of an element for purposes of providing timely and accurate translations of foreign intelligence for all other elements of the intelligence community. In the report, the element shall be referred to as the ''National Virtual Translation Center''.

(2) The report on the element described in paragraph (1) shall discuss the use of state-of-the-art communications technology, the integration of existing translation capabilities in the intelligence community, and the utilization of remote-connection capacities so as to minimize the need for a central physical facility for the element.

(b) RESOURCES.—The report on the element required by subsection (a) shall address the following:

(1) The assignment to the element of a staff of individuals possessing a broad range of linguistic and translation skills appropriate for the purposes of the element.

(2) The provision to the element of communications capabilities and systems that are commensurate with the most current and sophisticated communications capabilities and systems available to other elements of intelligence community.

(3) The assurance, to the maximum extent practicable, that the communications capabilities and systems provided to the element will be compatible with communications capabilities and systems utilized by the Federal Bureau of Investigation in securing timely and accurate translations of foreign language materials for law enforcement investigations.

(4) The development of a communications infrastructure to ensure the efficient and secure use of the translation capabilities of the element.

(c) SECURE COMMUNICATIONS.—The report shall include a discussion of the creation of secure electronic communications between the element described by subsection (a) and the other elements of the intelligence community.

(d) DEFINITIONS.—In this section:

(1) FOREIGN INTELLIGENCE.—The term ''foreign intelligence'' has the meaning given that term in section 3(2) of the National Security Act of 1947 (50 U.S.C. 401a(2)).

(2) ELEMENT OF THE INTELLIGENCE COMMUNITY.—The term ''element of the intelligence community'' means any element of the intelligence community specified or designated under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

SEC. 908. TRAINING OF GOVERNMENT OFFICIALS REGARDING IDENTIFICATION AND USE OF FOREIGN INTELLIGENCE.

(a) PROGRAM REQUIRED.—The Attorney General shall, in consultation with the Director of Central Intelligence, carry out a program to provide appropriate training to officials described in subsection (b) in order to assist such officials in—

(1) identifying foreign intelligence information in the course of their duties; and

(2) utilizing foreign intelligence information in the course of their duties, to the extent that the utilization of such information is appropriate for such duties.

(b) OFFICIALS.—The officials provided training under subsection (a) are, at the discretion of the Attorney General and the Director, the following:

(1) Officials of the Federal Government who are not ordinarily engaged in the collection, dissemination, and use of foreign intelligence in the performance of their duties.

(2) Officials of State and local governments who encounter, or may encounter in the course of a terrorist event, foreign intelligence in the performance of their duties.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated for the Department of Justice such sums as may be necessary for purposes of carrying out the program required by subsection (a).

MEASURE PLACED ON CALENDAR—H.R. 2975

Mr. REID. Mr. President, I ask unanimous consent that H.R. 2975, the House-passed counterterrorism bill just received from the House, be placed on the calendar.

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

ORDERS FOR TUESDAY, OCTOBER 16, 2001

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 10 a.m., Tuesday, October 16; that immediately following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, and the time for the two leaders be reserved for their use later in the day; that there then be 60 minutes for morning business, with the time equally divided and controlled by the two leaders or their designees, with the first half hour controlled by the Republican leader, and the remaining half hour controlled by the majority leader, and that Senators be allowed to speak for up to 10 minutes each; that at approximately 11 a.m., the Senate resume consideration of the motion to proceed to the foreign operations appropriations bill, and that the Senate recess from 12:30 p.m. to 2:15 p.m. for the party conference luncheons.

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

PROGRAM

Mr. REID. Mr. President, we were unable to invoke cloture on the motion to proceed to the foreign operations appropriations bill. These pieces of legislation, as important as they are to the Senate, are more important to the President. I hope someone will report to the President from the minority why they are holding up these bills that are so important to the administration. We cannot move forward on these bills, and the holdup is we are not moving, they say, quickly enough on the judicial nominations.

I say to the American public, that is not very good reasoning.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. REID. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand adjourned under the previous order.

There being no objection, the Senate, at 6:22 p.m., adjourned until Tuesday, October 16, 2001, at 10 a.m.