

S. RES. 167

Whereas while serving as a fighter pilot in the United States Air Force, Pete Peterson was shot down over North Vietnam in 1966 and captured by the Vietnamese military;

Whereas Pete Peterson was held for 6½ years as a prisoner of war in Vietnam;

Whereas after his return to the United States in 1973, Pete Peterson distinguished himself as a businessman and educator in his home State of Florida;

Whereas Pete Peterson was elected to Congress to represent the 2nd Congressional District of Florida in 1990 and went on to serve three terms;

Whereas Pete Peterson first returned to Vietnam in 1991 as a Member of Congress investigating Vietnamese progress on the POW/MIA issue;

Whereas President Reagan began the process of normalizing United States relations with Vietnam;

Whereas President Clinton lifted the trade embargo against Vietnam in 1994;

Whereas President Clinton normalized diplomatic relations with Vietnam in 1995;

Whereas in 1997 Pete Peterson was appointed the first United States ambassador to Vietnam in 22 years;

Whereas throughout Pete Peterson's tenure as United States Ambassador to Vietnam, the President certified annually that the Government of Vietnam was "fully cooperating in good faith" with the United States to obtain the fullest possible accounting of Americans missing from the Vietnam War;

Whereas Ambassador Peterson played a critical role in the process of building a new and normal relationship between the United States and Vietnam;

Whereas Ambassador Peterson worked tirelessly to encourage the Government of Vietnam to continue its efforts to reform and open Vietnam's economy;

Whereas thanks to Ambassador Peterson's leadership, Congress in 1998 approved a waiver of the Jackson-Vanik restrictions for Vietnam, thus enabling the Overseas Private Investment Corporation and the Export-Import Bank to operate in Vietnam;

Whereas completion of a United States-Vietnam trade agreement was Ambassador Peterson's top trade priority;

Whereas the United States and Vietnam began negotiations for a bilateral trade agreement in 1996;

Whereas Ambassador Peterson's diplomatic efforts throughout the process of negotiation were invaluable to the completion of the bilateral trade agreement;

Whereas in the agreement the Government of Vietnam agreed to a wide range of steps to open its markets to American trade and investment;

Whereas the agreement will pave the way for further reform of Vietnam's economy and Vietnam's integration into the world economy;

Whereas Ambassador Peterson witnessed the signing of the United States-Vietnam Bilateral Trade Agreement on July 13, 2000;

Whereas President Bush transmitted that trade agreement to Congress on June 8, 2001;

Whereas the United States House of Representatives approved the agreement on September 6, 2001; and

Whereas the United States Senate approved the agreement on October 3, 2001: Now, therefore, be it

*Resolved*, That Douglas "Pete" Peterson is recognized by the United States Senate for his outstanding and dedicated service to the United States as United States Ambassador to Vietnam from 1997-2001, and for his historic role in normalizing United States-Vietnam relations.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 1843. Mr. FEINGOLD 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.

SA 1844. Mr. REID (for Mr. KOHL) proposed an amendment to the bill H.R. 768, an act to amend the Improving America's Schools Act of 1994 to extend the favorable treatment of need-based educational aid under the antitrust laws, and for other purposes.

SA 1845. Mr. THOMPSON submitted an amendment intended to be proposed by him to the bill S. 1447, to improve aviation security, and for other purposes; which was ordered to lie on the table.

## TEXT OF AMENDMENTS

**SA 1843.** Mr. FEINGOLD 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 143, beginning on line 9, strike "and (3)" and all that follows through the colon and insert the following: "(3) effective mechanisms are in place to evaluate claims of local citizens that their health was harmed or their licit agricultural crops were damaged by such aerial coca fumigation, and provide fair compensation for meritorious claims; and (4) alternative development programs and emergency aid plans have been developed, in consultation with communities and local authorities in the areas in which such aerial coca fumigation is planned, and in the areas in which such aerial coca fumigation has been conducted, such programs and plans are being implemented:".

**SA 1844.** Mr. REID (for Mr. KOHL) proposed an amendment to the bill H.R. 768, an act to amend the Improving America's Schools Act of 1994 to extend the favorable treatment of need-based educational aid under the antitrust laws, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Need-Based Educational Aid Act of 2001".

### SEC. 2. AMENDMENT.

Section 568(d) of the Improving America's Schools Act of 1994 (15 U.S.C. 1 note) is amended by striking "2001" and inserting "2008".

### SEC. 3. GAO STUDY AND REPORT.

#### (a) STUDY.—

(1) IN GENERAL.—The Comptroller General shall conduct a study of the effect of the antitrust exemption on institutional student aid under section 568 of the Improving America's Schools Act of 1994 (15 U.S.C. 1 note).

(2) CONSULTATION.—The Comptroller General shall have final authority to determine the content of the study under paragraph (1), but in determining the content of the study, the Comptroller General shall consult with—

(A) the institutions of higher education participating under the antitrust exemption under section 568 of the Improving America's Schools Act of 1994 (15 U.S.C. 1 note) (referred to in this Act as the "participating institutions");

(B) the Antitrust Division of the Department of Justice; and

(C) other persons that the Comptroller General determines are appropriate.

#### (3) MATTERS STUDIED.—

(A) IN GENERAL.—The study under paragraph (1) shall—

(i) examine the needs analysis methodologies used by participating institutions;

(ii) identify trends in undergraduate costs of attendance and institutional undergraduate grant aid among participating institutions, including—

(I) the percentage of first-year students receiving institutional grant aid;

(II) the mean and median grant eligibility and institutional grant aid to first-year students; and

(III) the mean and median parental and student contributions to undergraduate costs of attendance for first year students receiving institutional grant aid;

(iii) to the extent useful in determining the effect of the antitrust exemption under section 568 of the Improving America's Schools Act of 1994 (15 U.S.C. 1 note), examine—

(I) comparison data, identified in clauses (i) and (ii), from institutions of higher education that do not participate under the antitrust exemption under section 568 of the Improving America's Schools Act of 1994 (15 U.S.C. 1 note); and

(II) other baseline trend data from national benchmarks; and

(iv) examine any other issues that the Comptroller General determines are appropriate, including other types of aid affected by section 568 of the Improving America's Schools Act of 1994 (15 U.S.C. 1 note).

#### (B) ASSESSMENT.—

(i) IN GENERAL.—The study under paragraph (1) shall assess what effect the antitrust exemption on institutional student aid has had on institutional undergraduate grant aid and parental contribution to undergraduate costs of attendance.

(ii) CHANGES OVER TIME.—The assessment under clause (i) shall consider any changes in institutional undergraduate grant aid and parental contribution to undergraduate costs of attendance over time for institutions of higher education, including consideration of—

(I) the time period prior to adoption of the consensus methodologies at participating institutions; and

(II) the data examined pursuant to subparagraph (A)(iii).

#### (b) REPORT.—

(1) IN GENERAL.—Not later than September 30, 2006, the Comptroller General shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that contains the findings and conclusions of the Comptroller General regarding the matters studied under subsection (a).

(2) IDENTIFYING INDIVIDUAL INSTITUTIONS.—The Comptroller General shall not identify an individual institution of higher education in information submitted in the report under paragraph (1) unless the information on the institution is available to the public.

#### (c) RECORDKEEPING REQUIREMENT.—

(1) IN GENERAL.—For the purpose of completing the study under subsection (a)(1), a participating institution shall—

(A) collect and maintain for each academic year until the study under subsection (a)(1) is completed—

(i) student-level data that is sufficient, in the judgment of the Comptroller General, to permit the analysis of expected family contributions, identified need, and undergraduate grant aid awards; and

(ii) information on formulas used by the institution to determine need; and

(B) submit the data and information under paragraph (1) to the Comptroller General at such time as the Comptroller General may reasonably require.

(2) NON-PARTICIPATING INSTITUTIONS.—Nothing in this subsection shall be construed to require an institution of higher education that does not participate under the antitrust exemption under section 568 of the Improving America's Schools Act of 1994 (15 U.S.C. 1 note) to collect and maintain data under this subsection.

#### SEC. 4. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on September 30, 2001.

Amend the title so as to read: "An Act to amend the Improving America's Schools Act of 1994 to extend the favorable treatment of need-based educational aid under the antitrust laws, and for other purposes."

**SA 1845.** Mr. THOMPSON submitted an amendment intended to be proposed by him to the bill S. 1447, to improve aviation security, and for other purposes; which was ordered to lie on the table; as follows:

On page 2, lines 20 and 21, strike "The Government Accounting Office, as well as other independent" and insert "Independent".

On page 4, lines 10 and 11, strike "hiring and training" and insert "hiring, training, and evaluating".

On page 4, line 19, before the semicolon, insert "and for ensuring accountability of the officials (public or private) responsible for administering the operational aspects of aviation security, based on performance standards".

On page 7, line 23, after the period, insert the following: "The Administrator shall provide funding and permanent staff to the Council."

On page 18, lines 20 and 21, strike "in accordance with the provisions of part III of title 5" and insert "notwithstanding the provisions of title 5".

At the end of the bill, insert the following:

#### SEC. 15. HUMAN CAPITAL CHANGES TO REINFORCE RESULTS-BASED MANAGEMENT.

(a) IN GENERAL.—Subchapter II of chapter 449 of title 49, United States Code, is amended by adding at the end the following:

##### "§ 44939. Human capital changes to reinforce results-based management

"(a) AUTHORITY OF THE ADMINISTRATOR.—

"(1) The Administrator shall maintain responsibility for the development and promulgation of policy and regulations relating to aviation security.

"(2) The Deputy Administrator for Aviation Security shall be subject to the direction of the Administrator.

"(b) APPOINTMENT OF THE DEPUTY ADMINISTRATOR FOR AVIATION SECURITY.—

"(1) The Deputy Administrator for Aviation Security shall be appointed by the Administrator for a term of not less than 3 and not more than 5 years. The appointment shall be made on the basis of experience with law enforcement, national security, or intelligence.

"(2) The Deputy Administrator for Aviation Security may be removed by the Administrator or the President for misconduct or failure to meet performance goals as set forth in the performance agreement described in section 44940.

"(c) REAPPOINTMENT OF THE DEPUTY ADMINISTRATOR FOR AVIATION SECURITY.—The Administrator may reappoint the Deputy Administrator for Aviation Security to subsequent terms of not less than 3 and not more than 5 years, so long as the performance of the Deputy Administrator is satisfactory.

"(d) COMPENSATION.—

"(1) IN GENERAL.—The Deputy Administrator for Aviation Security is authorized to be paid at an annual rate of basic pay not to exceed the maximum rate of basic pay for the Senior Executive Service under section 5382 of title 5, United States Code, including any applicable locality-based comparability payment that may be authorized under section 5304(h)(2)(B) of such title.

"(2) BONUS.—In addition, the Deputy Administrator for Aviation Security may receive a bonus of up to 50 percent of base pay, based upon the Administrator's evaluation of the Deputy Administrator's performance in relation to the goals set forth in the agreement described in section 44940. The annual compensation of the Deputy Administrator may not exceed \$200,000.

"(e) SENIOR MANAGEMENT.—

"(1) APPOINTMENT.—The Deputy Administrator for Aviation Security may appoint such senior managers as that Administrator determines necessary without regard to the provisions of title 5, United States Code.

"(2) COMPENSATION.—

"(A) IN GENERAL.—A senior manager, appointed pursuant to paragraph (1), 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, including any applicable locality-based comparability payment that may be authorized under section 5304(h)(2)(C) of such title.

"(B) BONUS.—In addition, senior managers appointed pursuant to paragraph (1) may receive bonuses based on the Deputy Administrator's evaluation of their performance in relation to goals set forth in agreements described in section 44940. The annual compensation for a senior manager may not exceed 125 percent of the maximum rate of base pay for the Senior Executive Service.

"(3) REMOVAL.—Senior managers may be removed by the Deputy Administrator for Aviation Security for misconduct or failure to meet performance goals set forth in the performance agreements.

"(4) PERSONNEL CEILINGS.—The Deputy Administrator for Aviation Security shall not be subject to ceilings relating to the number or grade of employees.

"(5) AVIATION SECURITY OMBUDSMAN.—The Deputy Administrator for Aviation Security, in consultation with the Administrator, shall appoint an ombudsman to address the concerns of aviation security stakeholders, such as airport authorities air carriers, consumer groups, and the travel industry.

##### "§ 44940. Short-term transition; long-term results

"(a) SHORT-TERM TRANSITION.—

"(1) IN GENERAL.—Within 60 days after the date of enactment of the Aviation Security Act, the Deputy Administrator for Aviation 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 Administrator, the Deputy Administrator for Aviation Security, 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 Administrator and the Deputy Administrator for Aviation 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 Department of Transportation, the Administrator, the Deputy Administrator for Aviation Security, and any other agency or organization that may have a role in ensuring safety and security of the civil air transportation system.

"(iii) The performance plan shall be available to the public. The Deputy Administrator for Aviation 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 Administrator for Aviation 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 Administrator for Aviation 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.

"(2) PERFORMANCE MANAGEMENT.—

"(A) ESTABLISHING MANAGEMENT ACCOUNTABILITY FOR MEETING PERFORMANCE GOALS.—

"(i) Each year, the Administrator and the Deputy Administrator for Aviation Security shall enter into an annual performance agreement that shall set forth organizational and individual performance goals for the Deputy Administrator.

"(ii) Each year, the Deputy Administrator for Aviation Security and each senior manager shall enter into an annual performance agreement that sets forth organization and individual goals for those managers.

"(B) ESTABLISHING A FAIR AND EQUITABLE SYSTEM FOR MEASURING STAFF PERFORMANCE.—The Deputy Administrator for Aviation Security shall establish an annual performance management system, notwithstanding the provisions of title 5, which strengthens the organization's effectiveness by providing for the establishment of goals and objectives for individual, group, and organizational performance consistent with the performance plan.

"(3) PERFORMANCE-BASED SERVICE CONTRACTING.—In carrying out the aviation security program, the Deputy Administrator for Aviation Security shall, to the extent practicable, maximize the use of performance-based service contracts for any screening activities that may be out-sourced. These contracts should be consistent with guidelines published by the Office of Federal Procurement Policy."

(b) CONFORMING AMENDMENT.—The chapter analysis for subchapter II of chapter 449, of title 49, United States Code, is amended by inserting after the item relating to section 44938 the following new items:

"44939. Human capital changes to reinforce results-based management

"44940. Short-term transition; long-term results".

**AUTHORITY FOR COMMITTEES TO MEET**

**COMMITTEE ON ENERGY AND NATURAL RESOURCES**

Mr. KERRY. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, October 3, at 9:30 a.m., to conduct a hearing. The Committee will receive testimony on the nominations of Jeffrey D. Jarrett to be Director of the Office of Surface Mining Reclamation and Enforcement, Department of the Interior, and Harold Craig Manson to be Assistant Secretary for Fish and Wildlife, Department of the Interior.

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

**COMMITTEE ON FINANCE**

Mr. KERRY. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Wednesday, October 3, 2001, at 11 a.m., to hear testimony on the need for an economic stimulus package and if one is needed, potential components.

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

**COMMITTEE ON FOREIGN RELATIONS**

Mr. KERRY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, October 3, 2001, at a time to be determined, to hold a business meeting.

The committee will consider and vote on the following matters:

Nominees: Mr. Robert W. Jordan of Texas, to be Ambassador to the Kingdom of Saudi Arabia.

Committee Organization: Approval of the creation of the Subcommittee on Central Asia and South Caucasus, as follows:

**Membership**

Robert G. Torricelli, Chairman  
Joseph R. Biden, Jr.  
John F. Kerry  
Paul D. Wellstone  
Barbara Boxer

Richard G. Lugar, Ranking Member  
Chuck Hagel  
Gordon H. Smith  
Sam Brownback

(The Chairman and Ranking Member of the full committee are ex officio members of each subcommittee on which they do not serve as members.)

**Jurisdiction of Subcommittee on Central Asia and South Caucasus**

The subcommittee deals with matters concerning Central Asia and the South Caucasus, including the countries of Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan, as well as Armenia, Azerbaijan and Georgia.

This subcommittee's responsibilities include all matters, problems and policies involving promotion of U.S. trade and export; terrorism, crime and the

flow of illegal drugs; and oversight over U.S. foreign assistance programs that fall within this subcommittee's regional jurisdiction.

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

**SUBCOMMITTEE ON CONSTITUTION, FEDERALISM, AND PROPERTY RIGHTS**

Mr. KERRY. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on Constitution, Federalism, and Property Rights be authorized to meet to conduct a hearing on Wednesday, October 3, 2001, at 9:30 a.m., in Dirksen 226.

Tentative Witness List [Invited]: United States Department of Justice, Washington, DC; Mr. Jerry Berman, Executive Director, Center for Democracy & Technology, Washington, DC; Professor David D. Cole, Professor of Law, Georgetown University Law Center, Washington, DC; Dr. Morton H. Halperin, Chair, Advisory Board, Center for National Security Studies, Washington, DC; Dean Douglas W. Kmiec, Dean and St. Thomas More Professor, Columbus School of Law, The Catholic University of America, Washington, DC; Professor John O. McGinnis, Professor of Law, Benjamin N. Cardozo School of Law at Yeshiva University, New York, NY; Mr. Grover Norquist, President, Americans for Tax Reform, Washington, DC.

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

**NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2002**

On October 2, 2001, the Senate passed S. 1438, as follows:

S. 1438

*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 "National Defense Authorization Act for Fiscal Year 2002".

**SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.**

(a) DIVISIONS.—This Act is organized into three divisions as follows:

- (1) Division A—Department of Defense Authorizations.
- (2) Division B—Military Construction Authorizations.
- (3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

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

- Sec. 1. Short title.  
Sec. 2. Organization of Act into divisions; table of contents.  
Sec. 3. Congressional defense committees defined.  
Sec. 4. Applicability of report of Committee on Armed Services of the Senate.

**DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS**

**TITLE I—PROCUREMENT**

**Subtitle A—Authorization of Appropriations**

- Sec. 101. Army.  
Sec. 102. Navy and Marine Corps.  
Sec. 103. Air Force.  
Sec. 104. Defense-wide activities.

- Sec. 105. Defense Inspector General.  
Sec. 106. Chemical agents and munitions destruction, Defense.  
Sec. 107. Defense health programs.

**Subtitle B—Army Programs**

(Reserved)

**Subtitle C—Navy Programs**

- Sec. 121. Virginia class submarine program.  
Sec. 122. Multiyear procurement authority for F/A-18E/F aircraft engines.  
Sec. 123. V-22 Osprey aircraft program.  
Sec. 124. Additional matter relating to V-22 Osprey aircraft.

**Subtitle D—Air Force Programs**

- Sec. 131. Multiyear procurement authority for C-17 aircraft.

**Subtitle E—Other Matters**

- Sec. 141. Extension of pilot program on sales of manufactured articles and services of certain Army industrial facilities without regard to availability from domestic sources.  
Sec. 142. Procurement of additional M291 skin decontamination kits.

**TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION**

**Subtitle A—Authorization of Appropriations**

- Sec. 201. Authorization of appropriations.  
Sec. 202. Amount for basic and applied research.  
Sec. 203. Authorization of additional funds.  
Sec. 204. Funding for Special Operations Forces Command, Control, Communications, Computers, and Intelligence Systems Threat Warning and Situational Awareness program.

**Subtitle B—Program Requirements, Restrictions, and Limitations**

- Sec. 211. F-22 aircraft program.  
Sec. 212. C-5 aircraft reliability enhancement and reengining.  
Sec. 213. Review of alternatives to the V-22 Osprey aircraft.  
Sec. 214. Joint biological defense program.  
Sec. 215. Report on V-22 Osprey aircraft before decision to resume flight testing.  
Sec. 216. Big Crow Program and Defense Systems Evaluation program.

**Subtitle C—Other Matters**

- Sec. 231. Technology Transition Initiative.  
Sec. 232. Communication of safety concerns between operational testing and evaluation officials and program managers.  
Sec. 233. Supplemental Authorization of Appropriations for Fiscal Year 2001 for Research, Development, Test, and Evaluation Defense-wide.

**TITLE III—OPERATION AND MAINTENANCE**

**Subtitle A—Authorization of Appropriations**

- Sec. 301. Operation and maintenance funding.  
Sec. 302. Working capital funds.  
Sec. 303. Armed Forces Retirement Home.  
Sec. 304. Assistance to local educational agencies that benefit dependents of members of the Armed Forces and Department of Defense civilian employees.  
Sec. 305. Amount for impact aid for children with severe disabilities.  
Sec. 306. Improvements in instrumentation and targets at Army live fire training ranges.  
Sec. 307. Environmental Restoration, Formerly Used Defense Sites.  
Sec. 308. Authorization of additional funds.