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Senate

The Senate met at 10:30 a.m. and was called to order by the Honorable DEBBIE STABENOW, a Senator from the State of Michigan.

PRAYER

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

Almighty God, together we salute You as Lord of our lives, the one to whom we all must report, the only one we ultimately need to please, and the one who is the final judge of our leadership. We pray that our shared loyalty to You as our sovereign Lord will draw us closer to one another in the bond of service to our Nation. It is in fellowship with You that we find one another. Whenever we are divided in our differences over secondary issues, remind us of our oneness on essential issues: our accountability to You, our commitment to Your Commandments, our dedication to Your justice and mercy, our patriotism for our Nation, and our prayer that, through our efforts, You will provide Your best for our Nation. And there is something else, Lord: We all admit our total dependence on Your presence to give us strength and courage. So with one mind and a shared commitment, we humbly fall on the knees of our hearts and ask that You bless us and keep us, make Your face shine upon us, lift up Your countenance before us, and grant us Your peace. Amen.

PLEDGE OF ALLEGIANCE

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

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, December 6, 2001.

To the Senate:

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

ROBERT C. BYRD,
President pro tempore.

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

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

SCHEDULE

Mr. REID. Madam President, this morning the Senate will be in a period for morning business, with Senators permitted to speak for up to 10 minutes each. The majority leader has asked me to announce that he hopes to have as many as three rollcall votes on judicial nominations beginning at around 11 o'clock this morning. At noon, under the order previously entered, the Senate will begin consideration of the Department of Defense Appropriations Act. There will be rollcall votes on amendments to the Defense appropriations bill throughout the day.

As I announced last night for the majority leader, if there is any hope of getting out of here next Friday—and I think there is—we must complete our work on the Department of Defense appropriations bill this week. This week could be tonight, Friday, Saturday, or Sunday. But if there is any hope of getting us out of here, we have to get this bill to conference as quickly as we can so that the House and Senate conferees can report a conference report to both the House and Senate. If we do not finish the bill this week, our ability to leave here a week from tomorrow is very limited.

MEASURE PLACED ON THE CALENDAR—S. 1766

Mr. REID. Madam President, I understand S. 1766 is at the desk and is due for its second reading.

The ACTING PRESIDENT pro tempore. The Senator is correct.

NOTICE

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Michael F. DiMario, *Public Printer*

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

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Mr. REID. Madam President, I ask that S. 1766 be read for a second time, and then I would object at this time to any further proceedings.

The ACTING PRESIDENT pro tempore. The clerk will read the bill for the second time.

The assistant legislative clerk read as follows:

A bill (S. 1766) to provide for the energy security of the Nation, and for other purposes.

The ACTING PRESIDENT pro tempore. Objection having been heard, the bill will be placed on the calendar.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

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

The Senator from Wyoming.

SENIORS MENTAL HEALTH ACCESS IMPROVEMENT ACT OF 2001

Mr. THOMAS. Madam President, I rise today to make a few comments on a bill introduced earlier this week and about which I have not had a chance to talk. I introduced it along with Senator LINCOLN of Arkansas. It is called the Seniors Mental Health Access Improvement Act of 2001.

I am very happy to have had an opportunity to introduce this bill. It is important legislation, particularly for seniors living in rural areas. The bill is designed to provide more opportunities for seniors under Medicare to have professional assistance in areas where often there are shortages of providers, and this is designed to help that situation.

It permits mental health counselors and marriage and family therapists to bill Medicare for their services, and it pays them at the rate of clinical social workers.

It is particularly important in rural States, such as my State of Wyoming, where often there is a shortage of mental health providers, and so it requires a good deal of travel. On the other hand, there are trained social workers who are prepared to provide these services if they have an opportunity to do it under the Medicare Program. That is what this bill does.

Currently, there are Medicare limitations on the types of mental health providers. Rural seniors are often forced to travel a good distance to take advantage of those services. Mental health counselors and marriage and family therapists are often the only mental health providers in a community. They have the same training and education as clinical social workers. Social workers have been recognized by Medicare for 10 years.

Seniors, of course, do have higher rates of suicide and depression than other populations. Therefore, it is very evident that this change is needed. We need to recognize the qualifications of these providers and ensure that seniors do have access to them.

The majority of Wyoming communities are mental health professional shortage areas and probably will continue to be that way for some time. Because Medicare recognizes a limited number of mental health providers, Wyoming seniors have access to 537 providers, 247 social workers, and 121 psychiatrists.

This bill will double the number of available Medicare mental health providers. Seventy-five percent of 518 national designated mental health professional shortage areas are in rural areas. Again, not a surprise.

One-fifth of rural counties have no mental health services of any kind.

Frontier counties, of course, as they are designated in terms of mental health providers, are in even more dire straits.

Ninety-five percent do not have psychiatrists, 68 percent do not have psychologists, and 78 percent do not have social workers.

I am proud to be an author of this bill, along with Senator LINCOLN. I hope we will make some progress as soon as possible. It will perhaps not be this year, I imagine, but it will be as we move on into Medicare reform, which I think we will certainly undertake next year.

DEFENSE APPROPRIATIONS

Mr. THOMAS. Mr. President, I want to make a comment or two about the subject we are going to debate this morning. It seems to me certainly there is nothing more important for us to undertake than the matter of appropriations for defense. I think the Senate needs to be responsive to the President's request for defense funding in not adding non-defense spending to this Defense appropriations bill.

Our men and women in the military are overseas defending this country, and we must support them. This appropriations bill, as other appropriations bills, obviously should have been passed back in August or September, the end of the fiscal year. We have gone 2 months now without increasing those dollars. So I hope we can move forward, and I hope we do not hold this bill hostage to some kind of fairly unrelated spending. We ought to get right to it and do what the President has asked us to do.

He has indicated what we did in the $40 billion in September is available. He has indicated when they need more money, whether it be for defense or domestic terrorism, he will request more money. So I certainly hope we do not spend a great deal of time trying to add more dollars to Defense appropriations than what the President had asked. He has made it quite clear he intends to veto it if it is that way. I think that would be a real disadvantage to us all and to the people we are intending to assist.

I look forward to being able to deal with that, to come up with something we can pass through the Senate and the House, get to the President, and that we can support the President in this area of defense. I think we find ourselves sometimes talking about spending money when there is not a plan yet to use it. Domestic security is one of those things. We have seen meetings where they are working together and Governor Ridge has said when we get the plan we will ask for the money that is necessary if it is not now in the $20 billion. So to go ahead and sort of put the money out there before those who are managing the program have had an opportunity to decide how that money can best be used is a mistake. I hope we do not do that.

I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. JOHNSON. I ask unanimous consent to speak in morning business.

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

SUPPORT THE ENERGY BILL AND THE RENEWABLE FUELS STANDARD

Mr. JOHNSON. Mr. President, I rise in strong support of the comprehensive energy bill that is being introduced today.

As we all know, there has been a great deal of discussion this year about the nation's energy situation. The increasing volatility in gasoline and diesel prices and the growing tension in the world from the terrorist attacks have affected all of us. There is a clear need for energy policies that ensure long term planning, homeland security, fuel diversity and a focus on new technologies.

To this end, I am very pleased that a comprehensive energy bill has been introduced in the Senate by my South Dakota colleague, Senator TOM

DASCHLE. The bill is the result of many months of hard work by the Majority Leader and the chairmen of the committees of jurisdiction, including Senator JEFF BINGAMAN, the chairman of the Energy Committee, of which I am a member. We have listened to the concerns of both those who run our energy systems and our constituents in crafting the legislation. The result is a balanced and thorough product that addresses most of the major segments of the energy system and looks ahead to the needs of future.

The bill covers a number of important areas, including incentives to increase oil and gas production and the nation's supplies of traditional fuels, streamlining of electricity systems and regulations, important environmental and conservation measures, and provisions to increase efficiency of vehicles and appliances.

One of the key provisions in the bill is the inclusion of a renewable fuels standard. Earlier this year, I introduced a bill with Senator CHUCK HAGEL of Nebraska, the Renewable Fuels for Energy Security Act of 2001, S. 1006, to ensure future growth for ethanol and biodiesel through the creation of a new renewable fuels content standard in all motor fuel produced and used in the U.S. I am pleased the framework of this bill is included in the comprehensive energy legislation.

Today, ethanol and biodiesel comprise less than one percent of all transportation fuel in the United States. 1.8 billion gallons is currently produced in the U.S. The energy bill's language would require that five billions gallons of transportation fuel be comprised of renewable fuel by 2012—nearly a tripling of the current ethanol and renewable fuel production.

There are great benefits of ethanol and renewable fuels for the environment and the economies of rural communities. We have many ethanol plants in South Dakota and more are being planned. These farmer-owned ethanol plants in South Dakota, and in neighboring states, demonstrate the hard work and commitment to serve a growing market for clean domestic fuels.

Based on current projections, construction of new plants will generate $900 million in capital investment and tens of thousands of construction jobs all across rural America. For corn farmers, the price of corn is expected to rise between 20–30 cents per bushel. Farmers will have the opportunity to invest in these ethanol plants to capture a greater piece of the value-added profitability.

Combine this with the provisions of the energy bill and the potential economic impact for South Dakota is enormous.

Today, an important but underemphasized future is biodiesel, which is cheaply produced from excess soybean oil. We all know that soybean prices are hovering near historic lows. Biodiesel production is small but has been growing steadily. A renewable fuel standard would greatly increase the prospects for bioproduction and benefit soybean farmers from South Dakota and other states around the Nation.

Moreover, the enactment of renewable fuel standards would greatly increase the Nation's energy security. Greater usage of renewable fuels would displace the level of foreign oil that we currently use. During these difficult times it is imperative that we find ways to improve our Nation's energy security and reduce our overwhelming dependence on foreign oil. A renewable fuel standard would go a long way toward achieving this critically important goal.

The House has passed an energy bill without any provisions for renewable fuel standard. Moreover, I believe the other body looks backward by focusing too heavily on simple tax breaks for traditional fuel supplies without enough encouragement for new technologies. Where there are agriculturally based fuels, wind energy, and so on, we adequately provide for it in this Senate legislation. The House bill sets us on track for continued heavy reliance on imported petroleum from unstable nations all around the world.

I believe the Senate bill that is now introduced achieves the right balance for the Nation's future. I commend Senator DASCHLE AND SENATOR BINGAMAN for their efforts and I look forward to debate this coming year on this critical piece of legislation which directs our attention not only to energy needs of every kind in our Nation but to the energy independence and energy security that during these troubling times we all understand now more profoundly than ever is so badly needed.

ORDER OF PROCEDURE

Mr. REID. I ask unanimous consent that at 11:40 a.m. today the Senate proceed to executive session to consider Calendar No. 584, Harris Hartz, to be United States Circuit Court Judge; that the Senate immediately vote on confirmation of the nomination; and immediately following the disposition of the nomination, calendar Nos. 585 and 588 be confirmed; that any statements on the above nominations appear at the appropriate place in the RECORD; and upon the disposition of the above nominations, the President be immediately notified of the Senate's action and the Senate return to legislative session.

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

Mr. REID. Madam President, as in executive session, I ask for the yeas and nays on Calendar No. 584.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

DEFENSE APPROPRIATIONS

Mr. REID. Madam President, in a short period of time we will take up the Defense appropriations bill. This is a bill the Chair and the ranking member, Senators INOUYE and STEVENS, have been working on as partners. A better term would be cochairs. They work so well together and have for so many years. They worked hard to get the bill to the point where it now is. We also have the full committee chair, Senator BYRD, who has worked very hard on this, with his counterpart, also, Senator STEVENS, to get to the point where the bill is.

One of the—and I am sorry to say this—controversial aspects of this legislation deals with something Senator BYRD has called homeland security. There will be efforts to strike this provision because it costs too much money, according to some, even though Governor Ridge, the homeland security czar, has stated that we need hundreds of millions of dollars for the things he has already recognized need to be done.

If we, in our mind's eye, fix the headlines of newspapers in recent weeks—Smallpox threat; subsequent headline: Cost of smallpox vaccinations more than originally anticipated; yesterday's headlines across the country: Osama bin Laden and the terrorists have recognized that they have what is called a dirty nuclear weapon, maybe—I hope we will be in a position to do something about this. That is what Senator BYRD has tried to do. That is what this legislation is all about, dealing with some of the things I mentioned, headlines around the country indicating we need to do something about homeland security.

Two of our Senators have been attacked with anthrax: Senator DASCHLE and Senator LEAHY. As we speak, we are trying to work with Senator LEAHY's letter to find out what should be done with that.

I hope when this legislation comes before us, which will be very soon, we will recognize we will have problems with anthrax and other biological agents such as smallpox, that our ports are unsafe and our nuclear plants are unsafe. Local government is really being hurt as a result of their spending all this money. So I hope we do something to keep that in the bill.

I see the majority leader has come to the floor.

The PRESIDING OFFICER (Mr. NELSON of Florida). The Senate majority leader.

Mr. DASCHLE. Mr. President, I compliment the distinguished assistant Democratic leader for his comments

just now and add my voice. He has said it so well. I know within the hour the distinguished chair of the Appropriations Committee, Senator BYRD, along with the Senator from Hawaii, our dear colleague, Mr. INOUYE, will lay down the Defense Appropriations Committee bill. Of course, a key part of that Defense Appropriations Committee bill is the homeland defense legislation incorporated within that bill.

The homeland defense bill is one-half of our economic stimulus plan, first and foremost. It responds to the economists across the country who have said, if you are going to improve the economy, if you are going to strengthen our economic circumstances, the very best way to do it—in fact, the only way to ensure that it happens—is to make sure the confidence level of all Americans improves.

Confidence has been shaken. The only way we can address it effectively is by ensuring that, regardless of where they travel, regardless of their circumstances at home, the mail they are now receiving—that under any circumstances we begin to put the safety back into our system, safety that we have lost since September 11. That is what homeland defense is all about.

Read the headlines in almost any daily newspaper. You don't need any more evidence than that, that we have a set of circumstances unlike this country has seen before. God forbid we have another event tomorrow, an attack within the week. I have no doubt, if we had any kind of additional terror activity, regardless of where it may be, even abroad, it would trigger the need, it would trigger the desire on the part of our colleagues, to ensure that we have the resources for homeland defense.

That is what we are saying. We should not be response oriented, we should be preventive in our desire to ensure the infrastructure is in place.

We have proposed a very narrowly drawn bill, a bill that addresses the need for bioterrorism response, the need for greater law enforcement, the need for protecting our infrastructure, the need for ensuring that we have the health facilities in place. That is what this bill does.

I don't know that you could make a better case than the New York Times editorial this morning about the need for homeland defense now. They simply make a statement, about two-thirds of the way through the editorial, that says basically: The American people want this protection now. They don't want to wait until next year. They know what we know: The terrorists do not operate on a fiscal year basis. Terrorists operate now. Terrorists will operate whenever it is convenient and appropriate for them.

There is no time to wait, when it comes to the homeland defense investments that are so important to us, as we look to restoring confidence, restoring safety, restoring the opportunities that we need in this country to be ready should something happen.

That is what this fight is going to be all about. I hope our colleagues will join with us in supporting it. I hope we are not going to be required to go through it piece by piece, which is what we will have to do if we have no other option; we will offer amendments piece by piece.

I asked my Republican friends, rhetorically, over the last several days: Tell us which part of it you do not support. Is it the effort at bioterrorism? We have 76 cosponsors on the Kennedy-Frist bill. I think there would be strong support for that. Is it efforts to provide greater resources to local law enforcement? If they are opposed to that, let's have an amendment. We'll take it out. Are you opposed to providing the new vaccine for smallpox and anthrax antibiotics? If that part is what you are opposed to, we will take that out. But we will be required, of course, to take each of these pieces step by step. I hope that will not be necessary.

I hope people understand this is going to be a very important debate, a debate that I think will give us our first chance to see how willing the Senate is to respond to the very critical need in this country for homeland defense. This is the first opportunity, and it is on the Defense bill. There could not be a more appropriate vehicle for it.

I hope my colleagues will support it, will work with us to get it. It has such import that it is my intention to stay on this bill until we finish it. If it takes Saturday to do it, I want to put my colleagues on notice. Because Monday is a Jewish holiday, Hanukkah, we really have to complete our work this week. So we will be on the bill this afternoon. We will be on the bill tomorrow. We will be on the bill Saturday if necessary. But we will stay on the bill and complete our work on it because it is that critical. We need to get in conference with our House colleagues, and we need to get this job done before we leave.

Clearly, because of the importance we must place on completing our work, we will have to accommodate whatever schedule is required to ensure that we complete it this week.

Mr. President, I ask unanimous consent the New York Times editorial be printed in the RECORD.

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

[From the New York Times, Dec. 6, 2001.]

THE HOME-FRONT EMERGENCY

The need to do more to guard against terrorism at home is obvious. Tom Ridge, the director of homeland defense, and members of Congress have certainly endorsed the idea—in principle. Yet today, when the Senate takes up a measure that would add $7.5 billion to the budget for items like airport security and defense against germ warfare, Republican leaders will be trying to block it. The appropriation is tacked onto a emergency military spending bill that no one opposes. But an emergency also exists at home. Senators should put the safety of their constituents first and vote for the entire package.

President Bush has threatened to veto the $7.5 billion measure if it reaches his desk, and Mr. Ridge has urged the senators to wait until next year, when he acknowledges he will be asking for more money for things like public health and food safety. Senators have been appropriately skeptical of his plea for delay. ''That, simply stated, is too late,'' said Arlen Specter, a Pennsylvania Republican.

Why would the White House, which has issued another generalized terrorism warning, want to temporize on mounting an American response? The answer is old-fashioned budget politics. Earlier this year the administration and Congress settled on a ceiling of $686 billion in so-called discretionary spending for the current fiscal year. After Sept. 11, Mr. Bush and Congress agreed to add $40 billion to deal with the terrorist attacks, half of which was supposed to be set aside for New York. Not surprisingly, the money has been used up quickly. About $20 billion is going to the military to prosecute the war in Afghanistan. Only $10 billion may go to New York. Only $8.5 billion is set aside for homeland defenses.

It makes no sense to postpone help for the nation's health facilities to recognize and treat victims of biological or chemical attack when federal health officials have testified that their departments could use the money now. If the American people were asked whether they wanted to wait until next year to appropriate money to keep nuclear facilities secure and protect the nation's borders, they would undoubtedly opt for immediate action. The other great unmet need this year is New York City's recovery. The Bush administration argues that the promise of at least $20 billion to help the city will, eventually, be spent as costs are incurred. But that is beside the point. The Senate bill would give New York a further $7.5 billion for costs that would not be covered under those emergency procedures, such as grants to businesses to keep them from moving out of Lower Manhattan. It would also commit money to the Port Authority, the Metropolitan Transportation Authority and other agencies to start rebuilding now. Other parts of the package would help reimburse utilities for rewiring the area and hospitals for the emergency care they provided.

The only serious argument against the Senate package appears to be the president's opposition. Senator Ted Stevens of Alaska, the ranking Republican on the Appropriations Committee, says he would vote for the bill except that the White House asked him not to.

Mr. Bush has lately accused Congress of overspending, though lawmakers have stayed within all the agreed-upon-limits except those related to the emergency. Recently Mitchell Daniels, Mr. Bush's budget director, has been citing new deficit projections as evidence that Congress needs to keep spending down. But the administration has found room to expand the separate economic stimulus package to include huge giveaways to corporations and the wealthy. About $25 billion in the Republican stimulus bill would simply go to help the biggest corporations in America avoid taxes altogether.

This is a time for Senator Stevens, and all his colleagues, to vote on the merits. The merits dictate that the bill be passed.

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

Mr. DASCHLE. I am happy to yield to the Senator from Nevada.

Mr. REID. I say to the distinguished majority leader, so everyone within the sound of his voice recognizes this is not

something we are trying to drum up for any reason other than the seriousness of it, I direct the Senator to today's newspaper—it is in all the newspapers—where the Ambassador from the Taliban to Pakistan said that any weapons the Taliban have they would use, including nuclear. He is not speaking for al-Qaida. If the Taliban, which we recognize as bad people and bad leaders, are willing to do that, will the Senator acknowledge that al-Qaida would be willing to do that, and more?

Mr. DASCHLE. I think it has been documented now in most of the newspapers and media that the terrorist cells which exist have produced information that would cause us to be concerned that some of these cells and some of these networks have weapons of mass destruction that they certainly intend to target towards the United States. There is no question they have made every attempt to acquire these weapons over the course of the last several years, and if they have been successful, I think it is a reasonable assumption the United States would be the first to experience those attacks.

That is why it is so critical for us to do all we can to prepare for whatever possibility there is that these weapons could be used against us. We are not there yet. We have a lot of work to do to create the kind of infrastructure required to provide the maximum degree of safety for all Americans. We don't have that today.

Director Ridge has indicated he is prepared to ask for additional resources next year. They have acknowledged that additional cost could entail upwards of a $200 billion commitment in homeland defense resources. But if we are going to require $200 billion, what is wrong with taking the first installment, $7.5 billion, and putting in place at least the foundation of this new homeland defense infrastructure?

We have to do it. We know we have to do it. Why do it responsively in reaction to incidents that have occurred? The time to do it is now, before these new incidents occur. That is really the essence of the debate in the Chamber this afternoon. But I thank the Senator for asking the question.

Mr. REID. Mr. President, it appears to me the Defense bill has been worked very much by Senators INOUYE and STEVENS, and they have come up with a great bill to meet the demands of this new war. The bill is about $340 billion. We are arguing over $7.5 billion for homeland security—the items the distinguished majority leader outlined. It doesn't seem to me we should be arguing about $7.5 billion compared to $340 billion. Some people in the administration say maybe we can deal with it in a supplemental next year. But that is next year. It is the same dollars. It would be a few months' difference. A few months, as far as my family is concerned, and the people of every State, could make a big difference.

Does the Senator agree?

Mr. DASCHLE. Mr. President, I agree with the Senator from Nevada.

Also, there really have been, as I understand, two basic concerns expressed by our Republican friends about their additional commitment to homeland defense. One was that we agreed to $68.6 billion in appropriations for this calendar year. The fact is that is true. We have agreed to $68.6 billion in overall money. But we also have always recognized that in cases of emergency there is a need for an additional commitment in resources. That agreement was reached before the anthrax attack. That agreement was reached before we had three specific incidents where we were put on high alert as a result of the potential for additional attacks somewhere in this country. Clearly, the circumstances have changed dramatically since that agreement. They certainly have in my office, and I think we could say across the country.

No. 1, I think we all have to recognize the changed circumstances, and the emergency circumstances. We need to at least begin to put in place the homeland defense structure that is so critical.

The second concern is that our Republican colleagues have said this really doesn't have anything to do with stimulus, and for that reason they are opposed to it. Yet that is contrary to what every single economist has told us—that there is a tremendous stimulus out there. In fact, there was an article on the front page of the Washington Post a few days ago which said as a direct result of the efforts we are now making on homeland defense, the economy has actually started to blossom again because of some of these new commitments we have made.

On both counts—No. 1, because the emergency circumstances have changed, and, No. 2, clearly there is a stimulative value to what it is we are doing beyond the security value to which we should all aspire—there is ample reason for us to be overwhelmingly supportive of homeland defense.

I only ask my colleagues: What would happen if we were attacked tomorrow? I have no doubt we would respond with not $7.5 billion, but we might respond with $70 billion, if another attack were to occur. We don't want to see another attack. God forbid that there would be another attack. But we have to assume that if it is up to the terrorists, because they do not look at fiscal years—they are not going to wait until after we put all of this in place—they are going to attack whenever they think it is right. And I don't want to see that happen to this country. I think it is critical that we be prepared for whatever comes.

Our Republican friends say we can't afford $7.5 billion right now. I find that the most illogical of all their arguments given their position. They say we can't commit $7.5 billion. But then they go out and commit $175 billion to an economic stimulus package all in the name of tax cuts, $23 billion of which goes in the form of retroactive AMT relief to the largest corporations in the country—General Motors, $1 billion; IBM, close to $1 billion; Ford, almost $1 billion in retroactive payments. Where is the stimulative value in retroactive payments of that magnitude to corporations that have billions of dollars of cash on hand?

Their notion is, we can't afford it, while at the same time our Republican friends will tell us, well, we still think we ought to be spending not $75 billion, which is what the President advocated for a stimulus package, but $175 billion—$100 billion more than what the President has acknowledged would be of stimulative value to us.

I have to say that argument doesn't hold much water either. Based on what opposition I have heard so far, I don't think the argument is even close.

The bottom line is that we have to be prepared. The bottom line is that for an economic stimulus package to work, people have to feel more secure. The bottom line is that we need these resources to put in place a homeland defense system that we recognize will be needed for all perpetuity—not just this year and not just next year.

I hope our colleagues will join with us in supporting this package in the recognition that we need to be just as cognizant of our needs here at home as we are abroad.

Mr. CONRAD. Mr. President, will the leader yield?

Mr. DASCHLE. I would be happy to yield to the Senator from North Dakota.

Mr. CONRAD. I saw their discussion occurring on the floor. I have been doing some calculations with my staff in the Budget Committee. I thought some of what we found might be useful in the discussion.

Over the next 3 years, the difference between the Republican stimulus plan and the Democratic stimulus plan is that the Republicans would add $140 billion more in deficits with their stimulus plan than with ours. And now they are talking about——

Mr. DASCHLE. Did the Senator from North Dakota say $140 billion over how long?

Mr. CONRAD. Just 3 years.

Mr. DASCHLE. Just 3 years? Not a 10-year difference but just 3 years?

Mr. CONRAD. That is correct. If one looks at the different fiscal outcomes based on the Republican stimulus plan and the Democratic stimulus plan just over the next 3 years, it is over $140 billion of additional deficits and additional debt with the Republican stimulus plan versus the Democratic stimulus plan.

Interestingly enough, they are criticizing adding $7.5 billion for homeland security to respond to the bioterrorism threat, to improve security at airports, to improve security at our harbors, to improve security for the rail system in this country—all things that are clearly necessary. I submit that terrorists are unlikely to wait for us.

But I also have learned that within the administration, they are working

on a supplemental that would come to us early next year for as much as $20 billion for these same items. So what we have in terms of resistance on the other side to addressing the vulnerability of this country now on the terrorist threat rings pretty hollow—rings pretty hollow—when they say, on the one hand, gee, you are going to be adding $7.5 billion to the deficit and the debt, and yet when we examine their stimulus package over the next 3 years, compared to ours, they are going to be adding $140 billion to the deficit and debt and perhaps most revealing, all of their talk about how this represents big spending, and we have learned through sources in the administration they are working on their own additional spending plan to be brought before us next year in the amount of approximately $20 billion.

I did not know if the leader had heard of these calculations or of these reports, but I thought it might be useful to the discussion as to what the issue is going to be when we vote on these questions on the floor of the Senate.

Mr. DASCHLE. I really appreciate the Senator from North Dakota clarifying and reporting to the body about the intentions of the administration. I was not aware they are contemplating a supplemental of that magnitude. I find it all the more ironic, I guess, that at the very time they oppose $7.5 billion, they would be contemplating a supplemental of the magnitude the Senator has just announced—a $20 billion supplemental.

If $20 billion is good for February, why isn't $7.5 billion good for December? Where is the difference? Why is it that we must wait? And what happens between December and February if something, God forbid, would happen?

So it seems to me that it makes the case all the more that this isn't necessarily about money, it isn't about the need. It cannot be about the administration's intentions. I do not understand the basis for their opposition, if, in just 60 days, as the Senator from North Dakota reports, they could be preparing a supplemental of the magnitude he has just discussed.

So I hope our colleagues can clarify that because I think the $20 billion is a clear indication they, too, understand the importance of homeland defense. What we are arguing over is whether we ought to do it now or we ought to do it later.

What the Senator from North Dakota is saying is, we ought to do it now. This is the time when we ought to be putting much of the preventative infrastructure in place. So I appreciate very much the Senator's comments and his contribution to this colloquy.

Mr. CONRAD: I just say to my colleague, I was startled to hear the criticism coming from the other side on the question of $7.5 billion to deal with specific threats that we all know exist. After all, our vulnerability in these matters is not something we just discovered. We have had report after report made by very respected Members. In fact, the former Republican majority leader in the Senate, Howard Baker, did a report that alerted us to the need for tens of billions of dollars of expenditure to deal with weapons of mass destruction being developed in other parts of the world, specifically the former Soviet Union; and there are also the reports that were done on a bipartisan basis of the terrorist threats that existed to this country's infrastructure and the need to respond. It takes money to respond.

In light of what I have been told by people within the administration that they are, right now, working on a potential supplemental of $20 billion for early next year, perhaps in the March timeframe, that they would be bringing before us, they themselves know it is going to take more money to respond to bioterrorism; it is going to take more money to strengthen our airports against terrorist attack; it is going to take more money to provide defense for our harbors and to deal with the threats to the rail infrastructure of this country.

I do not think there is a person here that does not know there are these additional threats. When I couple that with what the Republicans are doing in terms of their stimulus package that would add, in comparison to our package, over $140 billion of additional deficit and debt over the next 3 years, and they are talking about defending the deficit on $7.5 billion of funding necessary to protect this Nation at the same time they are working on a plan for $20 billion of additional funding to protect this Nation, that kind of rings hollow.

Mr. DASCHLE. I say to the Senator from North Dakota, it does ring hollow. I would hope our colleagues could enlighten us as to the intentions of the administration. If, indeed, they are going to be requesting this $20 billion supplemental, we ought to know that. If they are going to be requesting it, how much would be dedicated to homeland defense? If they can tell us that, they ought to be explaining why it is important to do it in March but it is not important to do it in December.

Can they assure us that between December and March there will not be any need at all? I do not think anyone can do that. Nobody is that clairvoyant. So it is a risk. I do not think anybody ought to be willing to take that risk today.

Clearly, we could commit a lot more than $7.5 billion to our own personal security. But that is what we are doing in the name of reaching accommodation with our Republican friends. We started out with $15 billion, and we have cut it back in an effort to try to find a way to reach some compromise. What we have done is to cut it back to the bare essentials.

As the Senator from North Dakota pointed out, the essentials—which includes the fight against bioterrorism; the fight to ensure that our infrastructure, our nuclear facilities, our ports, our airports are secure; the fight to ensure that we have the health facilities in place—we were just apprised of a situation where somebody contracted West Nile disease in September. The diagnosis was sent to the Centers for Disease Control, and they were not informed as to what that diagnosis was until just this week because they are so backlogged because they do not have the resources, they do not have the personnel.

My goodness, that is a wakeup call of a magnitude about which everybody should be concerned. But that is what we are talking about with homeland security: ensuring that we have the resources to deal with diagnosis, ensuring we can work with local law enforcement officials.

To which part of what I have just described is our Republican caucus opposed? Which part of it do they want to take out? I think that is what we are going to have to try to figure out.

I think clearly within each one of those cases not only are we attempting to address it in as conservative a way as we can from a fiscal point of view but in as prudent a way as possible, taking what needs to be done first and dealing with those issues that could be dealt with later at a later date.

So I appreciate very much the Senator's comments this morning.

Mr. CONRAD. Will the Senator yield for an additional observation?

Mr. DASCHLE. I am happy to yield.

Mr. CONRAD. I thought I should report on testimony we had before the Budget Committee with respect to stimulus. We had a number of economists who appeared who said spending to strengthen security is perhaps the very best thing we could do to stimulate the economy. Not only would the spending itself be stimulative, but, more important, it would improve the security of people in the country.

One of the big problems we have is a lack of confidence.

People are feeling threatened. People are feeling vulnerable. That inhibits economic activity. We see that in airline travel. People don't feel safe flying. To the extent you can make expenditures that improve the security of airports and improve the security of rail operations and improve the security in ports, that is going to improve the psychological security factor that people feel. That is going to help the economy. They said you actually get a double hit: Not only the expenditures will be stimulative, but the additional security will make people feel safer and be safer.

I hope this does not become kind of a political debate, a partisan political debate, but that we deal with the underlying realities. The fact is, we know there are things that have to be done to strengthen our security. We can make that commitment now and get the work underway now. That makes sense instead of delaying.

We are talking about $7.5 billion, when our Republican friends are talking about a stimulus package that

means $140 billion of additional debt over the next 3 years over and above what Democrats are advocating. This choice is going to be a relatively simple one.

Mr. DASCHLE. I thank the Senator from North Dakota for his contribution. I underscore what he said just now about the stimulative value of confidence. You can't calculate how much of an improvement in the economy it will make when people feel safe again. You know it is there; intuitively, you know that if people feel good about flying and traveling and doing all the things we did months ago, this economy is going to start improving. People are going to start putting their lives back together again with a sense of normalcy that we have not experienced in some time. They have to know it is safe to do so, that our airports and our ports and our nuclear facilities and all of our infrastructure are safer today than they were before.

That is, in essence, what we are talking about, creating that psychology, that confidence, that sense of normalcy that we have not had now for some time. I hope my colleagues will work with us in a way that will allow us to address this need. If we are going to do it next March, let's do it now. Let's do it in a way that we can agree ought to be done.

Homeland security is not a partisan issue, and it should not be in this case either.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, the majority leader has outlined for us what we will take up the balance of today and possibly tomorrow as we debate the most important issue of Department of Defense appropriations.

There is something that has to be said in response to what the majority leader has just outlined because while he has opined with great emotion a frustration about the basis of opposition that those of us on this side are expressing to this particular bill, what he has failed to talk about are the very agreements he once made and once entered into with our President.

That agreement first started on October 2, well after September 11, as this country was beginning to assess its needs in light of a terrorist threat and how we might ultimately conclude our efforts in Congress for fiscal year 2002.

The President, the majority leader from South Dakota, the Republican leader, and the House met. They looked at all of these different issues and agreed on a couple of issues. First, they agreed that $686 billion in discretionary spending was an adequate level, plus $40 billion that would be dedicated to homeland defense and the very emergencies we are talking about and the effort to deal with the great tragedy in New York City. Forty billion had already been agreed to: $20 billion of it was to be spent immediately at the discretion of the President; $20 billion was to be worked out cooperatively with the Congress and the appropriating committees of the Congress. That work has been done.

What has gone on in the meantime is the breaking of a word. I come from Idaho. The majority leader comes from South Dakota. Out there is a ground level expression called ''a deal is a deal.'' You walk up; you look your fellow person in the eye; you shake hands; you arrive at an agreement, and that is the way you operate. We went even beyond that.

The President, in a letter, wrote:

> This agreement is the result of extensive discussions to produce an acceptable bipartisan solution to facilitate the orderly enactment of appropriation measures. This agreement and the aggregate spending level are the result of a strong bipartisan effort at this critical time for our Nation, and I expect that all parties will now proceed expeditiously and in full compliance with the agreement.
>
> Sincerely,
>
> GEORGE W. BUSH.

Today the deal is not a deal; the deal has been broken. The DOD bill that comes before us this afternoon is a deal breaker.

What the majority leader did not say, as he opined the criticality of a homeland defense expenditure, was that it was not designed by the appropriate committees. It was not reviewed by all of the committees of jurisdiction. It was largely written in the back room of the chairman of the Appropriations Committee, Senator BOB BYRD. I am not at all here today to impugn the integrity of Senator BYRD. That is not my intent. I work with him on a daily basis. I have high regard for him.

But for the majority leader to come and say that $15 billion of spending is necessary in all of these categorized areas for homeland defense is totally ignoring the fact that darn few have seen all of where it goes. Our new Homeland Defense Director is at this moment developing an analysis of and an expression of need for a full implementation of homeland defense. That is where he talks, and the majority leader spoke, too—the issue of coming forth next year with recommendations, thoroughly vetted, looked at by all, examined by the committees of jurisdiction and not done in the back room of the Appropriations Committee of the Senate.

I am a bit surprised when the majority leader comes to the Chamber and suggests that Republicans are attempting to play politics with the issue of the stimulus package. It has been openly discussed. That is appropriate. It has been reviewed by the authorizing committees, and that is appropriate. But what has not gone on and that which is being brought to this committee this afternoon is a thorough and responsible examination by all involved. That is why we look at it with great concern, and the very reality that the money we are spending today crosses that line of a balanced budget and into deficit.

There is no question that a stimulus package that will be dealt with bipartisanly or not is going to have the impact of deficit spending or it likely could happen. But the reason we are willing to look at an investment in the economy today is the hopes of lessening that deficit, getting people back to work, causing things to happen out there.

Before the August recess, 1 million Americans had lost their jobs. We were already in recession by August.

The appropriate committees that examine it and the appropriate Federal agencies that examine it to make the official proclamation had not yet done so. That didn't occur until just a few weeks ago. Any of us going home, any of us spending time in our communities knew this country's economy had turned down dramatically. Now the figures show that it started well before George W. Bush came to town. It started in September of a year ago, and it was accelerating through the fall and into the winter months and across the summer. We now know that as a reality. It is important that we do a stimulus package. We responded to that when we did tax relief earlier this spring, and the then-chairman of the Budget Committee, who is now on the floor, spoke very eloquently as to why we did that. That is all part of the reason we are here.

I am extremely surprised we would now attempt to do what we are attempting to do in this. We will oppose this effort.

A deal is a deal. The President has said he will veto it. I am sorry the message did not get to the majority leader. I am sorry the agreement he once struck is no longer the deal because he says circumstances have changed.

No, frankly, circumstances have not changed. There is still a lot of money out there to spend. This afternoon we will thoroughly debate this issue, but it is important that the statements made this morning be responded to.

I yield the floor.

ECONOMIC STIMULUS

Mr. DOMENICI. Mr. President, before we are finished with the appropriations bill that will be before the Senate shortly and the economic stimulus package that someday will come up—I do not know when—I am very hopeful this will not end up being a partisan charade, but I can cite a couple items that do bother me.

I was reading Roll Call a couple days ago. I understood the majority leader made a statement that whoever was on that committee to produce a stimulus, they had gotten the message from the leadership and the Democrats that unless two-thirds of the Democrats were for the package, they could not take it out of this conference committee. It would not come out. That is an interesting statement. I assume it is pretty partisan, too.

Things operate in the Senate on a majority basis. We do not need two-thirds of Democrats and Republicans to

produce a stimulus package. In any event, I hope that is not a sign that it is going to be partisan because we do have a chance to produce a stimulus package that will be worthwhile.

From my standpoint, I think I am going to put together a stimulus package—what would go this with that, that with this. I might do that in the next couple days and at least come to the Chamber and talk about a stimulus package and why it is a stimulus package.

It is important to not just work on what we choose to call a stimulus package. The occupant of the chair would like to know that it produces new jobs, that it puts people to work, along with the other issues, such as unemployment compensation, perhaps some health care activity.

Clearly, we have to put some provisions in the bill that will encourage this economy in a realistic way. I will be watching. Everyone else will be watching. I hope we can get it done in due course.

I yield the floor.

EXECUTIVE SESSION

NOMINATION OF HARRIS L. HARTZ TO BE UNITED STATES CIRCUIT JUDGE FOR THE TENTH CIRCUIT

The PRESIDING OFFICER. Under the previous order, the hour of 11:40 a.m. having arrived, the Senate will proceed to executive session to consider the nomination of Harris Hartz, to be U.S. Circuit Judge. The clerk will state the nomination.

The legislative clerk read the nomination of Harris L. Hartz, of New Mexico, to be United States Circuit Judge for the Tenth Circuit.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 3 minutes.

Mr. DOMENICI. Mr. President, is there some reason for 3 minutes or is it assumed I asked for 3 minutes?

The PRESIDING OFFICER. The Chair was under the impression the Senator wanted 3 minutes.

Mr. DOMENICI. Can I do this, so I will not feel too pressed: I ask unanimous consent that I be able to speak for up to 5 minutes, which I probably will not use.

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

Mr. DOMENICI. Mr. President, I rise to pay credit to a very distinguished lawyer and judge. His name is Harris Hartz. Today when we vote, if a majority votes for him—and I do not see why we would not; it might be a unanimous vote—he will become the U.S. Circuit Judge for the Tenth Circuit.

To the extent a Senator, based upon observing and asking other people, can fill himself or herself with knowledge about a person, I have to say he is probably one of the most qualified persons I have ever asked the President to put on the bench.

His academic background is so superb that no one can challenge it. If Harvard Law School is a good law school, and he was among its best students—magna cum laude—all of the attributes of a great mind that was being moved and melded into a great leader mind, that happened to him. From that time on, he has been engaged in various activities that have made him a broad-based lawyer to take this job.

He was a circuit judge in New Mexico, which caused him over time to publish 300 opinions, Mr. President. If people do not know him, they have not bothered to read his opinions.

Whether it is being scholarly, whether he understands, whether he plays no favorites, whether he is truly a good judge, in what judges do besides knowing the law—adding all that together, the Senator from New Mexico recommended him to the President. He was thoroughly vetted at the executive branch, and obviously the background checks have occurred, and he came forth with all the right pluses attendant his name.

Today, the 5- or 6-month ordeal which all candidates face—families worrying, wives and children wondering how much longer—will come to an end, and he will be sitting on the bench in the southwestern United States.

I ask unanimous consent that his vitae and the Department of Justice analysis of his background be printed in the RECORD.

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

HARRIS L. HARTZ
BIOGRAPHY

Harris L. Hartz is a magna cum laude graduate of Harvard Law School, where he was selected as Case and Developments Editor of the Harvard Law Review. He received his AB degree from Harvard College summa cum laude in physics. At Harvard he was one of 9 members of his class elected to Phi Beta Kappa in their junior year.

From 1989 to 1999, Hartz served as a judge on the New Mexico Court of Appeals for eleven years. During that time he authored approximately 300 published opinions. In 1997, Judge Hartz was elevated to the position of Chief Judge. During his last year on the Court, he was a member of the Executive Committee of the American Bar Association Council of Chief Judges.

In 1999 Judge Hartz resigned from the Court of Appeals to join the law firm of Stier, Anderson & Malone as special counsel to the International Brotherhood of Teamsters. He has worked with the Union to develop a Code of Conduct and an internal system for compliance and enforcement.

Before becoming a judge, most of Judge Hartz's legal career was as a lawyer in Albuquerque, New Mexico. During his first three years after law school he was an Assistant United States Attorney for the District of New Mexico. After teaching for a semester in 1976 at the University of Illinois College of Law, he spent three years with the New Mexico Governor's Organized Crime Prevention Commission, first as its attorney and then as Executive Director. For the following nine years he was in private practice, primarily in civil litigation.

Judge Hartz has been active in the American Law Institute since 1993 and now serves as an Adviser for the Restatement of the Law (Third) Agency. He has also participated in activities of the American Bar Association, including membership on the Appellate Practice Committee of the Appellate Judges Conference and the Advisory Committee to the ABA Standing Committee on Law and National Security.

His past civic activities have included being Chair of the New Mexico Racing Commission, where his efforts against drugging of racehorses led to his nomination for the Joan Pew Award and his being appointed co-chair of the Quality Assurance Committee of the National Association of State Racing Commissioners. For the past two years Judge Hartz has been chair of the New Mexico Rhodes Scholarship Selection Committee and chair of the Selection Committee for the New Mexico Ethics in Business Awards. He is active in Rotary, and has served as President of the Rotary Club of Albuquerque.

HARRIS L. HARTZ
RESUMÉ

Birth: January 20, 1974, Baltimore, Maryland
Legal Residence: New Mexico
Education: 1963–1967—Harvard College, A.B. degree, summa cum laude; 1969–1972—Harvard Law School, J.D. degree, magna cum laude
Bar Admittance: 1972—New Mexico; 2000—District of Columbia
Experience: 1972–1975—U.S. Attorney's Office for the District of New Mexico, Assistant U.S. Attorney; 1976—University of Illinois College of Law, Visiting Assistant Professor of Law; 1976–1979—New Mexico Governor's Organized Crime Prevention Commission, Counsel, 1976–1977 & Executive Director, 1977–1979; 1979–1982—Poole, Tinnin & Martin, PA Associate; 1982–1988—Miller, Stratvert & Torgerson, Associate, 1982–83 & Shareholder, 1983–88; 1988–1999—New Mexico Court of Appeals Judge (Chief Judge, 1997–99); 1999–present—Stier, Anderson & Malone, LLC Special Counsel

HARRIS L. HARTZ
SUPPORT

Senator Jeff Bingaman, Democrat from New Mexico

''I have known Harris Hartz for many years, and I consider him to be qualified for this position.''—The Albuquerque Journal, June 22, 2001.

Senator Peter Domenici, Republican from New Mexico

''I am extremely pleased President Bush has nominated Harris, who has an impressive record of achievement.''—The Daily Times, June 22, 2001.

''He has truly outstanding credentials and will make New Mexico proud as a new fixture on the 10th Circuit.''—The Albuquerque Journal, June 22, 2001.

Editorial, The Santa Fe New Mexican

''The cerebral and academic Hartz is everything America wants in its judiciary.''

''But even though appointment-killing has become a popular sport among both parties, Hartz has the credentials—and the class—to overcome any political pettifoggery that might arise in the course of his confirmation.''

''Hartz will be making 'case law' at a high level, setting precedents to which lawyers look as they build their own cases. Both are daunting tasks—but both are well within Hartz's grasp.''—June 23, 2001.

Lance Liebman, Professor at Columbia Law School

''I have seen his contributions to half a dozen different areas of law. Just as he was

as a student, Harris is smart, serious, balanced, and interesting. I am sure he was a good state judge and I am certain he will be a great addition [to the federal bench]. . .''—Excerpt from letter to Senators Leahy and Hatch, August 3, 2001.

Roberta Ramo, Former President of the American Bar Association

''As a former president of the American Bar Association, I have had the honor of knowing many of our finest judges. Among the elements of American democracy of which I am most proud stands the quality of our Federal Judiciary. Should he be confirmed by the United States Senate, I believe Mr. Hartz will, in his service, make each of us proud that we had a part in placing him on the 10th circuit.''—Excerpt from letter to Senator Hatch, August 9, 2001.

Mr. DOMENICI. Mr. President, I would like to share a quote from an editorial in one of our State's leading newspapers, the *Santa Fe New Mexican*:

The cerebral and academic Hartz is everything America wants in its judiciary.

Before becoming a judge, most of Judge Hartz's legal career was as a lawyer in Albuquerque, NM. During his first 3 years after law school he was an Assistant United States Attorney for the District of New Mexico. After teaching for a semester in 1976 at the University of Illinois College of Law, he spent 3 years with the New Mexico Governor's Organized Crime Prevention Commission, first as its attorney and then as executive director.

I believe Judge Hartz will be an excellent U.S. circuit judge because above all he is a person with great strength of character. He has the courage to render decisions in accordance with the Constitution and the laws of the United States. More important, I believe Judge Hartz will respect both the rights of the individual and the rights of society and will be dedicated to providing equal justice under the law. He understands and appreciates the genius of our Federal system and the delicate checks and balances among the branches of our National Government.

Judge Hartz also understands New Mexico because he was raised in Farmington. Judge Hartz's 29 years of experience both as a lawyer and a judge have prepared him well for the Tenth Circuit Court of Appeals. I believe Judge Hartz will be a fine circuit judge. I count him among my friends, and I recommend him highly to the Senate.

Mr. LEAHY. Mr. President, today, the Senate is taking final action on three additional judicial nominations. There are a total of nine judicial nominees who have been voted out of committee and are awaiting final action by the Senate. Today's confirmation of 1 circuit court and 2 district court judges will bring the total number of judges confirmed this year to 21. When the Senate completes its action on the nomination of the remaining 6 district court judges, we will have confirmed 27 judges since July, including 6 to the Courts of Appeals.

I congratulate today's nominees and their families on their nominations, confirmations, and what is soon to be their appointments to the United States Court of Appeals for the Tenth Circuit and the United States District courts for Kentucky and the District of Oklahoma. I also commend each of the Senators who worked with the committee and the majority leader to help bring these nominations forward and to have the Senate act to confirm them.

The nominee to the Tenth Circuit Court of Appeals, Harris Hartz, comes to us with the strong support of both Senator DOMENICI and Senator BINGAMAN. He was the first nominee to a Court of Appeals received by the Senate this June. His nomination is an example of the sort of progress we can make on consensus nominees with bipartisan support. The Tenth Circuit is one of many Courts of Appeals with multiple vacancies, and which has had multiple vacancies long before this summer. My recollection is that President Clinton had at least two nominees for vacancies on the Tenth Circuit pending in 1999 and for several months last year, but neither was ever accorded a hearing or a vote before the Judiciary Committee or before the Senate. Had they and other previous nominees been acted upon promptly and favorably in years just past, of course, the circumstances in the Tenth Circuit and many other courts around the country would be different today. During 6½ years, the Republican majority in the Senate allowed only 46 nominees to be confirmed to the Courts of Appeals and left dozens of vacancies unfilled.

Just as we recently proceeded to confirm the first judge to the Fifth Circuit in 7 years, we are proceeding with Judge Hartz to provide some immediate relief to the Tenth Circuit. When confirmed, Judge Hartz will be the first new member of the Tenth Circuit in the last 6 years—since judges were confirmed to that Court in 1995 from Utah and Colorado.

Over the past 6½ years the average time it has taken for the Senate to consider and confirm Court of Appeals nominees had risen to almost 350 days. The time it has taken for Judge Hartz's nomination is about half of that, if measured from his initial nomination in June 2001. Of course, that nomination was returned to the White House when the Republican leader objected to keeping judicial nominations pending over the August recess. Accordingly, the nomination on which the Senate acts today was not received until this September. If measured from the time the committee received his ABA peer review to the time of his confirmation today, the process has taken only 112 days. He participated in one of the many October hearings and, having answered the written questions following his hearing, was reported by the committee in November.

The strong bipartisan support he has received from his Senate delegation paved the way for prompt action in one-third to one-half the time it used to take on average to consider Court of Appeals nominees. Both of the district court nominees, Danny Reeves from the Eastern District of Kentucky and Joe Heaton for the Western District of Oklahoma, whom I supported at the committee and am pleased to support today, have moved through the process with the support of Democrats and Republicans relatively quickly.

Since July 2001, when the Senate was allowed to reorganize and the committee membership was set, we have maintained a strong effort to consider judicial and executive nominees. There are a total of nine judicial nominees who have been voted out of committee and are awaiting final action by the Senate. Today's confirmation of one circuit court and two district court judges will bring the total number of judges confirmed to 21. When the Senate completes its action on the nomination of the remaining six district court judges, we will have confirmed 27 judges since July, including six to the Courts of Appeals. That will be almost twice the total number of judges that were confirmed in all of 1989, the first year of the first Bush administration, and will include twice as many judges to the Courts of Appeals as were confirmed in the first year of the Clinton administration. It is also more judges that were confirmed in all of the 1996 session. Thus, despite all the obstacles, we exceeded the number of confirmations of judges during the first year of the first Bush administration by six, the last year of the first Clinton term by four, and we are on pace to confirm as many judges as were confirmed in the first year of the Clinton administration.

Our total of six Court of Appeals confirmations doubles the number of appellate court judges confirmed in the entire first year of the Clinton administration, one more than the number of appellate court judges confirmed in the first full year of the first Bush administration, and six more than were confirmed in the entire 1996 session, the last year of President Clinton's first term.

When I assumed the chairmanship, the number of vacancies on the Federal Bench was over 100 and quickly rose to 111. Since July, we have made significant progress. In spite of the upheavals we have experienced this year with the shifts in chairmanship, the vacancies that have arisen since this summer, and the need to focus our attention on responsible action in the fight against international terrorism, with the confirmation of these 9 nominees we will have reduced the number of vacancies to below 100 for the first time since early this year.

During the time a Republican majority controlled the process over the past 6½ years, the vacancies rose from 65 to at least 103, an increase of almost 60 percent. We are making strides to improve on that record. The President has yet to send nominations to fill more than half of the current vacancies. This is a particular problem with

the 71 district court vacancies, for which 49—that's 69 percent—do not have nominations pending.

We have been able to reduce vacancies over the last 6 months through hard work and a rapid pace of scheduling hearings. Until I became chairman of the Judiciary Committee, no judicial nominees had been given hearings this year. No judicial nominees had been considered by the Judiciary Committee or been voted upon by the Senate. After almost a month's delay in the reorganization of the Senate in June while Republicans sought leverage to change the way the judicial nominations had traditionally been considered and abruptly abandoned the practices that they had employed for the last 6½ years, I noticed our first hearing on judicial nominees within 10 minutes of the reorganization resolution being adopted by the Senate.

I have previously noted that during the 6½ years the Republican majority most recently controlled the confirmation process, in 34 of those months they held no confirmations for any judicial nominees at all, and in 30 other months they conducted only a single confirmation hearing involving judicial nominees. Since the committee was assigned its members in early July 2001, I have held confirmation hearings every months, including two in July, two during the August recess and three hearings during October. Only once during the previous 6½ years has the committee held as many as three hearings in a single month.

On the other hand, on at least three occasions during the past 6½ years the committee had gone more then 5 months without holding a single hearing on a pending judicial nominee. We have held more hearings involving judicial nominees since July 11, 2001, than our Republican predecessors held in all of 1996, 1997, 1999, or 2000. In the last 6 months of this extraordinarily challenging year, the committee has held 10 hearings involving judicial nominees. Just this week the committee held our tenth hearing on judicial nominations since I became chairman, when the Senate was allowed to reorganize and this committee was assigned its membership on July 10, 2001. Since September 11, the Judiciary Committee has held six judicial confirmation hearings.

We have held hearings on 33 judicial nominees, including 7 to the Courts of Appeals. Since September 11 we have held hearings on 26 judicial nominees, including 4 to the Courts of Appeals. Within 2 days of the terrible events of September 11, I chaired a confirmation hearing for the 2 judicial nominees who drove to Washington while air travel was still disrupted. Then on October 4, 2001, we held another confirmation hearing for five judicial nominees, which included a nominee from Nebraska who was unable to attend the earlier hearing because of the disruption in air travel.

On October 18, 2001, in spite of the closure of Senate office buildings in the wake of the receipt of a letter containing anthrax spores and in spite of the fact that Senate staff and employees were testing positive for anthrax exposure, the committee proceeded under extraordinary circumstances in the U.S. Capitol to hold a hearing for five more judicial nominees. The building housing the Judiciary Committee hearing room was closed, as were the buildings housing the offices of all the Senators on the committee. Still we persevered.

On October 25, 2001, while the Senate Republicans were shutting down the Senate with a filibuster preventing action on the bill that funds our Nation's foreign policy initiatives and provides funds to help build the international coalition against terrorism, the Judiciary Committee nonetheless proceeded with yet another hearing for four more judicial nominees. On November 7, 2001, we convened another hearing for judicial nominees within 8 extraordinary weeks—weeks not only interrupted by holidays, but by the aftermath of the terrorist attacks of September 11, the receipt of anthrax in the Senate, and the closure of Senate office buildings. The hearing on November 7 was delayed by another unfortunate and unforeseen event when one of the family members of a nominee grew faint and required medical attention. With patience and perseverance, the hearing was completed after attending to those medical needs.

On December 5, 2001, we convened another hearing for another group of five judicial nominees. I thank Senator DURBIN for volunteering to chair that hearing for nominees from Alabama, Colorado, Georgia, Nevada, and Texas. We have previously considered and reported other nominees from Alabama, Georgia, and Nevada, as well. We have accomplished more, and at a faster pace, than in years past. Even with the time needed by the FBI to follow up on the allegations that arose regarding Judge Wooten in connection with his confirmation hearing, we have proceeded much more quickly than at any time during the last 6½ years. Thus, while the average time from nomination to confirmation grew to well over 200 days for the last several years, we have considered nominees much more promptly. Measured from receipt of their ABA peer reviews, we have confirmed the judges this year, including the Court of Appeals nominees, on average in less than 60 days. So, we are working harder than ever on judicial nominations despite the difficulties being faced by the Nation, the Senate, and a number of members on the committee.

We have also completed work on a number of judicial nominations in a more open manner than ever before. For the first time, this committee is making public the ''blue slips'' sent to home State Senators. Until my chairmanship, these matters were treated as confidential materials and restricted from public view. We have moved nominees with little or no delay at all from hearing, on to the committee's business meeting agenda, and then out to the floor, where nominees have received timely rollcall votes and confirmations.

The past practices of extended unexplained anonymous holds on nominees after a hearing have not been evident in the last 6 months of this year as they were in the past. Indeed over the past 6½ years at least eight judicial nominees who completed a confirmation hearing were never considered by the committee but left without action. Just last year two of the three Court of Appeals nominees reported to the Senate, Bonnie Campbell of Iowa and Allen Snyder of the District of Columbia, were both denied committee consideration from their May hearings until the end of the year. Likewise the extended, unexplained, anonymous holds on the Senate Executive Calendar that characterized so much of the last 6½ years have not slowed the confirmation process this year.

Majority Leader DASCHLE has moved swiftly on judicial nominees reported to the calendar. And once those judicial nominees have been afforded a timely rollcall vote, the record shows that the only vote against any of President Bush's nominees to the Federal courts to date was cast by the Republican leader.

In addition to our work on judicial nominations, during the recent period since September 11, the committee also devoted significant attention and effort to expedited consideration of antiterrorism legislation. Far from taking a ''time out'' as some have suggested, the Judiciary Committee has been in overdrive since July and we have redoubled our efforts after September 11, 2001. With respect to law enforcement, I have noted that the administration was quite slow in making U.S. attorney nominations, although it had called for the resignations of U.S. attorneys early in the year.

Since we began receiving nominations just before the August recess, we have been able to report, and the Senate has confirmed, 57 of these nominations. We have only a few more U.S. attorney nominations received in November, and await approximately 30 nominations from the administration. These are the President's nominees based on the standards that he and the Attorney General have devised.

I note, again, that it is most unfortunate that we still have not received even a single nomination for any of the U.S. marshal positions. U.S. marshals are often the top Federal law enforcement officer in their district. They are an important front-line component in homeland security efforts across the country. We are near the end of the legislative year without a single nomination for these 94 critical law enforcement positions. It will likely be impossible to confirm any U.S. marshals this year having not received any nominations in the first 11 months of the year.

In the wake of the terrorist attacks on September 11, some of us have been seeking to join together in a bipartisan effort in the best interests of the country. For those on the committee who have helped in those efforts and assisted in the hard work to review and consider the scores of nominations we have reported this year, I thank them. As the facts establish and as our actions today and all year demonstrate, we are moving ahead to fill judicial vacancies with nominees who have strong bipartisan support. These include a number of very conservative nominees.

I am proud of the work the committee has done on nominations, and I am proud that by the end of the day we will have confirmed 21 judges. I hope that by the end of this session that total will rise to about 30 as the committee continues its work on the nominations heard this week and the Senate confirms the additional 6 nominees who were voted out of committee last week.

Mr. HATCH. Mr. President, I am pleased today we are considering the nominations of three extremely well-qualified individuals for the Federal bench.

Our circuit court nominee is the Honorable Harris Hartz of New Mexico, whom the President has selected to serve on the Tenth Circuit Court of Appeals. I have a personal interest in the confirmation of fair, qualified judges to serve on the Tenth Circuit since it encompasses the great state of Utah. In fact, there is an eminently well-qualified nominee from Utah for the Tenth Circuit, University of Utah Law Professor Michael McConnell, who is awaiting a hearing from the Judiciary Committee. His nomination has been pending for 211 days without a hearing. There are two other nominees for the Tenth Circuit who are also awaiting hearings on their nominations: Timothy Tymkovich of Colorado, who has been waiting 195 days, and Terrence O'Brien of Wyoming, who has been waiting 126 days.

Part of the holdup has unquestionably been due to lack of action by the Judiciary Committee, but the ABA must shoulder some of the blame as well. It took the ABA over 8 weeks to return its evaluation of Michael McConnell, which, incidentally, was a rating of unanimously well qualified, over 15 weeks for Timothy Tymkovich, and over 12 weeks for Terrence O'Brien. The last of these three ratings was submitted in October, so there is no excuse for any of these nominations stalling any longer. I look forward to the opportunity to consider their nominations at hearings so that the pending vacancies on the Tenth Circuit can be expediently filled.

Our consideration of Judge Hartz's nomination today is a positive step in that direction. His impressive legal career began—atypically—with a degree from Harvard College summa cum laude in physics. Later, he graduated magna cum laude from Harvard Law School, where he was selected as Case and Developments Editor of the Harvard Law Review.

Judge Hartz's legal experience began in Albuquerque, NM, as an Assistant United States Attorney. After that, he taught for a semester at the University of Illinois College of Law, and then returned to New Mexico to work with the New Mexico Governor's Organized Crime Prevention Commission. For the following 9 years he was in private practice, primarily in civil litigation, and then he served for 11 years as a judge on the New Mexico Court of Appeals. Currently, Judge Hartz works as special counsel to the International Brotherhood of Teamsters, developing a Code of Conduct and an internal system for compliance and enforcement. As you can see, he is a highly competent and hard-working person who is eminently well qualified to serve as a judge on the Tenth Circuit.

In addition to Judge Hartz, we have the privilege of considering the nomination of two district court nominees. One of these nominees is Joe Heaton for the U.S. District Court for the Western District of Oklahoma. Mr. Heaton is a native Oklahoman with an outstanding record of legal experience and public service. After graduating from the University of Oklahoma College of Law—where he was Order of the Coif—he maintained a general civil practice with an emphasis in business and commercial matters. For 8 years, Mr. Heaton served as a member of the Oklahoma House of Representatives, including several years as Minority Leader. Then, in 1996, Mr. Heaton began serving in his current position as the First Assistant U.S. Attorney for the Western District of Oklahoma, where he has earned a good reputation while handling a wide variety of legal matters.

Our second district court nominee is Danny C. Reeves for the U.S. District Court for the Eastern District of Kentucky. He began his legal career as a law clerk for then-district Judge Eugene Siler, who now sits on the Sixth Circuit. Mr. Reeves then joined the Lexington office of Greenebaum, Doll & McDonald, where he rose to the rank of partner in 1988. Despite his busy legal career, he has served as a director of the Volunteer Center of the Bluegrass, the Kentucky Museum of Natural History, and the Bluegrass Youth Hockey Association.

Again, Mr. President, I am pleased to see such well-qualified nominees being brought before the Senate for consideration. Each of these nominees received unanimous support from the Members of the Judiciary Committee, and I expect that they will receive similar treatment from the full Senate. I commend President Bush for nominating persons who will bring honor and dignity to the Federal bench, and I urge my colleagues to join me in supporting their nominations.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Harris L. Hartz, of New Mexico, to be United States Circuit Judge for the Tenth Circuit? The yeas and nays have been ordered on the nomination. The clerk will call the roll.

The senior assistant bill clerk called the roll.

Mr. NICKLES. I announce that the Senator from Texas (Mr. GRAMM) is necessarily absent.

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

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 353 Ex.]

YEAS—99

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

NOT VOTING—1

Gramm

The nomination was confirmed.

Mr. LIEBERMAN. I move to reconsider the vote.

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

The motion to reconsider was laid upon the table.

EXECUTIVE CALENDAR

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to consider en bloc Executive Calendar Nos. 585 and 588.

Mr. NICKLES. May we have order.

The PRESIDING OFFICER. The Senator is correct, the Senate is not in order.

The nominations will be stated.

THE JUDICIARY

The legislative clerk read the nomination of Danny C. Reeves, of Kentucky, to be United States District Judge for the Eastern District of Kentucky.

The legislative clerk read the nomination of Joe L. Heaton, of Oklahoma, to be United States District Judge for the Western District of Oklahoma.

The PRESIDING OFFICER. Under the previous order, the nominations are confirmed. The President will be immediately notified of the Senate's action.

NOMINATION OF DANNY C. REEVES

Mr. BUNNING. Mr. President, I thank my colleagues for their support of the nomination of Danny Reeves to be a Federal District Judge for the Eastern District of Kentucky.

Danny is a Kentucky native. He grew up in Corbin in the eastern part of our Commonwealth, and later went to college at Eastern Kentucky University. He then graduated with honors from the Chase Law School in northern Kentucky, and clerked for one of Kentucky's leading jurists on the Federal bench, Gene Siler.

Since then, Danny has practiced exclusively at a prominent Kentucky firm, specializing in complex civil litigation. In that time, he has not only represented a number of Kentucky's leading businesses, but he has also done a great deal of community service work, focusing on title IX compliance for the Kentucky High School Athletic Association.

To be honest, I did not know Danny before I sat down earlier this year to talk with him about his interest in sitting on the Federal bench. But in the conversations we have had, it became clear that he is a bright, articulate lawyer who has the demeanor and integrity to be a fine judge. I enthusiastically support his nomination.

I thank my colleagues for voting for this nomination. Danny Reeves knows the people of eastern Kentucky, he knows the law and he knows how the Federal bench in the Eastern District works. He is going to be able to hit the ground running, and he is going to do an exemplary job. The President made a fine choice in nominating him, and the sooner the Senate can confirm him, the better it will be for justice in Kentucky.

NOMINATION OF JOSEPH L. HEATON

Mr. NICKLES. Mr. President, I am pleased the Senate has just confirmed Joe Heaton, an outstanding individual and a superb attorney, to be U.S. district court judge for Oklahoma's Western District.

President Bush could not have made a finer selection to serve our country as a district court judge. Joe Heaton is exceptionally well qualified and will prove to be a great asset to the judicial system in Oklahoma and our country.

Joe graduated from Northwestern State College in his home town of Alva, OK, in 1973. Even before his graduation, Joe's commitment to public service was already evident. While still in school, he was elected to the Alva City Council and later was elected to serve as council president. Following graduation from college, Joe attended the University of Oklahoma School of Law where he excelled, making Oklahoma Law Review and Order of the Coif. He was also on the Dean's honor roll and won American Jurisprudence Awards in Constitutional Law and Conflicts of Law. Upon his graduation from law school Joe continued to dedicate himself to public service, this time coming here to Washington to serve as Legislative Assistant to Senator Dewey Bartlett.

Returning to Oklahoma in 1977 he practiced law with the prestigious firm of Fuller, Tubb & Pomeroy. He is respected by his colleagues as an ''honorable and trustworthy leader and friend.'' While engaged in civil practice, Joe was elected to the Oklahoma House of Representatives where he served until 1992. In this capacity as a State legislator, Joe served as the Republican leader for 3 years. His fellow legislators have described him as possessing the qualities needed on the Federal bench.

In 1991, I was pleased to recommend Joe's appointment to serve as U.S. attorney for the Western District of Oklahoma. He joined the U.S. attorney's office as a special assistant U.S. attorney and served in that capacity until 1992 when he became the U.S. attorney. In 1993, Joe returned to private practice until 1996 when then U.S. attorney, Patrick Ryan, asked him to return to the U.S. attorney's office. For the next 2 years, Joe was acting U.S. attorney while Mr. Ryan was in Denver in connection with the Oklahoma City bombing trials of Timothy McVeigh and Terry Nichols. Once again, Joe exhibited his strong commitment to serving Oklahoma and the Nation.

Joe and his wife Dee Anne are very active in their church where Joe serves as an Elder. They are proud of their two sons, Andrew and Adam. I congratulate Joe and his family on his having earned the position for which President Bush has selected him. I thank Chairman LEAHY and Ranking Member HATCH for their work on Joe Heaton's nomination. I applaud the Senate for confirming him as he will make an outstanding judge who will work diligently to administer justice while serving as a Federal district court judge.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

AGRICULTURAL CONSERVATION AND RURAL ENHANCEMENT ACT OF 2001—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the hour of 12 noon having arrived, the Senate will resume consideration of the motion to proceed to S. 1731, which the clerk will report.

The legislative clerk read as follows:

Motion to proceed to consider S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, provide for farm credit, agricultural research, nutrition, and related programs, and to ensure consumers abundant food and fiber.

The PRESIDING OFFICER. The Senate will be in order. Under the previous order, the motion to proceed is agreed to. The motion to reconsider is laid upon the table.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2002

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 3338, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3338) making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

DIVISION A—DEPARTMENT OF DEFENSE APPROPRIATIONS, 2002

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2002, for military functions administered by the Department of Defense, and for other purposes, namely:

TITLE I

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund, $23,446,734,000.

MILITARY PERSONNEL, NAVY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund, $19,465,964,000.

MILITARY PERSONNEL, MARINE CORPS

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund, $7,335,370,000.

MILITARY PERSONNEL, AIR FORCE

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements),

and expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund, $20,032,704,000.

RESERVE PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 10211, 10302, and 3038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $2,670,197,000.

RESERVE PERSONNEL, NAVY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Navy Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $1,650,523,000.

RESERVE PERSONNEL, MARINE CORPS

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Marine Corps platoon leaders class, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $466,300,000.

RESERVE PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 10211, 10305, and 8038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Air Reserve Officers' Training Corps, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $1,061,160,000.

NATIONAL GUARD PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under section 10211, 10302, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $4,052,695,000.

NATIONAL GUARD PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under section 10211, 10305, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $1,783,744,000.

TITLE II

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed $10,794,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes, $22,941,588,000.

OPERATION AND MAINTENANCE, NAVY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed $4,569,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes, $27,038,067,000.

OPERATION AND MAINTENANCE, MARINE CORPS

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law, $2,903,863,000.

OPERATION AND MAINTENANCE, AIR FORCE

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law; and not to exceed $7,998,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes, $26,303,436,000.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments), as authorized by law, $12,864,644,000, of which not to exceed $25,000,000 may be available for the CINC initiative fund account; and of which not to exceed $33,500,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes.

OPERATION AND MAINTENANCE, ARMY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $1,771,246,000.

OPERATION AND MAINTENANCE, NAVY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $1,003,690,000.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $144,023,000.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $2,023,866,000.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft), $3,743,808,000.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For operation and maintenance of the Air National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, repair, and other necessary expenses of facilities for the training and administration of the Air National Guard, including repair of facilities, maintenance, operation, and modification of aircraft; transportation of things, hire of passenger motor vehicles; supplies, materials, and equipment, as authorized by law for the Air National Guard; and expenses incident to the maintenance and use of supplies, materials, and equipment, including such as may be furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau, $3,998,361,000.

UNITED STATES COURTS OF APPEALS FOR THE ARMED FORCES

For salaries and expenses necessary for the United States Court of Appeals for the Armed Forces, $9,096,000, of which not to exceed $2,500 can be used for official representation purposes.

ENVIRONMENTAL RESTORATION, ARMY

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Army, $389,800,000, to remain available until transferred: Provided,

That the Secretary of the Army shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Army, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Army, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

ENVIRONMENTAL RESTORATION, NAVY

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Navy, $257,517,000, to remain available until transferred: Provided, That the Secretary of the Navy shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Navy, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Navy, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

ENVIRONMENTAL RESTORATION, AIR FORCE

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Air Force, $385,437,000, to remain available until transferred: Provided, That the Secretary of the Air Force shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Air Force, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Air Force, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

ENVIRONMENTAL RESTORATION, DEFENSE-WIDE

(INCLUDING TRANSFER OF FUNDS)

For the Department of Defense, $23,492,000, to remain available until transferred: Provided, That the Secretary of Defense shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of Defense, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of Defense, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

ENVIRONMENTAL RESTORATION, FORMERLY USED DEFENSE SITES

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Army, $230,255,000, to remain available until transferred: Provided, That the Secretary of the Army shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris at sites formerly used by the Department of Defense, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Army, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

OVERSEAS HUMANITARIAN, DISASTER, AND CIVIC AID

For expenses relating to the Overseas Humanitarian, Disaster, and Civic Aid programs of the Department of Defense (consisting of the programs provided under sections 401, 402, 404, 2547, and 2551 of title 10, United States Code), $44,700,000, to remain available until September 30, 2003.

FORMER SOVIET UNION THREAT REDUCTION

For assistance to the republics of the former Soviet Union, including assistance provided by contract or by grants, for facilitating the elimination and the safe and secure transportation and storage of nuclear, chemical and other weapons; for establishing programs to prevent the proliferation of weapons, weapons components, and weapon-related technology and expertise; for programs relating to the training and support of defense and military personnel for demilitarization and protection of weapons, weapons components and weapons technology and expertise, and for defense and military contacts, $357,000,000, to remain available until September 30, 2004: Provided, That of the amounts provided under this heading, $15,000,000 shall be available only to support the dismantling and disposal of nuclear submarines and submarine reactor components in the Russian Far East.

SUPPORT FOR INTERNATIONAL SPORTING COMPETITIONS, DEFENSE

For logistical and security support for international sporting competitions (including pay and non-travel related allowances only for members of the Reserve Components of the Armed Forces of the United States called or ordered to active duty in connection with providing such support), $15,800,000, to remain available until expended.

TITLE III

PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $1,893,891,000, to remain available for obligation until September 30, 2004.

MISSILE PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $1,774,154,000, to remain available for obligation until September 30, 2004.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $2,174,546,000, to remain available for obligation until September 30, 2004.

PROCUREMENT OF AMMUNITION, ARMY

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $1,171,465,000, to remain available for obligation until September 30, 2004.

OTHER PROCUREMENT, ARMY

For construction, procurement, production, and modification of vehicles, including tactical, support, and non-tracked combat vehicles; the purchase of not to exceed 29 passenger motor vehicles for replacement only; and the purchase of 3 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $200,000 per vehicle; communications and electronic equipment; other support equipment; spare parts, ordnance, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $4,160,186,000, to remain available for obligation until September 30, 2004.

AIRCRAFT PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, $8,030,043,000, to remain available for obligation until September 30, 2004.

WEAPONS PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, and related support

equipment including spare parts, and accessories therefor; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, $1,478,075,000, to remain available for obligation until September 30, 2004.

PROCUREMENT OF AMMUNITION, NAVY AND MARINE CORPS

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $442,799,000, to remain available for obligation until September 30, 2004.

SHIPBUILDING AND CONVERSION, NAVY

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, as follows:

Carrier Replacement Program (AP), $138,890,000;

SSGN (AP), $279,440,000;

NSSN, $1,608,914,000;

NSSN (AP), $684,288,000;

CVN Refuelings, $1,118,124,000;

CVN Refuelings (AP), $73,707,000;

Submarine Refuelings, $382,265,000;

Submarine Refuelings (AP), $77,750,000;

DDG–51 destroyer program, $2,966,036,000;

Cruiser conversion (AP), $458,238,000;

LPD–17 (AP), $155,000,000;

LHD–8, $267,238,000;

LCAC landing craft air cushion program, $52,091,000;

Prior year shipbuilding costs, $725,000,000; and

For craft, outfitting, post delivery, conversions, and first destination transformation transportation, $307,230,000;

In all: $9,294,211,000, to remain available for obligation until September 30, 2006: Provided, That additional obligations may be incurred after September 30, 2006, for engineering services, tests, evaluations, and other such budgeted work that must be performed in the final stage of ship construction: Provided further, That none of the funds provided under this heading for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign facilities for the construction of major components of such vessel: Provided further, That none of the funds provided under this heading shall be used for the construction of any naval vessel in foreign shipyards.

OTHER PROCUREMENT, NAVY

For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance (except ordnance for new aircraft, new ships, and ships authorized for conversion); the purchase of not to exceed 152 passenger motor vehicles for replacement only, and the purchase of five vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $200,000 per unit for two units and not to exceed $115,000 per unit for the remaining three units; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, $4,146,338,000, to remain available for obligation until September 30, 2004.

PROCUREMENT, MARINE CORPS

For expenses necessary for the procurement, manufacture, and modification of missiles, armament, military equipment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; vehicles for the Marine Corps, including the purchase of not to exceed 25 passenger motor vehicles for replacement only; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, $974,054,000, to remain available for obligation until September 30, 2004.

AIRCRAFT PROCUREMENT, AIR FORCE

For construction, procurement, lease, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things, $10,617,332,000, to remain available for obligation until September 30, 2004.

MISSILE PROCUREMENT, AIR FORCE

For construction, procurement, and modification of missiles, spacecraft, rockets, and related equipment, including spare parts and accessories therefor, ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things, $3,657,522,000, to remain available for obligation until September 30, 2004.

PROCUREMENT OF AMMUNITION, AIR FORCE

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $873,344,000, to remain available for obligation until September 30, 2004.

OTHER PROCUREMENT, AIR FORCE

For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed 216 passenger motor vehicles for replacement only, and the purchase of three vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $200,000; lease of passenger motor vehicles; and expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon, prior to approval of title; reserve plant and Government and contractor-owned equipment layaway, $8,144,174,000, to remain available for obligation until September 30, 2004.

PROCUREMENT, DEFENSE-WIDE

For expenses of activities and agencies of the Department of Defense (other than the military departments) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed 115 passenger motor vehicles for replacement only; the purchase of 10 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $250,000 per vehicle; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway, $1,473,795,000, to remain available for obligation until September 30, 2004.

DEFENSE PRODUCTION ACT PURCHASES

For activities by the Department of Defense pursuant to sections 108, 301, 302, and 303 of the Defense Production Act of 1950 (50 U.S.C. App. 2078, 2091, 2092, and 2093), $15,000,000 to remain available until expended.

NATIONAL GUARD AND RESERVE EQUIPMENT

For procurement of aircraft, missiles, tracked combat vehicles, ammunition, other weapons, and other procurement for the reserve components of the Armed Forces, $560,505,000, to remain available for obligation until September 30, 2004: Provided, That the Chiefs of the Reserve and National Guard components shall, not later than 30 days after the enactment of this Act, individually submit to the congressional defense committees the modernization priority assessment for their respective Reserve or National Guard component.

TITLE IV

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, $6,742,123,000, to remain available for obligation until September 30, 2003.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation,

lease, and operation of facilities and equipment, $10,742,710,000, to remain available for obligation until September 30, 2003.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, $13,859,401,000, to remain available for obligation until September 30, 2003.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

For expenses of activities and agencies of the Department of Defense (other than the military departments), necessary for basic and applied scientific research, development, test and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment, $14,445,589,000, to remain available for obligation until September 30, 2003.

OPERATIONAL TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, necessary for the independent activities of the Director, Operational Test and Evaluation in the direction and supervision of operational test and evaluation, including initial operational test and evaluation which is conducted prior to, and in support of, production decisions; joint operational testing and evaluation; and administrative expenses in connection therewith, $216,855,000, to remain available for obligation until September 30, 2003.

TITLE V

REVOLVING AND MANAGEMENT FUNDS

DEFENSE WORKING CAPITAL FUNDS

For the Defense Working Capital Funds; $1,826,986,000: Provided, That during fiscal year 2002, funds in the Defense Working Capital Funds may be used for the purchase of not to exceed 330 passenger carrying motor vehicles for replacement only for the Defense Security Service.

NATIONAL DEFENSE SEALIFT FUND

For National Defense Sealift Fund programs, projects, and activities, and for expenses of the National Defense Reserve Fleet, as established by section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744), $407,408,000, to remain available until expended: Provided, That none of the funds provided in this paragraph shall be used to award a new contract that provides for the acquisition of any of the following major components unless such components are manufactured in the United States: auxiliary equipment, including pumps, for all shipboard services; propulsion system components (that is; engines, reduction gears, and propellers); shipboard cranes; and spreaders for shipboard cranes: Provided further, That the exercise of an option in a contract awarded through the obligation of previously appropriated funds shall not be considered to be the award of a new contract: Provided further, That the Secretary of the military department responsible for such procurement may waive the restrictions in the first proviso on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes.

TITLE VI

OTHER DEPARTMENT OF DEFENSE PROGRAMS

DEFENSE HEALTH PROGRAM

For expenses, not otherwise provided for, for medical and health care programs of the Department of Defense, as authorized by law, $18,376,404,000, of which $17,656,185,000 shall be for Operation and maintenance, of which not to exceed 2 percent shall remain available until September 30, 2003; of which $267,915,000, to remain available for obligation until September 30, 2004, shall be for Procurement; of which $452,304,000, to remain available for obligation until September 30, 2003, shall be for Research, development, test and evaluation.

CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, ARMY

For expenses, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions in accordance with the provisions of section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), and for the destruction of other chemical warfare materials that are not in the chemical weapon stockpile, $1,104,557,000, of which $739,020,000 shall be for Operation and maintenance to remain available until September 30, 2003, $164,158,000 shall be for Procurement to remain available until September 30, 2004, and $201,379,000 shall be for Research, development, test and evaluation to remain available until September 30, 2003.

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For drug interdiction and counter-drug activities of the Department of Defense, for transfer to appropriations available to the Department of Defense for military personnel of the reserve components serving under the provisions of title 10 and title 32, United States Code; for Operation and maintenance; for Procurement; and for Research, development, test and evaluation, $865,981,000: Provided, That the funds appropriated under this heading shall be available for obligation for the same time period and for the same purpose as the appropriation to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: Provided further, That the transfer authority provided under this heading is in addition to any other transfer authority contained elsewhere in this Act.

OFFICE OF THE INSPECTOR GENERAL

For expenses and activities of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $152,021,000, of which $150,221,000 shall be for Operation and maintenance, of which not to exceed $700,000 is available for emergencies and extraordinary expenses to be expended on the approval or authority of the Inspector General, and payments may be made on the Inspector General's certificate of necessity for confidential military purposes; and of which $1,800,000 to remain available until September 30, 2004, shall be for Procurement.

TITLE VII

RELATED AGENCIES

CENTRAL INTELLIGENCE AGENCY

CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM FUND

For payment to the Central Intelligence Agency Retirement and Disability System Fund, to maintain the proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System, $212,000,000.

INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT

INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Intelligence Community Management Account, $144,776,000, of which $28,003,000 for the Advanced Research and Development Committee shall remain available until September 30, 2003: Provided, That of the funds appropriated under this heading, $27,000,000 shall be transferred to the Department of Justice for the National Drug Intelligence Center to support the Department of Defense's counter-drug intelligence responsibilities, and of the said amount, $1,500,000 for Procurement shall remain available until September 30, 2004, and $1,000,000 for Research, development, test and evaluation shall remain available until September 30, 2003: Provided further, That the National Drug Intelligence Center shall maintain the personnel and technical resources to provide timely support to law enforcement authorities to conduct document exploitation of materials collected in Federal, State, and local law enforcement activity.

PAYMENT TO KAHO'OLAWE ISLAND CONVEYANCE, REMEDIATION, AND ENVIRONMENTAL RESTORATION FUND

For payment to Kaho'olawe Island Conveyance, Remediation, and Environmental Restoration Fund, as authorized by law, $75,000,000, to remain available until expended.

NATIONAL SECURITY EDUCATION TRUST FUND

For the purposes of title VIII of Public Law 102–183, $8,000,000, to be derived from the National Security Education Trust Fund, to remain available until expended.

TITLE VIII

GENERAL PROVISIONS—DEPARTMENT OF DEFENSE

SEC. 8001. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 8002. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense: Provided, That salary increases granted to direct and indirect hire foreign national employees of the Department of Defense funded by this Act shall not be at a rate in excess of the percentage increase authorized by law for civilian employees of the Department of Defense whose pay is computed under the provisions of section 5332 of title 5, United States Code, or at a rate in excess of the percentage increase provided by the appropriate host nation to its own employees, whichever is higher: Provided further, That this section shall not apply to Department of Defense foreign service national employees serving at United States diplomatic missions whose pay is set by the Department of State under the Foreign Service Act of 1980: Provided further, That the limitations of this provision shall not apply to foreign national employees of the Department of Defense in the Republic of Turkey.

SEC. 8003. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year, unless expressly so provided herein.

SEC. 8004. No more than 20 percent of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last 2 months of the fiscal year: Provided, That this section shall not apply to obligations for support of active duty training of reserve components or summer camp training of the Reserve Officers' Training Corps.

(TRANSFER OF FUNDS)

SEC. 8005. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed $1,500,000,000 of working capital funds of the Department of Defense or funds made available in this Act to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: Provided, That such authority to transfer may

not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by the Congress: Provided further, That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority or any other authority in this Act: Provided further, That no part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for reprogramming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied by the Congress: Provided further, That a request for multiple reprogrammings of funds using authority provided in this section must be made prior to March 31, 2002.

(TRANSFER OF FUNDS)

SEC. 8006. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: Provided, That transfers may be made between such funds: Provided further, That transfers may be made between working capital funds and the ''Foreign Currency Fluctuations, Defense'' appropriation and the ''Operation and Maintenance'' appropriation accounts in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that such transfers may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer. Except in amounts equal to the amounts appropriated to working capital funds in this Act, no obligations may be made against a working capital fund to procure or increase the value of war reserve material inventory, unless the Secretary of Defense has notified the Congress prior to any such obligation.

SEC. 8007. Funds appropriated by this Act may not be used to initiate a special access program without prior notification 30 calendar days in session in advance to the congressional defense committees.

SEC. 8008. None of the funds provided in this Act shall be available to initiate: (1) a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any 1 year of the contract or that includes an unfunded contingent liability in excess of $20,000,000; or (2) a contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any 1 year, unless the congressional defense committees have been notified at least 30 days in advance of the proposed contract award: Provided, That no part of any appropriation contained in this Act shall be available to initiate a multiyear contract for which the economic order quantity advance procurement is not funded at least to the limits of the Government's liability: Provided further, That no part of any appropriation contained in this Act shall be available to initiate multiyear procurement contracts for any systems or component thereof if the value of the multiyear contract would exceed $500,000,000 unless specifically provided in this Act: Provided further, That no multiyear procurement contract can be terminated without 10-day prior notification to the congressional defense committees: Provided further, That the execution of multiyear authority shall require the use of a present value analysis to determine lowest cost compared to an annual procurement.

Funds appropriated in title III of this Act may be used for multiyear procurement contracts as follows:

C–17; and

F/A–18E and F engine.

SEC. 8009. Within the funds appropriated for the operation and maintenance of the Armed Forces, funds are hereby appropriated pursuant to section 401 of title 10, United States Code, for humanitarian and civic assistance costs under chapter 20 of title 10, United States Code. Such funds may also be obligated for humanitarian and civic assistance costs incidental to authorized operations and pursuant to authority granted in section 401 of chapter 20 of title 10, United States Code, and these obligations shall be reported to the Congress on September 30 of each year: Provided, That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance by using Civic Action Teams in the Trust Territories of the Pacific Islands and freely associated states of Micronesia, pursuant to the Compact of Free Association as authorized by Public Law 99–239: Provided further, That upon a determination by the Secretary of the Army that such action is beneficial for graduate medical education programs conducted at Army medical facilities located in Hawaii, the Secretary of the Army may authorize the provision of medical services at such facilities and transportation to such facilities, on a nonreimbursable basis, for civilian patients from American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, Palau, and Guam.

SEC. 8010. (a) During fiscal year 2002, the civilian personnel of the Department of Defense may not be managed on the basis of any end-strength, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an end-strength) on the number of such personnel who may be employed on the last day of such fiscal year.

(b) The fiscal year 2003 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 2002 Department of Defense budget request shall be prepared and submitted to the Congress as if subsections (a) and (b) of this provision were effective with regard to fiscal year 2003.

(c) Nothing in this section shall be construed to apply to military (civilian) technicians.

SEC. 8011. Notwithstanding any other provision of law, none of the funds made available by this Act shall be used by the Department of Defense to exceed, outside the 50 United States, its territories, and the District of Columbia, 125,000 civilian workyears: Provided, That workyears shall be applied as defined in the Federal Personnel Manual: Provided further, That workyears expended in dependent student hiring programs for disadvantaged youths shall not be included in this workyear limitation.

SEC. 8012. None of the funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before the Congress.

SEC. 8013. None of the funds appropriated by this Act shall be available for the basic pay and allowances of any member of the Army participating as a full-time student and receiving benefits paid by the Secretary of Veterans Affairs from the Department of Defense Education Benefits Fund when time spent as a full-time student is credited toward completion of a service commitment: Provided, That this subsection shall not apply to those members who have reenlisted with this option prior to October 1, 1987: Provided further, That this subsection applies only to active components of the Army.

SEC. 8014. None of the funds appropriated by this Act shall be available to convert to contractor performance an activity or function of the Department of Defense that, on or after the date of the enactment of this Act, is performed by more than 10 Department of Defense civilian employees until a most efficient and cost-effective organization analysis is completed on such activity or function and certification of the analysis is made to the Committees on Appropriations of the House of Representatives and the Senate: Provided, That this section and subsections (a), (b), and (c) of 10 U.S.C. 2461 shall not apply to a commercial or industrial type function of the Department of Defense that: (1) is included on the procurement list established pursuant to section 2 of the Act of June 25, 1938 (41 U.S.C. 47), popularly referred to as the Javits-Wagner-O'Day Act; (2) is planned to be converted to performance by a qualified nonprofit agency for the blind or by a qualified nonprofit agency for other severely handicapped individuals in accordance with that Act; or (3) is planned to be converted to performance by a qualified firm under 51 percent ownership by an Indian tribe, as defined in section 450b(e) of title 25, United States Code, or a Native Hawaiian organization, as defined in section 637(a)(15) of title 15, United States Code.

(TRANSFER OF FUNDS)

SEC. 8015. Funds appropriated in title III of this Act for the Department of Defense Pilot Mentor-Protege Program may be transferred to any other appropriation contained in this Act solely for the purpose of implementing a Mentor-Protege Program developmental assistance agreement pursuant to section 831 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 2301 note), as amended, under the authority of this provision or any other transfer authority contained in this Act.

SEC. 8016. None of the funds in this Act may be available for the purchase by the Department of Defense (and its departments and agencies) of welded shipboard anchor and mooring chain 4 inches in diameter and under unless the anchor and mooring chain are manufactured in the United States from components which are substantially manufactured in the United States: Provided, That for the purpose of this section manufactured will include cutting, heat treating, quality control, testing of chain and welding (including the forging and shot blasting process): Provided further, That for the purpose of this section substantially all of the components of anchor and mooring chain shall be considered to be produced or manufactured in the United States if the aggregate cost of the components produced or manufactured in the United States exceeds the aggregate cost of the components produced or manufactured outside the United States: Provided further, That when adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis, the Secretary of the service responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations that such an acquisition must be made in order to acquire capability for national security purposes.

SEC. 8017. None of the funds appropriated by this Act available for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) or TRICARE shall be available for the reimbursement of any health care provider for inpatient mental health service for care received when a patient is referred to a provider of inpatient mental health care or residential treatment care by a medical or health care professional having an economic interest in the facility to which the patient is referred: Provided, That this limitation does not apply in the case of inpatient mental health services provided under the program for persons with disabilities under subsection (d) of section 1079 of title 10, United States Code, provided as partial hospital care, or provided pursuant to a waiver authorized by the Secretary of Defense because of medical or psychological circumstances of the patient that are confirmed by a health professional who is not a Federal employee after a review, pursuant to rules prescribed by the Secretary, which takes into account the appropriate level of care for the patient, the intensity of services

required by the patient, and the availability of that care.

SEC. 8018. Funds available in this Act and hereafter may be used to provide transportation for the next-of-kin of individuals who have been prisoners of war or missing in action from the Vietnam era to an annual meeting in the United States, under such regulations as the Secretary of Defense may prescribe.

SEC. 8019. Notwithstanding any other provision of law, during the current fiscal year, the Secretary of Defense may, by executive agreement, establish with host nation governments in NATO member states a separate account into which such residual value amounts negotiated in the return of United States military installations in NATO member states may be deposited, in the currency of the host nation, in lieu of direct monetary transfers to the United States Treasury: Provided, That such credits may be utilized only for the construction of facilities to support United States military forces in that host nation, or such real property maintenance and base operating costs that are currently executed through monetary transfers to such host nations: Provided further, That the Department of Defense's budget submission for fiscal year 2002 shall identify such sums anticipated in residual value settlements, and identify such construction, real property maintenance or base operating costs that shall be funded by the host nation through such credits: Provided further, That all military construction projects to be executed from such accounts must be previously approved in a prior Act of Congress: Provided further, That each such executive agreement with a NATO member host nation shall be reported to the congressional defense committees, the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate 30 days prior to the conclusion and endorsement of any such agreement established under this provision.

SEC. 8020. None of the funds available to the Department of Defense may be used to demilitarize or dispose of M–1 Carbines, M–1 Garand rifles, M–14 rifles, .22 caliber rifles, .30 caliber rifles, or M–1911 pistols.

SEC. 8021. No more than $500,000 of the funds appropriated or made available in this Act shall be used during a single fiscal year for any single relocation of an organization, unit, activity or function of the Department of Defense into or within the National Capital Region: Provided, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the congressional defense committees that such a relocation is required in the best interest of the Government.

SEC. 8022. In addition to the funds provided elsewhere in this Act, $8,000,000 is appropriated only for incentive payments authorized by section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544): Provided, That a subcontractor at any tier shall be considered a contractor for the purposes of being allowed additional compensation under section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544).

SEC. 8023. During the current fiscal year and hereafter, funds appropriated or otherwise available for any Federal agency, the Congress, the judicial branch, or the District of Columbia may be used for the pay, allowances, and benefits of an employee as defined by section 2105 of title 5, United States Code, or an individual employed by the government of the District of Columbia, permanent or temporary indefinite, who—

(1) is a member of a Reserve component of the Armed Forces, as described in section 10101 of title 10, United States Code, or the National Guard, as described in section 101 of title 32, United States Code;

(2) performs, for the purpose of providing military aid to enforce the law or providing assistance to civil authorities in the protection or saving of life or property or prevention of injury—

(A) Federal service under sections 331, 332, 333, or 12406 of title 10, United States Code, or other provision of law, as applicable; or

(B) full-time military service for his or her State, the District of Columbia, the Commonwealth of Puerto Rico, or a territory of the United States; and

(3) requests and is granted—

(A) leave under the authority of this section; or

(B) annual leave, which may be granted without regard to the provisions of sections 5519 and 6323(b) of title 5, United States Code, if such employee is otherwise entitled to such annual leave:

Provided, That any employee who requests leave under subsection (3)(A) for service described in subsection (2) of this section is entitled to such leave, subject to the provisions of this section and of the last sentence of section 6323(b) of title 5, United States Code, and such leave shall be considered leave under section 6323(b) of title 5, United States Code.

SEC. 8024. None of the funds appropriated by this Act shall be available to perform any cost study pursuant to the provisions of OMB Circular A–76 if the study being performed exceeds a period of 24 months after initiation of such study with respect to a single function activity or 48 months after initiation of such study for a multi-function activity.

SEC. 8025. Funds appropriated by this Act for the American Forces Information Service shall not be used for any national or international political or psychological activities.

SEC. 8026. Notwithstanding any other provision of law or regulation, the Secretary of Defense may adjust wage rates for civilian employees hired for certain health care occupations as authorized for the Secretary of Veterans Affairs by section 7455 of title 38, United States Code.

SEC. 8027. Of the funds made available in this Act, not less than $61,100,000 shall be available to maintain an attrition reserve force of 18 B–52 aircraft, of which $3,300,000 shall be available from ''Military Personnel, Air Force'', $37,400,000 shall be available from ''Operation and Maintenance, Air Force'', and $20,400,000 shall be available from ''Aircraft Procurement, Air Force'': Provided, That the Secretary of the Air Force shall maintain a total force of 94 B–52 aircraft, including 18 attrition reserve aircraft, during fiscal year 2002: Provided further, That the Secretary of Defense shall include in the Air Force budget request for fiscal year 2003 amounts sufficient to maintain a B–52 force totaling 94 aircraft.

SEC. 8028. (a) Of the funds for the procurement of supplies or services appropriated by this Act, qualified nonprofit agencies for the blind or other severely handicapped shall be afforded the maximum practicable opportunity to participate as subcontractors and suppliers in the performance of contracts let by the Department of Defense.

(b) During the current fiscal year, a business concern which has negotiated with a military service or defense agency a subcontracting plan for the participation by small business concerns pursuant to section 8(d) of the Small Business Act (15 U.S.C. 637(d)) shall be given credit toward meeting that subcontracting goal for any purchases made from qualified nonprofit agencies for the blind or other severely handicapped.

(c) For the purpose of this section, the phrase ''qualified nonprofit agency for the blind or other severely handicapped'' means a nonprofit agency for the blind or other severely handicapped that has been approved by the Committee for the Purchase from the Blind and Other Severely Handicapped under the Javits-Wagner-O'Day Act (41 U.S.C. 46–48).

SEC. 8029. During the current fiscal year, net receipts pursuant to collections from third party payers pursuant to section 1095 of title 10, United States Code, shall be made available to the local facility of the uniformed services responsible for the collections and shall be over and above the facility's direct budget amount.

SEC. 8030. During the current fiscal year, the Department of Defense is authorized to incur obligations of not to exceed $350,000,000 for purposes specified in section 2350j(c) of title 10, United States Code, in anticipation of receipt of contributions, only from the Government of Kuwait, under that section: Provided, That upon receipt, such contributions from the Government of Kuwait shall be credited to the appropriations or fund which incurred such obligations.

SEC. 8031. Of the funds made available in this Act, not less than $24,303,000 shall be available for the Civil Air Patrol Corporation, of which $22,803,000 shall be available for Civil Air Patrol Corporation operation and maintenance to support readiness activities which includes $1,500,000 for the Civil Air Patrol counterdrug program: Provided, That funds identified for ''Civil Air Patrol'' under this section are intended for and shall be for the exclusive use of the Civil Air Patrol Corporation and not for the Air Force or any unit thereof.

SEC. 8032. (a) None of the funds appropriated in this Act are available to establish a new Department of Defense (department) federally funded research and development center (FFRDC), either as a new entity, or as a separate entity administrated by an organization managing another FFRDC, or as a nonprofit membership corporation consisting of a consortium of other FFRDCs and other non-profit entities.

(b) No member of a Board of Directors, Trustees, Overseers, Advisory Group, Special Issues Panel, Visiting Committee, or any similar entity of a defense FFRDC, and no paid consultant to any defense FFRDC, except when acting in a technical advisory capacity, may be compensated for his or her services as a member of such entity, or as a paid consultant by more than one FFRDC in a fiscal year: Provided, That a member of any such entity referred to previously in this subsection shall be allowed travel expenses and per diem as authorized under the Federal Joint Travel Regulations, when engaged in the performance of membership duties.

(c) Notwithstanding any other provision of law, none of the funds available to the department from any source during fiscal year 2002 may be used by a defense FFRDC, through a fee or other payment mechanism, for construction of new buildings, for payment of cost sharing for projects funded by Government grants, for absorption of contract overruns, or for certain charitable contributions, not to include employee participation in community service and/or development.

(d) Notwithstanding any other provision of law, of the funds available to the department during fiscal year 2002, not more than 6,227 staff years of technical effort (staff years) may be funded for defense FFRDCs: Provided, That of the specific amount referred to previously in this subsection, not more than 1,029 staff years may be funded for the defense studies and analysis FFRDCs.

(e) The Secretary of Defense shall, with the submission of the department's fiscal year 2003 budget request, submit a report presenting the specific amounts of staff years of technical effort to be allocated for each defense FFRDC during that fiscal year.

(f) Notwithstanding any other provision of this Act, the total amount appropriated in this Act for FFRDCs is hereby reduced by $60,000,000.

SEC. 8033. None of the funds appropriated or made available in this Act shall be used to procure carbon, alloy or armor steel plate for use in any Government-owned facility or property under the control of the Department of Defense which were not melted and rolled in the United States or Canada: Provided, That these procurement restrictions shall apply to any and all Federal Supply Class 9515, American Society of

Testing and Materials (ASTM) or American Iron and Steel Institute (AISI) specifications of carbon, alloy or armor steel plate: Provided further, That the Secretary of the military department responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: Provided further, That these restrictions shall not apply to contracts which are in being as of the date of the enactment of this Act.

SEC. 8034. For the purposes of this Act, the term ''congressional defense committees'' means the Armed Services Committee of the House of Representatives, the Armed Services Committee of the Senate, the Subcommittee on Defense of the Committee on Appropriations of the Senate, and the Subcommittee on Defense of the Committee on Appropriations of the House of Representatives.

SEC. 8035. During the current fiscal year, the Department of Defense may acquire the modification, depot maintenance and repair of aircraft, vehicles and vessels as well as the production of components and other Defense-related articles, through competition between Department of Defense depot maintenance activities and private firms: Provided, That the Senior Acquisition Executive of the military department or defense agency concerned, with power of delegation, shall certify that successful bids include comparable estimates of all direct and indirect costs for both public and private bids: Provided further, That Office of Management and Budget Circular A–76 shall not apply to competitions conducted under this section.

SEC. 8036. (a)(1) If the Secretary of Defense, after consultation with the United States Trade Representative, determines that a foreign country which is party to an agreement described in paragraph (2) has violated the terms of the agreement by discriminating against certain types of products produced in the United States that are covered by the agreement, the Secretary of Defense shall rescind the Secretary's blanket waiver of the Buy American Act with respect to such types of products produced in that foreign country.

(2) An agreement referred to in paragraph (1) is any reciprocal defense procurement memorandum of understanding, between the United States and a foreign country pursuant to which the Secretary of Defense has prospectively waived the Buy American Act for certain products in that country.

(b) The Secretary of Defense shall submit to the Congress a report on the amount of Department of Defense purchases from foreign entities in fiscal year 2001. Such report shall separately indicate the dollar value of items for which the Buy American Act was waived pursuant to any agreement described in subsection (a)(2), the Trade Agreement Act of 1979 (19 U.S.C. 2501 et seq.), or any international agreement to which the United States is a party.

(c) For purposes of this section, the term ''Buy American Act'' means title III of the Act entitled ''An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes'', approved March 3, 1933 (41 U.S.C. 10a et seq.).

SEC. 8037. Appropriations contained in this Act that remain available at the end of the current fiscal year as a result of energy cost savings realized by the Department of Defense shall remain available for obligation for the next fiscal year to the extent, and for the purposes, provided in section 2865 of title 10, United States Code.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8038. Amounts deposited during the current fiscal year to the special account established under 40 U.S.C. 485(h)(2) and to the special account established under 10 U.S.C. 2667(d)(1) are appropriated and shall be available until transferred by the Secretary of Defense to current applicable appropriations or funds of the Department of Defense under the terms and conditions specified by 40 U.S.C. 485(h)(2)(A) and (B) and 10 U.S.C. 2667(d)(1)(B), to be merged with and to be available for the same time period and the same purposes as the appropriation to which transferred.

SEC. 8039. The Under Secretary of Defense (Comptroller) shall submit to the congressional defense committees by February 1, 2002, a detailed report identifying, by amount and by separate budget activity, activity group, subactivity group, line item, program element, program, project, subproject, and activity, any activity for which the fiscal year 2003 budget request was reduced because the Congress appropriated funds above the President's budget request for that specific activity for fiscal year 2002.

SEC. 8040. Notwithstanding any other provision of law, funds available for ''Drug Interdiction and Counter-Drug Activities, Defense'' may be obligated for the Young Marines program.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8041. During the current fiscal year, amounts contained in the Department of Defense Overseas Military Facility Investment Recovery Account established by section 2921(c)(1) of the National Defense Authorization Act of 1991 (Public Law 101–510; 10 U.S.C. 2687 note) shall be available until expended for the payments specified by section 2921(c)(2) of that Act.

SEC. 8042. (a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of the Air Force may convey at no cost to the Air Force, without consideration, to Indian tribes located in the States of North Dakota, South Dakota, Montana, and Minnesota relocatable military housing units located at Grand Forks Air Force Base and Minot Air Force Base that are excess to the needs of the Air Force.

(b) PROCESSING OF REQUESTS.—The Secretary of the Air Force shall convey, at no cost to the Air Force, military housing units under subsection (a) in accordance with the request for such units that are submitted to the Secretary by the Operation Walking Shield Program on behalf of Indian tribes located in the States of North Dakota, South Dakota, Montana, and Minnesota.

(c) RESOLUTION OF HOUSING UNIT CONFLICTS.—The Operation Walking Shield program shall resolve any conflicts among requests of Indian tribes for housing units under subsection (a) before submitting requests to the Secretary of the Air Force under subsection (b).

(d) INDIAN TRIBE DEFINED.—In this section, the term ''Indian tribe'' means any recognized Indian tribe included on the current list published by the Secretary of the Interior under section 104 of the Federally Recognized Indian Tribe Act of 1994 (Public Law 103–454; 108 Stat. 4792; 25 U.S.C. 479a–1).

SEC. 8043. During the current fiscal year, appropriations which are available to the Department of Defense for operation and maintenance may be used to purchase items having an investment item unit cost of not more than $100,000.

SEC. 8044. (a) During the current fiscal year, none of the appropriations or funds available to the Department of Defense Working Capital Funds shall be used for the purchase of an investment item for the purpose of acquiring a new inventory item for sale or anticipated sale during the current fiscal year or a subsequent fiscal year to customers of the Department of Defense Working Capital Funds if such an item would not have been chargeable to the Department of Defense Business Operations Fund during fiscal year 1994 and if the purchase of such an investment item would be chargeable during the current fiscal year to appropriations made to the Department of Defense for procurement.

(b) The fiscal year 2003 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 2003 Department of Defense budget shall be prepared and submitted to the Congress on the basis that any equipment which was classified as an end item and funded in a procurement appropriation contained in this Act shall be budgeted for in a proposed fiscal year 2003 procurement appropriation and not in the supply management business area or any other area or category of the Department of Defense Working Capital Funds.

SEC. 8045. None of the funds appropriated by this Act for programs of the Central Intelligence Agency shall remain available for obligation beyond the current fiscal year, except for funds appropriated for the Reserve for Contingencies, which shall remain available until September 30, 2003: Provided, That funds appropriated, transferred, or otherwise credited to the Central Intelligence Agency Central Services Working Capital Fund during this or any prior or subsequent fiscal year shall remain available until expended.

SEC. 8046. Notwithstanding any other provision of law, funds made available in this Act for the Defense Intelligence Agency may be used for the design, development, and deployment of General Defense Intelligence Program intelligence communications and intelligence information systems for the Services, the Unified and Specified Commands, and the component commands.

SEC. 8047. Of the funds appropriated by the Department of Defense under the heading ''Operation and Maintenance, Defense-Wide'', not less than $10,000,000 shall be made available only for the mitigation of environmental impacts, including training and technical assistance to tribes, related administrative support, the gathering of information, documenting of environmental damage, and developing a system for prioritization of mitigation and cost to complete estimates for mitigation, on Indian lands resulting from Department of Defense activities.

SEC. 8048. Amounts collected for the use of the facilities of the National Science Center for Communications and Electronics during the current fiscal year and hereafter pursuant to section 1459(g) of the Department of Defense Authorization Act, 1986, and deposited to the special account established under subsection 1459(g)(2) of that Act are appropriated and shall be available until expended for the operation and maintenance of the Center as provided for in subsection 1459(g)(2).

(TRANSFER OF FUNDS)

SEC. 8049. In addition to the amounts appropriated elsewhere in this Act, $10,000,000 is hereby appropriated to the Department of Defense: Provided, That at the direction of the Assistant Secretary of Defense for Reserve Affairs, these funds shall be transferred to the Reserve component personnel accounts in Title I of this Act: Provided further, That these funds shall be used for incentive and bonus programs that address the most pressing recruitment and retention issues in the Reserve components.

SEC. 8050. (a) None of the funds appropriated in this Act may be expended by an entity of the Department of Defense unless the entity, in expending the funds, complies with the Buy American Act. For purposes of this subsection, the term ''Buy American Act'' means title III of the Act entitled ''An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes'', approved March 3, 1933 (41 U.S.C. 10a et seq.).

(b) If the Secretary of Defense determines that a person has been convicted of intentionally affixing a label bearing a ''Made in America'' inscription to any product sold in or shipped to the United States that is not made in America, the Secretary shall determine, in accordance with section 2410f of title 10, United States Code, whether the person should be debarred from contracting with the Department of Defense.

(c) In the case of any equipment or products purchased with appropriations provided under this Act, it is the sense of the Congress that any entity of the Department of Defense, in expending the appropriation, purchase only American-made equipment and products, provided that American-made equipment and products are cost-competitive, quality-competitive, and available in a timely fashion.

SEC. 8051. None of the funds appropriated by this Act shall be available for a contract for studies, analysis, or consulting services entered into without competition on the basis of an unsolicited proposal unless the head of the activity responsible for the procurement determines—

(1) as a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work;

(2) the purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source; or

(3) the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support:

Provided, That this limitation shall not apply to contracts in an amount of less than $25,000, contracts related to improvements of equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense, who has been confirmed by the Senate, determines that the award of such contract is in the interest of the national defense.

SEC. 8052. (a) Except as provided in subsections (b) and (c), none of the funds made available by this Act may be used—

(1) to establish a field operating agency; or

(2) to pay the basic pay of a member of the Armed Forces or civilian employee of the department who is transferred or reassigned from a headquarters activity if the member or employee's place of duty remains at the location of that headquarters.

(b) The Secretary of Defense or Secretary of a military department may waive the limitations in subsection (a), on a case-by-case basis, if the Secretary determines, and certifies to the Committees on Appropriations of the House of Representatives and Senate that the granting of the waiver will reduce the personnel requirements or the financial requirements of the department.

(c) This section does not apply to field operating agencies funded within the National Foreign Intelligence Program.

SEC. 8053. During the current fiscal year and hereafter, funds appropriated or made available by the transfer of funds in this or subsequent Appropriations Acts, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) until the enactment of the Intelligence Authorization Act for that fiscal year and funds appropriated or made available by transfer of funds in any subsequent Supplemental Appropriations Act enacted after the enactment of the Intelligence Authorization Act for that fiscal year are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414).

SEC. 8054. Notwithstanding section 303 of Public Law 96–487 or any other provision of law, the Secretary of the Navy is authorized to lease real and personal property at Naval Air Facility, Adak, Alaska, pursuant to 10 U.S.C. 2667(f), for commercial, industrial or other purposes: Provided, That notwithstanding any other provision of law, the Secretary of the Navy may remove hazardous materials from facilities, buildings, and structures at Adak, Alaska, and may demolish or otherwise dispose of such facilities, buildings, and structures.

(RESCISSIONS)

SEC. 8055. Of the funds provided in Department of Defense Appropriations Acts, the following funds are hereby rescinded as of the date of the enactment of this Act from the following accounts in the specified amounts:

''Aircraft Procurement, Army, 2001/2003'', $15,500,000;

''Aircraft Procurement, Air Force, 2001/2003'', $43,983,000;

''Missile Procurement, Air Force, 2001/2003'', $58,550,000;

''Procurement, Defense-Wide, 2001/2003'', $64,170,000;

''Research, Development, Test and Evaluation, Air Force, 2001/2002'', $13,450,000; and

''Research, Development, Test and Evaluation, Defense-Wide, 2001/2002'', $5,664,000.

SEC. 8056. None of the funds available in this Act may be used to reduce the authorized positions for military (civilian) technicians of the Army National Guard, the Air National Guard, Army Reserve and Air Force Reserve for the purpose of applying any administratively imposed civilian personnel ceiling, freeze, or reduction on military (civilian) technicians, unless such reductions are a direct result of a reduction in military force structure.

SEC. 8057. None of the funds appropriated or otherwise made available in this Act may be obligated or expended for assistance to the Democratic People's Republic of North Korea unless specifically appropriated for that purpose.

SEC. 8058. During the current fiscal year, funds appropriated in this Act are available to compensate members of the National Guard for duty performed pursuant to a plan submitted by a Governor of a State and approved by the Secretary of Defense under section 112 of title 32, United States Code: Provided, That during the performance of such duty, the members of the National Guard shall be under State command and control: Provided further, That such duty shall be treated as full-time National Guard duty for purposes of sections 12602(a)(2) and (b)(2) of title 10, United States Code.

SEC. 8059. Funds appropriated in this Act for operation and maintenance of the Military Departments, Combatant Commands and Defense Agencies shall be available for reimbursement of pay, allowances and other expenses which would otherwise be incurred against appropriations for the National Guard and Reserve when members of the National Guard and Reserve provide intelligence or counterintelligence support to Combatant Commands, Defense Agencies and Joint Intelligence Activities, including the activities and programs included within the National Foreign Intelligence Program (NFIP), the Joint Military Intelligence Program (JMIP), and the Tactical Intelligence and Related Activities (TIARA) aggregate: Provided, That nothing in this section authorizes deviation from established Reserve and National Guard personnel and training procedures.

SEC. 8060. Notwithstanding any other provision of law, that not more than 35 percent of funds provided in this Act, for environmental remediation may be obligated under indefinite delivery/indefinite quantity contracts with a total contract value of $130,000,000 or higher.

SEC. 8061. Of the funds made available under the heading ''Operation and Maintenance, Air Force'', $12,000,000 shall be available to realign railroad track on Elmendorf Air Force Base and Fort Richardson.

SEC. 8062. (a) None of the funds available to the Department of Defense for any fiscal year for drug interdiction or counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

(b) None of the funds available to the Central Intelligence Agency for any fiscal year for drug interdiction and counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

(TRANSFER OF FUNDS)

SEC. 8063. Appropriations available in this Act under the heading ''Operation and Maintenance, Defense-Wide'' for increasing energy and water efficiency in Federal buildings may, during their period of availability, be transferred to other appropriations or funds of the Department of Defense for projects related to increasing energy and water efficiency, to be merged with and to be available for the same general purposes, and for the same time period, as the appropriation or fund to which transferred.

SEC. 8064. None of the funds made available in this Act may be used for the procurement of ball and roller bearings other than those produced by a domestic source and of domestic origin: Provided, That the Secretary of the military department responsible for such procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate, that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: Provided further, That this restriction shall not apply to the purchase of ''commercial items'', as defined by section 4(12) of the Office of Federal Procurement Policy Act, except that the restriction shall apply to ball or roller bearings purchased as end items.

SEC. 8065. Notwithstanding any other provision of law, funds available to the Department of Defense shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to American Samoa, and funds available to the Department of Defense shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to the Indian Health Service when it is in conjunction with a civil-military project.

SEC. 8066. None of the funds in this Act may be used to purchase any supercomputer which is not manufactured in the United States, unless the Secretary of Defense certifies to the congressional defense committees that such an acquisition must be made in order to acquire capability for national security purposes that is not available from United States manufacturers.

SEC. 8067. Notwithstanding any other provision of law, the Naval shipyards of the United States shall be eligible to participate in any manufacturing extension program financed by funds appropriated in this or any other Act.

SEC. 8068. Notwithstanding any other provision of law, each contract awarded by the Department of Defense during the current fiscal year for construction or service performed in whole or in part in a State (as defined in section 381(d) of title 10, United States Code) which is not contiguous with another State and has an unemployment rate in excess of the national average rate of unemployment as determined by the Secretary of Labor, shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in such State that is not contiguous with another State, individuals who are residents of such State and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills: Provided, That the Secretary of Defense may waive the requirements of this section, on a case-by-case basis, in the interest of national security.

SEC. 8069. Of the funds made available in this Act under the heading ''Operation and Maintenance, Defense-Wide'', up to $5,000,000 shall be available to provide assistance, by grant or otherwise, to public school systems that have unusually high concentrations of special needs military dependents enrolled: Provided, That in selecting school systems to receive such assistance, special consideration shall be given to school systems in States that are considered overseas assignments: Provided further, That up to $2,000,000 shall be available for DOD to establish a non-profit trust fund to assist in the public-private funding of public school repair and maintenance projects, or provide directly to

non-profit organizations who in return will use these monies to provide assistance in the form of repair, maintenance, or renovation to public school systems that have high concentrations of special needs military dependents and are located in States that are considered overseas assignments: Provided further, That to the extent a federal agency provides this assistance, by contract, grant or otherwise, it may accept and expend non-federal funds in combination with these federal funds to provide assistance for the authorized purpose, if the non-federal entity requests such assistance and the non-federal funds are provided on a reimbursable basis.

SEC. 8070. (a) LIMITATION ON TRANSFER OF DEFENSE ARTICLES AND SERVICES.—Notwithstanding any other provision of law, none of the funds available to the Department of Defense for the current fiscal year may be obligated or expended to transfer to another nation or an international organization any defense articles or services (other than intelligence services) for use in the activities described in subsection (b) unless the congressional defense committees, the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate are notified 15 days in advance of such transfer.

(b) COVERED ACTIVITIES.—This section applies to—

(1) any international peacekeeping or peace-enforcement operation under the authority of chapter VI or chapter VII of the United Nations Charter under the authority of a United Nations Security Council resolution; and

(2) any other international peacekeeping, peace-enforcement, or humanitarian assistance operation.

(c) REQUIRED NOTICE.—A notice under subsection (a) shall include the following:

(1) A description of the equipment, supplies, or services to be transferred.

(2) A statement of the value of the equipment, supplies, or services to be transferred.

(3) In the case of a proposed transfer of equipment or supplies—

(A) a statement of whether the inventory requirements of all elements of the Armed Forces (including the reserve components) for the type of equipment or supplies to be transferred have been met; and

(B) a statement of whether the items proposed to be transferred will have to be replaced and, if so, how the President proposes to provide funds for such replacement.

SEC. 8071. To the extent authorized by subchapter VI of chapter 148 of title 10, United States Code, the Secretary of Defense may issue loan guarantees in support of United States defense exports not otherwise provided for: Provided, That the total contingent liability of the United States for guarantees issued under the authority of this section may not exceed $15,000,000,000: Provided further, That the exposure fees charged and collected by the Secretary for each guarantee shall be paid by the country involved and shall not be financed as part of a loan guaranteed by the United States: Provided further, That the Secretary shall provide quarterly reports to the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate and the Committees on Appropriations, Armed Services, and International Relations in the House of Representatives on the implementation of this program: Provided further, That amounts charged for administrative fees and deposited to the special account provided for under section 2540c(d) of title 10, shall be available for paying the costs of administrative expenses of the Department of Defense that are attributable to the loan guarantee program under subchapter VI of chapter 148 of title 10, United States Code.

SEC. 8072. None of the funds available to the Department of Defense under this Act shall be obligated or expended to pay a contractor under a contract with the Department of Defense for costs of any amount paid by the contractor to an employee when—

(1) such costs are for a bonus or otherwise in excess of the normal salary paid by the contractor to the employee; and

(2) such bonus is part of restructuring costs associated with a business combination.

SEC. 8073. (a) None of the funds appropriated or otherwise made available in this Act may be used to transport or provide for the transportation of chemical munitions or agents to the Johnston Atoll for the purpose of storing or demilitarizing such munitions or agents.

(b) The prohibition in subsection (a) shall not apply to any obsolete World War II chemical munition or agent of the United States found in the World War II Pacific Theater of Operations.

(c) The President may suspend the application of subsection (a) during a period of war in which the United States is a party.

SEC. 8074. Up to $3,000,000 of the funds appropriated under the heading ''Operation and Maintenance, Navy'' in this Act for the Pacific Missile Range Facility may be made available to contract for the repair, maintenance, and operation of adjacent off-base water, drainage, and flood control systems critical to base operations.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8075. During the current fiscal year, no more than $30,000,000 of appropriations made in this Act under the heading ''Operation and Maintenance, Defense-Wide'' may be transferred to appropriations available for the pay of military personnel, to be merged with, and to be available for the same time period as the appropriations to which transferred, to be used in support of such personnel in connection with support and services for eligible organizations and activities outside the Department of Defense pursuant to section 2012 of title 10, United States Code.

SEC. 8076. For purposes of section 1553(b) of title 31, United States Code, any subdivision of appropriations made in this Act under the heading ''Shipbuilding and Conversion, Navy'' shall be considered to be for the same purpose as any subdivision under the heading ''Shipbuilding and Conversion, Navy'' appropriations in any prior year, and the 1 percent limitation shall apply to the total amount of the appropriation.

SEC. 8077. During the current fiscal year, in the case of an appropriation account of the Department of Defense for which the period of availability for obligation has expired or which has closed under the provisions of section 1552 of title 31, United States Code, and which has a negative unliquidated or unexpended balance, an obligation or an adjustment of an obligation may be charged to any current appropriation account for the same purpose as the expired or closed account if—

(1) the obligation would have been properly chargeable (except as to amount) to the expired or closed account before the end of the period of availability or closing of that account;

(2) the obligation is not otherwise properly chargeable to any current appropriation account of the Department of Defense; and

(3) in the case of an expired account, the obligation is not chargeable to a current appropriation of the Department of Defense under the provisions of section 1405(b)(8) of the National Defense Authorization Act for Fiscal Year 1991, Public Law 101–510, as amended (31 U.S.C. 1551 note): Provided, That in the case of an expired account, if subsequent review or investigation discloses that there was not in fact a negative unliquidated or unexpended balance in the account, any charge to a current account under the authority of this section shall be reversed and recorded against the expired account: Provided further, That the total amount charged to a current appropriation under this section may not exceed an amount equal to 1 percent of the total appropriation for that account.

SEC. 8078. Funds appropriated in title II of this Act and for the Defense Health Program in title VI of this Act for supervision and administration costs for facilities maintenance and repair, minor construction, or design projects may be obligated at the time the reimbursable order is accepted by the performing activity: Provided, That for the purpose of this section, supervision and administration costs includes all in-house Government cost.

SEC. 8079. During the current fiscal year, the Secretary of Defense may waive reimbursement of the cost of conferences, seminars, courses of instruction, or similar educational activities of the Asia-Pacific Center for Security Studies for military officers and civilian officials of foreign nations if the Secretary determines that attendance by such personnel, without reimbursement, is in the national security interest of the United States: Provided, That costs for which reimbursement is waived pursuant to this section shall be paid from appropriations available for the Asia-Pacific Center.

SEC. 8080. (a) Notwithstanding any other provision of law, the Chief of the National Guard Bureau may permit the use of equipment of the National Guard Distance Learning Project by any person or entity on a space-available, reimbursable basis. The Chief of the National Guard Bureau shall establish the amount of reimbursement for such use on a case-by-case basis.

(b) Amounts collected under subsection (a) shall be credited to funds available for the National Guard Distance Learning Project and be available to defray the costs associated with the use of equipment of the project under that subsection. Such funds shall be available for such purposes without fiscal year limitation.

SEC. 8081. Using funds available by this Act or any other Act, the Secretary of the Air Force, pursuant to a determination under section 2690 of title 10, United States Code, may implement cost-effective agreements for required heating facility modernization in the Kaiserslautern Military Community in the Federal Republic of Germany: Provided, That in the City of Kaiserslautern such agreements will include the use of United States anthracite as the base load energy for municipal district heat to the United States Defense installations: Provided further, That at Landstuhl Army Regional Medical Center and Ramstein Air Base, furnished heat may be obtained from private, regional or municipal services, if provisions are included for the consideration of United States coal as an energy source.

SEC. 8082. Notwithstanding 31 U.S.C. 3902, during the current fiscal year and hereafter, interest penalties may be paid by the Department of Defense from funds financing the operation of the military department or defense agency with which the invoice or contract payment is associated.

SEC. 8083. None of the funds appropriated in title IV of this Act may be used to procure end-items for delivery to military forces for operational training, operational use or inventory requirements: Provided, That this restriction does not apply to end-items used in development, prototyping, and test activities preceding and leading to acceptance for operational use: Provided further, That this restriction does not apply to programs funded within the National Foreign Intelligence Program: Provided further, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that it is in the national security interest to do so.

SEC. 8084. Of the funds made available under the heading ''Operation and Maintenance, Air Force'', not less than $1,500,000 shall be made available by grant or otherwise, to the Council of Athabascan Tribal Governments, to provide assistance for health care, monitoring and related issues associated with research conducted from 1955 to 1957 by the former Arctic Aeromedical Laboratory.

SEC. 8085. In addition to the amounts appropriated or otherwise made available in this Act, $5,000,000, to remain available until September

30, 2002, is hereby appropriated to the Department of Defense: Provided, That the Secretary of Defense shall make a grant in the amount of $5,000,000 to the American Red Cross for Armed Forces Emergency Services.

SEC. 8086. None of the funds made available in this Act may be used to approve or license the sale of the F–22 advanced tactical fighter to any foreign government.

SEC. 8087. (a) The Secretary of Defense may, on a case-by-case basis, waive with respect to a foreign country each limitation on the procurement of defense items from foreign sources provided in law if the Secretary determines that the application of the limitation with respect to that country would invalidate cooperative programs entered into between the Department of Defense and the foreign country, or would invalidate reciprocal trade agreements for the procurement of defense items entered into under section 2531 of title 10, United States Code, and the country does not discriminate against the same or similar defense items produced in the United States for that country.

(b) Subsection (a) applies with respect to—

(1) contracts and subcontracts entered into on or after the date of the enactment of this Act; and

(2) options for the procurement of items that are exercised after such date under contracts that are entered into before such date if the option prices are adjusted for any reason other than the application of a waiver granted under subsection (a).

(c) Subsection (a) does not apply to a limitation regarding construction of public vessels, ball and roller bearings, food, and clothing or textile materials as defined by section 11 (chapters 50–65) of the Harmonized Tariff Schedule and products classified under headings 4010, 4202, 4203, 6401 through 6406, 6505, 7019, 7218 through 7229, 7304.41 through 7304.49, 7306.40, 7502 through 7508, 8105, 8108, 8109, 8211, 8215, and 9404.

SEC. 8088. Funds made available to the Civil Air Patrol in this Act under the heading ''Drug Interdiction and Counter-Drug Activities, Defense'' may be used for the Civil Air Patrol Corporation's counterdrug program, including its demand reduction program involving youth programs, as well as operational and training drug reconnaissance missions for Federal, State, and local government agencies; and for equipment needed for mission support or performance: Provided, That the Department of the Air Force should waive reimbursement from the Federal, State, and local government agencies for the use of these funds.

SEC. 8089. Section 8125 of the Department of Defense Appropriations Act, 2001 (Public Law 106–259), is hereby repealed.

SEC. 8090. Of the funds appropriated in this Act under the heading ''Research, Development, Test and Evaluation, Navy'', up to $3,000,000 may be made available for a Maritime Fire Training Center at Barbers Point, including provision for laboratories, construction, and other efforts associated with research, development, and other programs of major importance to the Department of Defense.

SEC. 8091. (a) PROHIBITION.—None of the funds made available by this Act may be used to support any training program involving a unit of the security forces of a foreign country if the Secretary of Defense has received credible information from the Department of State that the unit has committed a gross violation of human rights, unless all necessary corrective steps have been taken.

(b) MONITORING.—The Secretary of Defense, in consultation with the Secretary of State, shall ensure that prior to a decision to conduct any training program referred to in subsection (a), full consideration is given to all credible information available to the Department of State relating to human rights violations by foreign security forces.

(c) WAIVER.—The Secretary of Defense, after consultation with the Secretary of State, may waive the prohibition in subsection (a) if he determines that such waiver is required by extraordinary circumstances.

(d) REPORT.—Not more than 15 days after the exercise of any waiver under subsection (c), the Secretary of Defense shall submit a report to the congressional defense committees describing the extraordinary circumstances, the purpose and duration of the training program, the United States forces and the foreign security forces involved in the training program, and the information relating to human rights violations that necessitates the waiver.

SEC. 8092. The Secretary of Defense, in coordination with the Secretary of Health and Human Services, may carry out a program to distribute surplus dental equipment of the Department of Defense, at no cost to the Department of Defense, to Indian health service facilities and to federally-qualified health centers (within the meaning of section 1905(l)(2)(B) of the Social Security Act (42 U.S.C. 1396d(l)(2)(B))).

SEC. 8093. Notwithstanding any other provision in this Act, the total amount appropriated in this Act is hereby reduced by $140,591,000 to reflect savings from favorable foreign currency fluctuations, to be distributed as follows:

''Operation and Maintenance, Army'', $89,359,000;

''Operation and Maintenance, Navy'', $15,445,000;

''Operation and Maintenance, Marine Corps'', $1,379,000;

''Operation and Maintenance, Air Force'', $24,408,000; and

''Operation and Maintenance, Defense-Wide'', $10,000,000.

SEC. 8094. None of the funds appropriated or made available in this Act to the Department of the Navy shall be used to develop, lease or procure the T-AKE class of ships unless the main propulsion diesel engines and propulsors are manufactured in the United States by a domestically operated entity: Provided, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes or there exists a significant cost or quality difference.

SEC. 8095. Notwithstanding any other provision of law, the total amount appropriated in this Act under Title I and Title II is hereby reduced by $50,000,000: Provided, That during the current fiscal year, not more than 250 military and civilian personnel of the Department of Defense shall be assigned to legislative affairs or legislative liaison functions: Provided further, That of the 250 personnel assigned to legislative liaison or legislative affairs functions, 20 percent shall be assigned to the Office of the Secretary of Defense and the Office of the Chairman of the Joint Chiefs of Staff, 20 percent shall be assigned to the Department of the Army, 20 percent shall be assigned to the Department of the Navy, 20 percent shall be assigned to the Department of the Air Force, and 20 percent shall be assigned to the combatant commands: Provided further, That of the personnel assigned to legislative liaison and legislative affairs functions, no fewer than 20 percent shall be assigned to the Under Secretary of Defense (Comptroller), the Assistant Secretary of the Army (Financial Management and Comptroller), the Assistant Secretary of the Navy (Financial Management and Comptroller), and the Assistant Secretary of the Air Force (Financial Management and Comptroller).

SEC. 8096. None of the funds appropriated or otherwise made available by this or other Department of Defense Appropriations Acts may be obligated or expended for the purpose of performing repairs or maintenance to military family housing units of the Department of Defense, including areas in such military family housing units that may be used for the purpose of conducting official Department of Defense business.

SEC. 8097. Notwithstanding any other provision of law, funds appropriated in this Act under the heading ''Research, Development, Test and Evaluation, Defense-Wide'' for any advanced concept technology demonstration project may only be obligated 30 days after a report, including a description of the project and its estimated annual and total cost, has been provided in writing to the congressional defense committees: Provided, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying to the congressional defense committees that it is in the national interest to do so.

SEC. 8098. Notwithstanding any other provision in this Act, the total amount appropriated in this Act is hereby reduced by $171,296,000, to reduce cost growth in travel, to be distributed as follows:

''Operation and Maintenance, Army'', $9,000,000;

''Operation and maintenance, Marine Corps'', $296,000;

''Operation and Maintenance, Air Force'', $150,000,000;

''Operation and Maintenance, Army Reserve'', $2,000,000; and

''Operation and maintenance, Defense-wide'' $10,000,000.

SEC. 8099. During the current fiscal year, refunds attributable to the use of the Government travel card, refunds attributable to the use of the Government Purchase Card and refunds attributable to official Government travel arranged by Government Contracted Travel Management Centers may be credited to operation and maintenance accounts of the Department of Defense which are current when the refunds are received.

SEC. 8100. (a) REGISTERING INFORMATION TECHNOLOGY SYSTEMS WITH DOD CHIEF INFORMATION OFFICER.—None of the funds appropriated in this Act may be used for a mission critical or mission essential information technology system (including a system funded by the defense working capital fund) that is not registered with the Chief Information Officer of the Department of Defense. A system shall be considered to be registered with that officer upon the furnishing to that officer of notice of the system, together with such information concerning the system as the Secretary of Defense may prescribe. An information technology system shall be considered a mission critical or mission essential information technology system as defined by the Secretary of Defense.

(b) CERTIFICATIONS AS TO COMPLIANCE WITH CLINGER-COHEN ACT.—(1) During the current fiscal year, a major automated information system may not receive Milestone I approval, Milestone II approval, or Milestone III approval, or their equivalent, within the Department of Defense until the Chief Information Officer certifies, with respect to that milestone, that the system is being developed in accordance with the Clinger-Cohen Act of 1996 (40 U.S.C. 1401 et seq.). The Chief Information Officer may require additional certifications, as appropriate, with respect to any such system.

(2) The Chief Information Officer shall provide the congressional defense committees timely notification of certifications under paragraph (1). Each such notification shall include, at a minimum, the funding baseline and milestone schedule for each system covered by such a certification and confirmation that the following steps have been taken with respect to the system:

(A) Business process reengineering.

(B) An analysis of alternatives.

(C) An economic analysis that includes a calculation of the return on investment.

(D) Performance measures.

(E) An information assurance strategy consistent with the Department's Global Information Grid.

(c) DEFINITIONS.—For purposes of this section:

(1) The term ''Chief Information Officer'' means the senior official of the Department of Defense designated by the Secretary of Defense pursuant to section 3506 of title 44, United States Code.

(2) The term ''information technology system'' has the meaning given the term ''information technology'' in section 5002 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401).

(3) The term ''major automated information system'' has the meaning given that term in Department of Defense Directive 5000.1.

SEC. 8101. During the current fiscal year, none of the funds available to the Department of Defense may be used to provide support to another department or agency of the United States if such department or agency is more than 90 days in arrears in making payment to the Department of Defense for goods or services previously provided to such department or agency on a reimbursable basis: Provided, That this restriction shall not apply if the department is authorized by law to provide support to such department or agency on a nonreimbursable basis, and is providing the requested support pursuant to such authority: Provided further, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that it is in the national security interest to do so.

SEC. 8102. None of the funds provided in this Act may be used to transfer to any nongovernmental entity ammunition held by the Department of Defense that has a center-fire cartridge and a United States military nomenclature designation of ''armor penetrator'', ''armor piercing (AP)'', ''armor piercing incendiary (API)'', or ''armor-piercing incendiary-tracer (API–T)'', except to an entity performing demilitarization services for the Department of Defense under a contract that requires the entity to demonstrate to the satisfaction of the Department of Defense that armor piercing projectiles are either: (1) rendered incapable of reuse by the demilitarization process; or (2) used to manufacture ammunition pursuant to a contract with the Department of Defense or the manufacture of ammunition for export pursuant to a License for Permanent Export of Unclassified Military Articles issued by the Department of State.

SEC. 8103. Notwithstanding any other provision of law, the Chief of the National Guard Bureau, or his designee, may waive payment of all or part of the consideration that otherwise would be required under 10 U.S.C. 2667, in the case of a lease of personal property for a period not in excess of 1 year to any organization specified in 32 U.S.C. 508(d), or any other youth, social, or fraternal non-profit organization as may be approved by the Chief of the National Guard Bureau, or his designee, on a case-by-case basis.

SEC. 8104. None of the funds appropriated by this Act shall be used for the support of any nonappropriated funds activity of the Department of Defense that procures malt beverages and wine with nonappropriated funds for resale (including such alcoholic beverages sold by the drink) on a military installation located in the United States unless such malt beverages and wine are procured within that State, or in the case of the District of Columbia, within the District of Columbia, in which the military installation is located: Provided, That in a case in which the military installation is located in more than one State, purchases may be made in any State in which the installation is located: Provided further, That such local procurement requirements for malt beverages and wine shall apply to all alcoholic beverages only for military installations in States which are not contiguous with another State: Provided further, That alcoholic beverages other than wine and malt beverages, in contiguous States and the District of Columbia shall be procured from the most competitive source, price and other factors considered.

SEC. 8105. During the current fiscal year, under regulations prescribed by the Secretary of Defense, the Center of Excellence for Disaster Management and Humanitarian Assistance may also pay, or authorize payment for, the expenses of providing or facilitating education and training for appropriate military and civilian personnel of foreign countries in disaster management, peace operations, and humanitarian assistance.

SEC. 8106. (a) The Department of Defense is authorized to enter into agreements with the Veterans Administration and federally-funded health agencies providing services to Native Hawaiians for the purpose of establishing a partnership similar to the Alaska Federal Health Care Partnership, in order to maximize Federal resources in the provision of health care services by federally-funded health agencies, applying telemedicine technologies. For the purpose of this partnership, Native Hawaiians shall have the same status as other Native Americans who are eligible for the health care services provided by the Indian Health Service.

(b) The Department of Defense is authorized to develop a consultation policy, consistent with Executive Order No. 13084 (issued May 14, 1998), with Native Hawaiians for the purpose of assuring maximum Native Hawaiian participation in the direction and administration of governmental services so as to render those services more responsive to the needs of the Native Hawaiian community.

(c) For purposes of this section, the term ''Native Hawaiian'' means any individual who is a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now comprises the State of Hawaii.

SEC. 8107. In addition to the amounts provided elsewhere in this Act, the amount of $10,000,000 is hereby appropriated for ''Operation and Maintenance, Defense-Wide'', to be available, notwithstanding any other provision of law, only for a grant to the United Service Organizations Incorporated, a federally chartered corporation under chapter 2201 of title 36, United States Code. The grant provided for by this section is in addition to any grant provided for under any other provision of law.

SEC. 8108. Of the amounts appropriated in this Act under the heading ''Research, Development, Test and Evaluation, Defense-Wide'', $141,700,000 shall be made available for the Arrow missile defense program: Provided, That of this amount, $107,700,000 shall be made available for the purpose of continuing the Arrow System Improvement Program (ASIP), continuing ballistic missile defense interoperability with Israel, and establishing an Arrow production capability in the United States: Provided further, That the remainder, $34,000,000, shall be available for the purpose of adjusting the cost-share of the parties under the Agreement between the Department of Defense and the Ministry of Defense of Israel for the Arrow Deployability Program.

SEC. 8109. Funds available to the Department of Defense for the Global Positioning System during the current fiscal year may be used to fund civil requirements associated with the satellite and ground control segments of such system's modernization program.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8110. Of the amounts appropriated in this Act under the heading ''Operation and Maintenance, Defense-Wide'', $115,000,000 shall remain available until expended: Provided, That notwithstanding any other provision of law, the Secretary of Defense is authorized to transfer such funds to other activities of the Federal Government.

SEC. 8111. In addition to the amounts appropriated or otherwise made available in this Act, $1,300,000,000 is hereby appropriated to the Department of Defense for whichever of the following purposes the President determines to be in the national security interests of the United States:

(1) research, development, test and evaluation for ballistic missile defense; and

(2) activities for combating terrorism.

SEC. 8112. In addition to amounts appropriated elsewhere in this Act, $5,000,000 is hereby appropriated to the Department of Defense: Provided, That the Secretary of the Army shall make a grant in the amount of $5,000,000 to the Fort Des Moines Memorial Park and Education Center.

SEC. 8113. In addition to amounts appropriated elsewhere in this Act, $5,000,000 is hereby appropriated to the Department of Defense: Provided, That the Secretary of Defense shall make a grant in the amount of $5,000,000 to the National D-Day Museum.

SEC. 8114. Section 8106 of the Department of Defense Appropriations Act, 1997 (titles I through VIII of the matter under subsection 101(b) of Public Law 104–208; 110 Stat. 3009–111; 10 U.S.C. 113 note) shall continue in effect to apply to disbursements that are made by the Department of Defense in fiscal year 2002.

SEC. 8115. (a) Section 8162 of the Department of Defense Appropriations Act, 2000 (16 U.S.C. 431 note; Public Law 106–79) is amended—

(1) by redesignating subsection (m) as subsection (o); and

(2) by adding after subsection (l) the following:

''(m) AUTHORITY TO ESTABLISH MEMORIAL.—

''(1) IN GENERAL.—The Commission may establish a permanent memorial to Dwight D. Eisenhower on land under the jurisdiction of the Secretary of the Interior in the District of Columbia or its environs.

''(2) COMPLIANCE WITH STANDARDS FOR COMMEMORATIVE WORKS.—The establishment of the memorial shall be in accordance with the Commemorative Works Act (40 U.S.C. 1001 et seq.).''.

(b) Section 8162 of the Department of Defense Appropriations Act, 2000 (16 U.S.C. 431 note; Public Law 106–79) is amended—

(1) in subsection (j)(2), by striking ''accept gifts'' and inserting ''solicit and accept contributions''; and

(2) by inserting after subsection (m) (as added by subsection (a)(2)) the following:

''(n) MEMORIAL FUND.—

''(1) ESTABLISHMENT.—There is created in the Treasury a fund for the memorial to Dwight D. Eisenhower that includes amounts contributed under subsection (j)(2).

''(2) USE OF FUND.—The fund shall be used for the expenses of establishing the memorial.

''(3) INTEREST.—The Secretary of the Treasury shall credit to the fund the interest on obligations held in the fund.''.

(c) In addition to the amounts appropriated or otherwise made available elsewhere in this Act for the Department of Defense, $3,000,000, to remain available until expended is hereby appropriated to the Department of Defense: Provided, That the Secretary of Defense shall make a grant in the amount of $3,000,000 to the Dwight D. Eisenhower Memorial Commission for direct administrative support.

SEC. 8116. In addition to amounts appropriated elsewhere in this Act, $8,000,000 shall be available only for the settlement of subcontractor claims for payment associated with the Air Force contract F19628–97–C–0105, Clear Radar Upgrade, at Clear AFS, Alaska: Provided, That the Secretary of the Air Force shall evaluate claims as may be submitted by subcontractors, engaged under the contract, and, notwithstanding any other provision of law shall pay such amounts from the funds provided in this paragraph which the Secretary deems appropriate to settle completely any claims which the Secretary determines to have merit, with no right of appeal in any forum: Provided further, That subcontractors are to be paid interest, calculated in accordance with the Contract Disputes Act of 1978, 41 U.S.C. Sections 601–613, on any claims which the Secretary determines to have merit: Provided further, That

the Secretary of the Air Force may delegate evaluation and payment as above to the U.S. Army Corps of Engineers, Alaska District on a reimbursable basis.

SEC. 8117. Notwithstanding any other provision of this Act, the total amount appropriated in this Act is hereby reduced by $1,650,000,000, to reflect savings to be achieved from business process reforms, management efficiencies, and procurement of administrative and management support: Provided, That none of the funds provided in this Act may be used for consulting and advisory services for legislative affairs and legislative liaison functions.

SEC. 8118. In addition to amounts provided elsewhere in this Act, $21,000,000 is hereby appropriated for the Secretary of Defense to establish a Regional Defense Counter-terrorism Fellowship Program: Provided, That funding provided herein may be used by the Secretary to fund foreign military officers to attend U.S. military educational institutions and selected regional centers for non-lethal training: Provided further, That United States Regional Commanders in Chief will be the nominative authority for candidates and schools for attendance with joint staff review and approval by the Secretary of Defense: Provided further, That the Secretary of Defense shall establish rules to govern the administration of this program.

SEC. 8119. Notwithstanding any other provision of law, from funds appropriated in this or any other Act under the heading, ''Aircraft Procurement, Air Force'', that remain available for obligation, not to exceed $16,000,000 shall be available for recording, adjusting, and liquidating obligations for the C–17 aircraft properly chargeable to the fiscal year 1998 Aircraft Procurement, Air Force account: Provided, That the Secretary of the Air Force shall notify the congressional defense committees of all of the specific sources of funds to be used for such purpose.

SEC. 8120. Notwithstanding any provisions of the Southern Nevada Public Land Management Act of 1998, Public Law 105–263, or the land use planning provision of Section 202 of the Federal Land Policy and Management Act of 1976, Public Law 94–579, or of any other law to the contrary, the Secretary of the Interior may acquire non-federal lands adjacent to Nellis Air Force Base, through a land exchange in Nevada, to ensure the continued safe operation of live ordnance departure areas at Nellis Air Force Base, Las Vegas, Nevada. The Secretary of the Air Force shall identify up to 220 acres of non-federal lands needed to ensure the continued safe operation of the live ordnance departure areas at Nellis Air Force Base. Any such identified property acquired by exchange by the Secretary of the Interior shall be transferred by the Secretary of the Interior to the jurisdiction, custody, and control of the Secretary of the Air Force to be managed as a part of Nellis Air Force Base. To the extent the Secretary of the Interior is unable to acquire non-federal lands by exchange, the Secretary of the Air Force is authorized to purchase those lands at fair market value subject to available appropriations.

SEC. 8121. Of the amounts appropriated in this Act under the heading, ''Shipbuilding and Conversion, Navy'', $725,000,000 shall be available until September 30, 2002, to fund prior year shipbuilding cost increases: Provided, That upon enactment of this Act, the Secretary of the Navy shall transfer such funds to the following appropriations in the amounts specified: Provided further, That the amounts transferred shall be merged with and be available for the same purposes as the appropriations to which transferred:

To:

Under the heading, ''Shipbuilding and Conversion, Navy, 1995/2002'':

Carrier Replacement Program, $172,364,000;

Under the heading, ''Shipbuilding and Conversion, Navy, 1996/2002'':

LPD–17 Amphibious Transport Dock Ship Program, $172,989,000;

Under the heading, ''Shipbuilding and Conversion, Navy, 1997/2002'':

DDG–51 Destroyer Program, $37,200,000;

Under the heading, ''Shipbuilding and Conversion, Navy, 1998/2002'':

NSSN Program, $168,561,000;

DDG–51 Destroyer Program, $111,457,000;

Under the heading, ''Shipbuilding and Conversion, Navy, 1999/2002'':

NSSN Program, $62,429,000.

(TRANSFER OF FUNDS)

SEC. 8122. Upon enactment of this Act, the Secretary of the Navy shall make the following transfers of funds: Provided, That the amounts transferred shall be available for the same purposes as the appropriations to which transferred, and for the same time period as the appropriation from which transferred: Provided further, That the amounts shall be transferred between the following appropriations in the amount specified:

From:

Under the heading, ''Shipbuilding and Conversion, Navy, 1990/2002'':

TRIDENT ballistic missile submarine program, $78,000;

SSN–21 attack submarine program, $66,000;

DDG–51 destroyer program, $6,100,000;

ENTERPRISE refueling modernization program, $964,000;

LSD–41 dock landing ship cargo variant ship program, $237,000;

MCM mine countermeasures program, $118,000;

Oceanographic ship program, $2,317,000;

AOE combat support ship program, $164,000;

AO conversion program, $56,000;

Coast Guard icebreaker ship program, $863,000;

Craft, outfitting, post delivery, and ship special support equipment, $529,000;

To:

Under the heading, ''Shipbuilding and Conversion, Navy, 1998/2002'':

DDG–51 destroyer program, $11,492,000;

From:

Under the heading, ''Shipbuilding and Conversion, Navy, 1993/2002'':

DDG–51 destroyer program, $3,986,000;

LHD–1 amphibious assault ship program, $85,000;

LSD–41 dock landing ship cargo variant program, $428,000;

AOE combat support ship program, $516,000;

Craft, outfitting, post delivery, and first destination transportation, and inflation adjustments, $1,034,000;

To:

Under the heading, ''Shipbuilding, and Conversion, Navy, 1998/2002'':

DDG–51 destroyer program, $6,049,000;

From:

Under the heading, ''Other Procurement, Navy, 2001/2003'':

Shallow Water MCM, $16,248,000;

To:

Under the heading, ''Shipbuilding and Conversion, Navy, 2001/2005'':

Submarine Refuelings, $16,248,000.

SEC. 8123. (a) The Secretary of Defense shall convey to Gwitchyaa Zhee Corporation the lands withdrawn by Public Land Order No. 1996, Lot 1 of United States Survey 7008, Public Land Order No. 1396, a portion of Lot 3 of United States Survey 7161, lands reserved pursuant to the instructions set forth at page 513 of volume 44 of the Interior Land Decisions issued January 13, 1916, Lot 13 of United States Survey 7161, Lot 1 of United States Survey 7008 described in Public Land Order No. 1996, and Lot 13 of the United States Survey 7161 reserved pursuant to the instructions set forth at page 513 of volume 44 of the Interior Land Decisions issued January 13, 1916.

(b) Following site restoration and survey by the Department of the Air Force that portion of Lot 3 of United States Survey 7161 withdrawn by Public Land Order No. 1396 and no longer needed by the Air Force shall be conveyed to Gwitchyaa Zhee Corporation.

SEC. 8124. The Secretary of the Navy may settle, or compromise, and pay any and all admiralty claims under 10 U.S.C. 7622 arising out of the collision involving the USS GREENEVILLE and the EHIME MARU, in any amount and without regard to the monetary limitations in subsections (a) and (b) of that section: Provided, That such payments shall be made from funds available to the Department of the Navy for operation and maintenance.

SEC. 8125. (a) Not later than February 1, 2002, the Secretary of Defense shall report to the congressional defense committees on the status of the safety and security of munitions shipments that use commercial trucking carriers within the United States.

(b) REPORT ELEMENTS.—The report under subsection (a) shall include the following:

(1) An assessment of the Department of Defense's policies and practices for conducting background investigations of current and prospective drivers of munitions shipments.

(2) A description of current requirements for periodic safety and security reviews of commercial trucking carriers that carry munitions.

(3) A review of the Department of Defense's efforts to establish uniform safety and security standards for cargo terminals not operated by the Department that store munitions shipments.

(4) An assessment of current capabilities to provide for escort security vehicles for shipments that contain dangerous munitions or sensitive technology, or pass through high-risk areas.

(5) A description of current requirements for depots and other defense facilities to remain open outside normal operating hours to receive munitions shipments.

(6) Legislative proposals, if any, to correct deficiencies identified by the Department of Defense in the report under subsection (a).

(c) Not later than six months after enactment of this Act, the Secretary shall report to Congress on safety and security procedures used for U.S. munitions shipments in European NATO countries, and provide recommendations on what procedures or technologies used in those countries should be adopted for shipments in the United States.

SEC. 8126. In addition to the amounts appropriated or otherwise made available elsewhere in this Act for the Department of Defense, $15,000,000, to remain available until September 30, 2002 is hereby appropriated to the Department of Defense: Provided, That the Secretary of Defense shall make a grant in the amount of $15,000,000 to the Padgett Thomas Barracks in Charleston, South Carolina.

SEC. 8127. (a) DESIGNATED SPECIAL EVENTS OF NATIONAL SIGNIFICANCE.—

(1) Notwithstanding any other provision of law, at events determined by the President to be special events of national significance for which the United States Secret Service is authorized pursuant to Section 3056(e)(1), title 18, United States Code, to plan, coordinate, and implement security operations, the Secretary of Defense, after consultation with the Secretary of the Treasury, shall provide assistance on a temporary basis without reimbursement in support of the United States Secret Service's duties related to such designated events.

(2) Assistance under this subsection shall be provided in accordance with an agreement that shall be entered into by the Secretary of Defense and the Secretary of the Treasury within 120 days of the enactment of this Act.

(b) REPORT ON ASSISTANCE.—Not later than January 30 of each year following a year in which the Secretary of Defense provides assistance under this section, the Secretary shall submit to Congress a report on the assistance provided. The report shall set forth—

(1) a description of the assistance provided; and

(2) the amount expended by the Department in providing the assistance.

(c) RELATIONSHIP TO OTHER LAWS.—The assistance provided under this section shall not be subject to the provisions of sections 375 and 376 of this title.

SEC. 8128. MULTI-YEAR AIRCRAFT LEASE PILOT PROGRAM. (a) The Secretary of the Air Force may, from funds provided in this Act or any future appropriations Act, establish a multi-year pilot program for leasing general purpose Boeing 767 aircraft in commercial configuration.

(b) Sections 2401 and 2401a of title 10, United States Code, shall not apply to any aircraft lease authorized by this section.

(c) Under the aircraft lease Pilot Program authorized by this section:

(1) The Secretary may include terms and conditions in lease agreements that are customary in aircraft leases by a non-Government lessor to a non-Government lessee, but only those that are not inconsistent with any of the terms and conditions mandated herein.

(2) The term of any individual lease agreement into which the Secretary enters under this section shall not exceed 10 years, inclusive of any options to renew or extend the initial lease term.

(3) The Secretary may provide for special payments in a lessor if the Secretary terminates or cancels the lease prior to the expiration of its term. Such special payments shall not exceed an amount equal to the value of one year's lease payment under the lease.

(4) Subchapter IV of chapter 15 of Title 31, United States Code shall apply to the lease transactions under this section, except that the limitation in section 1553(b)(2) shall not apply.

(5) The Secretary shall lease aircraft under terms and conditions consistent with this section and consistent with the criteria for an operating lease as defined in OMB Circular A–11, as in effect at the time of the lease.

(6) Lease arrangements authorized by this section may not commence until:

(A) The Secretary submits a report to the congressional defense committees outlining the plans for implementing the Pilot Program. The report shall describe the terms and conditions of proposed contracts and describe the expected savings, if any, comparing total costs, including operation, support, acquisition, and financing, of the lease, including modification, with the outright purchase of the aircraft as modified.

(B) A period of not less than 30 calendar days has elapsed after submitting the report.

(7) Not later than 1 year after the date on which the first aircraft is delivered under this Pilot Program, and yearly thereafter on the anniversary of the first delivery, the Secretary shall submit a report to the congressional defense committees describing the status of the Pilot Program. The Report will be based on at least 6 months of experience in operating the Pilot Program.

(8) The Air Force shall accept delivery of the aircraft in a general purpose configuration.

(9) At the conclusion of the lease term, each aircraft obtained under that lease may be returned to the contractor in the same configuration in which the aircraft was delivered.

(10) The present value of the total payments over the duration of each lease entered into under this authority shall not exceed 90 percent of the fair market value of the aircraft obtained under that lease.

(d) No lease entered into under this authority shall provide for—

(1) the modification of the general purpose aircraft from the commercial configuration, unless and until separate authority for such conversion is enacted and only to the extent budget authority is provided in advance in appropriations Acts for that purpose; or

(2) the purchase of the aircraft by, or the transfer of ownership to, the Air Force.

(e) The authority granted to the Secretary of the Air Force by this section is separate from and in addition to, and shall not be construed to impair or otherwise affect, the authority of the Secretary to procure transportation or enter into leases under a provision of law other than this section.

(f) The authority provided under this section may be used to lease not more than a total of one hundred aircraft for the purposes specified herein.

SEC. 8129. From within amounts made available in the Title II of this Act, under the heading ''Operation and Maintenance, Army National Guard'', and notwithstanding any other provision of law, $2,500,000 shall be available only for repairs and safety improvements to the segment of Camp McCain Road which extends from Highway 8 south toward the boundary of Camp McCain, Mississippi and originating intersection of Camp McCain Road; and for repairs and safety improvements to the segment of Greensboro Road which connects the Administration Offices of Camp McCain to the Troutt Rifle Range: Provided, That these funds shall remain available until expended: Provided further, That the authorized scope of work includes, but is not limited to, environmental documentation and mitigation, engineering and design, improving safety, resurfacing, widening lanes, enhancing shoulders, and replacing signs and pavement markings.

SEC. 8130. From funds made available under Title II of this Act, the Secretary of the Army may make available a grant of $3,000,000 to the Chicago Park District for renovation of the Broadway Armory, a former National Guard facility in the Edgewater community in Chicago.

SEC. 8131. Notwithstanding any other provision of law, none of the funds in this Act may be used to alter specifications for insulation to be used on U.S. naval ships or for the procurement of insulation materials different from those in use as of November 1, 2001, until the Department of Defense certifies to the Appropriations Committees that the proposed specification changes or proposed new insulation materials will be as safe, provide no increase in weight, and will not increase maintenance requirements when compared to the insulation material currently used.

SEC. 8132. The provisions of S. 746 of the 107th Congress, as reported to the Senate on September 21, 2001, are hereby enacted into law.

SEC. 8133. (a)(1) Chapter 131 of title 10, United States Code, is amended by adding at the end the following new section:

''§2228. Department of Defense strategic loan and loan guaranty program

''(a) AUTHORITY.—The Secretary of Defense may carry out a program to make direct loans and guarantee loans for the purpose of supporting the attainment of the objectives set forth in subsection (b).

''(b) OBJECTIVES.—The Secretary may, under the program, make a direct loan to an applicant or guarantee the payment of the principal and interest of a loan made to an applicant upon the Secretary's determination that the applicant's use of the proceeds of the loan will support the attainment of any of the following objectives:

''(1) Sustain the readiness of the United States to carry out the national security objectives of the United States through the guarantee of steady domestic production of items necessary for low intensity conflicts to counter terrorism or other imminent threats to the national security of the United States.

''(2) Sustain the economic stability of strategically important domestic sectors of the defense industry that manufacture or construct products for low-intensity conflicts and counter terrorism to respond to attacks on United States national security and to protect potential United States civilian and military targets from attack.

''(3) Sustain the production and use of systems that are critical for the exploration and development of new domestic energy sources for the United States.

''(c) CONDITIONS.—A loan made or guaranteed under the program shall meet the following requirements:

''(1) The period for repayment of the loan may not exceed five years.

''(2) The loan shall be secured by primary collateral that is sufficient to pay the total amount of the unpaid principal and interest of the loan in the event of default.

''(d) EVALUATION OF COST.—As part of the consideration of each application for a loan or for a guarantee of the loan under the program, the Secretary shall evaluate the cost of the loan within the meaning of section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5)).''.

(2) The table of sections at the beginning of such section is amended by adding at the end the following new item:

''2228. Department of Defense strategic loan and loan guaranty program.''.

(b) Of the amounts appropriated by Public Law 107–38, there shall be available such sums as may be necessary for the costs (as defined in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5)) of direct loans and loan guarantees made under section 2228 of title 10, United States Code, as added by subsection (a).

SEC. 8134. REGULATION OF BIOLOGICAL AGENTS AND TOXINS. (a) BIOLOGICAL AGENTS PROVISIONS OF THE ANTITERRORISM AND EFFECTIVE DEATH PENALTY ACT OF 1996; CODIFICATION IN THE PUBLIC HEALTH SERVICE ACT, WITH AMENDMENTS.—

(1) PUBLIC HEALTH SERVICE ACT.—Subpart 1 of part F of title III of the Public Health Service Act (42 U.S.C. 262 et seq.) is amended by inserting after section 351 the following:

''SEC. 351A. ENHANCED CONTROL OF BIOLOGICAL AGENTS AND TOXINS.

''(a) REGULATORY CONTROL OF BIOLOGICAL AGENTS AND TOXINS.—

''(1) LIST OF BIOLOGICAL AGENTS AND TOXINS.—

''(A) IN GENERAL.—The Secretary shall by regulation establish and maintain a list of each biological agent and each toxin that has the potential to pose a severe threat to public health and safety.

''(B) CRITERIA.—In determining whether to include an agent or toxin on the list under subparagraph (A), the Secretary shall—

''(i) consider—

''(I) the effect on human health of exposure to the agent or toxin;

''(II) the degree of contagiousness of the agent or toxin and the methods by which the agent or toxin is transferred to humans;

''(III) the availability and effectiveness of pharmacotherapies and immunizations to treat and prevent any illness resulting from infection by the agent or toxin; and

''(IV) any other criteria, including the needs of children and other vulnerable populations, that the Secretary considers appropriate; and

''(ii) consult with appropriate Federal departments and agencies, and scientific experts representing appropriate professional groups, including those with pediatric expertise.

''(2) BIENNIAL REVIEW.—The Secretary shall review and republish the list under paragraph (1) biennially, or more often as needed, and shall, through rulemaking, revise the list as necessary to incorporate additions or deletions to ensure public health, safety, and security.

''(3) EXEMPTIONS.—The Secretary may exempt from the list under paragraph (1)—

''(A) attenuated or inactive biological agents or toxins used in biomedical research or for legitimate medical purposes; and

''(B) products that are cleared or approved under the Federal Food, Drug, and Cosmetic Act or under the Virus-Serum-Toxin Act, as amended in 1985 by the Food Safety and Security Act.'';

''(b) REGULATION OF TRANSFERS OF LISTED BIOLOGICAL AGENTS AND TOXINS.—The Secretary shall by regulation provide for—

''(1) the establishment and enforcement of safety procedures for the transfer of biological

agents and toxins listed pursuant to subsection (a)(1), including measures to ensure—

''(A) proper training and appropriate skills to handle such agents and toxins; and

''(B) proper laboratory facilities to contain and dispose of such agents and toxins;

''(2) safeguards to prevent access to such agents and toxins for use in domestic or international terrorism or for any other criminal purpose;

''(3) the establishment of procedures to protect the public safety in the event of a transfer or potential transfer of a biological agent or toxin in violation of the safety procedures established under paragraph (1) or the safeguards established under paragraph (2); and

''(4) appropriate availability of biological agents and toxins for research, education, and other legitimate purposes.

''(c) POSSESSION AND USE OF LISTED BIOLOGICAL AGENTS AND TOXINS.—The Secretary shall by regulation provide for the establishment and enforcement of standards and procedures governing the possession and use of biological agents and toxins listed pursuant to subsection (a)(1) in order to protect the public health and safety, including the measures, safeguards, procedures, and availability of such agents and toxins described in paragraphs (1) through (4) of subsection (b), respectively.

''(d) REGISTRATION AND TRACEABILITY MECHANISMS.—Regulations under subsections (b) and (c) shall require registration for the possession, use, and transfer of biological agents and toxins listed pursuant to subsection (a)(1), and such registration shall include (if available to the registered person) information regarding the characterization of such biological agents and toxins to facilitate their identification and traceability. The Secretary shall maintain a national database of the location of such biological agents and toxins with information regarding their characterizations.

''(e) INSPECTIONS.—The Secretary shall have the authority to inspect persons subject to the regulations under subsections (b) and (c) to ensure their compliance with such regulations, including prohibitions on restricted persons under subsection (g).

''(f) EXEMPTIONS.—

''(1) IN GENERAL.—The Secretary shall establish exemptions, including exemptions from the security provisions, from the applicability of provisions of—

''(A) the regulations issued under subsection (b) and (c) when the Secretary determines that the exemptions, including exemptions from the security requirements, and for the use of attenuated or inactive biological agents or toxins in biomedical research or for legitimate medical purposes are consistent with protecting public health and safety; and

''(B) the regulations issued under subsection (c) for agents and toxins that the Secretary determines do not present a threat for use in domestic or international terrorism, provided the exemptions are consistent with protecting public health and safety.

''(2) CLINICAL LABORATORIES.—The Secretary shall exempt clinical laboratories and other persons that possess, use, or transfer biological agents and toxins listed pursuant to subsection (a)(1) from the applicability of provisions of regulations issued under subsections (b) and (c) only when—

''(A) such agents or toxins are presented for diagnosis, verification, or proficiency testing;

''(B) the identification of such agents and toxins is, when required under Federal or State law, reported to the Secretary or other public health authorities; and

''(C) such agents or toxins are transferred or destroyed in a manner set forth by the Secretary in regulation.

''(g) SECURITY REQUIREMENTS FOR REGISTERED PERSONS.—

''(1) SECURITY.—In carrying out paragraphs (2) and (3) of subsection (b), the Secretary shall establish appropriate security requirements for persons possessing, using, or transferring biological agents and toxins listed pursuant to subsection (a)(1), considering existing standards developed by the Attorney General for the security of government facilities, and shall ensure compliance with such requirements as a condition of registration under regulations issued under subsections (b) and (c).

''(2) LIMITING ACCESS TO LISTED AGENTS AND TOXINS.—Regulations issued under subsections (b) and (c) shall include provisions—

''(A) to restrict access to biological agents and toxins listed pursuant to subsection (a)(1) only to those individuals who need to handle or use such agents or toxins; and

''(B) to provide that registered persons promptly submit the names and other identifying information for such individuals to the Attorney General, with which information the Attorney General shall promptly use criminal, immigration, and national security databases available to the Federal Government to identify whether such individuals—

''(i) are restricted persons, as defined in section 175b of title 18, United States Code; or

''(ii) are named in a warrant issued to a Federal or State law enforcement agency for participation in any domestic or international act of terrorism.

''(3) CONSULTATION AND IMPLEMENTATION.—Regulations under subsections (b) and (c) shall be developed in consultation with research-performing organizations, including universities, and implemented with timeframes that take into account the need to continue research and education using biological agents and toxins listed pursuant to subsection (a)(1).

''(h) DISCLOSURE OF INFORMATION.—

''(1) IN GENERAL.—Any information in the possession of any Federal agency that identifies a person, or the geographic location of a person, who is registered pursuant to regulations under this section (including regulations promulgated before the effective date of this subsection), or any site-specific information relating to the type, quantity, or characterization of a biological agent or toxin listed pursuant to subsection (a)(1) or the site-specific security mechanisms in place to protect such agents and toxins, including the national database required in subsection (d), shall not be disclosed under section 552(a) of title 5, United States Code.

''(2) DISCLOSURES FOR PUBLIC HEALTH AND SAFETY; CONGRESS.—Nothing in this section may be construed as preventing the head of any Federal agency—

''(A) from making disclosures of information described in paragraph (1) for purposes of protecting the public health and safety; or

''(B) from making disclosures of such information to any committee or subcommittee of the Congress with appropriate jurisdiction, upon request.

''(i) CIVIL PENALTY.—Any person who violates any provision of a regulation under subsection (b) or (c) shall be subject to the United States for a civil money penalty in an amount not exceeding $250,000 in the case of an individual and $500,000 in the case of any other person. The provisions of section 1128A of the Social Security Act (other than subsections (a), (b), (h), and (i), the first sentence of subsection (c), and paragraphs (1) and (2) of subsection (f)) small apply to civil money penalties under this subsection in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a) of the Social Security Act. The secretary may delegate authority under this section in the same manner as provided in section 1128A(j)(2) of the Social Security Act and such authority shall include all powers as contained in 5 U.S.C. App., section 6.''

''(j) DEFINITIONS.—For purposes of this section, the terms 'biological agent' and 'toxin' have the same meaning as in section 178 of title 18, United States Code.''.

(2) REGULATIONS.—

(A) DATE CERTAIN FOR PROMULGATION; EFFECTIVE DATE REGARDING CRIMINAL AND CIVIL PENALTIES.—Not later than 180 days after the date of the enactment of this title, the Secretary of Health and Human Services shall promulgate an interim final rule for carrying out section 351A(c) of the Public Health Service Act, which amends the Antiterrorism and Effective Death Penalty Act of 1996. Such interim final rule will take effect 60 days after the date on which such rule is promulgated, including for purposes of—

(i) section 175(b) of title 18, United States Code (relating to criminal penalties), as added by subsection (b)(1)(B) of this section; and

(ii) section 351A(i) of the Public Health Service Act (relating to civil penalties).

(B) SUBMISSION OF REGISTRATION APPLICATIONS.—A person required to register for possession under the interim final rule promulgated under subparagraph (A), shall submit an application for such registration not later than 60 days after the date on which such rule is promulgated.

(3) CONFORMING AMENDMENT.—Subsections (d), (e), (f), and (g) of section 511 of the Antiterrorism and Effective Death Penalty Act of 1996 (42 U.S.C. 262 note) are repealed.

(4) EFFECTIVE DATE.—Paragraph (1) shall take effect as if incorporated in the Antiterrorism and Effective Death Penalty Act of 1996, and any regulations, including the list under subsection (d)(1) of section 511 of that Act, issued under section 511 of that Act shall remain in effect as if issued under section 351A of the Public Health Service Act.

(b) SELECT AGENTS.—

(1) IN GENERAL.—Section 175 of title 18, United States Code, as amended by the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (Public Law 107-56) is amended—

(A) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(B) by inserting after subsection (a) the following:

''(b) SELECT AGENTS.—

''(1) UNREGISTERED FOR POSSESSION.—Whoever knowingly possesses a biological agent or toxin where such agent or toxin is a select agent for which such person has not obtained a registration required by regulation issued under section 351A(c) of the Public Health Service Act shall be fined under this title, or imprisoned for not more than 5 years, or both.

''(2) TRANSFER TO UNREGISTERED PERSON.—Whoever transfers a select agent to a person who the transferor has reasons to believe has not obtained a registration required by regulations issued under section 351A(b) or (c) of the Public Health Service Act shall be fined under this title, or imprisoned for not more than 5 years, or both.''.

(2) DEFINITIONS.—Section 175 of title 18, United States Code, as amended by paragraph (1), is further amended by striking subsection (d) and inserting the following:

''(d) DEFINITIONS.—As used in this section:

''(1) The terms 'biological agent' and 'toxin' have the meanings given such terms in section 178, except that, for purposes of subsections (b) and (c), such terms 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, cultured, collected, or otherwise extracted from its natural source.

''(2) The term 'for use as a weapon' includes the development, production, transfer, acquisition, retention, or possession of any biological agent, toxin, or delivery system, other than for prophylactic, protective, or other peaceful purposes.

''(3) The term 'select agent' means a biological agent or toxin, as defined in paragraph (1), that is on the list that is in effect pursuant to section 511(d)(1) of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132),

or as subsequently revised under section 351A(a) of the Public Health Service Act.''.

(3) CONFORMING AMENDMENT.—

(A) Section 175(a) of title 18, United States Code, is amended in the second sentence by striking ''under this section'' and inserting ''under this subsection''.

(B) Section 175(c) of title 18, United States Code, (as redesignated by paragraph (1)), is amended by striking the second sentence.

(c) REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services, after consultation with other appropriate Federal agencies, shall submit to the Congress a report that—

(1) describes the extent to which there has been compliance by governmental and private entities with applicable regulations under section 351A of the Public Health Service Act, including the extent of compliance before the date of the enactment of this Act, and including the extent of compliance with regulations promulgated after such date of enactment;

(2) describes the actions to date and future plans of the Secretary for updating the list of biological agents and toxins under section 351A(a)(1) of the Public Health Service Act;

(3) describes the actions to date and future plans of the Secretary for determining compliance with regulations under such section 351A of the Public Health Service Act and for taking appropriate enforcement actions; and

(4) provides any recommendations of the Secretary for administrative or legislative initiatives regarding such section 351A of the Public Health Service Act.

This division may be cited as the ''Department of Defense Appropriations Act, 2002''.

DIVISION B—TRANSFERS FROM THE EMERGENCY RESPONSE FUND PURSUANT TO PUBLIC LAW 107–38

The funds appropriated in Public Law 107–38 subject to subsequent enactment and previously designated as an emergency by the President and Congress under the Balanced Budget and Emergency Deficit Control Act of 1985, are transferred to the following chapters and accounts as follows:

CHAPTER 1

DEPARTMENT OF AGRICULTURE

FOOD AND NUTRITION SERVICE

SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)'', $39,000,000, to remain available until September 30, 2003, to be obligated from amounts made available in Public Law 107–38: Provided, That of the amounts provided in this Act and any amounts available for reallocation in fiscal year 2002, the Secretary shall reallocate funds under section 17(g)(2) of the Child Nutrition Act of 1966, as amended, in the manner and under the formula the Secretary deems necessary to respond to the effects of unemployment and other conditions caused by the recession, and starting no later than March 1, 2002, such reallocation shall occur no less frequently than every other month throughout the fiscal year.

RELATED AGENCY

COMMODITY FUTURES TRADING COMMISSION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Commodity Futures Trading Commission'', $10,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CHAPTER 2

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

PATRIOT ACT ACTIVITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Patriot Act Activities'', $25,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38, of which $2,000,000 shall be for a feasibility report, as authorized by Section 405 of Public Law 107–56, and of which $23,000,000 shall be for implementation of such enhancements as are deemed necessary: Provided, That funding for the implementation of such enhancements shall be treated as a reprogramming under section 605 of Public Law 107–77 and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

ADMINISTRATIVE REVIEW AND APPEALS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Administrative Review and Appeals'', $3,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses, General Legal Activities'', $6,250,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses, United States Attorneys'', $74,600,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses, United States Marshals Service'', $11,100,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $538,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38, of which $10,283,000 is for the refurbishing of the Engineering and Research Facility and $14,135,000 is for the decommissioning and renovation of former laboratory space in the Hoover building.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States and for all costs associated with the reorganization of the Immigration and Naturalization Service, for ''Salaries and Expenses'', $399,400,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

OFFICE OF JUSTICE PROGRAMS

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, $236,900,000 shall be for discretionary grants under the Edward Byrne Memorial State and Local Law Enforcement Assistance Program, of which $81,700,000 shall be for Northern Virginia, of which $81,700,000 shall be for New Jersey, and of which $56,500,000 shall be for Maryland, to remain available until expended, and to be obligated from amounts made available in Public Law 107–38.

CRIME VICTIMS FUND

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Crime Victims Fund'', $68,100,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Operations and Administration'', $1,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

EXPORT ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Operations and Administration'', $1,756,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

ECONOMIC DEVELOPMENT ADMINISTRATION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $335,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING AND CONSTRUCTION

For emergency grants authorized by section 392 of the Communications Act of 1934, as amended, to respond to the September 11, 2001, terrorist attacks on the United States, $8,250,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

UNITED STATES PATENT AND TRADEMARK OFFICE

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $3,360,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Scientific and Technical Research and Services'', $400,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CONSTRUCTION OF RESEARCH FACILITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Construction of Research Facilities'', $1,225,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH AND FACILITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Operations, Research and Facilities'', $2,750,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $881,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

CARE OF THE BUILDINGS AND GROUNDS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Care of the Buildings and Grounds'', $30,000,000, to remain available until expended for security enhancements, to be obligated from amounts made available in Public Law 107–38.

COURT OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $5,000,000, is for Emergency Communications Equipment, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

COURT SECURITY

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Court Security'', $57,521,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38, for security of the Federal judiciary, of which not less than $4,000,000 shall be available to reimburse the United States Marshals Service for a Supervisory Deputy Marshal responsible for coordinating security in each judicial district and circuit: Provided, That the funds may be expended directly or transferred to the United States Marshals Service.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $2,879,000, to remain available until expended, to enhance security at the Thurgood Marshall Federal Judiciary Building, to be obligated from amounts made available in Public Law 107–38.

RELATED AGENCIES

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $1,301,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $20,705,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

SMALL BUSINESS ADMINISTRATION

BUSINESS LOANS PROGRAM ACCOUNT

For emergency expenses for disaster recovery activities and assistance related to the terrorist acts in New York, Virginia and Pennsylvania on September 11, 2001, for ''Business Loans Program Account'', $75,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DISASTER LOANS PROGRAM ACCOUNT

For emergency expenses for disaster recovery activities and assistance related to the terrorist acts in New York, Virginia and Pennsylvania on September 11, 2001, for ''Disaster Loans Program Account'', $75,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

GENERAL PROVISIONS, THIS CHAPTER

SEC. 201. For purposes of assistance available under section 7(b)(2) and (4) of the Small Business Act (15 U.S.C. 636(b)(2) and (4)) to small business concerns located in disaster areas declared as a result of the September 11, 2001, terrorist attacks—

(i) the term ''small business concern'' shall include not-for-profit institutions and small business concerns described in United States Industry Codes 522320, 522390, 523210, 523920, 523991, 524113, 524114, 524126, 524128, 524210, 524291, 524292, and 524298 of the North American Industry Classification System (as described in 13 C.F.R. 121.201, as in effect on January 2, 2001);

(ii) the Administrator may apply such size standards as may be promulgated under such section 121.201 after the date of enactment of this provision, but no later than one year following the date of enactment of this Act; and

(iii) payments of interest and principal shall be deferred, and no interest shall accrue during the two-year period following the issuance of such disaster loan.

SEC. 202. Notwithstanding any other provision of law, the limitation on the total amount of loans under section 7(b) of the Small Business Act (15 U.S.C. 636(b)) outstanding and committed to a borrower in the disaster areas declared in response to the September 11, 2001, terrorist attacks shall be increased to $10,000,000 and the Administrator shall, in lieu of the fee collected under section 7(a)(23)(A) of the Small Business Act (15 U.S.C. 636(a)(23)(A)), collect an annual fee of 0.25 percent of the outstanding balance of deferred participation loans made under section 7(a) to small businesses adversely affected by the September 11, 2001, terrorist attacks and their aftermath, for a period of one year following the date of enactment and to the extent the costs of such reduced fees are offset by appropriations provided by this Act.

SEC. 203. Not later than April 1, 2002, the Secretary of State shall submit to the Committees on Appropriations, in both classified and unclassified form, a report on the United States-People's Republic of China Science and Technology Agreement of 1979, including all protocols. The report is intended to provide a comprehensive evaluation of the benefits of the agreement to the Chinese economy, military, and defense industrial base. The report shall include the following elements:

(1) an accounting of all activities conducted under the Agreement for the past five years, and a projection of activities to be undertaken through 2010;

(2) an estimate of the annual cost to the United States to administer the Agreement;

(3) an assessment of how the Agreement has influenced the policies of the People's Republic of China toward scientific and technological cooperation with the United States;

(4) an analysis of the involvement of Chinese nuclear weapons and military missile specialists in the activities of the Joint Commission;

(5) a determination of the extent to which the activities conducted under the Agreement have enhanced the military and industrial base of the People's Republic of China, and an assessment of the impact of projected activities through 2010, including transfers of technology, on China's economic and military capabilities; and

(6) recommendations on improving the monitoring of the activities of the Commission by the Secretaries of Defense and State.

The report shall be developed in consultation with the Secretaries of Commerce, Defense, and Energy, the Directors of the National Science Foundation and the Federal Bureau of Investigation, and the intelligence community.

CHAPTER 3

DEPARTMENT OF DEFENSE

OPERATION AND MAINTENANCE

DEFENSE EMERGENCY RESPONSE FUND

For emergency expenses to respond to the September 11, 2001 terrorist attacks on the United States, for ''Defense Emergency Response Fund'', $6,558,569,000, to remain available until expended, to be obligated from amounts made available by Public Law 107–38: Provided, That $20,000,000 shall be made available for the National Infrastructure Simulation and Analysis Center (NISAC): Provided further, That $500,000 shall be made available only for the White House Commission on the National Moment of Remembrance: Provided further, That—

(1) $35,000,000 shall be available for the procurement of the Advance Identification Friend-or-Foe system for integration into F–16 aircraft of the Air National Guard that are being used in continuous air patrols over Washington, District of Columbia, and New York, New York; and

(2) $20,000,000 shall be available for the procurement of the Transportation Multi-Platform Gateway for integration into the AWACS aircraft that are being used to perform early warning surveillance over the United States.

PROCUREMENT

OTHER PROCUREMENT, AIR FORCE

For emergency expenses to respond to the September 11, 2001 terrorist attacks on the United States, for ''Other Procurement, Air Force'', $210,000,000, to remain available until expended, to be obligated from amounts made available by Public Law 107–38.

GENERAL PROVISIONS, THIS CHAPTER

SEC. 301. Amounts available in the ''Defense Emergency Response Fund'' shall be available for the purposes set forth in the 2001 Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the United States (Public Law 107–38): Provided, That the Fund may be used to reimburse other appropriations or funds of the Department of Defense only for costs incurred for such purposes between September 11 and December 31, 2001: Provided further, That such Fund may be used to liquidate obligations incurred by the Department under the authorities in 41 U.S.C. 11 for any costs incurred for such purposes between September 11 and September 30, 2001: Provided further, That the Secretary of Defense may transfer funds from the Fund to the appropriation, ''Support for International Sporting Competitions, Defense'', to be merged with, and available for the same time period and for the same purposes as that appropriation: Provided further, That the transfer authority provided by this section is in addition to any other transfer authority available to the Secretary of Defense: Provided further, That the Secretary of Defense shall report to the Congress quarterly all transfers made pursuant to this authority.

SEC. 302. Amounts in the ''Support for International Sporting Competitions, Defense'', may be used to support essential security and safety for the 2002 Winter Olympic Games in Salt Lake City, Utah, without the certification required under subsection 10 U.S.C. 2564(a). Further, the term ''active duty'', in section 5802 of Public Law 104–208 shall include State active duty and full-time National Guard duty performed by members of the Army National Guard and Air National Guard in connection with providing essential security and safety support to the 2002 Winter Olympic Games and logistical and security support to the 2002 Paralympic Games.

SEC. 303. Funds appropriated by this Act, or made available by the transfer of funds in this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414).

CHAPTER 4

DISTRICT OF COLUMBIA

FEDERAL FUNDS

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR PROTECTIVE CLOTHING AND BREATHING APPARATUS

For a Federal payment to the District of Columbia for protective clothing and breathing apparatus, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, $7,144,000, of which $922,000 is for the Fire and Emergency

Medical Services Department, $4,269,000 is for the Metropolitan Police Department, $1,500,000 is for the Department of Health, and $453,000 is for the Department of Public Works.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR SPECIALIZED HAZARDOUS MATERIALS EQUIPMENT

For a Federal payment to the District of Columbia for specialized hazardous materials equipment, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, $1,032,000, for the Fire and Emergency Medical Services Department.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR CHEMICAL AND BIOLOGICAL WEAPONS PREPAREDNESS

For a Federal payment to the District of Columbia for chemical and biological weapons preparedness, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, $10,355,000, of which $205,000 is for the Fire and Emergency Medical Services Department, $258,000 is for the Metropolitan Police Department, and $9,892,000 is for the Department of Health.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR PHARMACEUTICALS FOR RESPONDERS

For a Federal payment to the District of Columbia for pharmaceuticals for responders, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, $2,100,000, for the Department of Health.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR RESPONSE AND COMMUNICATIONS CAPABILITY

For a Federal payment to the District of Columbia for response and communications capability, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, $14,960,000, of which $7,755,000 is for the Fire and Emergency Medical Services Department, $5,855,000 is for the Metropolitan Police Department, $113,000 is for the Department of Public Works Division of Transportation, $58,000 is for the Office of Property Management, $60,000 is for the Department of Public Works, $750,000 is for the Department of Health, $309,000 is for the Department of Human Services, and $60,000 is for the Department of Parks and Recreation.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR SEARCH, RESCUE AND OTHER EMERGENCY EQUIPMENT AND SUPPORT

For a Federal payment to the District of Columbia, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, for search, rescue and other emergency equipment and support, $8,850,000, of which $5,442,000 is for the Metropolitan Police Department, $208,000 is for the Fire and Emergency Medical Services Department, $398,500 is for the Department of Consumer and Regulatory Affairs, $1,178,500 is for the Department of Public Works, $542,000 is for the Department of Human Services, and $1,081,000 is for the Department of Mental Health.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR EQUIPMENT, SUPPLIES AND VEHICLES FOR THE OFFICE OF THE CHIEF MEDICAL EXAMINER

For a Federal payment to the District of Columbia, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, for equipment, supplies and vehicles for the Office of the Chief Medical Examiner, $1,780,000.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR HOSPITAL CONTAINMENT FACILITIES FOR THE DEPARTMENT OF HEALTH

For a Federal payment to the District of Columbia, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, for hospital containment facilities for the Department of Health, $8,000,000.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR THE OFFICE OF THE CHIEF TECHNOLOGY OFFICER

For a Federal payment to the District of Columbia, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, for the Office of the Chief Technology Officer, $43,994,000, for a first response land-line and wireless interoperability project, of which $1,000,000 shall be used to initiate a comprehensive review, by a non-vendor contractor, of the District's current technology-based systems and to develop a plan for integrating the communications systems of the District of Columbia Metropolitan Police and Fire and Emergency Medical Services Departments with the systems of regional and federal law enforcement agencies, including but not limited to the United States Capitol Police, United States Park Police, United States Secret Service, Federal Bureau of Investigation, Federal Protective Service, and the Washington Metropolitan Area Transit Authority Police: Provided, That such plan shall be submitted to the Committees on Appropriations of the Senate and the House of Representatives no later than June 15, 2002.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR EMERGENCY TRAFFIC MANAGEMENT

For a Federal payment to the District of Columbia, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, for emergency traffic management, $20,700,000, for the Department of Public Works Division of Transportation, of which $14,000,000 is to upgrade traffic light controllers, $4,700,000 is to establish a video traffic monitoring system, and $2,000,000 is to disseminate traffic information.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR TRAINING AND PLANNING

For a Federal payment to the District of Columbia, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, for training and planning, $11,449,000, of which $4,400,000 is for the Fire and Emergency Medical Services Department, $990,000 is for the Metropolitan Police Department, $1,200,000 is for the Department of Health, $200,000 is for the Office of the Chief Medical Examiner, $1,500,000 is for the Emergency Management Agency, $500,000 is for the Office of Property Management, $500,000 is for the Department of Mental Health, $469,000 is for the Department of Consumer and Regulatory Affairs, $240,000 is for the Department of Public Works, $600,000 is for the Department of Human Services, $100,000 is for the Department of Parks and Recreation, $750,000 is for the Division of Transportation.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR INCREASED SECURITY

For a Federal payment to the District of Columbia, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, for increased facility security, $25,536,000, of which $3,900,000 is for the Emergency Management Agency, $14,575,000 for the public schools, and $7,061,000 for the Office of Property Management.

FEDERAL PAYMENT TO THE WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

For a Federal payment to the Washington Metropolitan Area Transit Authority to meet region-wide security requirements, a contribution of $39,100,000, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, of which $5,000,000 shall be used for protective clothing and breathing apparatus, $17,200,000 shall be for completion of the fiber optic network project and an automatic vehicle locator system, and $16,900,000 shall be for increased employee and facility security.

FEDERAL PAYMENT TO THE METROPOLITAN WASHINGTON COUNCIL OF GOVERNMENTS

For a Federal payment to the Metropolitan Washington Council of Governments to enhance regional emergency preparedness, coordination and response, $5,000,000, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, of which $1,500,000 shall be used to contribute to the development of a comprehensive regional emergency preparedness, coordination and response plan, $500,000 shall be used to develop a critical infrastructure threat assessment model, $500,000 shall be used to develop and implement a regional communications plan, and $2,500,000 shall be used to develop protocols and procedures for training and outreach exercises.

GENERAL PROVISIONS, THIS CHAPTER

SEC. 401. Notwithstanding any other provision of law, the Chief Financial Officer of the District of Columbia may transfer up to 5 percent of the funds appropriated to the District of Columbia in this chapter between these accounts: Provided, That no such transfer shall take place unless the Chief Financial Officer of the District of Columbia notifies in writing the Committees on Appropriations of the Senate and the House of Representatives 30 days in advance of such transfer.

SEC. 402. The Chief Financial Officer of the District of Columbia and the Chief Financial Officer of the Washington Metropolitan Area Transit Authority shall provide quarterly reports to the President and the Committees on Appropriations of the Senate and the House of Representatives on the use of the funds under this chapter beginning no later than March 15, 2002.

CHAPTER 5

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

OPERATION AND MAINTENANCE, GENERAL

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Operation and Maintenance, General'', $139,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

WATER AND RELATED RESOURCES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Water and Related Resources'', $30,259,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEPARTMENT OF ENERGY

ATOMIC ENERGY DEFENSE ACTIVITIES

NATIONAL NUCLEAR SECURITY ADMINISTRATION

WEAPONS ACTIVITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and for other expenses to increase the security of the Nation's nuclear weapons complex, for ''Weapons Activities'', $106,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

OTHER DEFENSE RELATED ACTIVITIES

OTHER DEFENSE ACTIVITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and for other expenses necessary to support activities related to countering potential biological threats to civilian populations, for ''Other Defense Activities'', $3,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Defense Environmental Restoration and Waste Management'', $8,200,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CHAPTER 6

DEPARTMENT OF THE INTERIOR

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Operation of the National Park System'', $10,098,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

UNITED STATES PARK POLICE

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''United States Park Police'', $25,295,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CONSTRUCTION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Construction'', $21,624,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEPARTMENTAL OFFICES

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $2,205,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38, for the working capital fund of the Department of the Interior.

RELATED AGENCIES

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $21,707,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

NATIONAL GALLERY OF ART

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $2,148,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

OPERATIONS AND MAINTENANCE

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Operations and Maintenance'', $4,310,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

NATIONAL CAPITAL PLANNING COMMISSION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $758,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CHAPTER 7

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND EMPLOYMENT SERVICES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States for ''Training and employment services'', $32,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38: Provided, That such amount shall be provided to the Consortium for Worker Education, established by the New York City Central Labor Council and the New York City Partnership, for an Emergency Employment Clearinghouse.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''State Unemployment Insurance and Employment Service Operations'', $4,100,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

WORKERS COMPENSATION PROGRAMS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Workers Compensation Programs'', $175,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38: Provided, That, of such amount, $125,000,000 shall be for payment to the New York State Workers Compensation Review Board, for the processing of claims related to the terrorist attacks: Provided further, That, of such amount, $25,000,000 shall be for payment to the New York State Uninsured Employers Fund, for reimbursement of claims related to the terrorist attacks: Provided further, That, of such amount, $25,000,000 shall be for payment to the New York State Uninsured Employers Fund, for reimbursement of claims related to the first response emergency services personnel who were injured, were disabled, or died due to the terrorist attacks.

PENSION AND WELFARE BENEFITS ADMINISTRATION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $1,600,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $1,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $5,880,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

CENTERS FOR DISEASE CONTROL AND PREVENTION

DISEASE CONTROL, RESEARCH, AND TRAINING

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States for ''Disease control, research, and training'' for baseline safety screening for the emergency services personnel and rescue and recovery personnel, $12,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

NATIONAL INSTITUTES OF HEALTH

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States for ''National Institute of Environmental Health Sciences'' for carrying out activities set forth in section 311(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, $10,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

OFFICE OF THE SECRETARY

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, to provide grants to public entities, not-for-profit entities, and Medicare and Medicaid enrolled suppliers and institutional providers to reimburse for health care related expenses or lost revenues directly attributable to the public health emergency resulting from the September 11, 2001, terrorist acts, for ''Public Health and Social Services Emergency Fund'', $140,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38: Provided, That none of the costs have been reimbursed or are eligible for reimbursement from other sources.

DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

SCHOOL IMPROVEMENT PROGRAMS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''School Improvement Programs'', for the Project School Emergency Response to Violence program, $10,000,000, to be obligated from amounts made available in Public Law 107–38.

RELATED AGENCIES

SOCIAL SECURITY ADMINISTRATION

LIMITATION ON ADMINISTRATIVE EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Limitation on Administrative Expenses'', $7,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

NATIONAL LABOR RELATIONS BOARD

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $180,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CHAPTER 8

LEGISLATIVE BRANCH

JOINT ITEMS

LEGISLATIVE BRANCH EMERGENCY RESPONSE FUND

(INCLUDING TRANSFER OF FUNDS)

For emergency expenses to respond to the terrorist attacks on the United States, $256,081,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38: Provided, That $34,500,000 shall be transferred to the ''SENATE'', ''Sergeant at Arms and Doorkeeper of the Senate'' and shall be obligated with the prior approval of the Senate Committee on Appropriations: Provided further, That $40,712,000 shall be transferred to ''HOUSE OF REPRESENTATIVES'', ''Salaries and Expenses'' and shall be obligated with the prior approval of the House Committee on Appropriations: Provided further, That the remaining balance of $180,869,000 shall be transferred to the Capitol Police Board, which shall transfer to the affected entities in the Legislative Branch such amounts as are approved by the House and Senate Committees on Appropriations: Provided further, That any Legislative Branch entity receiving funds pursuant to the Emergency Response Fund established by Public Law 107–38 (without regard to whether the funds are provided under this chapter or pursuant to any other provision of law) may transfer any funds provided to the entity to any other Legislative Branch entity receiving funds under

Public Law 107–38 in an amount equal to that required to provide support for security enhancements, subject to the approval of the Committees on Appropriations of the House of Representatives and Senate.

SENATE

ADMINISTRATIVE PROVISIONS

SEC. 801. (a) ACQUISITION OF BUILDINGS AND FACILITIES.—Notwithstanding any other provision of law, in order to respond to an emergency situation, the Sergeant at Arms of the Senate may acquire buildings and facilities, subject to the availability of appropriations, for the use of the Senate, as appropriate, by lease, purchase, or such other arrangement as the Sergeant at Arms of the Senate considers appropriate (including a memorandum of understanding with the head of an Executive Agency, as defined in section 105 of title 5, United States Code, in the case of a building or facility under the control of such Agency). Actions taken by the Sergeant at Arms of the Senate must be approved by the Committees on Appropriations and Rules and Administration.

(b) AGREEMENTS.—Notwithstanding any other provision of law, for purposes of carrying out subsection (a), the Sergeant at Arms of the Senate may carry out such activities and enter into such agreements related to the use of any building or facility acquired pursuant to such subsection as the Sergeant at Arms of the Senate considers appropriate, including—

(1) agreements with the United States Capitol Police or any other entity relating to the policing of such building or facility; and

(2) agreements with the Architect of the Capitol or any other entity relating to the care and maintenance of such building or facility.

(c) AUTHORITY OF CAPITOL POLICE AND ARCHITECT.—

(1) ARCHITECT OF THE CAPITOL.—Notwithstanding any other provision of law, the Architect of the Capitol may take any action necessary to carry out an agreement entered into with the Sergeant at Arms of the Senate pursuant to subsection (b).

(2) CAPITOL POLICE.—Section 9 of the Act of July 31, 1946 (40 U.S.C. 212a) is amended—

(A) by striking ''The Capitol Police'' and inserting ''(a) The Capitol Police''; and

(B) by adding at the end the following new subsection:

''(b) For purposes of this section, 'the United States Capitol Buildings and Grounds' shall include any building or facility acquired by the Sergeant at Arms of the Senate for the use of the Senate for which the Sergeant at Arms of the Senate has entered into an agreement with the United States Capitol Police for the policing of the building or facility.''.

(d) TRANSFER OF CERTAIN FUNDS.—Subject to the approval of the Committee on Appropriations of the Senate, the Architect of the Capitol may transfer to the Sergeant at Arms of the Senate amounts made available to the Architect for necessary expenses for the maintenance, care and operation of the Senate office buildings during a fiscal year in order to cover any portion of the costs incurred by the Sergeant at Arms of the Senate during the year in acquiring a building or facility pursuant to subsection (a).

(e) EFFECTIVE DATE.—This section and the amendments made by this section shall apply with respect to fiscal year 2002 and each succeeding fiscal year.

SEC. 802. (a) Notwithstanding any other provision of law—

(1) subject to subsection (b), the Sergeant at Arms of the Senate and the head of an Executive Agency (as defined in section 105 of title 5, United States Code) may enter into a memorandum of understanding under which the Agency may provide facilities, equipment, supplies, personnel, and other support services for the use of the Senate during an emergency situation; and

(2) the Sergeant at Arms of the Senate and the head of the Agency may take any action necessary to carry out the terms of the memorandum of understanding.

(b) The Sergeant at Arms of the Senate may enter into a memorandum of understanding described in subsection (a)(1) consistent with the Senate Procurement Regulations.

(c) This section shall apply with respect to fiscal year 2002 and each succeeding fiscal year.

OTHER LEGISLATIVE BRANCH

ADMINISTRATIVE PROVISIONS

SEC. 803. (a) Section 1(c) of Public Law 96–152 (40 U.S.C. 206–1) is amended by striking ''but not to exceed'' and all that follows and inserting the following: ''but not to exceed $2,500 less than the lesser of the annual salary for the Sergeant at Arms of the House of Representatives or the annual salary for the Sergeant at Arms and Doorkeeper of the Senate.''.

(b) The Assistant Chief of the Capitol Police shall receive compensation at a rate determined by the Capitol Police Board, but not to exceed $1,000 less than the annual salary for the chief of the United States Capitol Police.

(c) This section and the amendment made by this section shall apply with respect to pay periods beginning on or after the date of the enactment of this Act.

SEC. 804. (a) ASSISTANCE FOR CAPITOL POLICE FROM EXECUTIVE DEPARTMENTS AND AGENCIES.—Notwithstanding any other provision of law, Executive departments and Executive agencies may assist the United States Capitol Police in the same manner and to the same extent as such departments and agencies assist the United States Secret Service under section 6 of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note), except as may otherwise be provided in this section.

(b) TERMS OF ASSISTANCE.—Assistance under this section shall be provided—

(1) consistent with the authority of the Capitol Police under sections 9 and 9A of the Act of July 31, 1946 (40 U.S.C. 212a and 212a–2);

(2) upon the advance written request of—

(A) the Chairman of the Capitol Police Board, or

(B) in the absence of the Chairman of the Capitol Police Board—

(i) the Sergeant at Arms and Doorkeeper of the Senate, in the case of any matter relating to the Senate; or

(ii) the Sergeant at Arms of the House of Representatives, in the case of any matter relating to the House; and

(3) either—

(A) on a temporary and non-reimbursable basis,

(B) on a temporary and reimbursable basis, or

(C) on a permanent reimbursable basis upon advance written request of the Chairman of the Capitol Police Board.

(c) REPORTS ON EXPENDITURES FOR ASSISTANCE.—

(1) REPORTS.—With respect to any fiscal year in which an Executive department or Executive agency provides assistance under this section, the head of that department or agency shall submit a report not later than 30 days after the end of the fiscal year to the Chairman of the Capitol Police Board.

(2) CONTENTS.—The report submitted under paragraph (1) shall contain a detailed account of all expenditures made by the Executive department or Executive agency in providing assistance under this section during the applicable fiscal year.

(3) SUMMARY OF REPORTS.—After receipt of all reports under paragraph (2) with respect to any fiscal year, the Chairman of the Capitol Police Board shall submit a summary of such reports to the Committees on Appropriations of the Senate and the House of Representatives.

(d) EFFECTIVE DATE.—This section shall apply with respect to fiscal year 2002 and each succeeding fiscal year.

SEC. 805. (a) The Chief of the Capitol Police may, upon any emergency as determined by the Capitol Police Board, deputize members of the National Guard (while in the performance of Federal or State service), members of components of the Armed Forces other than the National Guard, and Federal, State or local law enforcement officers as may be necessary to address that emergency. Any person deputized under this section shall possess all the powers and privileges and may perform all duties of a member or officer of the Capitol Police.

(b) The Capitol Police Board may promulgate regulations, as determined necessary, to carry out provisions of this section.

(c) This section shall apply to fiscal year 2002 and each fiscal year thereafter.

SEC. 806. (a) Notwithstanding any other provision of law, the United States Capitol Preservation Commission established under section 801 of the Arizona-Idaho Conservation Act of 1988 (40 U.S.C. 188a) may transfer to the Architect of the Capitol amounts in the Capitol Preservation Fund established under section 803 of such Act (40 U.S.C. 188a–2) if the amounts are to be used by the Architect for the planning, engineering, design, or construction of the Capitol Visitor Center.

(b) Any amounts transferred pursuant to subsection (a) shall remain available for the use of the Architect of the Capitol until expended.

(c) This section shall apply with respect to fiscal year 2002 and each succeeding fiscal year.

CHAPTER 9

MILITARY CONSTRUCTION

MILITARY CONSTRUCTION, DEFENSE-WIDE

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Military Construction, Defense-wide'', $510,000,000 to remain available until expended, to be obligated from amounts made available in Public Law 107–38: Provided, That of such amount, $35,000,000 shall be available for transfer to ''Military Construction, Army''.

MILITARY CONSTRUCTION, ARMY

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Military Construction, Army'', $20,700,000 to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

MILITARY CONSTRUCTION, NAVY

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Military Construction, Navy'', $2,000,000 to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

MILITARY CONSTRUCTION, AIR FORCE

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Military Construction, Air Force'', $47,700,000 to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

GENERAL PROVISIONS, THIS CHAPTER

SEC. 901. (a) AVAILABILITY OF AMOUNTS FOR MILITARY CONSTRUCTION RELATING TO TERRORISM.—Amounts made available to the Department of Defense from funds appropriated in Public Law 107–38 and this Act may be used to carry out military construction projects, not otherwise authorized by law, that the Secretary of Defense determines are necessary to respond to or protect against acts or threatened acts of terrorism.

(b) NOTICE TO CONGRESS.—Not later than 15 days before obligating amounts available under subsection (a) for military construction projects referred to in that subsection the Secretary shall notify the appropriate committees of Congress the following:

(1) The determination to use such amounts for the project.

(2) The estimated cost of the project.

(c) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section the term ''appropriate

committees of Congress'' has the meaning given that term in section 2801 (4) of title 10, United States Code.

SEC. 902. Notwithstanding section 2808(a) of title 10, United States Code, the Secretary of Defense may not utilize the authority in that section to undertake or authorize the undertaking of, any military construction project described by that section using amounts appropriated or otherwise made available by the Military Construction Appropriations Act, 2002, or any act appropriating funds for Military Construction for a fiscal year before fiscal year 2002.

CHAPTER 10

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', for the Office of Intelligence and Security, $1,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

PAYMENTS TO AIR CARRIERS

(AIRPORT AND AIRWAY TRUST FUND)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, in addition to funds made available from any other source to carry out the essential air service program under 49 U.S.C. 41731 through 41742, to be derived from the Airport and Airway Trust Fund, $57,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

COAST GUARD

OPERATING EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Operating Expenses'', $273,350,000, to remain available until September 30, 2003, to be obligated from amounts made available in Public Law 107–38.

FEDERAL AVIATION ADMINISTRATION

OPERATIONS

(AIRPORT AND AIRWAY TRUST FUND)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Operations'', $300,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until September 30, 2003, to be obligated from amounts made available in Public Law 107–38.

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Facilities and Equipment'', $108,500,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

RESEARCH, ENGINEERING, AND DEVELOPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Research, Engineering, and Development'', $12,000,000, to be derived from the Airport and Airway Trust Fund, to be obligated from amounts made available in Public Law 107–38.

FEDERAL HIGHWAY ADMINISTRATION

MISCELLANEOUS APPROPRIATIONS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Miscellaneous Appropriations'', including the operation and construction of ferrys and ferry facilities, $110,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

FEDERAL-AID HIGHWAYS

EMERGENCY RELIEF PROGRAM

(HIGHWAY TRUST FUND)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Emergency Relief Program'', as authorized by section 125 of title 23, United States Code, $75,000,000, to be derived from the Highway Trust Fund and to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

FEDERAL RAILROAD ADMINISTRATION

SAFETY AND OPERATIONS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Safety and Operations'', $6,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CAPITAL GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for necessary expenses of capital improvements of the National Railroad Passenger Corporation as authorized by 49 U.S.C. 24104(a), $100,000,000, to remain available until expended, and to be obligated from amounts made available in Public Law 107–38.

FEDERAL TRANSIT ADMINISTRATION

FORMULA GRANTS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Formula Grants'', $23,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CAPITAL INVESTMENT GRANTS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Capital Investment Grants'', $100,000,000, to be obligated from amounts made available in Public Law 107–38: Provided, That in administering funds made available under this paragraph, the Federal Transit Administrator shall direct funds to those transit agencies most severely impacted by the terrorist attacks of September 11, 2001, excluding any transit agency receiving a Federal payment elsewhere in this Act: Provided further, That the provisions of 49 U.S.C. 5309(h) shall not apply to funds made available under this paragraph.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

RESEARCH AND SPECIAL PROGRAMS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Research and Special Programs'', $6,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States and for other safety and security related audit and monitoring responsibilities, for ''Salaries and Expenses'', $2,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

RELATED AGENCY

NATIONAL TRANSPORTATION SAFETY BOARD

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $836,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CHAPTER 11

DEPARTMENT OF THE TREASURY

INSPECTOR GENERAL FOR TAX ADMINISTRATION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $2,032,000, to remain available until expended, to be obligated from amounts made available by Public Law 107–38.

FINANCIAL CRIMES ENFORCEMENT NETWORK

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $1,700,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $22,846,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

FINANCIAL MANAGEMENT SERVICE

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $600,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $31,431,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $127,603,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38; of this amount, not less than $21,000,000 shall be available for increased staffing to combat terrorism along the Nation's borders.

OPERATION, MAINTENANCE AND PROCUREMENT, AIR AND MARINE INTERDICTION PROGRAMS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Operation, Maintenance and Procurement, Air and Marine Interdiction Programs'', $6,700,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

INTERNAL REVENUE SERVICE

PROCESSING, ASSISTANCE AND MANAGEMENT

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Processing, Assistance and Management'', $16,658,000, to remain available until expended, to be obligated from amounts made available by Public Law 107–38.

TAX LAW ENFORCEMENT

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Tax Law Enforcement'', $4,544,000, to remain available until expended, to be obligated from amounts made available by Public Law 107–38.

INFORMATION SYSTEMS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Information Systems'', $15,991,000, to remain available until expended, to be obligated from amounts made available by Public Law 107–38.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $104,769,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF ADMINISTRATION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $29,193,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

INDEPENDENT AGENCIES

GENERAL SERVICES ADMINISTRATION

REAL PROPERTY ACTIVITIES

FEDERAL BUILDING FUND

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Federal Buildings Fund'', $126,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

OPERATING EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Operating Expenses'', $4,818,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

REPAIRS AND RESTORATION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Repairs and Restoration'', $2,180,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CHAPTER 12

DEPARTMENT OF VETERANS AFFAIRS

CONSTRUCTION, MAJOR PROJECTS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Construction, Major Projects'', $2,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT FUND

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Community development fund'', $2,000,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38: Provided, That such funds shall be subject to the first through sixth provisos in section 434 of Public Law 107–73: Provided further, That within 45 days of enactment, the State of New York, in conjunction with the City of New York, shall establish a corporation for the obligation of the funds provided under this heading, issue the initial criteria and requirements necessary to accept applications from individuals, nonprofits and small businesses for economic losses from the September 11, 2001, terrorist attacks, and begin processing such applications: Provided further, That the corporation shall respond to any application from an individual, nonprofit or small business for economic losses under this heading within 45 days of the submission of an application for funding: Provided further, That individuals, nonprofits or small businesses shall be eligible for compensation only if located in New York City in the area located on or south of Canal Street, on or south of East Broadway (east of its intersection with Canal Street), or on or south of Grand Street (east of its intersection with East Broadway): Provided further, That, of the amount made available under this heading, no less than $500,000,000 shall be made available for individuals, nonprofits or small businesses described in the prior three provisos with a limit of $500,000 per small business for economic losses.

MANAGEMENT AND ADMINISTRATION

OFFICE OF INSPECTOR GENERAL

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Office of Inspector General'', $1,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

INDEPENDENT AGENCIES

ENVIRONMENTAL PROTECTION AGENCY

SCIENCE AND TECHNOLOGY

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and to support activities related to countering terrorism, for ''Science and Technology'', $41,514,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

ENVIRONMENTAL PROGRAMS AND MANAGEMENT

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and to support activities related to countering terrorism, for ''Environmental Programs and Management'', $32,194,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

HAZARDOUS SUBSTANCE SUPERFUND

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and to support activities related to countering terrorism, for ''Hazardous Substance Superfund'', $18,292,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

STATE AND TRIBAL ASSISTANCE GRANTS

For making grants for emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and to support activities related to countering potential biological and chemical threats to populations, for ''State and Tribal Assistance Grants'', $5,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

For disaster recovery activities and assistance related to the terrorist attacks in New York, Virginia, and Pennsylvania on September 11, 2001, for ''Disaster Relief'', $5,822,722,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $30,000,000, to remain available until expended, for the Office of National Preparedness, to be obligated from amounts made available in Public Law 107–38.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

HUMAN SPACE FLIGHT

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Human Space Flight'', $64,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

SCIENCE, AERONAUTICS AND TECHNOLOGY

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Science, Aeronautics and Technology'', $28,600,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Research and Related Activities'', $300,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CHAPTER 13

GENERAL PROVISIONS, THIS DIVISION

SEC. 1301. Amounts which may be obligated pursuant to this division are subject to the terms and conditions provided in Public Law 107–38.

SEC. 1302. No part of any appropriation contained in this division shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

This division may be cited as the ''Emergency Supplemental Act, 2002''.

DIVISION C—ADDITIONAL SUPPLEMENTAL APPROPRIATIONS

TITLE I—HOMELAND DEFENSE

CHAPTER 1

DEPARTMENT OF AGRICULTURE

OFFICE OF THE SECRETARY

For an additional amount for ''Office of the Secretary'', $76,000,000.

AGRICULTURAL RESEARCH SERVICE

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $60,000,000.

BUILDINGS AND FACILITIES

For an additional amount for ''Buildings and Facilities'', $150,000,000, to remain available until September 30, 2003.

COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE

RESEARCH AND EDUCATION

For an additional amount for ''Research and Education'', $50,000,000.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Salaries and Expenses'', $90,000,000, of which $50,000,000 may be transferred and merged with the Agriculture Quarantine Inspection User Fee Account.

BUILDINGS AND FACILITIES

For an additional amount for ''Buildings and Facilities'', $14,081,000, to remain available until September 30, 2003.

FOOD SAFETY AND INSPECTION SERVICE

For an additional amount for ''Food Safety and Inspection Service'', $15,000,000.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $120,000,000.

CHAPTER 2

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

PATRIOT ACT ACTIVITIES

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for ''Patriot Act Activities'', $75,000,000, to remain available until September 30, 2003, for implementation of such enhancements to the Federal Bureau of Investigation as are deemed necessary by the study required under chapter 2 of division B of this Act: Provided, That funding for the implementation of such enhancements shall be treated as a reprogramming under section 605 of Public Law 107–77 and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses, General Legal Activities'', $15,000,000, to remain available until September 30, 2003.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For an additional amount to respond to the September 11, 2001, terrorist attacks on the

United States, for ''Salaries and Expenses, United States Marshals Service'', $5,875,000, to remain available until September 30, 2003.

In addition, for an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for courthouse security equipment, $9,125,000, to remain available until September 30, 2003.

CONSTRUCTION

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for ''Construction'', $35,000,000, to remain available until Stepember 30, 2003.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $200,000,000, to remain available until September 30, 2003.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $35,100,000, to remain available until September 30, 2003.

CONSTRUCTION

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for ''Construction'', $300,000,000, to remain available until September 30, 2003.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $20,000,000, to remain available until September 30, 2003.

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for ''Justice Assistance'', $550,000,000, to remain available until September 30, 2003, for grants, cooperative agreements, and other assistance authorized by sections 819 and 821 of the Antiterrorism and Effective Death Penalty Act of 1996 and for other counter terrorism programs.

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, $35,000,000 shall be for discretionary grants under the Edward Byrne Memorial State and Local Law Enforcement Assistance Program, to remain available until September 30, 2003.

DEPARTMENT OF COMMERCE

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for ''Scientific and Technical Research and Services'', $30,000,000, to remain available until September 30, 2003.

RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

OPERATIONS AND TRAINING

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for ''Operations and Training'', $11,000,000, for a port security program, to remain available until September 30, 2003.

MARITIME GUARANTEED LOAN (TITLE XI) PROGRAM ACCOUNT

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for the cost of guaranteed loans, as authorized by the Merchant Marine Act, 1936, $12,000,000, to remain available until September 30, 2003: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended.

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $20,000,000, to remain available until September 30, 2003.

CHAPTER 3

DEPARTMENT OF ENERGY

ATOMIC ENERGY DEFENSE ACTIVITIES

NATIONAL NUCLEAR SECURITY ADMINISTRATION

WEAPONS ACTIVITIES

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, and for other expenses to increase the security of the Nation's nuclear weapons complex, for ''Weapons Activities'', $179,000,000, to remain available until September 30, 2003.

DEFENSE NUCLEAR NONPROLIFERATION

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, and for other expenses to improve nuclear nonproliferation and verification research and development, for ''Defense Nuclear Nonproliferation'', $286,000,000, to remain available until September 30, 2003.

INDEPENDENT AGENCY

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, and for other expenses to increase the security of the Nation's nuclear power plants, for ''Salaries and Expenses'', $36,000,000, to remain available until September 30, 2003: Provided, That the funds appropriated herein shall be excluded from license fee revenues, notwithstanding 42 U.S.C. 2214.

CHAPTER 4

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF THE SECRETARY

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

For an additional amount for emergency expenses necessary to support activities related to countering potential biological, disease, and chemical threats to civilian populations, for ''Public Health and Social Services Emergency Fund'', $3,325,000,000, to remain available until September 30, 2003. Of this amount, $1,150,000,000 shall be for the Centers for Disease Control and Prevention for improving State and local capacity; $165,000,000 shall be for grants to hospitals, in collaboration with local governments, to improve capacity to respond to bioterrorism; $185,000,000 shall be for upgrading capacity at the Centers for Disease Control and Prevention, including research; $10,000,000 shall be for the establishment and operation of a national system to track biological pathogens; $95,000,000 shall be for the Office of the Secretary and improving disaster response teams; $125,000,000 shall be for the National Institute of Allergy and Infectious Diseases for bioterrorism-related research and development and other related needs; $96,000,000 shall be for the National Institute of Allergy and Infectious Diseases for the construction of biosafety laboratories and related infrastructure costs; $4,000,000 shall be for training and education regarding effective workplace responses to bioterrorism; $593,000,000 shall be for the National Pharmaceutical Stockpile; $829,000,000 shall be for the purchase, deployment and related costs of the smallpox vaccine, and $73,000,000 shall be for improving laboratory security at the National Institutes of Health and the Centers for Disease Control and Prevention. At the discretion of the Secretary, these amounts may be transferred between categories subject to normal reprogramming procedures.

CHAPTER 5

DEPARTMENT OF TRANSPORTATION

COAST GUARD

OPERATING EXPENSES

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for ''Operating Expenses'', $12,000,000, to remain available until September 30, 2003.

FEDERAL AVIATION ADMINISTRATION

RESEARCH, ENGINEERING, AND DEVELOPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for ''Research, Engineering, and Development'', $38,000,000, to be derived from the Airport and Airway Trust Fund.

GRANTS-IN-AID FOR AIRPORTS

(AIRPORT AND AIRWAY TRUST FUND)

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, notwithstanding any other provision of law, for ''Grants-in-aid for airports'', to enable the Federal Aviation Administrator to compensate airports for a portion of the direct costs associated with new, additional or revised security requirements imposed on airport operators by the Administrator on or after September 11, 2001, $200,000,000, to be derived from the Airport and Airway Trust Fund, to remain available until September 30, 2003.

CHAPTER 6

DEPARTMENT OF THE TREASURY

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $270,972,000, to remain available until September 30, 2003; of this amount, not less than $120,000,000 shall be available for increased staffing to combat terrorism along the Nation's borders, of which $10,000,000 shall be available for hiring inspectors along the Southwest border; not less than $15,000,000 shall be available for seaport security; and not less than $135,000,000 shall be available for the procurement and deployment of non-intrusive and counterterrorism inspection technology, equipment and infrastructure improvements to combat terrorism at the land and sea border ports of entry.

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $20,847,000, to remain available until September 30, 2003.

POSTAL SERVICE

PAYMENT TO THE POSTAL SERVICE FUND

For an additional payment to the Postal Service Fund to enable the Postal Service to build and establish a system for sanitizing and screening mail matter, to protect postal employees and postal customers from exposure to biohazardous material, and to replace or repair Postal Service facilities destroyed or damaged in New York City as a result of the September 11, 2001, terrorist attacks, $875,000,000, to remain available until September 30, 2003.

CHAPTER 7

INDEPENDENT AGENCIES

ENVIRONMENTAL PROTECTION AGENCY

ENVIRONMENTAL PROGRAMS AND MANAGEMENT

For an additional amount to respond to the September 11, 2001, terrorist attacks on the

United States and to support activities related to countering terrorism, for ''Environmental Programs and Management'', $6,000,000, to remain available until September 30, 2003.

HAZARDOUS SUBSTANCE SUPERFUND

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States and to support activities related to countering terrorism, for ''Hazardous Substance Superfund'', $23,000,000, to remain available until September 30, 2003.

FEDERAL EMERGENCY MANAGEMENT AGENCY

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

(INCLUDING TRANSFER OF FUNDS)

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States and to support activities related to countering terrorism, for ''Emergency Management Planning and Assistance'', $300,000,000, to remain available until September 30, 2003, for programs as authorized by section 33 of the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2201 et seq.): Provided, That up to 5 percent of this amount shall be transferred to ''Salaries and expenses'' for program administration.

GENERAL PROVISION, THIS TITLE

SEC. 101. EMERGENCY DESIGNATION. (a) All amounts appropriated in this title are designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

(b) None of the funds in this title shall be available for obligation unless all of the funds in this title are designated as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, in an official budget request transmitted by the President to the Congress.

TITLE II—ASSISTANCE TO NEW YORK, VIRGINIA, AND PENNSYLVANIA

INDEPENDENT AGENCY

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

For an additional amount for ''Disaster Relief'', $7,500,000,000, to remain available until expended for disaster recovery activities and assistance related to the terrorist attacks in New York, Virginia and Pennsylvania on September 11, 2001: Provided, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Deficit Control Act of 1985, as amended: Provided further, That such amount shall be available only to the extent that an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

GENERAL PROVISION, THIS DIVISION

SEC. 102. Notwithstanding section 257(c) of the Balanced Budget and Emergency Deficit Control Act of 1985, the amount of discretionary budget authority for any account for fiscal year 2003 and subsequent years included in any baseline budget projections made by the Office of Management and Budget or the Congressional Budget Office pursuant to that section shall not reflect any appropriation for fiscal year 2002 provided in this division.

DIVISION D—SPENDING LIMITS AND BUDGETARY ALLOCATIONS FOR FISCAL YEAR 2002

SEC. 101. (a) DISCRETIONARY SPENDING LIMITS.—Section 251(c)(6) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking subparagraph (A) and inserting the following:

''(A) for the discretionary category: $681,441,000,000 in new budget authority and $670,447,000,000 in outlays;''.

(b) REVISED AGGREGATES AND ALLOCATIONS.—Upon the enactment of this section, the chairman of the Committee on the Budget of the House of Representatives and the chairman of the Committee on the Budget of the Senate shall each—

(1) revise the aggregate levels of new budget authority and outlays for fiscal year 2002 set in sections 101(2) and 101(3) of the concurrent resolution on the budget for fiscal year 2002 (H. Con. Res. 83, 107th Congress), to the extent necessary to reflect the revised limits on discretionary budget authority and outlays for fiscal year 2002 provided in subsection (a);

(2) revise allocations under section 302(a) of the Congressional Budget Act of 1974 to the Committee on Appropriations of their respective House as initially set forth in the joint explanatory statement of managers accompanying the conference report on that concurrent resolution, to the extent necessary to reflect the revised limits on discretionary budget authority and outlays for fiscal year 2002 provided in subsection (a); and

(3) publish those revised aggregates and allocations in the Congressional Record.

(c) REPEAL OF SECTION 203 OF BUDGET RESOLUTION FOR FISCAL YEAR 2002.—Section 203 of the concurrent resolution on the budget for fiscal year 2002 (H. Con. Res. 83, 107th Congress) is repealed.

(d) ADJUSTMENTS.—If, for fiscal year 2002, the amount of new budget authority provided in appropriation Acts exceeds the discretionary spending limit on new budget authority for any category due to technical estimates made by the Director of the Office of Management and Budget, the Director shall make an adjustment equal to the amount of the excess, but not to exceed an amount equal to 0.2 percent of the sum of the adjusted discretionary limits on new budget authority for all categories for fiscal year 2002.

SEC. 102. PAY-AS-YOU-GO ADJUSTMENT.—In preparing the final sequestration report for fiscal year 2002 required by section 254(f)(3) of the Balanced Budget and Emergency Deficit Control Act of 1985, the Director of the Office of Management and Budget shall change any balance of direct spending and receipts legislation for fiscal years 2001 and 2002 under section 252 of that Act to zero.

DIVISION E—TECHNICAL CORRECTIONS

SEC. 101. Title VI of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2002 (Public Law 107–76) is amended under the heading ''Food and Drug Administration, Salaries and Expenses'' by striking ''$13,207,000'' and inserting ''$13,357,000''.

SEC. 102. Title IV of the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 2002 (Public Law 107–77) is amended in the third proviso of the first undesignated paragraph under the heading ''Diplomatic and Consular Programs'' by striking ''this heading'' and inserting ''the appropriations accounts within the Administration of Foreign Affairs''.

SEC. 103. Title V of the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 2002 (Public Law 107–77) is amended in the proviso under the heading ''Commission on Ocean Policy'' by striking ''appointment'' and inserting ''the first meeting of the Commission''.

SEC. 104. Section 626(c) of the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 2002 (Public Law 107–77) is amended by striking ''1:00CV03110(ESG)'' and inserting ''1:00CV03110(EGS)''.

SEC. 105. JICARILLA, NEW MEXICO, MUNICIPAL WATER SYSTEM. Public Law 107–66 is amended—

(1) under the heading of ''Title I, Department of Defense—Civil, Department of the Army, Corps of Engineers—Civil, Construction, General''—

(A) by striking ''Provided further, That using $2,500,000 of the funds provided herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to proceed with a final design and initiate construction for the repair and replacement of the Jicarilla Municipal Water System in the town of Dulce, New Mexico:''; and

(B) insert at the end before the period the following: '': Provided further, That using funds provided herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to transfer $2,500,000 to the Secretary of the Interior for the Bureau of Reclamation to proceed with the Jicarilla Municipal Water System in the town of Dulce, New Mexico''; and

(2) under the heading of ''Title II, Department of the Interior, Bureau of Reclamation, Water and Related Resources, (Including the Transfer of Funds)''—

(A) insert at the end before the period the following: '': Provided further, That using $2,500,000 of the funds provided herein, the Secretary of the Interior is directed to proceed with a final design and initiate construction for the repair and replacement of the Jicarilla Municipal Water System in the town of Dulce, New Mexico''.

SEC. 106. (a) Public Law 107–68 is amended by adding at the end the following:

''This Act may be cited as the 'Legislative Branch Appropriations Act, 2002'.''.

(b) The amendment made by subsection (a) shall take effect as if included in the enactment of Public Law 107–68.

SEC. 107. Section 102 of the Legislative Branch Appropriations Act, 2002 (Public Law 107–68) is amended—

(1) in subsection (a), by striking paragraph (1) and redesignating paragraphs (2) through (6) as paragraphs (1) through (5), respectively;

(2) in subsection (g)(1)—

(A) in subparagraph (A), by striking ''subsection (i)(1)(A)'' and inserting ''subsection (h)(1)(A)''; and

(B) in subparagraph (B), by striking ''subsection (i)(1)(B)'' and inserting ''subsection (h)(1)(B)''.

SEC. 108. (a) Section 209 of the Legislative Branch Appropriations Act, 2002 (Public Law 107–68) is amended in the matter amending Public Law 106–173 by striking the quotation marks and period at the end of the new subsection (g) and inserting the following: ''Any reimbursement under this subsection shall be credited to the appropriation, fund, or account used for paying the amounts reimbursed.

''(h) EMPLOYMENT BENEFITS.—

''(1) IN GENERAL.—The Commission shall fix employment benefits for the Director and for additional personnel appointed under section 6(a), in accordance with paragraphs (2) and (3).

''(2) EMPLOYMENT BENEFITS FOR THE DIRECTOR.—

''(A) IN GENERAL.—The Commission shall determine whether or not to treat the Director as a Federal employee for purposes of employment benefits. If the Commission determines that the Director is to be treated as a Federal employee, then he or she is deemed to be an employee as that term is defined by section 2105 of title 5, United States Code, for purposes of chapters 63, 83, 84, 87, 89, and 90 of that title, and is deemed to be an employee for purposes of chapter 81 of that title. If the Commission determines that the Director is not to be treated as a Federal employee for purposes of employment benefits, then the Commission or its administrative support service provider shall establish appropriate alternative employment benefits for the Director. The Commission's determination shall be irrevocable with respect to each individual appointed as Director, and the Commission shall notify the Office of Personnel Management and the Department of Labor of its determination. Notwithstanding the Commission's determination, the Director's service is deemed to be Federal service for purposes of section 8501 of title 5, United States Code.

''(B) DETAILEE SERVING AS DIRECTOR.—Subparagraph (A) shall not apply to a detailee who is serving as Director.

''(3) EMPLOYMENT BENEFITS FOR ADDITIONAL PERSONNEL.—A person appointed to the Commission staff under subsection (b)(2) is deemed to be an employee as that term is defined by section 2105 of title 5, United States Code, for purposes of chapters 63, 83, 84, 87, 89, and 90 of that title, and is deemed to be an employee for purposes of chapter 81 of that title.''.

(b) The amendments made by this section shall take effect as if included in the enactment of the Legislative Branch Appropriations Act, 2002 (Public Law 107–68).

SEC. 109. (a) Notwithstanding any other provision of law, of the funds authorized under section 110 of title 23, United States Code, for fiscal year 2002, $29,542,304 shall be set aside for the project as authorized under title IV of the National Highway System Designation Act of 1995, as amended: Provided, That, if funds authorized under these provisions have been distributed then the amount so specified shall be recalled proportionally from those funds distributed to the States under section 110(b)(4)(A) and (B) of title 23, United States Code.

(b) Notwithstanding any other provision of law, for fiscal year 2002, funds available for environmental streamlining activities under section 104(a)(1)(A) of title 23, United States Code, may include making grants to, or entering into contracts, cooperative agreements, and other transactions, with a Federal agency, State agency, local agency, authority, association nonprofit or for-profit corporation, or institution of higher education.

(c) Notwithstanding any other provision of law, of the funds authorized under section 110 of title 23, United States Code, for fiscal year 2002, and made available for the National motor carrier safety program, $5,896,000 shall be for State commercial driver's license program improvements.

SEC. 110. Notwithstanding any other provision of law, of the amounts appropriated for in fiscal year 2002 for the Research and Special Programs Administration, $3,170,000 of funds provided for research and special programs shall remain available until September 30, 2004; and $22,786,000 of funds provided for the pipeline safety program derived from the pipeline safety fund shall remain available until September 30, 2004.

SEC. 111. Item 1497 in the table contained in section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 312), relating to Alaska, is amended by inserting ''and construct capital improvements to intermodal marine freight and passenger facilities and access thereto'' before ''in Anchorage''.

SEC. 112. Of the funds made available in H.R. 2299, the Fiscal Year 2002 Department of Transportation and Related Agencies Appropriations Act, of funds made available for the Transportation and Community and System Preservation Program, $300,000 shall be for the US–61 Woodville widening project in Mississippi and, of funds made available for the Interstate Maintenance program, $5,000,000 shall be for the City of Renton/Port Quendall, WA project.

SEC. 113. Section 652(c)(1) of Public Law 107–67 is amended by striking ''Section 414(c)'' and inserting ''Section 416(c)''.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

PUBLIC AND INDIAN HOUSING

HOUSING CERTIFICATE FUND

SEC. 114. Of the amounts made available under both this heading and the heading ''Salaries and Expenses'' in title II of Public Law 107–73, not to exceed $20,000,000 shall be for the recordation and liquidation of obligations and deficiencies incurred in prior years in connection with the provision of technical assistance authorized under section 514 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (''section 514''), and for new obligations for such technical assistance: Provided, That of the total amount provided under this heading, not less than $2,000,000 shall be made available from salaries and expenses allocated to the Office of General Counsel and the Office of Multifamily Housing Assistance Restructuring in the Department of Housing and Urban Development: Provided further, That of the total amount provided under this heading, no more than $10,000,000 shall be made available for new obligations for technical assistance under section 514: Provided further, That from amounts made available under this heading, the Inspector General of the Department of Housing and Urban Development (''HUD Inspector General'') shall audit each provision of technical assistance obligated under the requirements of section 514 over the last 4 years: Provided further, That, to the extent the HUD Inspector General determines that the use of any funding for technical assistance does not meet the requirements of section 514, the Secretary of Housing and Urban Development (''Secretary'') shall recapture any such funds: Provided further, That no funds appropriated under title II of Public Law 107–73 and subsequent appropriations acts for the Department of Housing and Urban Development shall be made available for four years to any entity (or any subsequent entity comprised of significantly the same officers) that has been identified as having violated the requirements of section 514 by the HUD Inspector General: Provided further, That, notwithstanding any other provision of law, no funding for technical assistance under section 514 shall be available for carryover from any previous year: Provided further, That the Secretary shall implement the provisions under this heading in a manner that does not accelerate outlays.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. INOUYE. Madam President, on Tuesday of this week the Appropriations Committee met to approve the Department of Defense appropriations bill for fiscal year 2002, by a vote of 29 to zero. I am pleased to present the recommendations to the Senate today, as division A of this bill, H.R. 3338.

I will focus my remarks on division A, the Defense portion of the bill. Later today, Chairman BYRD will describe the provisions of divisions B through E. I want to point out that I support the allocation of $7.4 billion for Defense contained in division B. Prompt action on this measure will ensure that our efforts to fight terrorism are fully supported.

The House passed its version of this bill just last week, so you can see we have acted as expeditiously as possible to bring it to the Senate. I want to note to all my colleagues that this would not have been possible without the tremendous cooperation that I have received from Senator STEVENS and his able staff.

The Defense appropriations bill as recommended by the committee provides a total of $317,623,483,000 in budget authority for mandatory and discretionary programs for the Department of Defense. This amount is $1,923,633,000 below the President's request.

The recommended funding is below the President's request by nearly $2 billion because the Senate has already acted to reallocated $500 million for military construction and $1.2 billion for nuclear energy programs under the jurisdiction of the Energy and Water Subcommittee.

The total discretionary funding recommended in division A of this bill is $317,208,000,000. This is the same amount as the subcommittee's 302B allocation, and the House level.

As such, my colleagues should be advised that any amendment that would seek to add funding to the recommendation would need to be accompanied by an acceptable offset in budget authority.

This measure is fully consistent with the objectives of this administration and the Defense authorization bill which passed the Senate in September and is now in conference. Our staffs have worked in close coordination with the Armed Services Committee to minimize differences between the bills.

In addition, we believe we have accommodated those issues identified by the Senate which would enhance our Nation's Defense while allowing us to stay within the limits of the budget resolution.

Our first priority in this bill is to provide for the quality of life of our men and women in uniform.

In that vein, we have fully funded a 5-percent pay raise for every military member and, as authorized, we recommend additional funding for targeted pay raises for those grades and particular skills which are hard to fill.

We believe these increases will significantly aid our ability to recruit, and perhaps more importantly, retain much needed military personnel.

We have also provided $18.4 billion for health care costs. This is $6.3 billion more than appropriated in FY 2001 and nearly $500 million more than requested by the President.

This funding will ensure that TRICARE costs are fully covered, that our military hospitals receive increased funding to better provide for their patients and, by providing funding for ''TRICARE for life'', we fulfill a commitment made to our retirees over 65. This will ensure that those Americans who were willing to dedicate their lives to the military will have quality health care in their older years.

This is most importantly an issue of fairness; it fulfills the guarantee DOD made to the military when they were on active duty.

We also believe it will signal to those willing to serve today that we will keep our promises. In no small part we see this as another recruiting and retention program.

In title II, the bill provides $106.5 billion for readiness and related programs. This is $9.6 billion more than appropriated for fiscal year 2001. The bill reallocates funding from the Secretary of Defense to the military services for the costs of overseas deployments in the Balkans in the same manner as the Pentagon does for the Middle East deployments.

Through this adjustment and because of other fact of life changes in the Balkans, the committee has identified $600

million in savings to reapply to other critical readiness and investment priorities.

For our investment in weapons and other equipment, the recommendation includes $60.9 billion for procurement, nearly $500 million more than requested by the President. The funding here will continue our efforts to recapitalize our forces, supporting the Army's transformation goals and purchasing much needed aircraft, missiles, and space platforms for the Air Force.

For the Navy, the bill provides full funding for those programs that are on tract and ready to move forward. In some cases, delays in contracting have allowed the subcommittee to recommend reallocating funds for other critical requirements.

Included in that, the committee has recommended $560 million for procurement to support our National Guard and Reserve forces.

In funding for future investment for research and development, the measure recommends $46 billion, a 10-percent increase over the amounts appropriated for fiscal year 2001.

The recommendation mirrors the Senate-passed authorization bill for ballistic missile defense. A total of $7 billion is provided under missile defense programs and an additional $1.3 billion is provided in a separate appropriation for the President to allocate either for missile defense or for counterterrorism.

This is a balanced bill that supports the priorities of the administration and the Senate. In order to cut spending by nearly $2 billion, some difficult decisions were required. The bill reduces funding for several programs that have been delayed or are being reconsidered because of the Secretary's Strategic Review, the Nuclear Posture Review, and the Quadrennial Defense Review.

The bill also makes adjustments that are in line with the reforms championed by the administration.

No. 1, a concerted effort was made at reducing reporting requirements in the bill.

No. 2, the bill also reduces funding for consultants and other related support personnel as authorized by the Senate.

No. 3, as requested, the bill provides $100 million for DOD to make additional progress in modernizing its financial management systems.

Finally, the bill places a cap on legislative liaison personnel which the Secretary of Defense has indicated are excessive.

I would like to take a few minutes to address a couple of items that some press reports have mischaracterized about our recommendations.

First, the committee has reduced funding for the Cooperative Threat Reduction Program by $46,000,000. Let me assure all of my colleagues that I strongly support the intent of this program.

The $356 million that we include for the program will assist the former Soviet Union countries to dismantle and safeguard their nuclear weapons. However, the Defense Department has had a history of being unable to use all of the funding that has been provided to it in a timely fashion.

As a result, at this time, the Pentagon has more than $700 million that it hasn't used yet. That is nearly 2 years worth of funds. In addition, under current law, the authorizers have limited the use of funding for certain activities. Even if this language is changed in the pending Defense conference, the Pentagon has not yet presented a plan for how they will use these funds.

The committee has taken its action without prejudice. We are required to reduce funding in this bill by nearly $2 billion. We simply must make this type of reduction where we know they can't efficiently obligate the funding no matter how much we support the overall objectives of the program.

Second, the bill provides discretionary authority to the Defense Department to lease tankers to replace the aging KC–135 fleet. This is a program that is strongly endorsed by the Air Force as the most cost effective way to replace our tankers.

Despite what has been reported, the language in the bill requires that the lease can only be entered into if the Air Force can show that it will be 10 percent less expensive to lease the aircraft than to purchase them. In addition, it stipulates that the aircraft must be returned to the manufacturer at the end of the lease period.

No business sector has suffered more from the events of September 11 than has our commercial aircraft manufacturers. The tragic events of that day have drastically reduced orders for commercial aircraft. We have been informed that Boeing, for example, will have to lay off approximately 30,000 people as a direct consequence of the terrorist attack.

We have provided funding to support the airlines as a result of that tragedy. We are including funds elsewhere in this bill to help in the recovery in New York and the Pentagon. The leasing authority which we have included in division A allows us to help assist commercial airline manufacturers while also solving a long-term problem for the Air Force.

I strongly endorse this initiative which was crafted by my good friend, Senator STEVENS, with the support of several other members, including Senators CANTWELL, MURRAY, and DURBIN. I believe it deserves the unanimous support of the Senate.

Today is December 6. Nearly one quarter of the fiscal year has passed.

The Defense Department is operating under a continuing resolution which significantly limits its ability to efficiently manage its funding—most particularly, procurement programs.

I don't need to remind any of my colleagues that we have men and women serving half way around the world defending us.

Less than 1 percent of Americans serve in today's military. These few are willing to sacrifice themselves for us. They are willing to stand in harm's way in our behalf. They deserve our support.

Nearly 3 months ago, our Nation was hit by a surprise attack delivered from out of blue. Forty years ago tomorrow we suffered a similar attack.

In 1941, our Nation rose up together and we worked diligently to defeat this threat. I have been gratified to see our Nation come together in the past few months in a similar fashion.

This is the bill, that allows us to act. This is the measure that we need to show our military forces that we support them.

I know there are disagreements among some of us with specific funding levels in the other divisions of this bill. But, we should not let us get bogged down in a partisan squabble over how we pay for the war on terrorism.

We have the Defense bill that is urgently needed to fight and win this war and to demonstrate to the world our resolve.

For the good of the Nation, I urge all my colleagues to look to our objective and to support this measure. Let us take the bill to conference where we can work out an agreement that can be endorsed by the President.

I urge all my colleagues to support this bill.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Madam President, I welcome the opportunity to join Senator INOUYE in presenting the fiscal year 2002 Defense Appropriations Act.

The chairman has just effectively described the bill before the Senate, and I will add only a few comments that I want to make to endorse the presentation that he has made.

This bill before the Senate is a good bill. Section A of the bill Senator INOUYE and I have worked on for some time. Later today it is my intention to offer an amendment in the nature of a substitute. It is amendment No. 2743, substitute for divisions B and C that concern the allocation of funds from the previous emergency supplemental appropriations bill that relate to the September 11 attacks on our Nation.

For the defense portion, there I am referring specifically to section A of the bill before the Senate. I am especially pleased we succeeded in funding the 5-percent pay raise and the $9.5 billion increase in readiness funds in the O&M section of this bill.

Of special importance to me are three initiatives in the bill that will dramatically enhance our national security. First, the bill includes $143 million to continue the multiyear procurement contract for the C–17 airlifter. Our current deployment relies heavily on the C–17 fleet, and this initiative will continue the procurement of that aircraft—now the backbone of our strategy for deployment. As I said, we continue to rely on the C–17 fleet for

our deployment policies of the Department of Defense, and we need as many of those as we can get.

Second, this bill fully accommodates the President's request of $8.3 billion for missile defense programs, and it carries out the conditions set forth in the Defense authorization bill for the allocation of that money.

The successful test earlier this week of the ground-based midcourse interceptor reflects the great progress made in this missile defense program by LTG Ron Kadish and the people in his command. I congratulate them. We are now talking about the ground-based midcourse interceptor program which is a portion of the missile defense program. That is what is in the bill before the Senate.

Third, the bill includes a new provision that authorizes the Secretary of the Air Force to lease 100 new air refueling tankers. If executed by the Department—that is, if these leases are followed through by the Department—these leased aircraft would replace the 136 KC–135E aircraft which are currently in use as air refueling tankers. They average in excess of 41 years of age. I notice the chairman said 42. I am sure he has more updated information than I.

This initiative, as the chairman said, endorsed by the Secretary of the Air Force, has been cleared by CBO as having no budgetary impact in fiscal year 2002.

Earlier this week I answered a question of the press and other Members of the Senate about this provision and told them this bill did not, at that time, specify the aircraft to be procured. Because of the clearance procedure of the CBO, we have now put in the bill a designation that these aircraft to be leased will be the Boeing 767s because there is adequate information upon which we can base the conclusion and really advance the argument that there will be a commercial market for these aircraft at the end of the lease involved.

What I really want to tell the Senate is that this bill reflects countless hours of collaboration by myself and Chairman INOUYE and the members of the committee and our staff. Both my chief of staff, Steve Cortese, and the chief of staff for Senator INOUYE, Charlie Houy, have really put in weekends and hours that cannot even be counted to be sure that this bill before the Senate is what we intend it to be.

Our allocation in this bill was $2 billion less than the President's amended request. The committee allocated additional funds for military construction and defense nuclear weapons programs. Those really are defense, in my judgment. I have supported and advocated the allocations to those programs. But I recognize the pressure everyone is working under to make certain we have an adequate allowance for defense.

I believe the priorities of Members of the Senate, as requested by them to both Senator INOUYE and myself, are reflected in this bill in a balanced and fair fashion. I state to the Senate that if I were still chairman of the Subcommittee on Defense, there really are very few changes I would recommend to the Senate in the bill. I recommend none now because the differences are so minor that they really should not affect the consideration of the bill.

There is, however, a long day ahead of us. It is my hope we can strike a compromise. For that purpose, I will offer the substitute and explain it further after Senator BYRD has presented his statement concerning the Senate amendments as reflected by the bill that has been reported from the full Committee on Appropriations and is before the Senate now.

I do appreciate every consideration that has been extended to me and my staff by Chairman INOUYE and his staff director, Charlie Houy, and the chairman of the full committee and his staff.

I wish I could say I look forward to this debate. At present, I think we are heading toward being in the position of being between a rock and a hard place. I will try to search out a way to move one or the other or both.

Thank you very much.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Madam President, before I suggest the absence of a quorum, I would like to have the RECORD show how pleased the subcommittee is with the initiative offered by Senator STEVENS, the Presiding Officer, and Senator CANTWELL, on the KC–135 leasing program. It took much time and, I would say, much creativity, but I am happy that these great Senators were able to resolve this matter. We find now that a measure that should have been contentious is no longer contentious. I once again thank Senator STEVENS, Senator MURRAY, and Senator CANTWELL.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. CONRAD. Mr. President, I rise to offer for the record the Budget Committee's official scoring of H.R. 3338, the Department of Defense Appropriations Act for Fiscal Year 2002.

H.R. 3338 provides $317.206 billion in nonemergency discretionary budget authority for defense activities and $13 million in nonemergency budget authority for general purpose activities. Those amounts will result in new outlays in 2002 of $213.063 billion. When outlays from prior-year budget authority are taken into account, nonemergency discretionary outlays for the Senate bill total $309.412 billion in 2002.

In addition, the bill includes $35 billion in emergency-designated budget authority. Of that total, $20 billion represents amounts previously authorized by and designated as emergency spending under Public Law 107–38, the Emergency Supplemental Appropriations Act for Recovery from and Response to Attacks on the United States, and $15 billion is for homeland defense. That budget authority will result in new outlays in 2002 of $12.123 billion. In accordance with standard budget practice, the budget committee will adjust the appropriations committee's allocation for emergency spending at the end of conference. Because the funds for homeland security include amounts for nondefense activities, the emergency designation violates section 205 of the budget resolution for fiscal year 2001 (H. Rept. 106–577).

The Senate bill also violates section 302(f) of the Congressional Budget Act of 1974 because it exceeds the subcommittee's Section 302(b) allocation for both budget authority and outlays. Similarly, because the committee's allocation is tied to the current law cap on discretionary spending, H.R. 3338 also violates section 312(b) of the Congressional Budget Act. The bill includes language that raises the cap on discretionary category spending to $681.441 billion in budget authority and $670.447 billion in outlays. However, because that language is not yet law, the budget committee cannot increase the appropriations committee's allocation at this time, putting it in violation of the two points of order.

In addition, by including language that increases the cap on discretionary spending and adjusts the balances on the pay-as-you-go scorecard for 2001 and 2002 to zero, H.R. 3338 also violates section 306 of the Congressional Budget Act. Finally, the bill violates section 311(a)(2)(A) of the Congressional Budget Act by exceeding the spending aggregates assumed in the 2002 budget resolution for fiscal year 2002.

H.R. 3338 violates several budget act points of order; however, it is a good bill that addresses the nation's defense needs, including the defense of our homeland. The President and Congressional leaders from both parties agreed in the wake of the September 11th attack that more money was needed to respond to the terrorists and to protect our homeland. This bill follows that bipartisan agreement and includes language that raises the cap on discretionary spending to the necessary level. I commend Chairman BYRD and subcommittee Chairman INOUYE on their excellent work in bringing this important bill to the Senate floor.

I ask unanimous consent that a table displaying the budget committee scoring of H.R. 3338 be inserted in the RECORD at this point.

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

H.R. 3338, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2002

[Spending comparisons—Senate-Reported Bill (in millions of dollars)]

	General purpose	Defense	Mandatory	Total
Senate-reported bill:				
Budget Authority	13	317,206	282	317,501
Outlays	13	309,399	282	309,694
Senate 302(b) allocation: [1]				
Budget Authority	.....	181,953	282	182,235
Outlays	.....	181,616	282	181,898
House-passed bill:				
Budget Authority	.....	317,207	282	317,489
Outlays	.....	308,873	282	309,155
President's request:				
Budget Authority	.....	319,130	282	319,412
Outlays	.....	310,942	282	311,224
SENATE-REPORTED BILL COMPARED TO:				
Senate 302(b) allocation: [1]				
Budget Authority	13	135,253	.....	135,266
Outlays	13	127,783	.....	127,796
House-passed bill:				
Budget Authority	13	−1	.....	12
Outlays	13	526	.....	539
President's request:				
Budget Authority	13	−1,924	.....	−1,911
Outlays	13	−1,543	.....	−1,530

[1] For enforcement purposes, the budget committee compares the Senate-reported bill to the Senate 302(b) allocation. The subcommittee's allocation reflects the current law cap on discretionary category spending. The Senate-reported bill includes language increasing that cap to $681.441 billion (consistent with the agreement reached between President Bush and Congressional leaders). Because the increase in the cap is not yet law, the committee cannot revise the committee's 302(a) allocation at this time.

Notes: Details may not add to totals due to rounding. Totals adjusted for consistency with scorekeeping conventions. In addition to the amounts shown above, the Senate bill also includes $20 billion in budget authority and $8.25 billion in outlays to respond to the September 11th attack and $15 billion in budget authority and $3.873 billion for homeland security. Such amounts are designated as emergency. The budget committee increases the committee's 302(a) allocation for emergencies when a bill is reported out of conference.

Prepared by SBC Majority Staff, 12–6–01.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, friends, Senators, Americans, lend me your ears. It was just 56 days ago on a day like this day, as clear as the noon day Sun and a cloudless sky, that tragedy struck.

Until September 10 we thought of national defense in terms of the soldiers, sailors, airmen and marines that make up our military. We sought to provide them with the best training and equipment that money could buy, and when duty calls, we expect them to leave behind their families and loved ones to go into harm's way to protect our country and our citizens from aggression.

Our concept of national defense has now been radically altered as a result of the September 11 terrorist attacks. It is not just our military personnel in Afghanistan who are on the front lines, but all Americans here at home are on the front lines. This zone of conflict extends to where we live, where we work, and where we play. Judging by the horrendous loss of life in New York, our own cities are the battlefield of the 21st century.

The President has said that ''we are fighting a two-front war . . . our enemy is fighting an army, not only overseas, but at home.'' Our domestic army against terrorism is made up of those who work to enforce our laws, those who work to secure our borders, those who manage the Public Health Service, and those who provide for the security of our Nation's airports and nuclear facilities. Just as we provide for the finest and most capable military, we must provide for the defense of our homeland because, as I say, here, too, is the front line.

On September 14, the Congress passed a $40 billion emergency supplemental appropriations bill in response to the September 11 attacks on the World Trade Center and the Pentagon. There was absolute bipartisanship. There was no aisle between the parties then.

At the time, we thought we could split those funds between our military needs abroad and those needed to rebuild New York City and the Pentagon. However, since September 14, we have seen a biological attack unleashed on the east coast in the form of anthrax. The specter of small pox has reemerged for the first time in almost 30 years.

The distinguished senior Senator from Alaska and I can remember very well those schooldays when we were vaccinated for smallpox at school. I remember the little two-room schoolhouse there in that ancient coal mining camp of Algonquin in Mercer County, southern West Virginia, in the heart of the coal fields. There it was that I received the needle.

We have seen National Guard troops patrolling the Golden Gate Bridge. We have had threats made against our nuclear facilities. We have gained new information that Osama bin Laden loyalists have progressed further than originally thought in producing chemical and nuclear weapons, and those stories, those headlines appeared in the Washington press. The Administration has issued three vague warnings to the American people urging them to be on a heightened state of alert.

We have learned so much more about our potential vulnerabilities here at home since September 14. We now know that these vulnerabilities must be addressed, and that additional security precautions must be taken.

Of the $40 billion emergency appropriations bill passed on September 14, the President has committed $21 billion to our military and intelligence primarily for needs abroad. That leaves $19 billion for the President to fulfill his promise to provide $20 billion to rebuild New York City and the Pentagon and other areas which were the subject of the terrorist attacks. And the other area is homeland defense, of which he, himself, has identified $6 billion in needs. Clearly, within the confines of that $40 billion package, we cannot do it all.

The reality is that budget deficits are on the horizon as far as the human eye and as far as our computers can see, and certainly as far as the end of the President's second term, if he should choose to run, if the electorate should choose to elect him, and if the Good Lord chooses to let him live.

Under the guise of budgetary discipline, the administration has chosen an arbitrary number—independent of whether or not that amount can provide for our homeland defense needs—and the administration has decided to oppose or to postpone until next year any spending above that line regardless of the need or purpose.

Osama bin Laden does not care one whit, not one snap of the finger, about our budget agreements. His loyalists are not concerned about whether we have a supplemental appropriations bill in the spring. They are plotting attacks right now, this very minute. Twenty-four hours a day they plot. They plot when you are sleeping. They plot when I am sleeping. They will not wait until next year, and if we do not make these small investments now to address our potential vulnerabilities, then we risk substantially larger losses in the future—not just financial and human casualties but also the loss of the American people's confidence in their Government, the American people's confidence in their President, the American people's confidence in their Congress.

We cannot shortchange our homeland defense. We cannot postpone these investments. Our citizens have a right to know that the police, the fire and the hospital personnel in their communities have the equipment, training, and medicine to respond to a terrorist attack.

I have, with the help of my staff and with the help of the witnesses who have appeared before the appropriations subcommittees, crafted a package that addresses our most immediate vulnerabilities at home. This package provides the President's full request for our military operations abroad. We do not cut one penny from defense, defense as understood in the usual sense. We do not cut one penny from the President's promise and our commitment to New York City. Not one penny do we cut. And we provide for homeland defense. That is as much defense as is the defense of our military people who are overseas.

Americans have spilled blood in Afghanistan. Americans have spilled blood in Lower Manhattan, and within our own sight out of the windows Americans have spilled blood at the Pentagon. Is there any difference in the spilling of American blood whether it is overseas or at home, when the cause of that spilling of American blood and that blood itself is on the hands of terrorists?

The major elements of my homeland defense package include bioterrorism prevention and response, which includes food safety.

Our current public health system is ill-funded, fragmented, and unprepared to respond adequately to the threats posed by bioterrorism. The anthrax-laced letters sent through the mail afforded us just a glimpse of the terror, the fear, the concern, the apprehension, that could result from a more serious biological attack involving smallpox or Ebola.

We know that rogue nations like Iraq, Iran, and North Korea are developing biological and chemical weapons. We know that bin Laden loyalists have conducted research on chemical and biological weapons at 40 sites in Afghanistan.

The Administration has proposed $1.6 billion for bioterrorism prevention, just barely enough to increase our supply of smallpox vaccine and other necessary pharmaceuticals alone. To fit into the President's budget request, the Health and Human Services Department even cut back on its repeatedly stated goal of purchasing 300 million small pox vaccine doses, choosing to rely instead on diluted versions of older vaccine doses left over from the 1970s.

The Administration's chief public health expert, the director of the Center for Disease Control and Prevention, Dr. Jeffrey Koplan, indicated that the Administration's proposal is ''too little, too late.''

Moreover, Dr. Koplan estimates that it will take at least $1 billion to bring state and local public health agencies up to speed to be able to recognize and respond to an incident of bioterrorism. Yet, the Administration has proposed a paltry $115 million to increase State and local health capacity. Our proposal includes over $1.3 billion for expanding State and local health capacity, twelve times the President's request.

State and local health departments are considered the weakest link in the Nation's defense against bioterrorism, and experts say they must take a range of steps to improve readiness, including increasing their laboratory capacity and hiring more epidemiologists to track disease.

The Secretary of HHS, Tommy Thompson, when he appeared before our appropriations subcommittee to speak about protecting the American people from an outbreak of smallpox, said every State should have at least one epidemiologist. Experts say they must take a range of steps to improve readiness, increasing their laboratory capacity and hiring more epidemiologists to track disease. Who will be the first to respond to a biological attack, the State and local health officials down in Beckley, WV, the local law enforcement officers at Sophia, population 1,182?

These are the people who will be first. The Feds may come within 6 hours, 8 hours, or 10 hours, but those who will respond first are those law enforcement and health officials, fire department people who are there on the spot. They will be the first to die, and they will be the first to act to prevent others from dying.

Fewer than half of these health departments have access to the modern fax machines capable of expeditiously alerting hospitals of a bioterror threat. Our local health care providers are more likely to receive critical health advisories from CNN than they are from other health care officials.

My homeland security package would provide an additional $3.9 billion to not only expand the development of the Federal pharmaceutical stockpile and our supply of the smallpox vaccine, but also to expand state and local health care capacity. In contrast to the administration's funding proposal, this package prioritizes funding to ''first responders'' at the state and local level. The bulk of the funding is directed toward improving our public health departments, beefing up local lab capacity, and expanding the Health Alert Network.

Also, included in my homeland security package is $575 million that would be directed to the Food and Drug Administration, and the Department of Agriculture, to help prevent and respond to the malicious introduction of a highly contagious disease into our food supply. Aside from the obvious health threat, agro-terrorism would severely disrupt the economy and public confidence in the food supply.

We have to be conscious of the possibility that terrorists will act against our crops, against the Nation's livestock and threaten the lives of people through the food they eat.

We need only look to the recent outbreak of mad cow disease in Japan to see the chaos and economic devastation that would follow an agro-terrorist attack. I doubt many Americans would find comfort in the fact that the FDA only has the resources to inspect 0.7 percent of all imported food. Not 1 percent, only 0.7 of 1 percent. The FDA only has the resources to inspect 0.7 percent of all imported food.

When it comes to the health and safety of the American people, we cannot afford to cut corners. We cannot afford to gamble. We cannot afford to tempt fate. We must not deal with bioterrorism on the cheap.

Mr. SARBANES. Will the Senator yield?

Mr. BYRD. I am happy to yield.

Mr. SARBANES. I add the observation, we cannot afford to wait, either. Every one of the items—and I commend the Senator for his extraordinary leadership and initiative in this regard—every one of the items covered by his homeland defense program are matters we should address now, today, this week, this month.

They cry out for a commitment of resources to address airport security, port security, border security, the postal system, the assistance to State and local antiterrorism law enforcement, the firefighters, bioterrorism prevention, and protecting the nuclear powerplants. And in every one of these items, there is not a one of them we can look at and say, let's leave that; we will do that later; there is not a pressing need.

There is a pressing need now for every one of these items. I commend the Senator for moving forward with this initiative. Governor Ridge himself has said he will come in next year and ask for significant resources. But he needs them now. My perception is that Governor Ridge is being undercut in his effort to deal with homeland security by the fact that he is not picking up the additional resources he needs in order to go out into these communities—State and local governments, the health community, the security community—and say, we are in a position now to help move your program, and move it ahead. Much of this requires a response from others. If we don't provide the resources here with which to do it, when is it going to happen? We are going to delay it, 60, 90, 120 days? Who knows how long.

This is an opportunity, as the Senator has seen, to move now to address these pressing concerns. If we want to move the economy back up, a way to do it is to provide to the American people a sense of security and functioning within their own homeland, which the Senator has done, and about which he has spoken quite eloquently.

I register my very strong support for this initiative and thank the Senator for, once again, moving forward to provide very important leadership in this critical matter facing our Nation.

Mr. BYRD. Mr. President, the Scriptures say that a word fitly spoken is like apples of gold and pictures of silver. The words of the distinguished Senator from Maryland are fitly spoken.

The time is now. The danger is here. It is now.

Now, several subcommittees under the Appropriations Committee have had hearings, and I have been able to attend some of those hearings. We have heard eloquent witnesses appear before those subcommittees and testify to the need of appropriations now, aside from the fact that it is at the State and local levels where the need exists now.

I saw in the paper, I believe in the last week, a headline that the State of Virginia was suffering a $1 billion shortfall in State revenue. The State of Virginia is not alone in that respect. Most States in this country are suffering shortfalls in their budgets. They need help. They need money now. We cannot wait, as the distinguished Senator from Maryland has said.

In putting this package together, we have tried to consider those items which are purely for homeland defense.

On the question of the need of States and cities for Federal aid, 39 States—get this, 39 States—today, right now, nearly 4 out of 5 States, are in a recession or near a recession. Since March, the number of States in recession has nearly doubled to 20 States from 11 States with the terrorist attacks of September 11 helping to push some over the brink.

I will refer to this statement of facts again later.

I thank the distinguished Senator from Maryland. He is right on point.

My homeland security package also contains $1 billion for Federal, State, and local law enforcement. The attacks of September 11 dramatically, and tragically demonstrated that our country's law enforcement agencies need greater support to counter the terrorist violence that has reached our shores.

They need this support and, as we have already indicated, the States cannot provide it. The money is not there.

They are already running into deficit, so they are looking to the Federal Government to help.

Of the $1 billion included in this package, $225 million would be used to improve communication and coordination between the FBI and the 43 Federal agencies involved in counterterrorism activities here at home.

Former drug czar Barry McCaffrey testified before the Senate Governmental Affairs Committee in October that the FBI's computers are woefully inadequate—those were his words, the FBI's computers are ''woefully inadequate''—and that the computers in the homes of most Americans are more advanced than those used by FBI agents in the field. Think of that.

He also stated that a current FBI's computer upgrades effort is hampered by budgetary constraints. This $225 million that is included in this red section of the pie chart would jump-start those upgrades and move the Bureau's technology into the 21st century.

I see the distinguished Senator from New York, Mr. SCHUMER, on the floor. He is listening raptly. He has indicated that he wishes to make a point. I yield for that purpose.

Mr. SCHUMER. I thank the Senator, our leader from West Virginia, for the package he has put together. As somebody who chairs a subcommittee that oversees the FBI, I would like to say to the Senator from West Virginia that when the FBI came and testified before us, and the Senator from West Virginia asked them what their No. 1 hinderance was in fighting the war on terrorism, they said it was lack of resources. Their computers —I would just like to ask the Senator if he is familiar with this—in one part of the FBI cannot talk to the computers in the other part of the FBI, let alone talk to the computers of the CIA, the NSA, the INS, the ATF, and all of the other agencies.

I would like, before asking the question, to compliment the Senator. This is desperately needed. We are at war on our homefront as much as we are at war in Afghanistan. I think it was Vice President CHENEY who said we will lose more people on the homefront than on the battlefront. So I cannot see why we would not do this when our own people throughout America are at risk.

But I would like to ask the Senator if he has heard of this almost primitive computer structure at the FBI—that the computers are not able to talk to one another within the agency, let alone to others? And would the package deal with that problem in every way that the FBI might need?

Mr. BYRD. There is $225 million in this package to jump-start the effort to upgrade those computers. They are the instruments of communication between and among the FBI and the other agencies. It is a dire need, and it should be met now, not next spring.

Mr. SCHUMER. Will the Senator yield for another question?

Mr. BYRD. Yes.

Mr. SCHUMER. If we waited until next spring, could it be that the potential of our FBI to catch the terrorists or prevent the next—God forbid—terrorist incident from occurring in America would be greatly downgraded and it would increase the chances that—again, God forbid—some other incident might occur?

Mr. BYRD. The Senator is correct. Why wait? Why toy with ''wait''? Why gamble? Why not act now?

The Senator knows we have wrapped a ribbon around this homeland defense package which says, in essence: Mr. President, you may use this or you may not use it. So we have an emergency designation. It is an emergency, Mr. President, and you have the key. You have the key. So it is your call, but here are the tools. If you need them, you won't have to wait until next spring.

The thing about waiting until next spring is we are really waiting until next summer or next autumn because the supplemental request doesn't come up on one day and end up being signed by the President on the next day; there have to be hearings and so on.

We have had the hearings now that indicated a dire need for these emergency items. So we are putting this ribbon, this blue ribbon that says emergency, E-M-E-R-G-E-N-C-Y, on it. Why? Of what are we afraid? Why don't we want the President to have this so he can carry out his commitment to protect the American people from the attacks of terrorism? He made that promise.

Mr. SCHUMER. I thank the Senator.

Mr. BYRD. I thank the Senator.

I also included $150 million in this package for cyber security. It is alarming to know that the next terrorist attack could cripple our Nation's economy simply by a few strokes of the keyboard. Cyber-attacks have cost our economy $12 billion this year alone. Just imagine the frightening consequences if a cyber-terrorist were to take control of one of our financial institutions, or to take control of one of our power grids, or to take control of our air traffic control system. That can happen.

Of the $1 billion included for antiterrorism law enforcement, one-half, or $500 million, would be directed to State and local law enforcement agencies. This is where the rubber meets the road in law enforcement.

State and local police departments are stretched thin enough, due to the need for an increased security presence throughout our cities and States. Twelve-hour days and overtime pay for State and local law enforcement personnel have become the norm since September 11. Right here in this city, in the capital city here around this Capitol Building, this building which is the most splendid edifice in the world, this has happened. It is taking place here: 12-hour days, overtime pay for State and local law enforcement personnel. The Office of Homeland Security has asked State police to increase their patrols of State nuclear facilities, without any Federal compensation or timetable for how long state assistance will be needed. Meanwhile, the activation of 57,000 National Guard and Reservists to support the Armed Services during our operations in Afghanistan and our counter-terrorism activities here at home has drained the manpower of many State and local police departments.

According to the National Governors' Association, State police patrols of our nuclear facilities will cost States an extra $58 million this year. It will cost another $46 million to secure our dams and bridges, $28 million to protect gas pipelines and power stations, and $75 million to assist Federal authorities with patrolling our borders.

Who makes up the National Guard? If I am wrong, I would like someone to point it out to me. Do doctors serve in the National Guard? Do policemen? Do law enforcement personnel? Do paramedics at the homefront and at the local level serve in the National Guard? Then why should we take those men and women away from the local level where they are most needed and where they will be the first to answer the call and send them up there to the northern border to patrol the border? What sense does that make? We need to keep them at home.

According to the U.S. Conference of Mayors, Los Angeles has spent more than $11 million so far due to increased security costs and lost revenue related to the September 11 terrorist attacks. The city's police and fire department deficits have doubled.

In Boston, Mayor Thomas Menino must now pay $20,000 in additional security costs every time a tanker enters his port carrying liquefied natural gas, and 42 tankers are on the way. Police overtime expenses alone in Boston so far total about $700,000.

Denver Mayor Wellington Webb is facing a long list of emergency needs, including biohazard-decontamination units, protective suits, bigger stores of antibiotics and drugs, special cameras, an anthrax detector, and a preparedness guide for every household that will cost in total $610,000.

In Baltimore, Mayor Martin O'Malley spent $2 million in overtime for police and fire departments in the first three days following Sept. 11. By year's end the added security costs are expected to hit $14 million.

Security costs in Dallas have passed $2 million and could reach $6 million by the end of the year.

At a time when our State and local governments are cutting budgets due to the recession, our State and local law enforcement need our support, and they need it now.

Ms. STABENOW. Mr. President, will the distinguished Senator yield for a moment?

Mr. BYRD. Mr. President, I am happy to yield to the distinguished Senator.

Ms. STABENOW. Thank you, very much.

As a Senator from Michigan, I wanted to rise to agree totally with what Senator BYRD is saying today about the pressure on our northern borders and our law enforcement officials who are now donating overtime on the borders. In Michigan, we have four different border crossings. We have the busiest bridge in the country through Detroit. We are stretching our local law enforcement to the limit, and we are using our National Guard as well. But we certainly have tremendous pressures on us.

I wanted to congratulate the Senator from West Virginia for what he is proposing.

I also wanted to quote for the RECORD part of an article that was in the Detroit Free Press, entitled ''State's Health Care System Unready for Major Bio-Terror.''

It says:

The call came late the evening of Oct. 25 to the top health officer for two Upper Peninsula counties.

Dr. John Petrawsky was told that a woman who had exhibited only mild cold symptoms the previous day had died. Her relatives said she had received a stranger letter with powder in it the week before.

Was this anthrax?

A pathologist at Marquette General Hospital refused to do an autopsy, fearing his facility couldn't contain lethal bacteria. No one at the state Department of Community Health in Lansing knew where the nearest properly ventilated autopsy room might be, Petrasky said.

Finally, a pathologist tracked down by the U.S. Centers for Disease Control and Prevention advised doing a limited autopsy. The Marquette doctor agreed, and 19 hours later, Petrasky had his answer: It wasn't anthrax. The woman had died of something completely unrelated, and the crisis was averted.

Or was it?

In the weeks since Sept. 11, many Michigan hospitals and public health agencies are realizing how ill-prepared they are for biological or chemical warfare. Many hospitals lack proper decontamination and laboratory facilities. Public health departments are strapped by low staffing levels and inadequate communication between the departments and the state. Doctors are learning they may not know how to spot rarely diagnosed diseases like anthrax.

After years of hospitals and public health departments being pushed to run lean, some say what's left is a system that can be overburdened by a bad flu season.

''We don't have enough beds. We don't have enough nurses.''

This is a very serious situation.

I cannot imagine a greater urgency.

I wanted to thank the Senator for his leadership on this issue.

I cannot imagine why we would not be coming together 100 Members strong in this Senate. We understand more than anyone else, given what has happened in our own complex with anthrax and the difficulties and challenges of finding out how to respond to it. We can only imagine how small communities in northern Michigan are struggling when they believe they may have, in fact, encountered something related to bioterrorism.

I congratulate the Senator from West Virginia. There is a tremendous sense of urgency in my State of Michigan and around the country. People assume we are acting. We are acting together in the defense of our country overseas. It is now time to act in defense of our homeland.

That is what the Senator from West Virginia is proposing, and I am hopeful that our Senate colleagues will join in supporting the plan that he has put forward, and which is so needed for all of our families.

Mr. BYRD. Mr. President, I thank the very distinguished and able Senator from Michigan for her cogent, very persuasive and forceful remarks, and for the observations she has made with respect to the needs of those at the local level who bear a responsibility to detect and to respond in the first instance to acts of terrorism on the part of those who have said to us: We will kill Americans.

As to the FEMA firefighters program, many people are just now beginning to appreciate the critical role played by our Nation's firefighters. We have taken these heroes for granted and, tragically, they have been denied the funding resources necessary to enable them to do their job as safely and effectively as possible. Their job is to protect people—men, women, old people, children. That is the job of these firefighters.

Last year, Congress took action to begin to address this provision by creating a new Federal program to provide direct assistance to fire departments.

Administered by the Federal Emergency Management Agency, the Assistance to Firefighters Grant Program received an initial appropriation of $100 million, which was quickly depleted by tremendous demand. The agency received more than 31,000 applications totaling nearly $3 billion in requested funds—almost 30 times the amount appropriated.

This package includes $300 million in grants to State and local communities to expand and improve firefighting programs through FEMA firefighting grants. Over 50 percent of that funding goes to volunteer fire departments in rural communities.

Some rural communities in this country are using fire wagons, firefighting machines, and fire trucks that are 20, 30, or 40 years old. In the countryside, the volunteer fire department is the first and only entity available to deal with a crisis.

Now, we have heard much about the letters that have come to the Senate leader, Senator DASCHLE, and to the Senator from Vermont, Mr. LEAHY, and to some other Americans. So today the American people are victims of terrorism by mail, delivered to your home, brought to your street address. We will deliver it, packaged, ready to kill.

This is not something that might happen sometime in the future; it is happening now. I do not like for my wife to go to the mailbox. Who knows. There could be an envelope in that mailbox that could have some deadly pathogen enclosed. It could be your wife. It could be your daughter, your father, your husband. This is real.

How do we know? I know. My staff has not been in their offices since October 15. That is how I know. We are located in the southeast corner of the Hart Building. How many letters have I received since October 15 from my constituents, who send me here to vote to protect them and to protect their interests? How many letters have I received? Twelve. We received 12 yesterday, 12 letters. It is real.

And we seek to protect ourselves. We have fumigated the offices. We have taken action to decontaminate the offices so that our people can move back into those offices. Action has been taken to clear the streets nearby while these things have been going on to decontaminate our offices.

How about the people on Main Street in Sophia, are they being protected? Oh, it is easy to say to our people: Go about your business. Everything is OK. Get out there and go to the stores, go to the movies, go to the restaurants, buy, buy, buy. It is easy to say that. It is easy for me to say: Come to West Virginia. We want to build up our tourism in West Virginia. Come to see West Virginia. Come to see Washington. I can say that, can't I?

Why? I have much in the way of protection here, and so does every other Senator. The President pro tempore has security—takes him home with him at night, brings him to the office in the morning, stays in the office daily, stands outside the office, ready to protect the President pro tempore against all comers.

The President goes in Air Force One, the Vice President goes in Air Force Two, other people high in the Government have protection.

Out here we have concrete barriers. You cannot get into this Capitol without being carefully scrutinized and having your pocketbooks opened and your packages carefully inspected. We are protected. We live in this little, tiny bit of the world.

The worm crawled upon the clod, and the worm said: Aha, I see the world.

The squirrel climbed the tallest pine in the southern hills, and he looked about him and he said: Aho, I see the world.

The eagle—the national emblem of our country, the eagle—flew high above the Earth into the blue heavens and said: Ho-ho, I see the world.

So we see the world in our own little corner here. I feel safe—fairly safe—because of all these protections here. But we do not see the world as that miner or that farmer, that office worker, that professional, that lawyer, that minister, the housewives, the schoolteachers out in the rural areas of the country or who are out in the greater urban cities.

We do not see things as they see them. They do not have Secret Service

to protect them where they go. They do not have security personnel to protect them, as I have. They do not have the concrete barriers out there. They do not have the physician just 2 minutes away from my office. They live in a different world.

Why can't we see it through their eyes? Why can't we take off the green eyeshades and see the world as our people see it—the people out there who are subject to these terrorists, who run these risks every day, those who come into Penn Station in New York. Seven hundred fifty trains every day come into that station—500,000 persons: Commuters, tourists, people on their way to work—500,000 every day. Can they see the world through our eyes?

They come in the tunnels, tunnels that were built before World War I, tunnels that are inadequately lighted, inadequately protected, and without adequate means of access—ingress and egress—without adequate escape routes, without adequate ventilation. Those are the tunnels.

Those people face these potential terrorist acts every day, going to work, coming from work, wanting to do no more than just earn an honest living, earn their daily bread by the sweat of their brow. They need protection. Who are we to deny it to them? Fie on us. We know the need is there. And we know it is our responsibility to provide it. And we are doing it. We are doing it in the package here that has a little blue ribbon around it that says: Mr. President, you can spend this. It is here. You do not have to spend it, but here it is—right now, tonight —if you need it to protect the people.

That first phrase in the preamble to the Constitution of the United States says: ''We the People of the United States, in Order to form a more perfect Union. . . .'' That is not talking about an aisle that separates one party from the other. That is not talking about in order to form more perfect political parties —''a more perfect Union.'' And now is the time when we should do our part to form that ''more perfect Union'' right here in this Senate and join together and vote together to support this eminently sensible package.

The U.S. Postal Service is a $70 billion organization, and it is part of a $900 billion industry. It has seen mail volume drop by 7 percent since September 11 and lost between $200 million and $300 million in revenue. The Postal Service reported a $1.7 billion loss in fiscal year 2001—on top of $200 million in losses last year.

The Postal Service has asked for $3 billion to cover the cost of equipment to safeguard the mail. In response, the administration has provided $175 million so that the Postal Service can buy gloves and masks for now and has promised more money later. It is almost laughable, if it were not so serious.

That is not enough money for the Postal Service to deal with this crisis that is happening right now. Here it is. The words read ''postal security, $875 million.''

This package provides an additional $875 million to begin to make the security changes necessary to keep the mail moving and to allow the Postal Service to respond immediately to this and future terrorist attacks.

How little did I imagine, when I came to this great institution, the legislative branch, 50 years ago next year, how little did I realize that there would come a day when our mail would have to be screened, when I, as an elected representative of the people of West Virginia, would see my staff forced to evacuate the U.S. Senate office building in which they were located? How little did I foresee that the time would come when, over this long period of time since September 11, only 12 letters would reach my office from my constituents, and only yesterday did the 12 letters come. I never dreamed of such a thing, never dreamed of it.

Yes, I was there in the House of Representatives when the Puerto Ricans, who were in the galleries, shot Members of the House who ran for the doors, who fell behind the desks, and who fell in the center of the floor of the House of Representatives, wounded. Not until then did they require that Members have cards that they could present to the galleries. I sat there tongue-tied as I watched. I thought it was a group of demonstrators using firecrackers or some such until I saw Members fall.

Little did I know at that time that the day would come when this deadly anthrax would be delivered right to our building, right to our doors, the office doors, right to the desks of the workers. I never thought about that. But we know it now.

Our border security is dangerously underfunded. It leaks like a sieve. Right now, today, the Immigration and Naturalization Service conducts some 500 million inspections at our ports of entry every year. Yet there are only 4,775 INS inspectors to process these hundreds of millions of visitors. That is one inspector—just one—for roughly every 100,000 foreign nationals who cross the Nation's borders.

There are only 2,000 INS investigators and intelligence agents to track aliens who have entered this country illegally, overstayed their visas, or otherwise violated the terms of their status as visitors in the United States. That is one—just one —investigator for every 4,000 illegal aliens.

The U.S. Customs Service currently has the resources to inspect only about one-third of the truck cargo crossing the southern border. And of the 400 ships that dock in the 361 ports of this country, only about 2 percent of the cargo is inspected.

On our northern border with Canada, the Immigration and Naturalization Service currently has 498 inspectors at ports of entry and 334 Border Patrol agents assigned to the northern border. That is a 4,000-mile-long border. So that equates to about one INS inspector for every 8 miles and one patrol agent for every 12 miles of the 4,000-mile-long northern border.

Of the 113 northern border ports of entry, there are 62—more than half—62 small ports that do not operate on a 24-hour basis. Just imagine pulling up to one of those 62 ports of entry along the northern border where we don't have agents 24 hours at a time. There you will see a sign that says ''stay out.'' There you will see a yellow cone—not a person, not an INS agent, not a Customs agent but a yellow cone. It is open some hours of the day when there is nobody there during certain times of the day.

This week the Attorney General announced an emergency program to place National Guard troops on the northern border. A Justice Department official stated that ''it is a great vulnerability that needs to be dealt with immediately.''

This package reads, ''border security, $591 million,'' for additional Border Patrol agents and screening facilities primarily on the northern border. We must provide the funds and we must do so now.

I spoke a moment ago about our seaports, our lack of adequate port security. Our seaports are perhaps the weakest link in our national security. Yet they are just as important to our border security as are our land borders with Canada and Mexico. And yet they remain dangerously exposed. Ports are international boundaries through which 95 percent of U.S. international trade arrives.

Last year, we imported 5.5 million trailer truck loads of cargo. Yet the U.S. Customs Service has the resources to inspect only 2 percent of the cargo that enters this country by sea.

As we were preparing this package in my office, Senator HOLLINGS raised the warning sign: The need for money to be used for security of our ports.

With only 2 percent of the cargo that enters the country by sea being inspected, that means a terrorist would have a 98-percent chance of sneaking illegal and dangerous materials into this country. So our chances are 2 out of 100. The terrorists' chances are 98. So it is 98 to 2 percent.

The average shipping container measures 8 feet by 48 feet and can hold 60,000 pounds. That is just the average. A bulk ship or tanker transporting cargo can hold hundreds of times the amount of explosives or other dangerous materials that could ever be smuggled on an airplane or a truck crossing a land border. While agents at the U.S.-Mexican border are tearing the seats out of a car to search for drugs, a crane just up the coast a little ways in Los Angeles can lift thousands of truck-size cargo containers on to the dock with no inspection at all.

I remind my distinguished colleagues that Osama bin Laden has vast shipping interests which he used to transport and sneak into Kenya and Tanzania the explosives used in the U.S. Embassy bombings.

Last month, a suspected member of the al-Qaida terrorist network was arrested in Italy after he tried to stow away in a shipping container heading to Toronto. The container was furnished with a bed, a toilet, and its own power source—how about that, its own power source—to operate the heater and to recharge the batteries. That terrorist was ready, he was prepared. According to the Toronto Sun, the man also had a global satellite telephone, a regular cell phone, a laptop computer, cameras, identity documents, an airline mechanics certificate, and airport security passes for airports in Canada, Thailand, and Egypt. He had thought of everything. This incident only expands what type of cargo we must be looking for at our Nation's ports.

The danger is here, and it is now, and it is not waiting until next year's supplemental to cross the desk of the President along about the middle of July or August.

Nuclear powerplants: In just the past few days, I can recall seeing headlines in the Washington press about the dangers to our nuclear plants in this country.

I have on the chart a map of the United States showing where the nuclear power reactors are, in the red cone, and where the nonpower reactors are. They are the reactors that are used for educational and research purposes. They do not produce power. The weapons complexes are shown by the green dots. The nuclear reactors are shown by the red cones. The nonpower reactors are shown by the blue squares.

There are 19 States in this country that have no nuclear plants, that have no power-producing reactors. There it is.

Mr. President, nearly every facet of daily life that was America prior to September 11 must now be regarded in a new light. We have to climb upward from the worm's clod, upward from the squirrel's tree. We have to go above the eagle's flights to see the world as it is and as the people out there who sent us here see the world, not through green eyeshades. But they see it every day.

Nearly every facet of daily life must now be regarded in a new and different light. The face of our enemy has become increasingly clear in recent weeks. He is an enemy who will live among us. He is an enemy who will enjoy our generosity and the blessings of our freedoms. Then he will callously turn all of these against us.

This is an enemy with no fear of death. None. He will count it an honor to die, to kill Americans and to die in the act. He will be immediately entered into paradise. They have no fear and apparently little regard for life. This is the enemy of our nuclear nightmares.

According to the Washington Post of December 4, U.S. intelligence has compiled credible information that Osama bin Laden and his al-Qaida terrorist network have taken several disconcerting steps toward developing radiological weapons. The Post reported that bin Laden and his loyalists ''may have made greater strides than previously thought toward obtaining plans or materials to make a crude radiological weapon that would use conventional explosives to spread radioactivity over a wide area, according to U.S. and foreign sources.''

There you have it. Now we are being warned. In fact, the Post relayed a discomforting description of a meeting within the last year in which ''bin Laden was present when one of his associates produced a canister that allegedly contained radioactive material. The associate waved the canister in the air''—as one would wave an aerosol air spray. Ha, here it is; I have it; eureka—''The associate waved the canister in the air as proof of al-Qaida's progress and seriousness in trying to build a nuclear device.''

Most young Americans have never known the fears of nuclear war that once haunted their parents and grandparents. They have never had to hunch under their school desks in nuclear drills or stock the family fallout shelter with jugs of water or cans of food in preparation for attack. We of our generation have seen these things. And while, to date, we have seen no evidence that bin Laden has the capability to deliver a nuclear warhead, he has made clear his intention to acquire such technology, and it is increasingly evident that he may well possess and be prepared to use a crude version known as a ''dirty'' bomb.

Clearly, he is well positioned to possess such a weapon and the makings of such a device are pitifully easy to acquire.

The key ingredient is radiological material, which exists in abundance in Russia, just next door to Afghanistan, and right here in our own country at nuclear power plants and research facilities. While we would like to believe that such material is closely guarded, the United Nations' International Atomic Energy Agency has confirmed 376 cases of illicit sales of stolen radioactive materials since 1993. That was in USA Today, November 3, 2001.

Although a dirty bomb does not have the kind of massive explosion that destroys broad areas, the detonation of such a weapon would have devastating consequences. Some experts have estimated that a single such bomb could cause 100,000 casualties within a 3-mile radius in an urban area, and render it uninhabitable for years, if not decades.

If we Senators think we have been terribly put out by the evacuation of our staffs from the southeast corner of the Hart Building—and my staff falls into that category—if we think that is bad, let the terrorists find some way—remember, bin Laden does not count his life as anything. He will gladly consider it an honor to lay down his life, not for his friend, as the Scriptures say, but to kill Americans. He would count it an honor.

Remember, they have shown they can deliver catastrophe, disaster. They can guide a plane into each of two world towers. They can demolish them. They can kill thousands of people. We need not ponder as to whether or not they could find a way to deliver this dirty bomb which, if exploded on The Mall in Washington, would render the buildings around The Mall uninhabitable. And if the wind were coming our way, it would do the same with the Capitol, and the people at the White House would not be at the White House any longer. They would have to go to ''undisclosed locations.'' For a month? For a year? For a decade? Picture that. What about the fear that would spread throughout the country?

It was in 1991—10 years ago recognizing the potential for the vast number of Russian nuclear weapons to fall into the wrong hands, that the Congress created the Nunn-Lugar Program to eliminate Russian nuclear weapons in a safe and secure manner. The budget for this program has been cut back for each of the last 3 years, but not because Russian nuclear weapons are now secure. In fact, in January 2001, a panel headed by former Senator Howard Baker and former White House Counsel Lloyd Cutler found that the threat of terrorists getting their hands on Russian nuclear weapons is the most urgent unmet national security threat to the United States today. Clearly that threat remains. My homeland defense package provides $286 million for nuclear nonproliferation programs that would help to get at these unabated sources of nuclear material abroad.

Moreover, my package contains $215 million to help secure nuclear facilities on our own shores, and to peacefully engage these 60,000 nuclear specialists in Russia not employed now that the Soviet Union has broken up.

It has taken decades of public relations and education to begin to ease the discomfort once prevalent among communities asked to house nuclear energy facilities. Even now, though the Nation boasts 104 nuclear power reactors, many Americans are unsettled at the thought of having such a nuclear neighbor.

Today, through long years of safe operations, nuclear power is a significant player in the international power generation game, and it is an important part of America's overall energy mix.

(Mr. DAYTON assumed the Chair.)

Mr. KENNEDY. Will the Senator yield for a question now or sometime later in his presentation, whatever would be agreeable? There are some questions in particular on Nunn-Lugar I am interested in addressing to the Senator as it applies to the whole issue of bioterrorism. But I am glad to wait, if he desires, to inquire of him after he has some additional time for his presentation.

Mr. BYRD. If I may continue for another minute or two, I will be happy to yield.

Mr. KENNEDY. I thank the Senator.

To keep it that way, nuclear power companies and the NRC recognize the need to reassure the public that their plants are secure—not only secure in the sense of the pre-September 11 world, but also impervious in the post-September 11 world. That may be one tough job.

Nuclear plants, though built to tough standards, were not designed to withstand the impact of a commercial jetliner. But what is really disturbing may be that, even though the plants have been designed with a goal of stopping an assault on land—something along the lines of well-armed intruders in heavy trucks or SUVs storming the plant—their tested security performance is surprisingly poor.

In fact, according to another recent article in The Washington Post though the plants are always warned in advance about the NRC's tests, which involve mock assaults by actor-intruders, 47 percent have revealed ''significant weaknesses'' in their security forces—significant being something in the realm of an American Chernobyl.

There are, however, other less well-publicized security problems at our nuclear facilities that need attention now.

Questions about just who is employed in our nuclear program in this country are begging to be addressed. The Los Alamos Laboratory scandal provided a mere glimpse of the security challenges confronting a field whose payrolls are thick with foreign-born employees, and a nation that has long provided educations to foreign students seeking to build careers in such fields as nuclear physics.

Moreover, in response to concerns about ''dirty'' bombs, many industry critics are currently looking with renewed concern at the 40,000 tons of spent fuel stored at operating and shut down plants in our own country. These radioactive pools, housed in standard concrete or corrugated buildings, have never been the focus of NRC security tests. The Union of Concerned Scientists reportedly refers to these buildings as ''Kmarts without neon.'' To a determined terrorist, they are thrift stores of bomb-making material.

NRC Chairman Richard A. Meserve, conservatively referring to the events of September 11 as ''a wake-up call,'' conceded that the terrorist acts have changed the agency's attitude about ''reasonably foreseeable'' threats, and ordered a ''top to bottom'' review of security rules. But whatever the outcome of the review, action is needed sooner rather than later.

The plants have already been placed on high-alert. Defenses have been bolstered on land, in the air, and on nearby waterways. Patrols of local police, as well as private security businesses and even some National Guardsmen, have been stepped up. All of these measures are costly. And a new review of our nuclear plants under the lens of terrorism potential is sure to identify additional security risks and recommend additional security measures.

Make no mistake about it, our overdependence on foreign fuels, particularly from lands where political tensions run high, is a vulnerability waiting to be exploited. If our energy grid is dismantled, if our power plants are attacked, if our nuclear advances are pirated and turned against us, America will feel the shockwaves. Moreover, if our nuclear plants are assaulted, if they can be made into weapons in our own backyard, the confidence of the public so carefully nurtured by the nuclear industry in recent years would be destroyed. It would be a heavy blow to our Nation's energy security.

I am happy to yield to the distinguished senior Senator from the State of Massachusetts, if he so desires.

Mr. KENNEDY. Thank you very much, Senator.

In reviewing the content of your proposal, I would like to ask a question. We believe as a Congress and as the Senate of the American people in giving the full support we can possibly give to the men and women fighting in Afghanistan—supporting their efforts with the best equipment, the best technology, the best leadership, and the best training. We have had good discussions and debates over a period of time as to how that can and should be done. I don't know if the Senator was there when we had the Secretary of Defense briefing Members of the Senate. He was asked specifically: Was there more to do?

His response was: We will have a chance after the first of the year.

As someone who listened to that briefing, I certainly felt, as a Senator from Massachusetts having supported the past Defense appropriations bills, we had done what was necessary to secure the defense and to carry forward America's interest in the battle against terrorists.

Now I ask this question: It appears to me we have followed our experts in assuring that those who are going to be on the front lines of the military will have the best resources. Shouldn't we follow the experts who are similarly engaged in trying to advise us as Americans what we can do and must do in order to battle against bioterrorism? It seems to me in reading through the thoughtful, compelling rationale for the Senator's amendment, that is just what this amendment does. I ask further if the Senator would not agree.

We have just heard in the past few weeks the head of homeland security, former Governor Ridge, say: Next year, we are going to have to spend billions and billions of dollars to build up our public health systems so we will be able to have an early warning system in this country. That is what has been recommended by the public health system that has studied the program. He is talking about billions and billions of dollars next year.

We have had the work group on bioterrorism preparedness, a conference of leading experts in bioterrorism and public health. It is probably the most distinguished group of individuals that have studied this problem—long before September 11. Many have been involved in the elimination of smallpox, as has Dr. Henderson. And having worked in the former Soviet Union, he recommended we needed at least $835 million just to begin to meet the public health needs to fight bioterrorists. That recommendation was made prior to the anthrax incident.

We have had the National Governors Association discussing their estimate in terms of the needs they face in public health. We have had the American Hospital Association discussing $11 billion so hospitals can be prepared. We have had Johns Hopkins University, which houses probably the most thoughtful bioterrorist center in the country, which Dr. Henderson headed. They said just to make the hospitals ready in the major cities is another $750 million.

This is billions and billions of dollars. I am impressed by the fact that the Senator's amendment is a modest amendment. It is targeted to current needs and can be expended immediately in order to make sure there would be safety and security for our fellow Americans.

I have difficulty understanding why the administration wants to wait until next year to start this process when we know if we wait, we are putting at risk the lives and the well-being of our fellow citizens. I am interested in asking the Senator, if we are listening to the best in terms of our military advice, shouldn't we listen to those experts in the area of bioterrorism who are advising and giving us notice. Shouldn't we listen to those experts who have an awareness of the countries needs, and try the best we can to follow their recommendations?

Is not the Senator's amendment a reflection of the best in terms of those who have studied this problem?

Mr. BYRD. Mr. President, the Senator is preeminently correct. As we in my office, our staff, considered this package, we were mindful of the testimony that had been given in the appropriations subcommittees. We were mindful of the subcommittee that had been chaired by Mr. DORGAN, the subcommittee that had been chaired by Mr. HARKIN, the subcommittee before which Senator KENNEDY and Senator FRIST, the eminent ''one'' physician in our midst, before which subcommittee they appeared and recommended moneys be spent for bioterrorism. I was visibly impressed by their testimony and commented on it. They had studied this matter quite at length. They had listened to the specialists in the field. They had listened to the Governors. They had listened to mayors. They had listened to legislators at the State level. They came up with this very tightly drawn package, bioterrorism package.

We have used that information, used that material and used the advice of

the Senator from Massachusetts and the advice of the Senator from Tennessee, Mr. Frist, as we put this package together.

So in that bioterrorism area, we have sought to improve the food inspection lines, we have sought to provide for additional studies of advanced and second generation anthrax and other viral agents, and we have sought to provide for the laboratory specialists, the CDS and the labs at the State and local levels, the moneys they need to deal with the next attack.

You see, we are not dealing with just the last attack. We are dealing preventively, we hope, against the next attack.

Let me take this opportunity to compliment the distinguished Senator. He has been busy day and night, and so has Dr. FRIST, in talking about, in working in connection with, this area of safety and welfare for the American people.

Mr. KENNEDY. I thank the Senator for his remarks.

I pay tribute to my colleague, Senator FRIST. Senator FRIST and I had hearings going back to 1998, 1999, and then passed legislation dealing with bioterrorism and also drug-resistant bacteria. The kinds of problems we were facing, healthwise, were similar to problems with many of these pathogens.

But I want to raise another question to the Senator. I have before me the review of the States by the Public Health Service. This is after the anthrax attacks that have infected 17 and killed 5 of our fellow citizens. What we have seen in the wake of these attacks is that our capacity to deal with this was right at the edge of being overwhelmed. And not just in the particular regions where these incidents took place but all across the country, all across the Nation.

I will just read about a few of the States. I will include in the RECORD a few examples from the States that illustrate this. Let me mention these incidents and ask the Senator whether this is something to which he believes his particular measures will respond.

Here is the State of Iowa after the anthrax attack. This report is very recent—just a few weeks old. They are talking about the public health situation of Iowa.

> The State and local public health systems have been overwhelmed trying to meet the needs of State and local law enforcement agencies in evaluating testing threats. We have been working 10-hour days and all weekends, just to try to keep our heads above water. We need help.

That is Iowa.

Ohio:

> We have processed 722 samples related to the anthrax threats in the laboratory. The signs of stress are showing in a number of staff as a result.

This is Ohio.

> There is not enough staff to respond to all the tentacles that are out there with the public in terms of these false attacks that were taking place.

Tennessee:

> Our communicable disease control in our 13 regions has been working night and day to respond to white powder exposures. The State laboratory has been overwhelmed with volume testing, 450 testings in 3 weeks. We have had to pull resources from other areas, leaving us vulnerable to food-borne outbreaks.

In Wisconsin:

> We have processed more than 400 anthrax related specimens since October 10. The staffs are overwhelmed and overstretched.

This is true in just about every State of the country. These examples are just a result of these past weeks. The Senator is asking why should we take a chance with the health and the lives of the American people in not putting in place the kind of mechanisms we have had recommended to us in order to protect the lives of American people.

Senator, earlier today in the Judiciary Committee we heard from Attorney General Ashcroft. He spoke of all the emergency steps that are being taken in order to deal with the problem of terrorism here at home. We are supportive of so many of those. We heard of the extent to which we are going in order to protect the lives of American people, and all the times we might have to bend the civil liberties of the American people in order to protect them. We are here to make sure we are going to try to get it right—that those steps are going to be effective and they are going to be able to do their job and while also protecting our rights.

Now we come over here this afternoon, and the Senator from West Virginia has an eminently reasonable, responsible amendment. His amendment responds to the findings, the recommendations, and suggestions of people who know this business, and we are told, well, we don't have to deal with this.

I commend the Senator for his thoughtfulness in bringing this together.

I will just make a final, quick point and ask the Senator whether he might agree with me. We have a strategic oil reserve. We have this strategic oil reserve in order to protect the American industry and American families if we run short of oil or if oil is going to run excessively high in cost. I wonder why we should not have a strategic pharmaceutical supply, so we are able to guarantee to every child, every elderly citizen, in this country that if we face the challenge of smallpox—that they will be adequately protected. If we can do it in terms of oil, it seems to me we ought to be able to do it in terms of smallpox. The amendment of the Senator from West Virginia moves us down that path. Any Senator who supports that amendment will be able to go back home, and in any town meeting they have with parents around this country, they will be able to say: We voted to make sure we are going to be able to provide smallpox vaccine if it becomes necessary to protect your child.

How does anyone believe that is somehow a failure of investing in the security of this country?

The bioterrorism amendment of the Senator is a few billion dollars. We are spending billions of dollars overseas—and I support that. Why is it we are willing to spend billions of dollars overseas to try to dislodge al-Qaida that may kill some Americans in the future, and fail to support the amendment of the Senator from West Virginia, which is a few billion dollars in order to protect American citizens? I just don't understand it.

I don't know whether the Senator can help me to try to understand the rationale and reason for that because it seems to me he has made eminently good sense. The amendment is based upon the solid record of those who have studied this particular issue and is in response to the needs we are facing.

I know the Senator has other matters to which he wishes to speak. But I remember when we had the Office of Technology Assessment. They did a study about the potential impact of an anthrax attack on the United States. It was going to cost, for 100,000 Americans who were exposed—it was going to cost $26 billion, for each 100,000 Americans who were exposed.

We are talking about all different kinds of possibilities. The Senator has in his homeland security proposal a very important downpayment to make sure we are going to meet those threats. He has other very important measures to which I know other Members want to speak. But the evidence is there.

I mention finally on the bill the Senator referenced—the bill Senator FRIST and I introduced—there are now 74 cosponsors of that bill. Yours is a slight degree above the Frist-Kennedy bill, but there are 74 cosponsors for our bill.

I, again, thank my friend and chairman of that committee for his foresight in this area, and for all the good work he is doing to protect families on the issues of bioterrorism. I know that later on we are going to have an amendment by the Senator from Indiana with regard to the Nunn-Lugar proposal which will help deal with the problem and dangers of nuclear proliferation.

Also, we are concerned about the dangers of proliferation of bioterrorist material that exists in the Soviet Union. The Soviet Union at one time was able to produce 24 tons of anthrax a day. They have stored that in various areas. Even Mr. Chernov, who was a member of their national security council, was warning that he was not satisfied that they had adequate protections.

We are interested in trying to work cooperatively with the Soviet Union to contain it.

We are interested—as this amendment will do—in building the early warning systems through the public health systems. We want to build and support the treatment which is necessary in terms of helping and assisting

the hospitals, and we want containment so that it will not expand.

The Senator from West Virginia has an amendment that deals with all of those measures as a downpayment for every family to make sure they are going to be protected from a bioterrorist attack.

I commend him and look forward to supporting his amendment.

Mr. BYRD. Mr. President, I thank the Senator for his cogent, lucid, and very pertinent remarks. It boggles my mind, it boggles my mind and my imagination that there is opposition to this package.

Does the Senator know that we have this package wrapped up and tied with a little blue ribbon, and on that ribbon is the word ''emergency?'' We have an emergency designation on this whole package.

If the President wants to use the money, it is there. We say: Here it is, Mr. President. We want to help you keep your promise to the military.

There is $21 billion for the military. That is what the President said he wanted for defense. Every penny is there. We have not cut a penny.

He said on September 20 to the joint session of the Congress—I was there, the Senator from Massachusetts was there in the House of Representatives when the President spoke.

> Our Nation has been put on notice. We are not immune from attack. We will take defensive measures against terrorism to protect Americans.

Here it is. Right here is the defensive measure to protect Americans against terrorism. I am trying to help the President keep his promise.

He also promised $20 billion for New York City and the other communities that were involved in that attack. He promised them. We are committed to it. We are trying to help the President. I am not trying to get in his way. I am not trying to embarrass the President. I am saying, Mr. President, let me on your boat.

I am trying to help him. Here it is. You don't have to spend it because we have an emergency designation.

What is wrong with that? Who can complain about that? The American people want this. They need it. They are entitled to it, and we have a responsibility to give it to them. This is defense. Whether it is in the foreign fields or here in this country, it is defense.

When we talk about helping our military, we have military people in this country. They are training in this country. They are in Georgia. They are in South Carolina. They are in California. They are all around the country. They, too, might suffer from a pathogen that comes in the mail. They, too, might suffer from a terrorist act.

We are acting to protect our people, whether they are in the military, or whether they are not in the military, in this country and abroad.

We are trying to help our President to keep his promise. We are not trying to be a problem for him. We are trying to help him.

I am sorry that I think he is being ill advised by some people around him. I will not name of whom I have suspicions. But I think the President is well meaning. I was impressed with the President when he spoke at the House of Representatives. But I think he is being ill advised.

This is not a party matter. It is not a Democratic matter. It is not a Republican matter. It is a not a Republican threat.

So help us. Let us join together and fulfill that first phrase of the preamble of the Constitution:

> We the People . . . in Order to form a more perfect Union . . .

Let us form that more perfect union. Let us form it here. Let us form now that more perfect union. Let us have no aisles separating Democrats from Republicans on this issue. This is not a political matter.

I thank the distinguished Senator for his observations, for his good work in this area, for his support of this effort, and for the leadership he is providing.

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

Mr. BYRD. Yes, I yield for a question.

Mr. DORGAN. Mr. President, I wanted to ask the Senator from West Virginia a question about the issue of border security for which he provides in his amendment.

I am especially interested in the issue of the security of our northern border. We have twice as many Customs agents on the southern border between the United States and Mexico as we do on the northern border between the United States and Canada.

With respect to the Border Patrol, we have roughly 500 Border Patrol agents on the northern border between the United States and Canada to control those 4,000 miles. We have 9,000 agents on the southern border between the United States and Mexico.

I note that the Senator has included in his amendment some resources to deal with this border issue. The reason I ask the question is you cannot provide security for this country unless you provide security for our country's borders—not just some of the borders but all of the borders because the terrorists will seek the weakest link.

There was recently a story of a fellow from the Middle East who was shipping himself in a container to Toronto, Canada—a suspected terrorist. He put himself in a container. He had a food supply; he had a heater; he had a global positioning satellite mechanism; he had a cell phone; he had a toilet. He had all the comforts. He had food.

When they found him in this container on a container ship having tried to ship himself to Toronto, Canada, he got out of the container, and they said he was very well dressed. He looked quite well.

The question is, If he is shipping himself in a container to Toronto, Canada, to come into this country to commit a terrorist act, do we have the resources on the northern border to be sure that we are going to catch suspected terrorists or those associated with terrorists who are trying to come into our country?

At the moment, on the northern border, Customs agents are working 12 to 14 hours a day, 6 days a week, and have ever since September 11.

The President did not request additional resources for new Customs agents. He requested some additional resources to pay for overtime, which they will have to do given these outlooks. But the fact is, we need more agents. We need new resources.

It is very interesting that a request was made by the administration for Border Patrol agents and for immigration agents but not for additional Customs Service agents.

The Senator, with his amendment, has provided for additional resources for our border protection and border security, especially on the northern border. Is that not the case?

Mr. BYRD. That is true. We have presently 498 inspectors on the 4,000-mile long northern border—334 individuals who travel from one area to another, the Border Patrol—and at 62 of the 113 ports of entry along the northern border nobody is watching at certain hours of the 24-hour day.

We are trying to provide additional moneys in the amount of an extra $551 million to meet these needs and to meet them now. Yes.

Mr. DORGAN. Mr. President, if I might inquire further of the Senator from West Virginia, I have traveled to those border ports of entry. My State has a long common border with Canada. I have been there at 10 o'clock in the evening when the port of entry closes. I have seen what they do. On that paved road between the United States and Canada, at closing time, they put out an orange rubber cone in the middle of the road, and that is our security past 10 o'clock at night.

As I have indicated, an orange rubber cone cannot walk, it cannot talk, it cannot shoot or tell a terrorist from a tow truck. And the polite people who violate our ports of entry, they apparently stop the car, after the port of entry is closed, and they actually move the rubber cone, drive through, and put the cone back. Those who are not so polite come running through at 60 and 80 miles an hour and just shred the rubber cone.

The point is, terrorists will always find the weakest link. For this country to have good security, adequate security, that gives people confidence, you have to have security of all of your borders. And it has not been the case with the northern border.

It is the case that the Port Angeles point of entry is where the so-called millennium bomber tried to come through, and a very alert Customs agent caught the millennium bomber who was intending to bomb the Los Angeles Airport.

It is also the case that Middle Eastern folks were inquiring in a small Canadian town just 100 miles north of the border of North Dakota about the capability of crop-spraying airplanes. This was at the time Mohamed Atta was doing the same thing in Florida. And others were doing the same thing in other parts of the country—150 miles from Minot Air Force Base where we have our B–52s housed.

The point is, we must be concerned about all of our borders. I deeply appreciate the Senator's amendment dealing with the northern border security, which was left out—with respect to the Customs Service, especially—of the President's request.

If I might say, as I continue to inquire, it seems to me the proposals offered by the Senator from West Virginia are proposals that everyone supports. The head of homeland security, Governor Ridge, says, yes, we need to do these things. The administration says, yes, we need to do these things. The disagreement is about timing.

The issue is, should we do them sooner or later? The administration says, let's do them later. The question is, Is there risk for this country in waiting until later? Will terrorists wait until later? I do not think so. I think the American people will be better served by our deciding to make these investments now and protect this country now. The issue of sooner or later ought to be, in my judgment, resolved by this Senate in favor of sooner, taking protections sooner for the American people, taking the steps necessary to minimize the risk of terrorism.

Now, let me make one final point as I ask a question. The administration, just in the last couple of weeks, has once again indicated to the American people there is a high threat of a terrorist act, according to some reasonably credible evidence that exists. This is the third time we have heard this. I am not critical of that at all. I believe it is their obligation to inform the American people under those circumstances.

But if, in fact, it is the case that there are credible pieces of information about terrorist threats against this country that could cause great harm to the American people, isn't it also reasonable and logical, then, for us to understand the urgency of making the very changes that the Senator from West Virginia is now counseling we make with respect to homeland defense and homeland security?

I ask the Senator from West Virginia, Do you not believe that the issue here is not policy, not whether we should do these things, but the disagreement is about when they should be done, and that the administration is simply saying, we do not necessarily disagree with what you want to do, we just believe it ought to be done later? Is that the case?

(Mr. CORZINE assumed the chair.)

Mr. BYRD. That appears to be the case. And it boggles my mind to think that while we have a perfectly logical, commonsense approach here of providing to the President the means whereby he can deal earlier, quicker, more effectively with possible terrorist attacks—we have it in a package here; it is designated ''emergency;'' he can use it, he can not use it—we are being asked to vote against this package. I cannot believe the President is receiving good advice. I have to believe he must be receiving some partisanly political advice from somewhere down the line. It does not make sense.

Why would the President be opposed to our providing this now? We do not lose anything by it. We have everything to gain by providing this now. It is our responsibility, it is our duty, to provide for the common defense. And if this isn't common defense, I do not know what it is, if it does not fall within the category set forth in the preamble that we should provide for the general welfare. This, it seems to me, we have to do.

Mr. DORGAN. Mr. President, if I might make one additional inquiry of the Senator from West Virginia.

I want people to understand, as I know the Senator from West Virginia does, that when we have a disagreement here—which is only about the timing of when we ought to do what we should do for this country's homeland defense and homeland security—it is not a circumstance where we are confronting this President in a way that says, we are not supportive of what you are doing for America.

In fact, there is, in my judgment, general support and admiration for this President's leadership with respect to the prosecution of the war against terrorism. I think they have had a spectacular success. I indicated to Secretary Rumsfeld just a few moments ago how much I admire his service and respect what he has done. I think the President also has shown outstanding leadership in a number of these areas.

So this is not a confrontation with this President during a period of conflict. There is no disagreement about support, widespread, passionate support, for this administration and the administration's prosecution of the war on terrorism.

Mr. BYRD. Absolutely.

Mr. DORGAN. This issue is simply an issue of what kinds of investments do we believe need to be made to protect this country, what kinds of homeland security and homeland defense investments do we believe need to be made. In fact, if you read, day after day, the press accounts from Governor Ridge, and others, they will say that they agree with all of the recommendations we are now talking about.

It is unfathomable to me that we should continue, month after month, now saying we will not put any additional Customs agents on the northern border. I do not think anybody in this country can take comfort from that. Everybody understands you must provide security on our borders, you must provide additional security on the northern border. If not, we do not have border security. If you do not have border security, you have an added risk of a terrorist being successful. That is why the timing issue here is critical.

This is just about the question of whether we ought to do what Senator BYRD is suggesting now or later. If we do not do it now, 6 months or a year from now it will be done by the administration. And God forbid some terrorist act would occur in the interim that we could have well prevented with this additional vigilance, with the resources provided in this amendment.

So I would ask the Senator from West Virginia to continue his efforts on the floor of the Senate and see that we are able to enact this amendment. I know some believe that this is confronting the President. It is not at all. It is helping this country and helping this administration do now what they say, in any event, they want to do later. It makes much more sense, it seems to me, for us to make this investment for America today.

I thank very much the Senator from West Virginia for yielding.

Mr. BYRD. Mr. President, I thank my friend.

We are not being confrontational. I have no hesitance whatsoever to be confrontational with the President of the United States or anybody else. Let the President advocate fast track; I am ready for that confrontation, and so is the distinguished Senator from North Dakota.

We are not being confrontational. We are trying to live up to our responsibility. We want to work with the President. We want to help the President. I want to help him to keep his commitment when he said on September 20, in that joint session of Congress, ''Our Nation has been put on notice we are not immune from attack. We will''—not maybe—''We will take defensive measures against terrorism to protect America.''

Now, Mr. President, this is what we are trying to do. We are trying to help our national leader keep his commitment, and yet there is a veto threatened—a veto—a veto. I cannot believe the President has reached this decision in his own mind—a man who, when he took the oath of office, referred to the Scriptures, referred to the good Samaritan on the road to Jericho. It gave me a new sense of confidence and trust in our President.

President Eisenhower, when he was inaugurated, prayed. He didn't call on somebody else to pray; he prayed. Eisenhower himself prayed a prayer. I was impressed and thankful. So this President has the support of the American people in the war effort. There is no question about that. The people have rallied. There is no party spirit in the rallying of the American people behind their President when it comes to the prosecution of a war overseas.

Why should they be denied the support of the administration in this effort to deal with future terrorist acts?

We are not being confrontational. We want to help the President. We are not interested in this from a political party standpoint. There is no dividing aisle here. We are dealing with the protection of the American people. When we protect the American people, we protect the military men and women who are here in this country. We protect them from terrorist acts. We protect all citizens. We protect the old, the young, the weak, the sick.

Why do we have to draw political lines in a matter of this solemn nature? This is not a Democratic proposal. This is not a Republican proposal. Safety, to the American people, has no political designation on it. We have this duty. I think we would be recreant in our duty and it would be criminal if we did not act when we know what has been said to our committees and when we know from what we read in the press that all these things are available. Yet we say, wait, wait.

I think we may be in the position of the five foolish virgins. When the bridegroom came, they had no oil in their lamps. He knocked at the door. ''We have no oil in our lamps.'' That is what we are trying to provide here so that we will not suffer the fate of the five foolish virgins.

I thank the Senator for his observations and his contributions.

Mrs. CLINTON. Mr. President, will the Senator from West Virginia yield for an inquiry?

Mr. BYRD. I yield to the distinguished Senator from New York.

Mrs. CLINTON. Mr. President, the Senator from West Virginia is aware of the recent rather sobering comment that our Vice President made with respect to this war, that we are fighting on two fronts, that we are likely to suffer more casualties on our homeland front than we will across the seas?

Mr. BYRD. I am aware that he said this. He said that, for the first time we are more likely to suffer casualties on the homefront than among our forces here or abroad.

Mrs. CLINTON. I thank the Senator from West Virginia for the careful attention he has given to the threats we are confronted with today. I thank the two distinguished ranking members who are in the Chamber, the Senator from Hawaii and the Senator from Alaska, for coming to New York City to go to ground zero to see what happens when our country is attacked the way we have been.

I inquire of the Senator regarding the work he has done with respect to preparing this extremely important amendment that understands our defense needs are both with our men and women in uniform, and we are all supportive of the President and our military leadership and very proud of the extraordinary work being done to root out the terrorist network, but we also have credible threats here at home.

In fact, just as a reminder, this is what war looks like when it is brought home to our own shores. These are pictures, as the Senator from West Virginia knows so well, of the attack New York City suffered on September 11, pictures of the devastation that occurred, pictures of the men and women who are on the frontline of defense—the firefighters, the police officers, the emergency responders—who, just as our men and women in uniform, our special forces, as well as our Marines, our Navy, our Air Force, our Army forces across our country and the world, are on the front lines of defending us at home. Here is what our defenders look like in the streets of New York. They could be in the streets of any of our cities.

May I inquire if the Senator, in constructing this very thoughtful amendment that takes into account our defense needs at home, took into account, as I know he did, the extraordinary devastation and damage the city of New York has suffered because the attack on New York was an attack on America?

Mr. BYRD. Absolutely. May I say that the two distinguished Senators from New York have not once, have not twice, have not thrice, but many times talked with me about the needs, the immediate needs, of the people of New York. They have talked to me about the suffering that the people of New York have had visited upon them by this beastly attack. They have continued to implore me, as chairman of the Appropriations Committee, to help them, to help the State of New York.

The Governor of New York came down to see me also. He sat at the table in my office on the floor below and pleaded with me to provide help and succor and comfort in the form of dollars for New York City.

Mrs. CLINTON. The Senator has heard those cries for help and has, along with the committee, responded in our time of need, for which all of New York is grateful. It goes beyond that.

As we look at these pictures, as we are reminded of the devastation and destruction, we know it is going to take a long time to recover. We know that what the Senator has very thoughtfully provided in this appropriations bill will put us on the path toward recovery, will put money into the pipeline.

As the Senator knows better than anyone, it will be quite sometime into next year before another appropriation can possibly be obtained.

Mr. BYRD. It will be.

Mrs. CLINTON. Isn't it correct that it is likely to be late spring at the earliest before any additional money would flow to New York?

Mr. BYRD. The Senator is correct.

Mrs. CLINTON. As a result, because of the estimates of $100 billion of damage, so clearly shown here in the difference of what this part of our country looked like on the morning of September 11 before the terrorists wreaked their evil on our country and what it looked like afterwards, we know very well it is going to be a long struggle for us to recover. The fires are still burning. We need to get contracts let.

We need to repair the destruction that has been done to our streets, our highways, our infrastructure. We need to help our hospitals that were so prepared; they literally did all they could in spite of the damage they suffered. They lost their generators. They lost their billing systems. Their computers went out. But they stayed on duty. They didn't ask anyone who was brought in injured, a rescue worker who was injured on the job: Where is your insurance? You can't come in this door today because we don't know if you can pay. Everyone was brought in and given care.

What I have learned from that and what I commend the Senator for understanding is that New York City was probably better prepared than any other city in the country because of the work that had been done. Of course, the heroic efforts of our police and especially our firefighters and our emergency workers showed that preparation.

What the Senator is trying to do, as I understand it, is not only to help us with the extraordinary needs we face to get us on the path of being able to use these dollars in the way they should be used—accountably—but to get the money in the pipeline as opposed to waiting until next year.

Mr. President, the Senator from West Virginia is also telling us we have to be prepared in case this happens anywhere else in the country; is he not?

Mr. BYRD. Yes. I am also saying those tunnels that go into Penn Station in New York are traps. They were built before World War I. I am passed 84 years of age, and they were built before I discovered America. They are inadequately ventilated, they are inadequately lighted, and the escape routes are inadequate. There are 500,000 individuals who go through that station every workday. There are 750 trains. Yet how much has been appropriated to prevent another catastrophe there to rebuild the tunnels?

Yes, I know. I have heard from the Senator, and I have heard from her senior colleague. They have not been recreant in their duty. They have been very effective. As I say, the Governor of New York has been in my office. I hope he will support this package because it will help him; it will help the State of New York; it will help the people in the fire departments; in the police departments, the paramedics in New York City and other cities in New York.

We have that responsibility. I did not go to New York. I am one of the few national politicians who did not go to New York City. I did not need to go.

Mrs. CLINTON. This Senator knows very well that the Senator from West Virginia has a grasp, an understanding of what happened, not only with respect to the attacks but also the anthrax which came to New York to our

Postal Service and to our media offices as well.

Mr. BYRD. Yes, I saw it on television. I saw it on the agonized faces of wives, mothers, and fathers. The terrorists made many widows that day. The terrorists made many orphans that day. I saw it in the sweaty, grimy faces and hands of the workers, sifting through the rubble. I did not need to go. I would like to have gone, but I made the same commitment that those individuals in high places made who did go.

Now is the time to keep our commitment. I believe that a promise made is a debt unpaid, and I promised the New York Senators that I would try to help them, and I have done everything I can. I promised the New Jersey Senators, one of whom presides over this Senate at this moment with great dignity, skill, poise. I am keeping that promise. The President promised, and I am trying to help the President keep that promise.

I am not being confrontational about it. I want to help. Can we not just join hands once, one time and not be political about this and help to form a more perfect union and fulfill that phrase that is in the preamble of the Constitution?

I thank the Senator.

Mrs. CLINTON. I thank the Senator for his extraordinary efforts and his very fine work on this amendment, which will strengthen our national defense at home as well as abroad.

Mr. BYRD. I thank the Senator.

Mr. President, continuing along the line that the distinguished junior Senator from New York was pursuing, on May 10, Chief Jack Fanning of the New York City Fire Department testified before the Senate Appropriations Subcommittee on Commerce, Justice, State, and the Judiciary on the role of the fire service in responding to terrorism.

Fanning, the officer responsible for the New York City Fire Department's hazardous materials operation, said that in preparing for terrorism, ''The emphasis must be placed on the most important aspect of the equation, the first responder, and first responder team.''

Mr. Fanning was talking about the people at the ground level, the people at ground zero, the people who are the first to arrive when the alarm bells ring.

Fanning said:

> If lives are to be saved and suffering reduced, it will be up to them to do it.

Meaning the first responders, the first responder team.

> At an incident, whatever the scale, firefighters and other responders will be there within minutes, some quite possibly becoming victims themselves.

Those were the words of Mr. Fanning. His testimony concluded with the following:

> They [the first responders] will do what they have always done, act to protect the public they serve. Knowing this, let us provide them with the tools they need to perform their duties safely and effectively.

Prophetically, Fanning was among the 343 firefighters, including the city's fire chief and most of the senior staff, who died in the World Trade Center collapse. There, as it were, is the voice from the grave telling us again, do something, do it now.

The people at the local level need help. They are the people who are the first on the scene, the first to save lives, and perhaps the first to give their own lives.

Before I turn again to the chart, this is another chart which visibly displays the situation as explained by the very distinguished senior Senator from North Dakota a little earlier when he talked about the ports on the northern border being closed, and this is what the chart says: ''Stop,'' with a big red sign.

> This port is closed. Open daily at 9 a.m. Warning, $5,000 fine for entering the United States through a closed port. Nearest open port is 70 miles east at Portal, North Dakota, on Canadian Highway 39.

There we have it. We can see the orange cones sitting around the side. My colleagues will recall the distinguished senior Senator from North Dakota said some trucks and automobiles will pull up to the sign and the driver or someone in the car or truck will get out, move the cone, and drive right on through. Or, he said, some will just press their foot on the accelerator and at the speed of 75, 80 miles an hour go right through those cones and leave them in shreds. That is the visual of the warning Senator DORGAN was speaking about.

Now let us go back. Some Senators may wish to take a look at the chart so we will set the chart in the chair in front of me.

That is what we are trying to help with. We are trying to provide live men and women at those ports of entry that presently are not covered 24 hours a day. That is what we are trying to do in this package. We are saying do it now, do not wait, do not gamble with fate.

We have already fallen behind in complying with the aviation security bill recently passed by the Congress and signed into law by the President. The Transportation Secretary said last month on November 27 that the Federal Government cannot meet the January 18 deadline that all checked baggage be screened for explosives. The new law requires that by the end of 2002 all checked luggage be screened using explosive detection systems. That would require 2,000 machines at a cost of $2 billion, according to the Federal Aviation Administration.

We cannot wait until next year to provide these funds if our Nation's airports are to comply with the tougher airline security required under that law.

Last month, on November 3, a man carrying seven lock-blade knives, a stun gun, and a canister labeled ''tear gas/pepper spray,'' slipped past security screeners at Chicago's O'Hare Airport. It was a stunning breach of security. At a time of heightened scrutiny, everybody should have been looking. The would-be passenger, who had already been stripped of two knives at a prior security checkpoint, made it to the boarding gate before airline personnel in a second check discovered the other weapons. Here was a mini arsenal on two legs walking right straight for the door of the airline, and he was almost there.

These incidents follow a recent surprise inspection by the investigators from the inspector general's office of the Transportation Department and of the Federal Aviation Administration at 14 airports across the country.

In October, FAA inspector general agents found a man who passed through a metal detector at Dulles International Airport with a knife in his shoe. Now why is he carrying a knife around in his shoe?

In September, a man went through security in Atlanta and realized before boarding the plane he had a pistol in his carry-on bag.

The American people want tougher security at airports. One can see it in the half-full airplanes taking off from our airports every day. Even after grounding nearly 20 percent of their planes, airlines filled only 63 percent of their seats in October according to the Air Transport Association. So that is still 8 percent less airline traffic than in October of last year, well before the September 11 attacks.

Airports need funds to increase the visibility of law enforcement personnel for deterring, identifying, and responding to potential security threats. Additional staff persons are needed to conduct security and employee identification checks through airports. Airports with tighter budgets, particularly smaller airports in rural areas, are unable to absorb these new costs.

This package provides $238 million to hire law enforcement personnel and improve protection for you, you who are watching through those television cameras.

I simply cannot understand the logic of opposing this package. Who would choose to allow their family to live in constant fear? What parent would repeatedly warn a child of predators on the playground and then send the child out to the park unattended and unprepared to protect himself? What is the sense in telling the people to be brave and then denying the people even the most modest, necessary protections?

Budget agreements are certainly no reason. This package bears an emergency designation. With that emergency label, this President could choose, as I have said repeatedly today, not to spend these funds if they prove to be unnecessary to spend at a given time and for a given purpose. But at least the funds would be available should the need arise. This package also contains provisions to ensure that

these funds are not counted in the baseline calculations in future years.

Get that. I am not trying to build up future budgets. I am not trying to use the funds accounted for in the baseline calculations to increase the budgets in the future years. There is no outyear growth, no multiplier effect. It is a simple, straightforward investment in protection at a time of national crisis.

To say we are willing to gamble the safety of the American public on the bet that no additional attacks will occur, that no additional vulnerabilities will surface, that no additional security precautions will have to be taken, defies common sense. It defies logic.

The President has declared we are in a state of national emergency. He did that some time ago. His administration has issued three alerts, three broad warnings of possible terrorist attacks, three alerts to the American people. We must respond to our national emergency. We must take matters in hand and guide this Nation through this time of uncertainty, this time of danger, this time of darkness.

I urge my colleagues to vote to provide the American people with basic protections at a time when the American people are most vulnerable. Forget your politics. Politics has nothing to do with this—nothing. This package fulfills our commitment to provide $20 billion to New York in response to the September 11 attacks. I urge my colleagues to support this package.

On a statue in Atlanta, GA, are these words inscribed in memory of Senator Benjamin Hill, a great Senator, great orator: He who saves his country saves himself, saves all things, and all things saved do bless him. He who lets his country die, lets all things die, dies himself ignobly, and all things dying curse him.

Let's vote to save our country. I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

AMENDMENT NO. 2243

(Purpose: To provide for the allocation of supplemental emergency funds.)

Mr. STEVENS. Mr. President, the chairman has presented a program which is a program for the future, without any question one that reflects a substantial number of meetings that I have had with the chairman, and others, over a period of time since September 11. We have, however, a position taken by the President of the United States that he believed we had an agreement not to exceed the $40 billion that we previously approved for supplemental money for 2002 to cover the expenditures required to initiate the recovery from the disastrous attacks in our country on September 11 of this year.

We have before the Senate section A of the committee bill, the Defense appropriations bill for 2002, that was prepared by my good friend, the chairman, DAN INOUYE of Hawaii, and me and our staffs. It has been included in the amended version reported by the full committee that Senator BYRD has described and has been reported as we presented it, as a matter of fact.

Senator INOUYE's version of the Defense bill for next year is in section A. I do not intend to address that at all. I do, however, address the problem presented with the President's position of not wanting additional money at this time beyond the $40 billion that he previously agreed to when he signed the supplemental we previously passed this year. To achieve that goal, I now call up amendment 2243.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 2243.

Mr. STEVENS. Mr. President, I ask unanimous consent reading of the amendment be dispensed.

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

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

Mr. STEVENS. Mr. President, let me describe, if I may, the problem we face. We are in the month of December, which is the last month of the first quarter of fiscal year 2002. When we finish this bill, however it may look after it goes to conference with the House, and then goes to the President and the President signs it, it will be approximately the end of the year. In other words, the new money in this bill will be spent in three of the quarters of the calendar year 2002.

Realizing that, I visited with my good friend, Chairman BYRD, and suggested we deal with the issues he wanted to deal with by putting additional money in the bill as money to be made available in 2003, the first quarter of 2003, which would be the last quarter of calendar year 2002. Had we done that, we would have stretched the payments over the normal four quarters of a year. I think we may have been able to solve the issue that way.

Senator BYRD said he would rather proceed with the 2002 bill. It does, I might add, have some extra points of order that could have been raised against the other approach. So he deferred on that, and we went back to the drawing board to see what we could do to deal with the problem of the President's position and the position just presented by Senator BYRD.

Let me say, basically, I believe as the future unfolds in this country, substantially all of the additional $15 billion that Senator BYRD wants to make available will be requested by the administration. I will be surprised if they don't request more than that. The problem is, how much money should be pushed into the system now?

We had a bill before the Congress when we first reacted to the events of September 11. We were requested to present a $10 billion supplemental. Senator BYRD and I had some meetings and we decided that ought to go up to $20 billion. While we were working on that, we got word that the President had gone into the Rose Garden with some people from New York and Virginia and Pennsylvania and agreed it ought to be $40 billion. With the leadership of Senator BYRD, we charted through the quarters of the legislative process a supplemental providing $40 billion: The first $10 billion to be available to the President without any interference by Congress, the second $10 billion to be available after 15 days' notice to the Congress on how the President intended to spend it, and the last $20 billion to be available in an appropriations bill to be passed by the Congress.

This bill covers the $20 billion, the last $20 billion of the $40 billion.

We have had a great many meetings, hearings, and consultations from a vast number of people in the country who believe there should be more money available now. Were I President, I think I would agree. But I am not President.

Mr. President, we are at war. We really are at war. We are in a period of time where, if we take action to challenge the President now, we could well leave an impression, I think, that we do not have bipartisan support of the President as Commander in Chief.

I have changed my position on this matter. I told my friend, the chairman of the committee, that I had. I believe we can legitimately say that the money we make available now through this bill and through the bills that are still pending here: the Labor, Health and Human Services bill, the Foreign Assistance bill—before we are through here, we will have presented to the administration $375 billion more than is available to the Presidency right now.

The current level of expenditures by the Department of Defense, for instance, is based on the year 2000. We have increased that considerably. The amount of money available to the President for the conduct of the war, really, under the Food and Forage Act—I have to explain that. There is an old act that allows the President of the United States to spend money to pursue conduct of a war or when there are troops deployed, our troops deployed. We saw it in Kosovo; we saw it in Bosnia; we have seen it in connection with the activities of the alert in South Korea; we have seen it in many instances. This President has not used the Food and Forage Act yet, but he could use any of the money in this bill to achieve the goals Senator BYRD would achieve with $15 billion and come to us later and say, we want the money.

In any event, beyond that, we have been told there will be—by Governor Ridge and by the President himself—there will be a request presented to Congress early next year for supplemental moneys for the year 2002, to pursue the further activities that are necessary to meet the problems of homeland defense and the problems of

recovery from the disaster of September 11.

I believe what we have to do is to look again at the $20 billion and allocate the $20 billion in a way to make sure there is available now enough money to handle at least the first quarter of the next year—that will be the second quarter of the fiscal year—and then some.

So what I have done, in an amendment that is now pending, is to allocate the $20 billion in that fashion, pursuing, to a vast extent, the recommendations of Senator BYRD and his $15 billion additional. The amendment before the Senate right now, addressing division B of the pending bill, would amend that division B to allocate the $20 billion in this fashion: $7.3 billion for the Department of Defense, of which we have earmarked $2.3 billion for bioterrorism defense. I emphasize that. The Department of Defense should have a great role in the total defense of the country. I think bioterrorism is one of the key issues. I believe that is one of the key issues of Senator BYRD.

We allocate $7.05 billion for New York. Of that, $5.05 billion is for the FEMA disaster relief; $290 million is for the FEMA Firefighters Grant Program; $2 billion is for the Housing and Urban Development emergency community development block grant.

We also allocate $5.65 billion for homeland defense. It is allocated, $1 billion for the Department of Justice—that is for FBI, INS, and the U.S. Marshals; $400 million more for the Department of Energy for nuclear facilities; $256 million for the legislative branch security; $800 million for Coast Guard and FAA security which includes $100 million for more airport security; $50 million for the White House security.

There is $334 million for the Treasury. Again, the Secret Service, Bureau of Alcohol, Tobacco and Firearms, and Customs are included in that $334 million.

We have $300 million for food security, $100 million for the Justice Department general administration, Patriot Act, which is covered by Senator BYRD's proposal; $362 million for the Bureau of Justice Assistance, $237 million for State and local law enforcement, $775 million for Federal antiterrorism enforcement—that is executive, nondefense, of which $575 million is for the Postal Service, $100 million for cyber-security, and $100 million for increased security at public events.

We also add $94 million for NASA and for the National Science Foundation security upgrades, and $156 million for the EPA Counterterrorism and Anthrax Cleanup Program.

If one examines this supplemental, one finds that almost every single item mentioned by Senator BYRD is covered by our allocations. But they are lower. Admittedly, Senator BYRD had $15 billion in two emergency sectors. We have eliminated that and moved back into the $20 billion and allocated the $20 billion in a way primarily reflecting, to a great extent, what the House did. It also reflects to a substantial degree what the President originally requested. And it covers basically, as I said, all of the items Senator BYRD would cover.

In the $2.3 billion bioterrorism defense allocation, for instance, we have provided money for upgrading State and local capacities, improving hospital response capabilities, improving the CDC, starting a national pharmaceutical stockpile which includes the purchase and deployment of the smallpox vaccine that has already been purchased. That contract has already been signed.

It includes the National Institutes of Allergy and Infectious Disease at NIH, one of the signal areas that we must fund. And it has other preparedness activities.

The money for New York is committed to rebuild the infrastructure of Lower Manhattan. The FEMA disaster relief includes the $290 million for the FEMA Firefighters Grant Program, and it will involve grants to local communities to expand and improve firefighting programs through the FEMA Firefighters Grant Program. Over 50 percent of the funding will go to volunteer fire departments in rural communities.

We have tracked to a great extent what my friend has done: If you look at the money for homeland defense, $1 billion for the Justice Department more than they have now in their normal bill which has already passed, the State, Justice, Commerce bill. This adds to what they already have available, $1 billion for coordination of information in the field of FBI—particularly the Trilogy Computer Modernization Program. And it does address the INS construction backlog to make sure we can take care of the outposts that were mentioned by Senator BYRD.

There is $40 million for the Department of Energy nuclear facilities, which covers, again, really a downpayment on the program Senator BYRD announced in that area.

There is $256 million for legislative branch security. Again, I know of no argument about that. There is $800 million for the Coast Guard and FAA security. The port security hearing was held today, and this includes the port security task force creation to ensure coordination of the efforts to protect our ports. It also includes the $100 million to add to the moneys we already made available to carry out the new requirements imposed on FAA in the airline and airport bills we have already enacted into law.

I could keep on going. It has $300 million for food security to increase the number of food inspectors, as Senator BYRD indicated. It must be done.

But I emphasize we can put up the money Senator BYRD asked for. We can't find those people in just one quarter. The President's people are going to make some further requests. I think what we need to do is make sure there is money to meet any of the areas outlined by Senator BYRD available now, and see what Governor Ridge and what the President want us to do to direct our attention to the future.

There is no question that the great part of the money must be directed towards antiterrorism, and antiterrorism law enforcement in particular. The Postal Service very much needs a great deal of money.

Again, I want to sidetrack. There are major issues involved in where we are going now that have to be addressed by legislative committees. For instance, the Postal Service told us they had lost over $6 billion and they wanted assistance. When we examined it, we agreed we should provide some additional money. But we have to have some basic consideration of the question of how much of that loss should be paid by the taxpayers of the United States and how much should be borne by the ratepayers of the Postal Service, an independent entity that is not really financed by the Federal Government anymore, except in connection with disaster concepts. It may be that we will have to change that paradigm. It may be that we should help pay for some of the newer equipment that the Postal Service needs in order to prevent future disasters such as we had in the handling of the anthrax letters by Postal Service employees.

We also have to urge them to take steps to modernize so the system itself does not expose employees to contamination by substances such as that sent through the mail. We need to have an inspection system. And we need to have a system of treating the mail so it cannot carry these infectious diseases.

What I am saying is, if you examine the amendment I presented as an amendment for the Senate to speak out, and say to the administration that we have different priorities than have been presented to us before, we funded them through at least the first quarter of the calendar year 2002. We, of course, have to go to conference with the House and meet them in any event, but I think any fair reading of this amendment would say this is enough additional money through the use of the $20 billion to meet these priorities of the Congress, and we can await the request of the President for additional money and at that time be part of the process to meet the needs of the future as the country changes.

That would be my last comment to the Senate. We have a great many problems that come from the realization we are now exposed to different types of disasters. The disaster act that is in place was primarily passed at the time when we addressed natural disasters. It is the Stafford Act.

The Stafford Act provides that the Federal taxpayer will replace facilities owned by public entities that were destroyed because of the disasters such as we saw in New York. It assists local communities in replacing streets and

docks, or whatever, in community-owned utilities, but it doesn't replace privately owned utilities. It doesn't replace privately owned facilities that went down with the public facilities. Clearly, it doesn't even cover the publicly owned building that went up 104 stories. We don't know.

We know we have to address that. That is not something we ought to address as appropriators. This should be addressed by the legislative committees in the Congress responding to legislative solutions that set the new guidelines for how we handle disasters caused by terrorism.

I say to the Senate that I think Senator BYRD has stepped forward and offered us a solution to some of those problems by funding them now. But I think the Congress should be involved in making those decisions as to what we replace.

Should we replace all of the firetrucks in the country? Should we replace only those that come in and qualify for the grants? I do not know. I pointed out in committee that we have some of the oldest firetrucks in the Nation operating in Alaska villages. They were given to those villages at the end of World War II, and they have never been able to replace them.

But the intent is to replace those facilities that were destroyed by the disaster or, because of the disaster, have become inoperable. There are a couple, by the way, that were destroyed by the fire itself.

I believe we need to have decisions on a bipartisan basis as to how to solve those problems, and to put the money up now would not solve the problem. It would create a greater problem of having stepped down the road to say we will pay it if anyone comes forward and wants a new fire engine. There is not enough money in Senator BYRD's bill to replace all the firetrucks in the country. I am sure he would agree.

On the other hand, we all agree there should be some help for communities to modernize their facilities to respond to terrorist attacks, and to respond to acts of terrorism of any kind.

I have to confess that this Senator believes the bioterrorism, cyberterrorism, and food security problems are of the highest priority. I think the great problem is we need to be able to detect substances that are currently undetectable. One physician told me we were lucky that the anthrax attack was the first attack because anthrax is detectable and it is treatable.

There are substances that we know exist out there that are not detectable, that are not treatable, and they are not curable. We need to have research to find out how we can detect them and how we can manage them once they are detected.

We started down that road in the Defense bill itself. There is $100 million in there for the Department of Defense to continue its studies, and expand them in those two areas of detection of these substances currently undetectable, and how to treat them once detected.

Freon disease, for instance, is one of the leading examples of that. That is the manifestation of mad cow disease in human beings. We know from the experience in Britain that it is not only undetectable, but even the people who carry it may not know it for several years before it manifests itself in the brain of a human being. Once it does, if it comes in contact with any utensils in any facility, those utensils and facilities must be destroyed. There is no way to know what portion of them are uncontaminated. You must destroy everything that comes in contact with it.

That is why much of the great disaster took place in England in the past. We should join the international effort in that regard. Our bill starts us down that line.

I have spoken longer than I intended to speak. But let me now address the problem we face.

There are people on our side of the aisle who prepared a chart of the problems that this bill faces in terms of points of order. Senator BYRD's two provisions that would add the emergency money in division C of this bill are subject to points of order. They could be waived by 60 votes. The basic bill itself that came over from the House to the Senate is subject to a point of order. The House waived that point of order. We, similarly, could waive it, or we could ignore it here.

There is also the point of order that comes out of the 1996 Budget Control Act which imposed a limit upon us of the amount of money we could spend in the year 2002. Since the year 1999, that has been waived to a certain extent, but we, through that process, came to a balanced budget. I thought we did a very good job. The balanced budget now is disappearing because of the semicollapse of our economy through the recession and our ability to recover from the terrorist acts and prevent further ones.

What I am saying right now is we have to waive the Budget Control Act; in effect, lift the caps. We have done that in section C of this bill. Senator BYRD's version puts it right in the bill. If we vote that, that lifts those caps.

But there is at least three, maybe four other points of order involved here that once we get into, if we are divided on a partisan basis—it looks as if we might be—there is no way out.

I have offered this compromise for the Senate itself to speak out and say, let us settle this now and give the administration enough money to do what we think they should do through the first part of next year. And let us come back and respond to the President's request for a supplemental when we get back here next year.

Mr. President, I am not the Parliamentarian my friend is, but I can say, from my study of this bill, there is no way out if we have a point of order and a motion to waive and that motion is not carried. It does not appear that any of those points of order would be waived by the Senate, according to my understanding of the situation now.

My amendment takes us around those. My amendment says, let's set aside the $15 billion. We deal with about half of it in the $20 billion, and we move on to next year and the request from the President, and we do not have this collision. And we also—I am back where I started—do not leave the impression that a Senate that wants to provide bipartisan support to the Commander in Chief at a time of war is insisting upon doing what he says he does not want us to do.

I do not argue with my friend from West Virginia at all about the items he says must be covered sometime in connection with the recovery from this disaster. On how far we go on some of them we might have disagreement, such as firetrucks or what is covered in public facilities and what not. But the necessity for more money than the $40 billion is now apparent to everybody, even from the comments Governor Ridge has made as head of our home defense organization.

So I say to my friend once again, I am sad to be in this position. I really am because the Senator knows—and we worked on some of these figures—I believe the needs are there. And I believe the needs will have to be met sometime in the future. But I would rather give the money now to initiate meeting those needs and determine the extent to which we will meet the needs, and which we will actually want to meet, and which we will set aside and say are the responsibility of ratepayers or local governments or States.

My friend from Hawaii and I are from the generation of which President Kennedy was a part. As I sat here this afternoon, I was thinking about his comment at his first inauguration: Ask not what your country can do for you. Ask what you can do for your country.

If the things we worry about today would be worried about by every American, if every American would really take on the job of watching for those erratic people who are part of a conspiracy plot, if every American would come forth and assist the Government, volunteer to provide help to people who need help now, our job, using the taxpayers' money, would be substantially reduced. I think that will come as we, more and more, live up to our current slogan that we stand united.

I would prefer to see the Senate stand united and adopt my amendment, move on this bill, and take it to conference. We will be in conference Monday if this amendment passes. We will still be arguing about points of order next Friday if it does not.

I hope I have offered an honorable solution to the conundrum I see the Senate facing. I plead with the Senate to act in a bipartisan way and to tell the President: There are some priorities we want you to follow. Follow them within the first $20 billion, if you disagree with the $15 billion that Senator BYRD

seeks—which he does; we know he does—but, meanwhile, be assured when we come back next year, we are going to make certain that the supplemental that is requested will cover the needs of the country with regard to protection against terrorism.

I yield the floor.

The PRESIDING OFFICER (Mr. CARPER). The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, at the outset, I commend the Senator from Alaska for the compromise amendment which he has proposed, I commend the Senator from West Virginia for all he has done to focus attention on the important problems of the nation on homeland security, and I admire his stamina on the presentation of a very extensive floor statement.

I support and cosponsor the Stevens amendment. I divide my reasons into three categories: First, I believe there is sufficient funding to take care of the homeland security needs of America. Second, I think it is very important there be unity between the Congress and the President now as we fight the war against terrorism and have a major aspect of that war on homeland security. Third, I think it is very important the Senate act without having a stalemate and a gridlock, which is where we will be heading if we do not find a compromise, such as the compromise proposed by Senator STEVENS.

The reason there would be a deadlock is that for Senator BYRD's proposal to be adopted by the Senate, there will have to be 60 votes. I believe there is agreement there are not 60 votes present to have Senator BYRD's proposal passed by the Senate. Then the sequence which would follow would be virtually interminable.

We are facing a situation where it is now December 6. Who would have thought we would be here this late with all the expectations of finishing at least by the end of October or before Thanksgiving? However, here we are. We now face a continuing resolution which is going to run until a week from tomorrow, the 14th. Beyond that, there will be a continuing resolution until January 3, if we do not resolve this issue and the matter of the stimulus package.

These important items on homeland security should be advanced with the necessary funding on an appropriations bill, which could go through the conference and get to the President's desk next week so these important problems can be addressed.

Most fundamentally, the substitute bill proposed by Senator STEVENS provides the necessary funding. The subcommittee, which I had chaired for 6½ years and of which I am now the ranking member, has the appropriations responsibility for the Department of Health and Human Services. Senator HARKIN, who is now the chairman, and I moved ahead very promptly to address these bioterrorism threats.

Senator HARKIN and I have worked on a bipartisan basis on that subcommittee, I think, to the benefit of the country. I found a long time ago in my Senate service, if you want to get something done in Washington, you have to be willing to cross party lines. Senator HARKIN and I have done that. We have held a series of hearings on these issues to find out what is necessary for funding on bioterrorism. We had our first hearing on October 3, our second hearing on October 23, and our third hearing on November 29.

In the hearing on October 3, the Secretary of Health and Human Services testified that he believed we were able to handle all of the problems of bioterrorism in America. He had made a statement on ''60 Minutes'' to that effect. A number of us raised questions—that we really were not at that point yet, and that it was not helpful to make such a statement.

Senator BYRD, who attended the hearing, in a very direct and emphatic way, threw up his arms and said, ''I do not believe you.'' From that session we have moved ahead to push the Department of Health and Human Services to find ways to provide for antibiotics on anthrax. The Secretary signed the contract to provide Cipro. Then we had the hearing on October 23 and the issue was raised about where we stood on smallpox. The experts from the Centers for Disease Control and the National Institutes of Health said we should not be prepared to inoculate Americans, that we had 15 million smallpox vaccinations, and that those vaccinations could be diluted 5 times to 75 million.

In an exchange I had with Dr. Fauci of NIH, the discussion focused on whether it was the Government's responsibility to have sufficient vaccines so that people could make the choice themselves. I asked Dr. Fauci what the risk factor was. He said it was one to six out of a million.

I said considering that smallpox had failed, my preference would be to see my grandchildren vaccinated. Before we finished the discussion, Dr. Fauci agreed that he would like to see his grandchildren vaccinated.

The point is that as a result—I think fairly stated, as a result of this press—the Secretary of Health and Human Services has entered into contracts which will provide enough vaccines to take care of almost all of America, and not years down the line but by next September, so that we have moved ahead.

Then, in our hearing on October 3, Senator HARKIN and I pressed the Centers for Disease Control to give us a list of all the bioterrorist threats and to tell us what it would cost to meet the bioterrorist threats. And as usual, there was problems with the CDC getting clearance from HHS and getting clearance from OMB. By the time you work through the alphabet soup in Washington, it is very difficult to get anything done. However, we finally found out. When they testified on November 29, they testified in a very careful way to say that it was not an administration request, but it was their professional judgment as to what was necessary to take care of our bioterrorist threats.

As a result of what Senator BYRD did in his questioning of Secretary Thompson and what Senator STEVENS did—even though they are the chairman and ranking member of the full committee, they attended these hearings—we have been able to push up the funding far from what the administration requested, which was $1,445,000,000, so that we now have, under Senator STEVENS' amendment, $2,300,000,000.

When you take the $338 million which is now in the bill for Health and Human Services, the total funding comes to $2,638,000,000, which I believe to be adequate.

When a group of Senators met with the President in his living quarters about 10 days ago, we had a conversation about bioterrorism. There was a discussion as to a downpayment. I made the point that we could not deal with a downpayment, that when there was talk about putting this in next year's budget, it wasn't right. Simply stated, that was too late.

I do not speak for the President. I am a Senator and work under the separation of powers. However, I had the sense that the President was sympathetic to the view, although I explicitly say he did not say so.

We are giving the President more money than he had asked for, but I believe he will sign the bill with the amendment offered by Senator STEVENS.

We face a very difficult time internationally, as everyone knows. The terrorist attack on the United States on September 11 was the most brutal, inhumane, barbaric act in human history, sending airplanes loaded with fuel as deadly missiles into the World Trade Center in New York killing thousands of people. Also, a plane crashed into the Pentagon killing more Americans, hundreds more. I believe the plane was headed to the White House. That plane's wings were perpendicular. This plane did not sink to crash into the Pentagon. That plane crashed into the Pentagon because it could not go any further. It was on a direct line for the White House.

The plane which crashed in Somerset County, PA, I believe, was headed for the United States Capitol. Senator SANTORUM and I visited the crash site, and no one will ever know for sure, but we do know from cellular phone conversations that passengers on that plane fought with the terrorists and brought down the plane.

There have been three alerts, and there is no doubt of the tremendous concern in America that there be adequate funding for homeland security. I believe the bill, the substitute which Senator STEVENS has offered, gets that job done.

There is the bioterrorism funding of $2,300,000,000, which, when added to the existing $338 million, brings the figure

to $2,638,000,000. There is funding for New York, since the commitment was made by the Congress.

There is funding for the FBI, Immigration and Naturalization Service, and the U.S. Marshals Service; for security for nuclear facilities; for additional security for the legislative branch, the Coast Guard, the Federal Aviation Administration, the Secret Service, the Bureau of Alcohol, Tobacco, and Firearms, and the U.S. Customs Service; and food security; and on and on and on—postal security, cybersecurity programs, etc.

Right now, the President of the United States has provided much needed leadership for the free world. The President has said he will veto the bill if it has the extra $15 billion in it. I think it would be calamitous if the Congress of the United States submitted a bill to the President in the face of that expressed veto threat, and then the President vetoed it. There is no doubt about his determination. I saw blood in his eyes when he said that to a group of visiting Senators.

It would be a sign of disunity between the President and the Congress, which would have a devastating effect on our war effort against terrorism. It simply ought not to happen. In my 21 years here, I have been party to a lot of conferences. When we have had a threat from the President for a veto, we acknowledge that there is time for compromise.

My distinguished colleague, Senator STEVENS, has given me the audible to abbreviate, so I shall do that, although there is quite a bit more I would like to say. I will conclude with a comment about the desirability of not having gridlock in the Senate.

When the stimulus package came up, it was a party-line vote. I think America is sick and tired of bickering on party lines and on partisanship. I believe that if we divide on party lines again, it will be bad for this institution and bad for the war on terrorism and bad for the funding which we need now to fight the war against bioterrorism.

It is my hope that we will find a bipartisan resolution here. I concede it is not quite as much money, but the President is the leader. He has asked for an opportunity to present to Congress the funding which he and his Director of Homeland Security believe to be adequate. The Congress has rejected the notion of waiting until next year. I believe the President will respect the accommodation, the compromise which we have made. It is my hope that we can come together.

There is legislative anarchy and legislative chaos if the Stevens compromise amendment is not enacted and if, instead, we are left to the points of order where nothing will be accomplished, and we will be returning here in January without having completed our work and without having appropriated funds necessary now. These funds can be made available next week with a bill signed by the President if we come together on a bipartisan basis and adopt the Stevens compromise.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, it is my desire to start the process of having some of the votes that I have indicated must be encountered.

It would be my intention to now raise a point of order against the two emergency designations set out in division C of the committee-reported amendment as prepared by Senator BYRD.

Mr. SPECTER. Will the Senator yield for a question? Does the Senator not intend to press for a vote on the Stevens amendment first?

Mr. STEVENS. It has been requested we now proceed with the point of order and then proceed with the vote on my amendment following that, if it is possible to do so. There is still other debate to be heard, I think, on my amendment.

Mr. SPECTER. I thank the Chair.

Mr. HARKIN. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator from Alaska has the floor.

Mr. SCHUMER. Will the Senator yield?

Mr. STEVENS. I will yield for a parliamentary inquiry, provided I do not lose my right to the floor to make my point of order.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Iowa seeks recognition, and the Senator from New York seeks recognition. The Senator from Iowa.

Mr. HARKIN. Parliamentary inquiry: The Senator would like to know exactly what the situation is at this time. This Senator has been waiting to speak on the amendment offered by Senator Stevens. What is the present situation on the floor?

The PRESIDING OFFICER. At the present time, there is a first-degree amendment offered by the Senator from Alaska to the committee substitute reported with the bill.

Mr. STEVENS. Mr. President, as I understand it, if I set that aside and make the point of order and have the vote on that, then we will come back to my amendment after that vote.

Mr. SCHUMER. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. Will the Senator from Alaska yield to the Senator from New York?

Mr. STEVENS. I yield for a parliamentary inquiry.

Mr. SCHUMER. Will the good Senator from Alaska answer two questions? Are they two separate points of order or one point of order against both provisions?

Mr. STEVENS. The way my motion is worded, I am raising a point of order against the two emergency designations in division C, and I am trying to get those two issues settled at one time.

Mr. SCHUMER. I presume that point of order is debatable.

Mr. STEVENS. The motion to waive is debatable.

The PRESIDING OFFICER. The point of order is not debatable. The motion to waive is debatable.

Mr. SCHUMER. I thank the Senator.

Mr. STEVENS. I will be happy to yield to the distinguished chairman for a question.

Mr. BYRD. Might we have a quorum call?

Mr. STEVENS. May we have a quorum call and I will regain the floor when we come back?

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

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

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

Mr. STEVENS. Mr. President, I ask unanimous consent that I be able to yield to Senator BYRD so he might make a response to my statement on my amendment and that I regain the floor after Senator BYRD has finished his statement on my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from West Virginia.

Mr. BYRD. Mr. President, I do not envy myself for being in the position in which I find myself. Senator STEVENS is a Senator who can say no and make you like it—almost. He is always so gracious. I have heard a lot about his renowned temper. I have seen it at work, but he does not lose his temper. He uses his temper and is always, as I have witnessed over several decades, one of the most reasonable individuals. So I do not like to be in a position of being opposite to Senator Stevens.

While discussions are going on, let me attempt to point out some flaws of the amendment by Mr. STEVENS. The substitute amendment reduces the amount of money available to the Office of Domestic Preparedness, ODP, to $362 million, a $138 million reduction. That is a 39-percent reduction from the bill, as reported, for State and local law enforcement antiterrorism equipment and training.

The Office of Domestic Preparedness estimates there is currently no State that is adequately equipped to respond to an incident involving a weapon of mass destruction at the State or local level.

Texas, identified as one of the best prepared States, has conducted a study that shows that $159 million in equipment would be needed to bring the State to the minimum level needed to adequately respond to a terrorist incident. In fact, ODP, the Office of Domestic Preparedness, estimates funds needed to bring the Nation's State and local governments up to minimum standards

could well exceed $2 billion in fiscal year 2002 alone. Thus, the reduction proposed by the substitute amendment is equivalent to the level of funding needed to bring Texas up to minimum standards.

There are currently over 9 million first responders in the United States who would be called upon to respond to a terrorist incident. To date, the ODP has been provided with training funds that have allowed them to train only 80,000 of the 9 million first responders nationwide.

The bill as reported attempted to more than double the population trained to date. The substitute amendment's reduction in funding jeopardizes our efforts to provide the individuals on the front lines with the training necessary to protect their own lives, as well as the lives of victims.

Furthermore, the amendment by Mr. STEVENS reduces the $300 million in the committee bill for FEMA for gathering grants by $10 million; $300 million in the committee bill is reduced by $10 million.

As to Federal antiterrorism law enforcement, the substitute amendment cuts $100 million in the homeland security bill to cover the costs of the FBI's investigation of the terrorist attacks on September 11. These funds are critical to the investigation of the attacks from September 11 and the anthrax attacks.

The substitute amendment cuts $25 million from the homeland security bill for the FBI's Trilogy, the computer modernization program. This $25 million will significantly accelerate the completion of Trilogy.

The September 11 attacks have exposed the vulnerability in the integration of the FBI's computer system. While FBI agents in the field are working around the clock collecting evidence and clues, their reliance on paper files leaves their work fragmented and uncoordinated. It will only be when FBI agents are linked by the Internet to one another and the universe of law enforcement agencies, that the FBI will actually know what it and others know about terrorism, espionage, or organized crime.

Without these additional funds, deployment of Trilogy may be delayed and these unacceptable problems will continue to exist.

The substitute amendment cuts $25 million included in the Homeland Security bill for counterterrorism equipment and supplies. These funds are essential for the FBI to have the resources they need to properly investigate the terrorist attacks on September 11, 2001 and the following anthrax attacks.

With reference to Border Security the substitute amendment cuts over $270 million in funding for the Customs Service. This will prevent Customs from hiring the necessary inspectors and agents to protect our borders.

On Monday, the Attorney General essentially called out the National Guard to assist the Border Patrol and INS in their duties on the northern border. Treasury has not taken the same steps, yet has pulled personnel from the overworked posts on the Southwest border to staff one-person posts on the northern border. They even eliminated funding for added inspectors on the Southwest border.

This delay places $7.5 billion in international commerce at risk daily; $1.3 billion of which crosses the northern border. Instead of providing additional people to protect our borders, it will continue our short-sighted reliance on orange rubber cones to stop terrorists.

The substitute amendment cuts $300 million for INS construction that is funded in the homeland security bill even though there is an ever-growing overcrowding crisis at the INS.

For example:

Of 85 outposts across 9 sectors on the southwest border, 63 are overcrowded, some grossly so. The worst, a station in Mercedes, TX, was designed for 13 agents but currently houses 142, more than 1,000 percent its rated capacity.

In total, there are 10,150 agents working in office space designed for a capacity of 5,831 on the southern border. There are 525 agents working in office space designed for a capacity of 469 on the northern border.

The substitute amendment makes the same mistake made with the southern border over the past several years. We are building up agents—300 inspectors and 100 Border Patrol agents—but we are not providing the necessary funding to address necessary space requirements for them to do their job efficiently and professionally.

The risks to the safety of agents cannot be overemphasized and appalling work conditions will do nothing but contribute to the Border Patrol's soaring attrition rate.

This $300,000,000 is only the beginning to truly address the enormous backlog with INS construction projects.

Now, we have heard a lot about airport security.

The bill reported by the committee included $200 million to assist the neediest airports in meeting the costs of the dozens of new safety directives issued by the FAA since September 11. The Stevens amendment cuts that figure in half.

Senators should ask their small- and medium-sized airports whether all this money is needed. Airport revenues are dropping drastically at the same time as the airports are being required to triple their law enforcement expenditures and security personnel.

The Stevens amendment actually cuts the President's request to better secure cockpit doors by more than 20 percent.

Senators should not be confused by recent announcements that the airlines have reinforced all their aircraft. All the airlines have done to date is install a temporary metal bar and a cheap deadbolt.

The money in the President's request for FAA operations is to install the next generation of truly impenetrable cockpit doors. The Stevens amendment cuts it by more than 20 percent.

As for the nuclear power plants, the amendment by Mr. STEVENS proposal cuts $86 million from the $285 million provided for enhanced protection of our Nation's nuclear weapons plants and laboratories.

The amendment by Mr. STEVENS also cuts $131 million from the $286 million provided for the acquisition and safeguarding of fissile nuclear material from Russia and states of the former Soviet Union.

The non-proliferation programs at the Department of Energy are the cornerstone of our Nation's effort to keep nuclear material out of the hands of terrorists.

The Stevens proposal cuts all funding—$139 million—for enhanced security at Army Corps of Engineers owned-and-operated facilities: ports, dams, and flood control projects nationwide.

Additionally, the proposal cuts all funding—$30.259 million—for increased security at Bureau of Reclamation facilities.

It funds only the GSA request for security of Federal buildings in New York City. It fails to provide similar security for other Federal buildings elsewhere in the country.

How about U.S. port security.

The Stevens amendment then goes further by eliminating two-thirds of the funding for marine safety teams to permanently protect our ports.

Under the Stevens amendment, there will only be one such team to protect all the ports on the East Coast and one team to protect all the ports on the West Coast.

The substitute amendment reduces funding for the port security initiative through the Maritime Administration by $12 million.

These reductions would eliminate funding to assist local ports in their efforts to purchase security equipment such as fences, surveillance cameras, and barriers.

Effective physical security and access control in seaports is fundamental to deterring and preventing potential threats to seaport operations, and cargo shipments.

Securing entry points, open storage areas, and warehouses throughout the seaports, and controlling the movements of trucks transporting cargo through the seaport are all important requirements that should be implemented. They will not be implemented under the substitute amendment.

United States seaports conduct over 95 percent of United States overseas trade. Seaport terrorism could pose a significant threat to the ability of the United States to pursue its national security objectives.

The amendment by my friend would cut the President's request for defense programs by $2.3 billion.

Let me say that again. The substitute amendment by Mr. Stevens

would cut the President's request for defense programs by $2.3 billion. While the amendment has no detail, the cut would need to come from either classified programs or force protection programs designed to improve security for our forces around the world.

As to the Postal Service, my friend's amendment would cut $300 million from the $875 million in my proposal to sanitize the mail, protect postal employees, rebuild the facilities lost in New York City. The U.S. Postal Service identified $1.1 billion in unfunded needs. This proposal cuts that amount in half.

My friend's amendment to my amendment cuts $29 million from the EPA for bioterrorism response and investigation teams. This would undercut EPA's ability to respond to, investigate, and clean up after acts of bioterrorism.

My friend's amendment does this. The President promised New Yorkers they would get $20 billion to help them recover from the September 11 attacks. My amendment fulfills the President's promise. My amendment fulfills our commitment. I did not go to New York, but I saw enough on television. I did not go up there and make any promises. I stayed here and made my promise, and I am living up to that promise.

So the substitute, I am sorry to say, cuts funds for New York and other communities directly impacted by the attacks by over $9.5 billion. Here are some examples:

FEMA disaster relief, which funds debris removal at the World Trade Center site, repair of public infrastructure such as the damaged subway, the damaged PATH commuter train, all government offices and provides assistance to individuals for housing, burial expenses, and relocation assistance, is cut—cut—by $8.6 billion.

And $100 million for security in Amtrak tunnels is eliminated. Eliminated.

Funding of $100 million for improving security in the New York and New Jersey subways is eliminated by my friend's amendment.

As to New York/New Jersey ferry improvements, $100 million for critical expansion of interstate ferry service between New York and New Jersey is eliminated by my friend's amendment. Prior to the September 11 attacks, 67,000 daily commuters used the PATH transit service that was destroyed.

Those commuters are trying to get to our Nation's financial center in lower Manhattan. The communities in the New York region have been piecing together temporary ferry and train service using facilities that are not even safe to transport these commuters. The train riders at alternative train stops are so crowded, the police authorities are concerned with passengers being pushed off the platform onto the tracks. Yet the amendment proposed by Mr. STEVENS eliminates all this funding for transit and ferry assistance in that region.

And $140 million is eliminated to reimburse the hospitals in New York that provided critical care on September 11 and the weeks and months that followed.

Mr. President, $175 million is eliminated that would help New York process workers compensation claims for the victims of the September 11 attacks.

As to Federal facilities, $16 million is eliminated for the costs of keeping Federal agencies operating that were in the World Trade Center, such as the Social Security Administration, the Occupational Safety and Health Administration, the Pension and Welfare Benefits Administration and the National Labor Relations Board.

Ten million dollars is eliminated that would help New York schools provide mental health services to the children of the victims of the World Trade Center bombing.

Hear me. Hear me, Governor of New York Pataki. He came to my office. He sat down at the table across from me, and he made his plea for help. I am trying to help him. Yet $10 million is eliminated that would help New York schools provide mental health services to the children of the victims of the World Trade Center bombing.

The Stevens compromise is $174.4 million less than the Senate committee bill for the District of Columbia.

I will soon close my remarks. Before doing so, let me call attention to a cut in bioterrorism activities by over $1 billion. The amendment by my friend, Mr. STEVENS, would cut bioterrorism activities by $1.025 billion. It would cut in half funds from $1.15 billion to $500 million for upgrading our State and local public health infrastructure funds, desperately needed to help upgrade State and local lab capacity, to enhance surveillance activities, support local planning for emergencies, and improve local communications systems.

Recent events have made it clear that the State and local public health departments have been allowed to deteriorate. The head of the CDC, Mr. Jeffrey Koplan, testified only last week that at least—at least—$1 billion is needed not next spring, not next summer, not in the next supplemental, but now, immediately, to begin to upgrade our State and local health departments. That is the head of the CDC talking.

It cuts all funds provided in our proposal for the deployment of the smallpox vaccine across the country. This vaccine does no good if it is all at the CDC, with no plans for distribution if an emergency occurs.

He cuts funding for CDC capacity improvements by $57 million. Recently the Los Angeles Times reported that four men in Georgia were discovered to have contracted the West Nile virus 3 months earlier. The delay in the diagnosis was due to the large backups at the CDC labs. This cannot continue.

The people of the Nation cry out for help. They are concerned about the safety of their children, the safety of their wives, their mothers, their husbands, their fathers. They are concerned about the possible loss of life that might be visited upon them tonight, this very night.

So I had three goals in the committee bill. Let me repeat them.

One goal is to fully fund the President's request for defense—he would get every penny—$21 billion for defense. Nobody can say that this impedes or impinges upon the needs for defense.

Second, my proposal fulfills the promise of $20 billion for New York.

Also, my package responds to the vulnerabilities in our homeland defense.

Lastly—I would much prefer to be on the side of my friend than to be opposite him—my friend's substitute does not meet any of these objectives.

I yield the floor. I thank my friend for his courtesies.

AMENDMENT NO. 2243, WITHDRAWN

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Madam President, I shall read and reconsider the substitute based upon the Senator's detailed objections.

I withdraw my amendment.

Pursuant to section 205 of H. Con. Res. 290, the fiscal year 2001 concurrent resolution on the budget, I raise a point of order against the two emergency designations set out in provision C of the committee-reported amendment.

The PRESIDING OFFICER. The Senator from Nevada.

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

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

The Senator from West Virginia.

Mr. BYRD. Madam President, I move to waive section 205 of H. Con. Res. 290 of the 106th Congress for the consideration of the emergency designation on page 397, and I move to waive section 205 of H. Con. Res. 290, 106th Congress, for the consideration of the emergency designation on page 398, and I ask that the motion be divided.

The PRESIDING OFFICER. The Senator has the right to divide the motion.

Mr. BYRD. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

This will be on the first division.

There appears to be a sufficient second. There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, there has been a vote ordered on both motions to waive; is that right?

The PRESIDING OFFICER. Only the first division is pending at this time.

Mr. REID. I ask for the yeas and nays on the second.

The PRESIDING OFFICER. Is there objection?

Without objection, it is the order to so request.

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. REID. Madam President, I ask unanimous consent that there be 60 minutes for debate with respect to the motions to waive, with the time equally divided and controlled between Senator BYRD and Senator STEVENS or their designees; that upon the use or yielding back of time, without intervening action, the Senate proceed to vote with respect to the motions to waive. I further ask unanimous consent that—I have checked with Senator BYRD on this—Senator SCHUMER and Senator CLINTON each be recognized for 5 minutes out of the time of Senator BYRD.

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

Mr. BYRD. Madam President, I yield 5 minutes to the senior Senator from New York.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. I thank the Senator from West Virginia for his leadership. I know he will address the homeland security part of the debate so well, I will talk about the New York part of the debate, as I know my colleague, Senator CLINTON, will.

We are about to experience one of the most incomprehensible and inexplicably absurd moments in the entire history of this body. We are going to debate and vote upon whether what happened in New York on September 11 was an emergency. Think about it. We are debating whether what happened in New York on September 11 is an emergency. Some are saying it is not an emergency. Ask the thousands of families who lost loved ones as the Twin Towers collapsed. Ask the firefighters and police officers, emergency rescue workers who worked so valiantly, many giving their lives to rescue those in the Twin Towers. Ask the hospitals that extended themselves in ways they never had to before. Ask our mayor, a hero in America. Ask our Governor. If there was ever an emergency that affected the United States and certainly affected New York, it was this. Yet now we are debating whether this was an emergency.

New York desperately needs the money that Senator BYRD has allocated in his bill. When Senator CLINTON and I visited the White House and the President committed to help us with $20 billion, it was an act of generosity. It was an act of understanding that you don't divide America in a time of need. It was an act that said we are all one, and when one part of America is wounded and hurt and crying, all of America comes to its aid.

The proposal by the Senator from Alaska puts less money in for New York than either the President did when he committed to us or even that the President argued for in the House bill. That is not a way to heal our country. That is not a way to restore our Nation's greatest city. That is not a fair thing to do.

Every day we learn of new needs and new hurt in New York. The amount of money proposed in this bill helps us begin to recover. It helps the families who have lost loved ones. It helps the office workers who have lost their jobs. It helps the small businesses that are about to go under because they don't have anybody there to buy their wares. It helps the large businesses that lost so much space, 20 million square feet of space. It helps us restore our transportation system so damaged.

To now say that we don't have an emergency is almost as if to say what happened on December 7, 1941, was not an emergency. What kind of world are we living in? How can we contort ourselves in a political knot and deny what is obvious to everyone on this planet, American and otherwise? In an effort to deny New York badly needed funds, we are now attempting to vote away an emergency designation.

In my years here in the Senate, I have voted for emergencies such as earthquakes and floods. I have voted for all kinds of money for such. Now an emergency has struck my city, a horrible, fiendish emergency caused by diabolical people from halfway around the globe.

America, my friends in the Senate, we need your help. We desperately need your help. Please, do not turn your back on us. Do not turn your back on us in our hour of need. Bring America together. Unite and help us heal by supporting Senator BYRD's proposal, by voting against Senator STEVENS', on its face—with all due respect—absurd proposal that New York is not in an emergency situation.

If New York and if all of America—because the attack on New York was an attack on America—ever needed you, it is now. Do not let other types of considerations get in the way.

I yield the floor.

Mr. BYRD. I yield 5 minutes to the distinguished Senator from New York.

The PRESIDING OFFICER. The Senator from New York.

Mrs. CLINTON. Madam President, I rise to once again remind us what an emergency looks like. I have, over the past 25 years, visited the sites of tornadoes, hurricanes, floods, earthquakes, the Oklahoma City bombing. I have never seen anything in my life like what I saw in New York City on September 11. The television and the pictures didn't do it justice. I had to see it with my own eyes on September 12.

I rise to join my colleague who has, with me and so many others, been working to recover from this, this picture of devastation and destruction. I remind my colleagues of those early pictures of the firefighters, the police officers, and the emergency response teams coming out of the dust, the black soot that covered them from head to toe. There were a lot of very kind words spoken, a lot of applause and cheers for our soldiers on the front line at home who ran toward danger and saved countless lives.

It is hard to imagine that we are having this debate. It is especially hard when we look back, as I did, at how this body responded to the emergencies that were not man-made but naturally occurring, and what happened in Oklahoma City.

We know we are going to have a long struggle ahead to recover and rebuild. New York is taking on that obligation and challenge. But we also know we cannot do it without America's help.

This is America represented in this Chamber tonight. When New York City was attacked, America was attacked. I cannot imagine us ever turning our faces away from this. In fact, we did not. We immediately moved to appropriate money to be spent for New York. Right now, we are fighting for the emergency designation that will put that money in the pipeline, that will make it available.

Why is that important? It is important because in every disaster—there are some former Governors in this body, and I have spoken to a few of them tonight—when States were flooded, when the hurricanes came, when the tornadoes came, they wanted that money as soon as possible to begin to put it to work, to start letting the contracts, to start paying back the overtime so they did not have to run in the red, as we are having to do throughout New York.

I went back and looked at how fast money got out in other emergencies compared to the amount of money that was eventually delivered.

In the Midwest floods, within 3 to 4 months more than 40 percent of the dollars from the Federal Government had been appropriated. With the Northridge earthquake, more than 30 percent of the dollars had been appropriated within 26 days. Ninety-nine days after the Oklahoma City bombing, more than 40 percent of the money that went to help the people of Oklahoma had been appropriated. Eighty-five days after the attacks, we are fighting over whether or not what happened in New York on September 11 was an emergency.

I remember what people said in the immediate aftermath. We were given enormous support.

''We will rebuild New York City,'' said President Bush on September 21.

''We will come back to New York again to see this town rise from the ashes that we saw today,'' Speaker HASTERT.

''We are here to commit to the people of New York City and New York, regardless of the region of the country that we come from—and the entire

country is represented by this delegation—that we will stand with you.'' Senator LOTT.

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

Mrs. CLINTON. I ask unanimous consent for 1 more minute.

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

Mrs. CLINTON. Madam President, on behalf of not just New York—let's not look at it abstractly as just the big State and the big city that we are. I want everyone to picture the faces of those firefighters, police officers, and emergency workers, and then I want everyone to think about the widows and the orphans. Our country was invaded, and under the Constitution, we owe, as a nation, the protection and certainly the support of this body for which we are fighting tonight. I hope that what is an emergency will be voted as such this evening.

Thank you, Madam President.

The PRESIDING OFFICER. Who yields time?

Mr. CONRAD. Madam President, I ask for 2 minutes.

Mr. BYRD. I yield 2 minutes to the Senator.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Madam President, I rise as chairman of the Senate Budget Committee to point out that while our Republican colleagues are opposing $15 billion to strengthen our defenses and to rebuild what has been destroyed in the sneak attack on this country—they argue that this will add deficits—at the very same time, they are proposing an economic stimulus package that adds $146 billion of deficits over the Democratic stimulus plan over the next 3 years, 10 times as much in deficits in their economic stimulus plan than the $15 billion that would be used to strengthen homeland security and to rebuild the devastation in New York. Something does not make sense.

In their stimulus package, they have $25 billion, as the New York Times pointed out this morning, that would simply go to help the biggest corporations in America avoid taxes altogether.

They argue: No, no, go slow, the President might veto. Nobody argued go slow when we counterattacked those who attacked America. Nobody argued that we ought to go slow when the President went to New York and promised to rebuild. This is not the time to go slow in protecting America and rebuilding that which has been destroyed. This is the time to act.

The greatest irony is I was informed last week by sources within the administration that they themselves are working on a $20 billion supplemental appropriations bill for early next year.

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

Mr. CONRAD. Madam President, we should not wait. We should act.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD. How much time does the Senator from New Jersey wish?

Mr. TORRICELLI. Three minutes.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. TORRICELLI. Madam President, I thank the Senator from West Virginia for yielding the time.

There are moments when we are reminded why our fathers and mothers created this Union. This is one of those moments to provide for the common defense, to promote the general welfare.

All of America was attacked, but that attack fell most directly on the peoples of several States. The President of the United States has reminded us that in this new war, we are all soldiers. If that be the case, the obligation of this Senate is to provide resources for all the police officers, all the citizens, all the workers who are on the front lines.

The Senator from West Virginia has answered that call for my State, and I believe for the national interest. Since September 11, thousands and thousands of people are unable to get to their place of employment because the trains under the Hudson River were, in some instances, destroyed; businesses had to relocate and have had enormous economic disruptions. The Appropriations Committee has provided money to repair those trains, and $100 million for ferry service so businesses can continue to operate.

We are told that one of the greatest threats to our security in another terrorist attack is the tunnels under the Hudson River, identified as the primary threat in the country. The Appropriations Committee has provided $100 million to repair the tunnels for safety, for fire, for escape.

We are told that one of the greatest threats, from a previous threat from the al-Qaida organization, was to attack the tunnels for automobiles and bridges. Indeed, that attempt was foiled once before, but we remain vulnerable.

The Appropriations Committee has provided $81 million for security upgrades of the George Washington Bridge and the Lincoln Tunnel.

Finally, on this very day, we have this Senator's testimony about the vulnerability of millions of uninspected containers coming into this country on container ships from every corner of the Earth. The Appropriations Committee has provided $29 million for new security personnel and new boats for New York Harbor to ensure these ships are intercepted, and that these containers are inspected to assure the safety of our people.

President Bush is right. This country is at war. It is not a distant war. It may be fought in Afghanistan, but it began in New York and in Washington.

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

Mr. TORRICELLI. These are the resources in a very real way, just as real as in Afghanistan to win that fight to secure these people, and I am grateful to the Appropriations Committee for its commitment.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. Madam President, does the Senator from West Virginia need additional time now?

Mr. BYRD. I need some additional time. I was hoping the other side could use some of its time.

Mr. STEVENS. I will be happy to yield 10 minutes of our time to the Senator from West Virginia and shift it over to his control.

Let me briefly state the position of this Senator on the motion to waive. As I have stated, the President, as Commander in Chief in a time of war, has said he believes he has requested ample money to take him through to the time when he will submit, based on Governor Ridge's report to him, the moneys that are necessary to conduct the homeland defense for the United States. He has also said he believes we have now sufficient funds to pursue the war that is being conducted against global terrorism based on the moneys that have been presented in section A of this bill, and the additional moneys for defense in section B of this bill.

Those moneys are presented pursuant to the act of September 14, which specified that not less than $20 billion of the moneys involved would go to New York, Virginia, and Pennsylvania to help react to the events of September 11.

My amendment—I have withdrawn it now, but I will offer it again probably in the morning—does not change that law. Nothing in the proposal of the Senator from West Virginia changes the September 14 law, as I understand it. He seeks to add to it, but he does not change that, and that law guarantees $20 billion.

Now, I do not have my tie on to take on the Senator from New York as I might normally. That will be tomorrow probably, but right now let me say to the Senator from New York, no one knows disasters in the United States like Alaskans. We have an earthquake about every week. We have tidal waves. We have tornados, floods. We understand emergencies.

We have not said New York did not suffer an emergency. We have merely, by this point of order, said emergency money is not needed now to meet the needs of the people affected by September 11 because with this bill, we have put up a total of $40 billion, plus the moneys that are in the bill itself. They cannot even come near to be spent before we can get the next supplemental out.

I am informed that New York has only requested so far less than $5 billion of the money to which it is entitled.

I do not mind being a whipping boy. You play with the cards you are dealt. My role is to try to get this bill to conference. I want the bill enacted before Christmas. I think New York is better

off to have it enacted before Christmas. I do not think it can be enacted before Christmas if we have a situation where we have a veto of this bill. I do not think we should be challenging the President of the United States.

I remember standing in this Chamber as the chairman of the committee asking for money for the former President of the United States to conduct two wars against which I voted. I have always honored the request of the President of the United States with regard to defense and emergencies, too. I remember standing in the Chamber and asking for money to replace the money that the former President of the United States used under the Food and Forage Act to conduct activities in Kosovo and Bosnia, that I opposed.

This is no precedent. This is a procedure established to assure the Congress agrees with the designation of emergency in terms of spending. We are not saying there was not an emergency on September 11. Anyone who watched the television—and I did visit ground zero. God knows there was an emergency up there and one that will be ongoing, but New York is not going to be rebuilt before March of next year. The money in this bill, the $40 billion, cannot be spent before March of next year. There is no necessity for additional money now. There will be a necessity to respond to the President's request next spring. Therefore, I believe the motion to waive is not necessary, and I oppose it.

The PRESIDING OFFICER. Who seeks time?

Mr. BYRD. Does the other side wish to yield some time to themselves?

Mr. STEVENS. We yielded 10 minutes of our time to the Senator from West Virginia.

Mr. BYRD. I understand.

Mr. STEVENS. Does the Senator from Oklahoma seek time?

Mr. NICKLES. How much time remains on both sides?

The PRESIDING OFFICER. Fourteen minutes remains for the minority; 24 for the majority.

The Senator from Oklahoma.

Mr. NICKLES. Madam President, first I wish to compliment our colleagues for this debate, and particularly Senator STEVENS. It is not easy when one takes on the chairman of the Appropriations Committee. I have great respect for my friend and colleague from West Virginia. I do not happen to agree with him on this particular issue. I agree with him on a lot of issues. This is not one I agree with him on, and I will state why.

I have heard some colleagues imply if we do not support this, we are not in favor of New York, or we are not in favor of rebuilding, and I just totally disagree with that. I think every one of us wants to help New York, wants to help Virginia, wants to help our country, wants to provide for national security, wants to provide for a defense bill.

I am trying to look at where we are in regard to helping New York and helping our national defense. We have to have a bill that is going to be signed by the President of the United States.

I read the President's statement of policy, and it does not equivocate. It says if the final bill presented to the President exceeds either of the agreed-upon spending levels, the President will veto the bill—the spending levels of $686 billion that he agreed to. And I might mention he increased that spending level to get an agreement. He had an agreement with Members of Congress, Democrats, and Republicans. I might mention the Democrats in the House insisted he put it in writing. It was put in writing on October 2.

That agreement was for $686 billion in discretionary spending. That was for a growth level of over 7 percent. The President agreed with that. Subsequent to that, the President agreed to an emergency spending bill of $40 billion.

I might mention we were marking up the bill—I am sure my colleague from West Virginia remembers this—and the bill was $20 billion. At one time, some people were saying maybe it should be less than that, but it was at $20 billion. Then our colleagues from New York and the Governor and the mayor of New York prevailed upon the President to make the $20 billion $40 billion. So in one afternoon, in a period of hours, right before the very day we were passing the emergency assistance bill, it was $40 billion.

That bill was passed unanimously. It was done in a bipartisan fashion. We all agreed, let us make it $40 billion. We were basically saying let us work together on this. I questioned whether or not at that time it needed to be $40 billion. I was saying, why do we not do $20 billion now, and if we need another $20 billion, we will do it? But we all agreed, let us do $40 billion.

We had a significant discussion about how that first $20 billion would be controlled, and we agreed basically $10 billion at the President's discretion, the other $10 billion the President would submit his request to the appropriators and they would sign off on it. They had 15 days to do that.

Then we said the additional $20 billion would be subject to a separate appropriations bill, and that is what we have in the Department of Defense bill. Some people might be wondering why this is being done in the Defense bill in the first place. It did not have to be in Defense. We just said it will be in a subsequent bill. It could have been an independent bill or it could have been in an appropriations bill. So that is the $20 billion. The President agreed with that. Both parties agreed with that, and it was passed.

That is all we have agreed on. The President says that is enough for now. The President said he is willing to make whatever considerations are needed in the future. The President's letter also said the administration spent less than 16 percent of the $40 billion designated by Congress to respond to the September 11 attacks. Yet some people are saying let us make the $40 billion $55 billion, even though we have only spent 16 percent of the original $40 billion. I think that is moving a little aggressively, maybe a little too fast, and maybe not giving us a chance to figure out the cleanup costs.

Both Senator Stevens' bill and Senator BYRD's bill have a lot of money for FEMA. I do not know, and I do not know that anybody knows, how much FEMA is going to need for cleanup costs for Virginia and New York, but we are paying every bill that FEMA has been requested to pay.

I contacted the mayor's office in New York City and they said every single bill they have submitted to this administration has been paid within 5 days. That was from the mayor's office as recently as a few days ago. So if every bill has been paid, they are making good on their commitment.

Why not give the administration a chance to look at the total costs. Governor Ridge was appointed to be head of this task force. We give him enormous responsibility. Let him make recommendations. Then we will consider those recommendations. I am sure we will pass almost all of them. We may modify them. We have that right. To say we will preempt and move ahead, we are wasting our time. The President says he will veto it. I tell my friends, we have the vote to sustain the veto; why go through this exercise?

Finally, some have implied we are not doing anything for the victims in New York. This disaster happened September 11 and it is December 6 and we have not enacted legislation. Let me correct that. At least compare it to what we did in Oklahoma City. We had a disaster in Oklahoma City. It killed 169 people. That is not as bad as 3,000 or 4,000 but it is still pretty bad.

What did we do? For New York City, by the end of the week or hopefully by the end of next week, we will pass legislation that will say victims who were killed, their families will not have to pay any tax on income earned this year or the previous year. That is a benefit preserved primarily for the military. We will make that apply for the people who were killed as a result of the September 11 disaster. We never did that for the people in Oklahoma City 6 years ago, but we will do it in this case, and I strongly support it. Very good. That is positive.

Some of the families, the survivors of families were lobbying for that. I compliment them for that. We are going to deliver. That will be valued assistance. They will get back all the taxes they paid last year and all the taxes they paid this year. That will happen soon. They will not go through bureaucracy. That will happen. I am happy we can provide that assistance.

We have also already passed a victim's compensation fund and we have appointed a special master. The Attorney General appointed a special master who is trying to come up with an adequate compensation system for people

who lost a family member as a result of the disaster. That moved quickly. We never did that in Oklahoma City. Some people estimate they will receive large payments. I don't know. I think it has something to do with how much compensation they receive or how much they will receive from the insurance companies. That is very significant. Congress has already acted on that. Hopefully, checks will go out to the families and those in need of assistance will get that quickly.

It would be shortsighted to say we are not taking care of families. I think they have significant assistance through the Tax Code by this Congress, this year, and I think they will get something through the victim's compensation fund which Congress has already enacted. That should happen pretty quickly.

Congress has been moving. Maybe we don't move as fast as some think we should, but that is pretty quick. What about rebuilding New York City? Oklahoma City just had a dedication to rebuild the Murrah Building destroyed 6 years ago. They just had the groundbreaking today. Again, everybody is wanting to move full speed ahead, but use a little common sense. Work with Governor Ridge. Let him have some input on what is needed. Let the President of the United States have some input on what is needed. Let's work together in a bipartisan fashion to figure out what is needed, not one party saying this is what we will insist upon. Let's work together. We did it for the initial $40 billion. I think we can do it for the future. We can do it working with the administration. It will not happen in this bill, trying to jam $15 billion on the President, saying he will not sign it and we will sustain the veto. That will not happen.

I urge my colleagues to vote no on waiving the budget point of order. The budget point of order is well made. Let us work today. When we waive the budget, we should do it when we are working together. If we waive the budget and say budget rules don't apply, do it when we are all on the same bandwagon, when we are working together, not for partisan advantage trying to make some look as if we don't care about New York or care about fighting terrorism. That is false. Every Member serving, House and Senate, cares about New York and cares about fighting terrorism. I urge my colleagues to work together in a bipartisan fashion, work with the administration, work with Governor Ridge to come up with something mutually acceptable that will provide the Nation security and make sense economically and not break the bank at the same time.

I yield the floor and reserve the remainder of my time.

Mr. BYRD. How much time do I have remaining?

The PRESIDING OFFICER. Twenty-three minutes forty-five seconds.

Mr. BYRD. I yield 3 minutes to the Senator from Iowa and I yield 2 minutes to the Senator from Rhode Island, Mr. REED.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Madam President, we are talking about just another part of the defense of our country. If we think of what is happening in Afghanistan, if we found out our troops were ill-trained, that our radar was out of date, and they were short of ammunition, we would have hearings. We would call in the experts, we would listen to them, we would find out how much they needed to make sure our troops were trained, to make sure our radar worked, and to make sure they had enough ammunition, and we would supply it.

That is exactly what we did for this bill. We brought in the witnesses. We heard from the experts. We asked: What do we need to protect the people of this country in terms of a bioterrorist attack? That fell under the jurisdiction of the subcommittee which I chair. Senator SPECTER and I had four hearings. Senator STEVENS and Senator BYRD attended those hearings. We had good testimony. What they came up with was the expert judgment of what we needed to protect our people against a bioterrorist attack.

If I put it in military terms in terms of bioterrorism, our troops are ill-trained, our radar is out of date, and we don't have enough ammunition. For example, we had testimony that we needed to get our small pox vaccine manufactured and deployed. This bill includes $829 million to do that. The substitute amendment would take that down by $267 million. We would cut local and State public health preparedness by over $650 million. This is our radar system. These are the people, if an attack happens, who will pick it up immediately and keep it from spreading. We had $1.15 billion. The amendment, the substitute, only has $500 million. There are cuts for CDC for the lab capacity. These are things we need to protect our people.

We heard from the experts. We got their testimony. We made a judgment call as to what was needed to protect us from a bioterrorist attack. We had $3.9 billion—it was $3.3 billion for public health and $600 million in agriculture, for a total of $3.9. The substitute amendment only leaves $2.3 billion.

Just as we would not want to shortchange our troops in the field overseas, we don't want to shortchange the troops we have at home. Our public health officials, our local hospital administrators, the laboratories, the manufacturers of the small pox vaccine, make sure they have the equipment they need to protect our people.

Mr. STEVENS. I ask unanimous consent the time remaining be divided 25 minutes to the Senator from West Virginia and 5 minutes to me.

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

Mr. BYRD. I thank the distinguished Senator from Alaska.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 2 minutes.

Mr. REED. Madam President, I rise to support the efforts of our chairman, Chairman BYRD, on an extraordinary package that recognizes the reality we have to do more, not less, and we have to do it now to respond to the issue of homeland defense.

A few weeks ago I met with my Governor and all the emergency preparedness officials in the State of Rhode Island. They have an excellent plan. They have an idea of what they can do, what they must do. They don't have the resources to do it. Time waits for no person. And if we waste this time when the crisis comes and a response is necessary, the plans won't mean anything.

This funding is critical now. It is critical to protect our preparedness infrastructure to allow first responders with appropriate equipment, with radios that communicate with all the different agencies, to be in place—not on order. We have to move now, and we have to move aggressively, and that is what the chairman has done. He has carefully weighed conflicting demands for scarce resources, and he has come up with a plan that covers the gamut of major responsibilities at the State level. We have to protect our infrastructure. We have to protect our nuclear facilities. We have to ensure that all of our State agencies and Federal agencies and not-for-profit groups, such as the Red Cross, are coordinated.

Rhode Island is one of three or four States that have a plan that has been approved and accepted by the Federal Government. They know what to do. But they would be the first to tell you, as they told me, they don't have the resources to do the job. When the crisis comes, when an attack comes, we cannot satisfy our constituents simply by saying we had a good plan. We have to be able to act. This money is necessary now. I commend and thank the chairman for his great efforts, his leadership on those resources.

If I may, I request 1 more minute.

Mr. BYRD. I yield 1 more minute.

Mr. REED. I am particularly concerned, in terms of assisting local communities, that they have these resources now because it will signal, first, that the Federal Government is committed to supporting them now; second, it will leverage State dollars. We are approaching a situation where the States are under extreme fiscal distress. Without the foundation of this Federal funding, I am very pessimistic that States will come forward.

If it is not important for us, the Federal Government charged with protection of our country, then how is it important to a State legislature to appropriate funds this coming year, in the next few months? That is another reason I believe we have to act now. We have to act promptly.

In addition, we have to be able to support the efforts of the State governments to begin to take these plans and

operationalize them—to go and actually test these plans. Frankly, we will not know the gaps until they go out and test it. This money could enable that.

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

Mr. REED. I yield the floor.

Mr. BYRD. I yield 3 minutes to the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CORZINE. Madam President, I strongly support the leadership and initiatives of the distinguished Senator from West Virginia with regard to these issues on homeland defense.

There are so many powerful arguments that support this investment that I think our society needs to make in the protection of our communities through the bioterrorism initiative, which puts money in State and local hands, money that will make a difference to make sure we have the plans in place to really protect our people.

I live in New Jersey. We had a number of anthrax-related events in our Postal Service. We were not prepared, and the State ended up coming in and spending enormous amounts of money. It needs to be addressed now. That is why the kind of program that Senator BYRD has put together is so important.

It is a good economic policy. We need to have confidence in our society right now. This is a statement to all of the people in this country that we take these issues seriously with regard to homeland defense, whether it is from bioterrorist attacks or whether it is protecting our nuclear plants, of which we have four in New Jersey. It is absolutely essential we send out these sure and certain statements that we care.

It is good economic policy because it will stimulate our economy. We do not want to get too far away from that. This is real expenditures that will be out the door quickly.

Our States are desperately strapped, as the Senator from Rhode Island was just saying. New Jersey has a $1.9 billion deficit in this fiscal year, the one that ends June 30. They need resources to be able to be economically sound in a tough economic environment.

It is inconceivable to me that we do not stand strong with New York City and New York State at this period of time. I have seen the two Senators make their presentations today with regard to the devastation. This is money not going to be available in the near term when the need is the greatest. We need to act. I have lived and worked in the community around New York for 30 years. The desperation, the depression that we have—in an economic and emotional context—is real. We need to send these signals. That is what this is about. It will do much along those lines.

I will be very parochial. This bill has meaningful elements in it for the State of New Jersey—those parts of New Jersey, by the way, that are linked inextricably with New York City. There is $100 million for ferry service, $81 million for law enforcement. Part of that, $34 million, is going to the State police in New Jersey. We have one boat patrolling the ports—one boat.

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

Mr. CORZINE. For all these various reasons, I strongly support Senator BYRD's amendment.

Mr. STEVENS. Madam President, I shall use the remainder of our time and then the Senator from West Virginia, the chairman, shall close on this motion.

I call to the attention of the Senate that the act of September 18 was specific in the sense of dealing with $40 billion for the costs of:

> . . . providing Federal, State and local preparedness for mitigating and responding to the attacks . . . providing support to counter, investigate, or prosecute domestic or international terrorism . . . providing increased transportation security . . . repairing public facilities and transportation systems damaged by the attacks; and . . . supporting national security.

Then it says:

> Provided, That these funds may be transferred to any authorized Federal Government activity to meet the purposes of this Act.

It later specifically says:

> . . . not less than one-half of the $40 billion shall be for disaster recovery activities and assistance related to the terrorist acts in New York, Virginia, and Pennsylvania, on September 11, as authorized by law. . . .

''As authorized by law,'' the funds must go to Federal agencies for authorized Federal activities.

Senator BYRD's amendment—and I think we are going to have to go there sometime in the future—goes beyond this law. It goes beyond the $40 billion and makes $15 billion more available, and not all of it is channeled through Federal activities.

Again, I do not argue with the intent. I think he is right. Eventually we will have to do that. But for now, if we look at what my amendment has done—and we are going to modify it to a certain extent, based upon the comments of the Senator from West Virginia and the Senators from New York. No one is perfect about this. We are trying to allocate this money where it is needed within the $40 billion and follow the existing law and authorization. The authorization for the $20 billion we are dealing with now is in the act of September 18. But for that authorization, the whole amount would be subject to a point of order on the basis of emergency. But that emergency was declared on September 18.

We are dealing with a concept of fulfilling that. Nothing we do tonight will alter the commitment to New York and Pennsylvania and Virginia that not less than $20 billion of the $40 billion is dedicated to Federal activities in support of recovery in those States. Respectfully, New Jersey was not included, I am sorry to say. They probably are the beneficiary of some of the moneys that will be spent in recovering from the New York moneys that were guaranteed. I think we probably should have included New Jersey in there on September 18, as a matter of fact.

But I urge the Senate not to declare this emergency and not to support the waiver of the budget resolution that provides for such a procedure of a point of order when the moneys exceed the amount of the budget process. We had an agreement with the President. The Senator from West Virginia and I have done our absolute best to keep the agreement with the President. I think the Senator from West Virginia will be the first to admit his $15 billion goes beyond the concept of the rest, to which the rest of us were committed.

I hope to be here in the Chamber in March or April supporting the chairman, the Senator from West Virginia, and supporting the request of the President of the United States for additional moneys to cover many of the targets of his amendment.

I yield the remainder of my time. I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Madam President, let me thank my friend, Senator STEVENS, for being the man that he is. He is a Senator. He is a first-class Senator. He lives up to his responsibilities under the Constitution. He reveres this institution. He lives up to his promises to his fellowman. I watched him the other day in the committee and how he said no. He is a Senator who says no and does not lose respect in any way. He does not make you angry. He almost makes you like him when he says no. He is a remarkable man. In this debate, he has given me much of his time. He did the right thing. He offered to let me close the debate on my motion. I could close the debate, but he offered it. I didn't have to fight for it.

Madam President, I thank my friend. Let me say this: No matter what the outcome, Senator STEVENS will always be my friend. I will not think less of him for his opposition. I will think more of him for the way he has conducted himself. We have two Medal of Honor winners in this body, as far as I am concerned: DANNY INOUYE; and, although TED STEVENS hasn't formally been presented with such a medal, from me he gets one also. I love him. There is a friend who walketh closer to a brother. And TED STEVENS is one who does that.

On November 8, President Bush addressed the Nation. In his remarks, the President asked the American people for courage. He asked them for vigilance, for volunteerism, and for adherence to time-honored values. He called upon them to carry on with their lives. He told them that they had new responsibilities. He asked for their help in fighting this new war on terrorism here at home.

I have no quarrel with many of the things which the President said. But the first responsibility of any government is to protect the safety of its citizens. How can we ask our people to

shoulder new responsibilities to fight the war against terror, unless this Government first lives up to its most basic duty—ensuring the safety of our citizens on our own soil.

Ask those men in Afghanistan: How would you vote on this amendment? Would you vote to give the people back home the security that this amendment provides to them? How would they vote? I have no doubt that a great majority of them would vote for this amendment. They are thinking of their loved ones back here, too, who might any day be subjected to a terrorism attack. Would they take the position, well, let them wait until the spring? Let them wait for the supplemental? How laughable that is.

This Government must take positive, proactive steps right now to shore up our homeland. If we are all to become citizen soldiers here at home, let us make sure that we provide those homeland soldiers with at least a front line of defense. I am talking about protecting our airports; screening baggage and passengers thoroughly; protecting mass transit; protecting rail service; guarding our ports; patrolling our nuclear power plants, dams, bridges; guarding chemical plants, food suppliers, water supplies; protecting malls, and stadiums. If 911 taught us anything, it taught us that we are vulnerable in hundreds of ways. It taught us that the unthinkable is not only thinkable—it has happened. We are totally derelict in our duties as public servants if we learn nothing—take no real action—as a result of the horrific experiences of September 11.

On November 8, the President's remarks were the classic call to public service. ''Ask what you can do for your country'' was its rhetorical theme. And I applauded him. And while I have no problem with those sentiments, and hope that they do inspire more of our people to service and unselfish action, I think that we should all be aware that the ground has shifted under us. The battleground is no longer just on some distant shore in Afghanistan, it is in New York, Florida, Pennsylvania, California, Washington—indeed anywhere in this great land. I think that the American people now have a right to ask their country what it can do for their safety.

Anthrax has turned up in our mail. Where is the massive effort to be sure that we can sanitize our mail for that threat?

I have received 12 letters from my constituents since those Twin Towers went down—12 letters I have received. My staff has been evacuated from the southeast corner of the Hart Building. What about the people out there? What about their safety? What about my wife's safety when she goes to the mailbox? My daughter, your daughter, his daughter, think of them.

The Postmaster General has been told by this administration that he will only get $175 million for equipment to sanitize mail. He needs at least $1 billion even to begin. Whether the anthrax scare was homegrown or the work of madmen in other lands makes no difference. Poisoned mail poses a new threat to our people and we need to find ways to deal with making mail safe to handle and safe to receive.

Smallpox could be a devastating blow to this nation, and indeed to the world, should some madman find a way to unleash its horror on an unsuspecting population. Yet, where is the massive effort to develop a safe vaccine?

We need billions to combat this and other bioterrorism threats.

We need a commitment to improve our health care facilities—to train personnel to deal with widespread diseases and panic. Especially in rural areas, there is next to no frontline of defense against such bioterrorism attacks. We are like children in the dark being asked to be brave in the face of an enemy we cannot see, and whose actions we cannot predict, and with no ammunition forthcoming from a federal government to which we all pay taxes. What better use of the tax dollar than to protect our citizens as well as we can from the scourge of terrorists who have already killed thousands of Americans. We fail our people and we fail them grossly if we do not do all we can to keep them safe in their own beds. No volunteer effort can do that. No tax break can do that. Only a strong Federal commitment from the government can have any hope of success for such a massive and important task.

States will be in the frontline of any homeland defense effort, yet the states are in severe financial difficulty. Four out of five states are sliding into or are in a recession, and state revenues are suffering accordingly. Moreover many of the tax cuts in the House-passed stimulus bill would serve to rob states of the very revenues they need at this time.

An October survey by the National Conference of State Legislatures revealed that almost every state is experiencing revenue shortfalls. Forty-three states and the District of Columbia now report that revenues were below forecasted levels in the opening months of FY 2002. At least 36 states have implemented or are considering budget cuts or holdbacks to address fiscal problems. Twenty-two states have implemented belt-tightening measures that include hiring freezes, capital project cancellations and travel restrictions. Six states have convened in special sessions to address budget problems, and several others are considering special sessions later this year or early next year. Yet, we put more on them. We ask them for more.

How can we expect States in such shape to mount a frontline defense for our people if the Federal Government does not help with additional moneys dedicated to that cause? That is not just a rhetorical question. The failure to respond may have real and disastrous consequences.

We all may cheer the victory in Afghanistan when it finally comes, and we may all breathe a little easier if bin Laden is caught, but we dare not forget that the bin Laden organization has branches in 60 countries. They are here in the United States. They are cunning. They are organized, as we have so painfully learned.

Yet there is opposition to the moneys to beef up the computer capabilities of the FBI, the Immigration and Naturalization Service, and the Bureau of Customs—all agencies charged with monitoring the people and goods which come over our borders or for tracking down terrorists once they get here.

In short, there has been plenty of lip service paid to homeland security, but talk is much cheaper than a Federal funding commitment. And while it is fine to lift spirits, it is not enough. It is essential to dedicate funding to protect entities most vulnerable to terrorist attacks.

Madam President, we have been sent a horrific message. We have awakened with a start. We have suffered bad dreams. Yes, we have suffered nightmares. We have awakened, as I say, with a start. But we dare not return to our slumber. We dare not let our concentration wane and our attention wander. We will not be safer as a nation than we were on September 10, if we do not use the lessons that we have learned to make us stronger now. We will be just as unprepared the next time, God forbid, and it will be the fault of this Government and its complacency. Issuing terrorism alerts is no substitute for taking real action that we know can help minimize the threats.

So I plead with my colleagues to support this package which is intended to make our people safer and more confident. It is not a package which divides Americans. It is not a proposal that pits the rich against the poor or corporations against working people. It is a program for the safety of all Americans. It is something Democrats and Republicans can do together for our people. There should be no aisle separation here. It can change the tone in Washington by promoting unity among elected leaders. We can come together for the benefit of every man, woman and child in this Nation. We can improve the climate of fear which is troubling our people and hurting our economy. There is no partisanship—no partianship—in homeland security. It is our solemn duty. And anyone who was living in this country on September 11 knows deep in their heart that we had better start to do something now.

Madam President, I am already at the beginning of my 85th year. I have seen wars and depressions and natural disasters of huge proportions. Always, Madam President, always we have had leadership that acted quickly to protect America and her people. Now we are faced with perhaps the most dangerous threat that we have ever faced—

terrorists on our own soil. Terrorist cells in more than 60 countries in this world; terrorists plotting right now—right tonight; while we sleep, they will be plotting; plotting right now—the next attempt to kill massive numbers of innocent people.

I do not want to stand on this floor after the next terrible attack and say to my colleagues, ''We should have acted sooner. We might have saved lives.'' None of us want that on our conscience. We can act now. We can do all that we can right now to ''promote the common defense.'' Let us not wait. Let us not give bin Laden more time. Let us not hew to the party line so closely that we sacrifice the safety of our people.

The White House pulled out all stops today in the effort on behalf of the legislation that has been given the name of: promote trade security. It is fast track—fast track. And I cannot reconcile what I seem to see: an administration that says, give me fast track, an administration that says, no, but slow down when it comes to providing money for homeland defense; slow down there but give me fast track on trade legislation.

We must not go home, Madam President, without doing something to ward off what could be another tragedy of major proportions. I do not understand how any Member of this body could sleep if we fail to take this critical step for the protection of the people who sent us to the Senate.

I have been around here so many years, and I have seen so many things. I have seen disasters. And never have I voted against any State that came here needing help from the Federal Government in the face of disaster. I have never turned my back on any State.

And I could go down the list: Texas, $1.090 billion for Tropical Storm Allison—$452 million in 2001, including emergency funding in the fiscal year 2002 VA–HUD bill—and Hurricane Bret in 1999, and damages from severe storms, flooding, hail, and tornadoes.

I have a list that I will not take the time—and I do not have the time—to read. I have a list of disasters that have occurred, and a list of responses by the Appropriations Committees of the Congress in helping the people who were suffering from those disasters. I ask unanimous consent to have that printed at the close of my remarks.

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

(See Exhibit 1.)

Mr. BYRD. Now, Madam President, how much time do I have?

The PRESIDING OFFICER. Twenty-one seconds.

Mr. BYRD. Madam President, I do not understand how any Member of this body could sleep if we fail to take this critical step for the protection of the people who sent us here.

Have we become so cynical that we cannot even do that? Are we so insensitive that we would rather embrace the cold illogic of budget deals than face our duty to ease the palpable fear in this Nation? I hope not. For if that is so, we have failed this Nation at its most critical hour. That is not the Senate I know. That is not the Senate to which I have given most of my life. Once again, I ask Senators to turn away from the sterile illogic of this misguided point of order and come together to protect our homeland and our people.

I thank all Senators. And I thank Mr. STEVENS in particular. I thank him.

EXHIBIT NO. 1

APPROPRIATIONS COMMITTEE TRADITION FOR RESPONDING TO NATURAL DISASTERS FY 1989–2001

The Senate Appropriations Committee has a long, bi-partisan tradition for responding to natural and man made disasters. Why Members are now resisting using the emergency authority for homeland defense and to fulfill the $20 billion commitment to New York boggles the mind.

FEMA Disaster Relief funding for major disasters over the last 11 years follow:

TEXAS: $1.090 Billion for Tropical Storm Allison ($452 million in 2001, including emergency funding in the FY 2002 VA/HUD bill) and Hurricane Bret in 1999, and damages from severe storms, flooding, hail, and tornadoes;

MISSISSIPPI: $238.8 Million for such disasters as Hurricane George, Tropical Storm Allison, severe storms, flooding and tornadoes. Emergency funding was also provided through CDBG for Hurricane George;

OKLAHOMA: $374.6 million total, including $37 million of emergency funding for Oklahoma City in response to the Murrah Building bombing and $183 million for a severe winter ice storm last January;

NORTH CAROLINA: $1.47 billion since 1989 for disasters such as Hurricane Floyd ($706 million), Hurricane Fran ($547 million) and Hurricane Bonnie ($38 million);

ALASKA: $113.4 Million since 1989 for such disasters as the Red Fox Fire, the Tok River Fire, the Appel Mountain Fire, and numerous severe storms and flooding;

PENNSYLVANIA: $424.8 Million since 1989 for such disasters as Tropical Storm Allison, Tropical Storm Dennis, Hurricane Floyd, and other severe storms, flooding, and tornadoes;

NEW MEXICO: $39.5 Million since 1989 for such disasters as forest fires in 2000, the Hondo Fire in 1996, the Osha Canyon Complex fire in 1998, as well as numerous severe winter storms and flooding Significant emergency funding was provided in response to the Cierra Grande fires);

MISSOURI: $344.6 Million since 1989 for such severe storms and flooding, grass fires, tornadoes and hail storm damage, including the Midwest floods.

KENTUCKY: $243.4 Million since 1989 for severe storms, flooding, mudslides, and wildfires. Over $132 million in 1997 alone for flooding and tornado damage;

MONTANA: $66 Million since 1989 for fire damage in Flathead Lake, Lincoln, Sanders, Gatalin Park, as well as severe storms, flooding, ice jams, and severe winter storm damage;

ALABAMA: $332.3 Million since 1989 for damage caused by Hurricane George in 1998 ($57.8 million), Hurricane Opal in 1996 ($52.7 million), ice storms, fires in Russelville, Chelsea, Fayette and Lookout Mountain;

NEW HAMPSHIRE: $38 Million since 1989 for damage caused by Tropical Storm Floyd in 1999, Hurricane Bob in 1991, blizzards, high winds and record snowfall damage, and severe ice storms and flooding;

IDAHO: $65.8 Million since 1989 for severe storms, flooding, mud slides, and wildfires.

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

All time has expired.

Mr. STEVENS. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Which division will be the subject of the first vote?

The PRESIDING OFFICER. Division I.

Mr. STEVENS. Homeland defense. Thank you.

The PRESIDING OFFICER. The question occurs on division I of the motion to waive section 205 of H. Con. Res. 290 of the 106th Congress. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

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

The yeas and nays resulted—yeas 50, nays 48, as follows:

[Rollcall Vote No. 354 Leg.]

YEAS—50

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

NAYS—48

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

NOT VOTING—2

Gramm	Helms

The PRESIDING OFFICER. On this vote, the yeas are 50, the nays are 48.

Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the emergency designation is stricken.

The question now occurs on agreeing to division II of the motion to waive section 250 of H. Con. Res. 290 of the 106th Congress.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

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

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

The yeas and nays resulted—yeas 50, nays 48, as follows:

[Rollcall Vote No. 355 Leg.]

YEAS—50

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

NAYS—48

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

NOT VOTING—2

Gramm	Helms

The PRESIDING OFFICER. On this vote, the yeas are 50, the nays are 48. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The point of order is sustained, and the emergency designation is stricken.

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

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

MORNING BUSINESS

Mr. REID. Madam President, I ask unanimous consent that the Senate now proceed to a period of morning business with Senators allowed to speak therein for a period not to exceed 5 minutes each.

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

SENATOR THURMOND'S 99TH BIRTHDAY

Mr. BYRD. Madam President, with great pleasure, I belatedly wish the happiest of birthdays to the senior Senator from South Carolina. It was 99 years ago yesterday that STROM THURMOND was born in Edgefield, SC.

Ninety-nine years old, what a feat. that makes him old enough to be my big brother!

When he was born, December 5, 1902, the Wright brothers had not yet made their historic flight at Kitty Hawk. He has lived to see men walking on the Moon and American space vessels exploring the far reaches of our galaxy.

When he was born. Theodore Roosevelt was President of the United States. Since then we have had 16 more Presidents.

When he was born, the Kaiser still ruled in Germany. Since then, that country has seen the rise and fall of the Weimar Republic, the rise and fall of Nazi Germany, a divided Germany, and now a united Germany.

When he was born, the Czar still ruled in Russia. Since then, that country has experienced the Russian Revolution, the Bolshevist government, the Communist government, the Soviet empire, and now Russia again.

Almost as intriguing has been the extraordinary career of our remarkable colleague. During the same time period, he has been a teacher, an athletic coach, an educational administrator, a lawyer, a state legislator, and a circuit court judge.

He won his first elective office, County Superintendent, the same year that Herbert Hoover won his first elective office, 1928. He was a soldier in World War II, where he took part in the D-Day invasion of Normandy. He was a presidential nominee in 1948 and the governor of his beloved State of South Carolina from 1947 to 1951. He has been a Democrat, a Dixiecrat, and a Republican. Most of all he is a great American.

All of this would have been more than enough experiences and achievements in one lifetime for most mortals. But, incredibly, STROM THRUMOND's greatest days were still ahead of him.

In 1954, he won his first election to the U.S. Senate as a write-in candidate—making him the only person in history to be elected to the Senate as a write-in candidate. He has now become the longest-serving Senator in history, and the oldest person ever to have served in the Senate.

But it is more than longevity that has made STROM THURMOND an extraordinary Senator. As chairman of the Senate Armed Services Committee and chairman of the Senate Judiciary Committee, he has fought for a stronger military to keep our country free, and he has fought for tougher anti-crime laws to make our streets safer. As President pro tempore of the Senate, he brought dignity, style, and a southern refinement to this important position.

For these and other achievements, he has had high schools, state and federal buildings, as well as streets, dams, and town squares named in his honor. A few years ago (1991), the Senate designated room S–238 here in the U.S. Capitol as the ''Strom Thurmond Room'' ''in recognition of the selfless and dedicated service'' that he has ''provided . . . to our Nation and its people.''

On this, his 99th birthday, I wish to say what a privilege and an honor it has been to have served with this remarkable man for all these years.

He has always been an outstanding legislator, a Southern gentleman, and foremost, a good and dear friend.

Happy birthday, Senator. God Bless you.

CONFIRMATION OF LARRY HICKS

Mr. REID. Madam President, every Member of the United States Senate should be grateful for the hard work that Chairman LEAHY and the entire Judiciary Committee have exhibited in an effort to move judicial nominations forward as quickly as possible.

Even under the most extraordinary of circumstances, Chairman LEAHY has moved forward in a reasonable and timely fashion.

In the aftermath of the September 11 terrorist attacks, Chairman LEAHY spearheaded legislation through the Judiciary Committee that will provide our law enforcement agencies with the necessary tools to provide homeland security while at the same time protecting our most cherished civil liberties.

The Senate Judiciary Committee and its Members were also forced to endure a lengthy closure of its committee room and office space as a result of the anthrax-laced letter that was sent to Majority Leader TOM DASCHLE's Hart Senate Office.

Yet Chairman LEAHY and the Senate Judiciary Committee persevered.

They even approached the distinguished Chairman of the Senate Appropriations Committee and asked his permission to hold a hearing on judicial nominations in the Committee's historic conference room in the Capitol.

I attended that hearing in support of the nomination of Larry Hicks, of Reno, to be the next Judge on the United States District Court for the District of Nevada.

Larry Hicks is currently a partner in the Reno law firm of McDonald, Carano, Wilson, McCune, Bergin, Frankovich & Hicks.

The Chairman of the litigation section, Larry has been with the firm since 1979.

He has extensive trial court, appellate court and settlement experience, having served as a settlement judge since 1998 for the Nevada Supreme Court.

Larry is also admitted to practice in all State and Federal courts of the State of Nevada, the Circuit Court of Appeals for the Ninth Circuit and the United States Supreme Court.

Prior to his private practice, Larry served the people of Northern Nevada for 11 years in the Office of the Washoe County District Attorney.

In 1975, he was elected District Attorney of Washoe County.

Larry received his undergraduate degree from the University of Nevada in

Reno and received his law degree from the University of Colorado School of Law in Boulder.

He has also received numerous awards and recognition from a variety of organizations, including the Nevada State Bar, where he has served on the Board of Governors, and as President, the American Bar Association, the Association of Trial Lawyers of America and the International Association of Gaming Attorneys.

Larry and his wife Marianne have been blessed with a beautiful family. They are the proud parents of three children, Carrie, Amy and Christopher, all of whom are graduates of the University of Nevada in Reno.

He is a fine man, a fine Nevadan, and I am sure that he will be a fine judge.

I would also like to take a moment to commend my friend and colleague from Nevada, Senator JOHN ENSIGN.

Senator ENSIGN and I have discussed every candidate that he has recommended to President Bush, and I fully support his selections.

It has truly been a bipartisan approach with respect to the federal bench in Nevada, and I am so pleased that the Senate will soon vote to confirm Larry Hicks to be the next Judge on the U.S. District Court for the District of Nevada.

COMMEMORATING THE 60TH ANNIVERSARY OF THE ATTACK ON PEARL HARBOR

Mr. DOMENICI. Madam President, I rise today to commemorate the selfless men and women who sacrificed so much to protect freedom during the December 7, 1941 attack on Pearl Harbor. On that fateful day, 2,403 members of the Armed Forces lost their lives defending freedom. I salute the New Mexicans who were caught in that attack, and those who subsequently answered the call of their grateful nation to bear arms in its defense.

Sixty years ago, the unwarranted attack by the Imperial Japanese Navy and Air Force on Pearl Harbor challenged the peace and well-being of this great Nation. However, the attack served as a catalyst, unifying this Nation and galvanizing the bravery of our people. With enormous self sacrifice and unbound patriotism, the ''greatest generation,'' those who lived and served during the Second World War, rose up to meet the challenge and overcame adversity.

In the aftermath of September 11, this country is once again dealing with an unwarranted attack on our homeland and our freedom. As America commemorates the 60th anniversary of the attack on Pearl Harbor, we appreciate more than ever before the heroes of the past. The American people look to that generation's courage and heroism to find solace and inspiration for meeting the threats we face today. As Americans then used every avenue available—defense programs, universities and research institutions, the national laboratories, and an energized public—to win World War II, so too, must we be just as resourceful in fighting the war on terror.

Today, just as then, our national laboratories play a vital role in the fight against terrorism. In my home State of New Mexico, the laboratories are contributing to help ensure domestic preparedness and security.

The anniversary of the attack on Pearl Harbor reminds us of those who paid the ultimate price to protect our Nation, even as brave Americans are paying that price today in the war on terror. I am honored to pay tribute to those who served, and are serving, in the defense of this great Nation.

CONFERENCE REPORT TO H.R. 2944, THE DISTRICT OF COLUMBIA APPROPRIATIONS ACT FOR FISCAL YEAR 2002

Mr. CONRAD. Madam President, I rise to offer for the RECORD the Budget Committee's official scoring on the conference report to H.R. 2944, the District of Columbia Appropriations Act for Fiscal Year 2002.

The conference report provides $408 million in discretionary budget authority, which will result in new outlays in 2002 of $370 million. When outlays from prior-year budget authority are taken into account, discretionary outlays for the conference report total $418 million in 2002. By comparison, the Senate passed bill included $408 million for the District, which would have increased total outlays by $416 million in 2002. The conference report is at the subcommittee's Section 302(b) allocation for both budget authority and outlays. It does not include any emergency-designated funding. In addition to the Federal funds, the conference report to H.R. 2944 also approves the District government's budget for 2002, including granting it the authority to spend $7.154 billion of local funds.

It is important that the Congress complete its work on the remaining appropriations bills for 2002. In the case of this report, H.R. 2944 not only provides a limited amount of Federal funding to the District, but also, through the enactment of its budget, allows the city to obligate and spend its own local revenues. We should act on behalf of the citizens of D.C. to allow the District to implement the budget sent forth to us by its elected leaders.

I ask unanimous consent that a table displaying the budget committee scoring of the conference report to H.R. 2944 be printed in the RECORD.

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

H.R. 2944, CONFERENCE REPORT TO THE DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 2002

[Spending comparisons—Conference Report (in millions of dollars)]

	General purpose	Mandatory	Total
Conference report:			
Budget Authority	408	.....	408
Outlays	418	.....	418
Senate 302(b) allocation: [1]			
Budget Authority	408	.....	408
Outlays	418	.....	418
President's request:			
Budget Authority	342	.....	342
Outlays	362	.....	362
House-passed:			
Budget Authority	398	.....	398
Outlays	408	.....	408
Senate-passed:			
Budget Authority	408	.....	408
Outlays	416	.....	416
CONFERENCE REPORT COMPARED TO:			
Senate 302(b) allocation: [1]			
Budget Authority	.....	.....	.....
Outlays	.....	.....	.....
President's request:			
Budget Authority	66	.....	66
Outlays	56	.....	56
House-passed:			
Budget Authority	10	.....	10
Outlays	10	.....	10
Senate-passed:			
Budget Authority	.....	.....	.....
Outlays	2	0	2

[1] For enforcement purposes, the budget committee compares the conference report to the Senate 302(b) allocation.

Notes: Details may not add to totals due to rounding. Totals adjusted for consistency with scorekeeping conventions.

Prepared by SBC Majority Staff, 12–6–01.

CONCERN FOR THE INTEGRITY AND REPUTATION OF THE UNITED STATES CIVIL RIGHTS COMMISSION

Mr. HATCH. Madam President, I rise today to address an unfortunate situation that has come to my attention concerning the United States Civil Rights Commission. One might even say that it is unbelievable.

There is no one in this body that has greater appreciation for the work and history of the United States Civil Rights Commission than I do, and for the need of having a body such as this that can review issues that may arise in the area of civil rights without the taint of partisanship or ideologies. It is comforting to know that there is such a body that gathers disinterested public servants of unimpeachable integrity with a passion for the great work of securing the freedoms which belong to all citizens, without discrimination.

As you know, the Congress has taken a great interest in the appointment of the Commission's eight members. In fact, four of the eight are appointed by the Congress, two by the Senate and two by the House. The President appoints the other four. In each case, whether appointed by the President or by the Congress, the Commission must have an equal number of Commissioners from each party.

It appears that there is a controversy brewing as to when the term of a Commissioner expires. I believe that this controversy could do severe harm to the reputation of the Civil Rights Commission and the trust that is placed in it by the American people. I hope that this is a matter that will have an immediate resolution.

Apparently, one of the presidential appointees of the previous administration, Victoria Wilson, is refusing to accept the expiration of her term. Ms.

Wilson claims that she was appointed for a six-year term, although it appears that President Clinton expressly appointed her for only one year to complete the unexpired term of Judge Leon Higgenbotham, who died before his term expired. It appears also that the Chairwoman of the Committee, Mary Frances Berry, has told the White House that she refuses to recognize the President's new appointee, a person, by the way, of impeccable credentials who is an attorney with a distinguished career. Chairwoman Berry has indicated that it would take federal marshals to seat the President's appointee when the Commission next meets.

As if the American people did not have enough drama in their lives, we hardly need something like this to further erode the public's confidence in the Civil Rights Commission. I think many of us are already concerned with the work of the Commission in recent years. They have taken on rather partisan issues, or at very least they have prosecuted issues in what often appears to be partisan ways, and arguably injudicious ways. I will not get into these concerns, but I am afraid that the Commission is doing great harm to the trust of the American people.

Rather, I would like to comment on the current situation, which is a matter of existing law. What is especially troubling is that it appears that Chairwoman Berry and Ms. Wilson are refusing to comply with the legal opinion of the White House Counsel, Judge Gonzales, as well as the independent opinion of the Justice Department.

In 1994 Congress amended the provisions governing the appointment of the Civil Rights Commissioners. Congress' intent was to ensure that the terms of the Commissioners would not expire all at once. We made provision for staggered terms for the Commissioners, adopting what is universally deemed good practice in the private corporate and nonprofit arenas. Staggered terms preserve institutional memory and experience. To have staggered terms requires that an appointee named to fill an unexpired term serve for only the remainder of that term. To do otherwise would completely eviscerate the staggering that Congress intended. The argument that Ms. Wilson, and Chairman Berry, is making—that all appointments, and Ms. Wilson's appointment in particular, are always for terms of six years—would create the untenable opportunity for mischief if Commissioners were to resign at the end of a particular administration. Commissioners could resign as a group, allowing a departing Administration to fill several seats for six year terms, and denying the incoming administration the right to name any Commissioners.

This argument, not only makes no sense, but I am also afraid that this sort of confrontational approach does very real harm to the reputation of the Commission and its individual members who the American people expect to be disinterested, apolitical public servants. I invite my colleagues to urge the immediate resolution of this matter.

I ask unanimous consent that Judge Gonzales' letter be printed in the RECORD.

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

THE WHITE HOUSE,
Washington, December 5, 2001.

The Hon. MARY FRANCES BERRY,
Commission on Civil Rights, 624 Ninth Street, NW., Washington, DC.

DEAR MADAM CHAIRWOMAN: I am writing to confirm our conversation yesterday about the recent expiration of Commissioner Victoria Wilson's term of service on the U.S. Commission on Civil Rights and the President's forthcoming appointment of her replacement.

As we discussed, Ms. Wilson was appointed to the Commission on January 13, 2000. Official White House records and Ms. Wilson's commission issued by President Clinton, which explicitly states that she was appointed by President Clinton to fill the unexpired term of the late Judge Leon Higginbotham, document that Ms. Wilson's term ended November 29, 2001. To be sure, in our conversation you stated that, when Ms. Wilson received her commission, she attempted to contact the White House Clerk to ask that her commission be reissued to provide for the six year term she is now claiming. However, the Clerk has no record of any such request. In any event, the commission was never reissued, a fact that can only be viewed as confirming the conclusion that Ms. Wilson's term expired on November 29, 2001 in accordance with her commission.

The Office of Legal Counsel of the Department of Justice has issued a legal opinion confirming that Ms. Wilson's term expired on November 29, 2001. The opinion rests on an analysis of the Commission's organic statute, in particular the intent of Congress expressed therein to provide for staggered terms of commissioners. The legislative history of the 1994 amendments to the statute also makes plain that Congress intended to preserve the system of staggered terms. As you yourself noted in 1983 in testimony before Congress, the staggered terms system was proposed by commission members to limit the degree of political influence over the commission. H.R. 98–197, 1983 U.S.C.A.A.N. 1989, 1992. Of course, the orderly staggering of terms intended by Congress would be frustrated if vacancies created through death or resignation could be filled with commissioners appointed for new six year terms. Ultimately, the balance between continuity and change sought by Congress in allowing a fixed number of new members to be appointed at regular intervals would give way to a process in which Presidents and commissioners alike could ''game the system'' by timing resignations and appointments.

In our conversation yesterday, I explained the legal position of the White House and the Department of Justice. I also explained, that President Bush has selected an individual—Peter Kirsanow—whom he intends to appoint to succeed Ms. Wilson. Mr. Kirsanow is an extraordinarily well-qualified individual. He is a partner with a major Cleveland law firm and has served as chair of the Center for New Black Leadership and as labor counsel for the City of Cleveland. Because there is a vacancy on the Commission, the President intends to appoint Mr. Kirsanow as a commissioner as soon as possible.

You maintained, however, that you support Ms. Wilson in her decision to purport not to vacate her position and to continue service and to attend the Commission's upcoming meeting on December 7. Moreover, you informed me that you do not consider yourself to be bound by opinions of the Department of Justice nor do you intend to abide by them or to follow the directives of the President in this matter. You further informed me that you will refuse to administer the oath of office to the President's appointee. I advised you that any federal official authorized to administer oaths generally could swear in Mr. Kirsanow.

Finally, you stated that, even if Ms. Wilson's successor has been lawfully appointed and has taken the oath of office, you will refuse to allow him to be seated at the Commission's next meeting. You went so far as to state that it would require the presence of federal Marshals to seat him.

I respectfully urge you to abandon this confrontational and legally untenable position. As to questions regarding Ms. Wilson's status, we view these as a matter between Ms. Wilson and the White House. With respect to Mr. Kirsanow, any actions blocking him from entering service following a valid appointment would, in my opinion, violate the law. The President expects his appointee to take office upon taking the oath and to attend upcoming meetings as a duly appointed commissioner. The President also expects all sworn officers of the United States government to follow the law.

In sum, the law and official documents make clear that Ms. Wilson's term expired last week, November 29, 2001, and that she is no longer a member of the U.S. Commission on Civil Rights. As soon as Mr. Kirsanow takes the statutory oath, the incumbent commissioners and staff should treat the President's new appointee as a full member of the Commission.

Sincerely,

ALBERTO R. GONZALES,
Counsel to the President.

CONFIRMATION OF JOHN WALTERS AS DIRECTOR OF THE OFFICE OF NATIONAL DRUG CONTROL POLICY

Mr. MCCAIN. Madam President, I want to congratulate John Walters, the new Director of the Office of National Drug Control Policy, on his confirmation by the Senate last night. I have no doubt that the hard work and experience he brings to the Office will greatly benefit our efforts to reduce drug abuse in our nation.

I do wish he could have been confirmed much earlier, considering the challenges we face at home and overseas. In the last eight years alone, teenage drug use has almost doubled and, as I speak, terrorists, including those we are fighting in Afghanistan and across the globe, are using the drug trade to help finance their operations.

President Bush nominated John Walters in early June, but he was not granted a hearing until October 10. Finally, on November 8 and five months after his nomination, John Walters was favorably voted out of the Senate Judiciary Committee, 14 to 5, with five Democrats joining all the Republicans in support of his confirmation. Seven months to be confirmed is not a credit to the workings of the Senate.

It was disappointing that, of the small number of activists opposed to

the nomination of John Walters, a few carried on a campaign to distort his public policy positions. Americans would not have known if they just listened to these activists that John Walters believes that many first-time, nonviolent offenders ought to be diverted into treatment. In fact, when he was deputy drug czar in the first Bush Administration under William Bennett, he helped secure increases in the drug treatment budget in four years that were double what the previous administration managed in eight. And it's also noteworthy that the previous administration enforced the very same anti-drug laws that some of John Walters' opponents today criticize, and the same administration made no effort to change them.

I look forward to working with John Walters and hope his needlessly protracted nomination process will not discourage other outstanding Americans from considering public service to our Nation.

OUR CONSTITUTION

Mr. CARPER. Madam President, let me begin by saying plainly and unabashedly that I love our flag. I wear an American flag lapel pin to work every single day. We fly ''Old Glory'' at our home throughout the year and display it proudly in each of my Senate offices. The American flag is even displayed on the minivan that I drive all over our State. It is the symbol of our freedom and a reflection of our pride in our great Nation.

But while our flag is the symbol of our freedom, our Nation's Constitution is its guarantee. It is the foundation on which was built the longest living experiment in democracy in the history of the world. Though written by man, I believe it to be divinely inspired. Before beginning 23 years of service as a naval flight officer, I took the same oath as each of the men and women now fighting overseas. We swore to protect our Nation's safety and honor and defend our Constitution against all enemies both foreign and domestic. The men and women of our armed forces past and present each pledged to lay down their lives in defense of the freedoms our Constitution provides. I can think of no greater honor, no more solemn a commitment, than this pledge.

On a cold December 7, 214 years ago, Delawareans stood proudly and declared their belief in the right of self-government by becoming the first to ratify the United States Constitution. Each year we celebrate this act of leadership, courage, and wisdom. While our constitution has proved the most durable model for democracy, at the time, it was a revolutionary and some thought risky step forward. For the power of its words and the brilliance of its logic is matched only by the astounding scope of what it sought to achieve, to ''establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity.''

It was truly a miraculous undertaking, and we celebrate that Delaware had the courage to lead the world in embracing this new standard excellence in self-government.

But as we reflect on this bold step towards freedom, there is a stain on our celebration.

After the Constitution's ratification, the Bill of Rights sought to provide greater and more lasting liberties than any single document before or since. In 1789, the Federal Government sent the articles that would make up the Bill of Rights to States for ratification. While other States sent their approval of ratification back to the Federal Government on separate parchment, in their enthusiasm, Delaware's leaders signed their approval directly on their copy of the document and returned it to the Federal Government. While other states are now able to display their copies of the original Bill of Rights, Delaware's is locked in a drawer in the National Archives near College Park, Maryland. Our State and this document deserve better. I call today on the National Archives to return this copy of the Bill of Rights to its place of ratification. I ask that in the spirit of celebration surrounding Delaware Day, the National Archives return to us this important part of our State's history.

We are witnessing a time of renewed respect for our Nation at home and abroad. In fact, in all of my life, I've never witnessed a warmer embrace of our flag or a greater sense of pride for our country than we've seen since September 11. Almost everywhere we turn, we see signs of this renewed national pride on our homes, office buildings, factories, schools, construction sites, on the vehicles we drive, and as well at thousands of sporting events, parades and gatherings across our country. A spirit of patriotism has swept across our Nation in a way that I've never seen. It is both comforting and inspiring to me and, I know, to Americans everywhere.

This December, let us pause in thanks to those wise Delawareans who started our Nation along the road to becoming the most successful and long-lasting democracy in world history. They gave us a great gift for which we, and much of the world, will be forever thankful.

BRADY ACT SUCCESSES

Mr. LEVIN. Madam President, November 30 was the eighth anniversary of the signing of the Brady Handgun Violence Prevention Act. The passage of that legislation was a watershed event in the fight against gun violence. According to the Centers for Disease Control statistics cited by the Brady Campaign to Prevent Gun Violence, since the Brady Law went into effect, the number of gun deaths in the United States has dropped 27 percent, from 39,595 in 1993 to 28,874 in 1999. Even more dramatically, the number of gun homicides dropped by more than 40 percent from 18,253 in 1993 to 10,828 in 1999.

While the Brady Law is not the only reason for the decrease, its impact on gun violence cannot be overlooked. Keeping guns out of criminal hands saves lives. The law's requirement that gun purchasers undergo a criminal background check before they can buy a firearm has stopped literally hundreds of thousands of criminals and others prohibited by law from purchasing a gun.

The obvious success of the Brady Law should spur us to do more to stop gun violence. A logical step would be to extend the Brady Law's mandatory criminal background check provisions. As it stands, the law only applies to guns sold by Federal firearms licensees. It does not cover gun sales by unlicensed private sellers at gun shows. Despite the evidence that background checks save lives, lobbyists from the National Rifle Association and their allies have fought against legislation to close the ''gun show loophole.'' The Senate should not allow itself to be held hostage by the gun lobby. I urge my colleagues to join me in supporting efforts to bring legislation to the floor to close the gun show loophole.

CHANGES TO H. CON. RES. 83 PURSUANT TO SECTION 314

Mr. CONRAD. Madam President, section 314 of the Congressional Budget Act, as amended, requires the chairman of the Senate Budget Committee to make adjustments to budget resolution allocations and aggregates for amounts designated as emergency requirements pursuant to section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Pursuant to section 314, I hereby submit the following revisions to H. Con. Res. 83 as a result of provisions designated as emergency requirements in P.L. 107–42, the Air Transportation Safety and System Stabilization Act. This measure was enacted into law on September 22, 2001.

I ask consent that the following table be printed in the RECORD, which reflects the changes made to the allocations provided to the Senate Committee on Commerce, Science, and Transportation and to the budget resolution aggregates enforced under section 311(2)(A) of the Congressional Budget Act, as amended.

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

[In millions of dollars]

Current Allocation to the Senate Commerce, Science, and Transportation Committee:	
FY 2002 Budget Authority	13,452
FY 2002 Outlays	9,630
FY 2002–06 Budget Authority	72,789
FY 2002–06 Outlays	50,419
FY 2002–11 Budget Authority	164,611

FY 2002–11 Outlays	118,775
Adjustments:	
FY 2002 Budget Authority	+2,000
FY 2002 Outlays	+3,200
FY 2002–06 Budget Authority	+2,000
FY 2002–06 Outlays	+4,700
FY 2002–11 Budget Authority	+2,000
FY 2002–11 Outlays	+4,700
Revised Allocation to the Senate Commerce, Science, and Transportation Committee:	
FY 2002 Budget Authority	15,452
FY 2002 Outlays	12,830
FY 2002–06 Budget Authority	74,789
FY 2002–06 Outlays	55,119
FY 2002–11 Budget Authority	166,611
FY 2002–11 Outlays	123,475
Current Budget Resolution Spending Aggregate Allocation:	
Budget Authority for 2002	1,517,719
Budget outlays for 2002	1,481,928
Adjustments:	
Budget authority for 2002	+2,000
Budget outlays for 2002	+3,200
Revised Budget Resolution Spending Aggregate Allocations:	
Budget authority for 2002	1,519,719
Budget outlays for 2002	1,485,128

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Madam President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of 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.

I would like to describe a terrible crime that occurred August 25, 1991 in San Francisco, CA. John Quinn, a gay man, was attacked by a man who threw a bar stool at him, yelling ''Faggot, faggot, faggot!'' The assailant, Mai Nguyen, was arrested in connection with the incident.

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.

IN SUPPORT OF THE TERRORIST VICTIM CITIZENSHIP RELIEF ACT

Mr. TORRICELLI. Madam President, I rise today to support the Terrorist Victim Citizenship Relief Act, legislation introduced yesterday by Senator CORZINE. While we all know the horror of the terrorist attacks of September 11, many who lost a loved during those tragic events face additional difficulties that our fellow Americans do not.

One such person is Deena Gilbey, a young women living with her family in New Jersey. On September 11, Mrs. Gilbey lost not only her husband Paul, but because she had been residing in the United States on her husband Paul's work visa, she faced deportation upon his passing.

There are still many unresolved issues that Mrs. Gilbey and those like her face. The Terrorist Victim Citizenship Relief Act is designed to provide relief to families that face potential deportation and other difficulties because of the death of their primary visa holder on September 11. It would enable them to address many of the daunting issues by conferring United States citizenship upon them.

I want to thank Senator CORZINE for introducing this legislation and am pleased to be a cosponsor of it. I urge my fellow Senators to join in support of this measure.

THE CONTINUING NEED FOR FISCAL DISCIPLINE

Mr. VOINOVICH. Madam President, 2001 has been a year of tragedy for the United States as well as a year of resolve. I am proud of the way my fellow Americans have united behind efforts to heal and comfort their fellow citizens who have been devastated by the attacks of September 11.

Just as the American people have opened their wallets to provide hundreds of millions of dollars to those in need, the Federal Government so too has provided billions of dollars to make our homeland safe, rebuild, comfort and provide, and wage war against the terrorist enemies of freedom.

Protecting our homeland and fighting terrorism are our Nation's top priorities right now, and the work of this body and the use of our Nation's resources must reflect that.

One critical way we do that is to vigilantly guard against the misuse of the taxpayer's hard-earned dollars and ensure that we get the most out of every dollar spent on homeland defense and the war on terrorism. Those who seek to use the current crisis as an excuse to spend more on pet projects should be ashamed of themselves and their efforts must be defeated. We simply cannot afford pork barrel politics right now, period.

Just look how quickly things have changed in our country—with amazing speed we went from an environment where some of us were worried the government would run out of national debt to repay, to an environment where not only is the Federal Government no longer paying off debt, but regrettably, it is adding to it.

The year started out with the President proposing a budget with a roughly 4 percent increase in discretionary spending. Given last year's enormous 14.5 percent increase in non-defense discretionary spending, I thought a 4 percent increase was reasonable and realistic, and I was pleasantly surprised that the Senate budget resolution didn't dramatically exceed this figure, as I feared, but instead was largely in-line with the President's budget plan. Because of this, I supported the $661 billion in discretionary spending it contained.

Besides supporting the budget resolution, I also supported the President's tax cut, because I saw it fit within a plan whereby spending increases would be limited and the Social Security surplus would be reserved for reducing the national debt. Clearly the situation has changed.

Even before the events of September 11, Congress was on-track to increase overall discretionary spending by approximately 8 percent. To facilitate the completion of the annual appropriations process, a deal was struck by the Administration and the members of the appropriations committee to set a discretionary spending cap of $686 billion in fiscal year 2002—$25 billion more than agreed to in the budget resolution.

This number was agreed to by the appropriators and leaders in both parties in both Houses, and the President. In the President's letter to the leaders agreeing to this new, revised number he wrote, ''And I expect that all parties will now proceed expeditiously and in full compliance with the agreement.''

While I was disappointed that this deal circumvented the budget resolution, I believe it quite likely would have been worse if no deal had been struck, and Congress had been able to steam roll the budget resolution in the urge to spend. Now Congress is poised to leave this number and this agreement in the dust as appropriators seek billions more.

Some justify this by saying that the current crisis requires the death of fiscal discipline. Nothing is further from the truth. The current crisis requires us to be more fiscally disciplined than ever before, to carefully direct funds to the most pressing needs of defending against and fighting terrorism.

Compounding the problem is the softening economy and the need to walk the tightrope of crafting a stimulus package to provide short-term relief without causing long-term harm.

We are certainly in a grave fiscal situation. Spending is required but not too much, stimulus is required but it cannot be overly zealous. If we fall from this tightrope, there is no safety net to catch us. Instead our Nation falls into the grasping arms of structural deficits, from which we only recently freed ourselves after decades of imprisonment.

After working so hard to free ourselves from deficit spending, starting to pay off our debt, and beginning to prepare for Social Security's looming insolvency, isn't it worth it for us to do all we can to keep from slipping back into the clutches of deficits?

The only way to avoid this is through self-discipline. Every member must sacrifice individual political wants for the greater good of the nation. We need to avoid pet projects. We need to set aside our parochial interests.

We should proceed very carefully and very deliberately with every piece of legislation that authorizes any additional spending or equally importantly, reduces revenues. Unless we get a handle on our spending habits, we are going to add to the national debt that

we stand to pass on to our children and grandchildren.

Sometimes I wonder if my colleagues actually realize how dire the condition of the Federal Government has become. As it now stands, for fiscal year 2002, we are poised to spend every last tax dollar we collect and the entire $174 billion projected Social Security surplus. On top of that, we are going to issue new debt to the tune of $52 billion to pay for the fiscal stimulus bill and another $15 billion on top of that if the senior Senator from West Virginia gets his way.

OMB Director Mitch Daniels, in a speech last week before the National Press Club, relayed the same sobering message. According to Director Daniels, the Federal Government is on track to run a deficit through the remainder of this presidential term.

So, as we discuss every piece of legislation that will cost money or reduce revenues, whether on efforts to fight terrorism or anything else we do, we must ask ourselves: Do these new spending initiatives warrant issuing new debt to pay for them?

With this in mind, I am utterly amazed that some of my colleagues are proposing new spending.

For example, the Agriculture Committee is proposing a new farm bill that would increase agricultural spending by roughly $70 billion over the next 10 years. I ask my colleagues, should we issue new federal debt to increase payments to farmers?

Wasn't the Freedom to Farm bill designed to free farmers from dependency upon federal handouts so they could farm as they wished in response to international market conditions? Would the farming community support these proposals if they knew that we were going to have to issue debt to provide such payments? We're poised to debate a farm bill yet the old farm programs don't even expire until next year. Is this money and this bill the most critical thing we should be doing at this time?

Other colleagues of mine today are proposing additional spending increases over and above the $686 billion agreed to with the President earlier this Fall, and the $40 billion emergency supplemental passed in the aftermath of September 11; $20 billion of which is included in this Department of Defense Appropriations bill. They think the Federal Government needs to spend an additional $15 billion on homeland security.

The fact of the matter is the Director of Homeland Security, Governor Tom Ridge, says we don't need any more funds for homeland defense at this time than the amount requested by the President because of what we've already passed here on Capitol Hill. Why are we unwilling to take his word on this issue? It seems to me that he and the President, our Commander in Chief, are more qualified to advise us on what the nation needs and we should heed their advice.

Other colleagues are considering increasing education spending by billions of dollars over and above the already large increases agreed to by the President and the Appropriations Committee. Again, I ask, should we issue new federal debt to increase education spending—which as we all know has been, is, and should be primarily a state and local responsibility?

I am flabbergasted to watch this parade of spending proposals at a time when we have to dig ourselves deeper in debt to pay for them.

I am encouraged that the President has taken a stand by pledging to veto an emergency supplemental spending measure that would exceed the $686 billion spending agreement. I stand squarely behind the President.

And if the President indeed uses his veto to control spending, I will vote against any attempt to override it. Hopefully my colleagues on both sides of the aisle who care about fiscal responsibility and who care about honoring an agreement we made with the President will join me in supporting his veto. It is fortunate we have a President with the courage to hold fast against rampant spending, even if that spending is cloaked in the guise of homeland safety and national defense. The Administration recognizes that we have to draw a line and is willing to lay it on the line.

The Senate is supposed to be a deliberative body, a cooling saucer if you will. At this crucial time, it is important that the Senate carry out its appointed role. If we do increase spending, it should be limited to measures that truly enhance domestic and international security and efforts that truly stimulate the economy. We should not accept the fact that the Treasury Department must once again issue new debt to finance the operation of the Federal Government for any longer than is absolutely necessary, and every dollar we spend is going to be borrowed money.

The current crisis is not an excuse to spend but is a call to vigilance. As we fight for the future security of our country and our ideals, let us also fight for the future fiscal health of our nation which will in turn help provide for the continued and future stability and prosperity of the American people.

JOINT COMMITTEE ON PRINTING, 107TH CONGRESS

Mr. DAYTON. Madam President, on November 21, 2001, the Joint Committee on Printing organized, elected a Chairman, a Vice Chairman, and adopted its rules for the 107th Congress. Members of the Joint Committee on Printing elected Senator MARK DAYTON as Chairman and Congressman ROBERT W. NEY as Vice Chairman. Pursuant to Rule XXVI, paragraph 2, of the Standing Rules of the Senate, I ask unanimous consent that a copy of the Committee rules be printed in the RECORD.

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

RULE 1.—COMMITTEE RULES

(a) The rules of the Senate and House insofar as they are applicable, shall govern the Committee.

(b) The Committee's rules shall be published in the Congressional Record as soon as possible following the Committee's organizational meeting in each odd-numbered year.

(c) Where these rules require a vote of the members of the Committee, polling of members either in writing or by telephone shall not be permitted to substitute for a vote taken at a Committee meeting, unless the ranking minority member assents to waiver of this requirement.

(d) Proposals for amending Committee rules shall be sent to all members at least one week before final action is taken thereon, unless the amendment is made by unanimous consent.

RULE 2.—REGULAR COMMITTEE MEETINGS

(a) The regular meeting date of the Committee shall be the second Wednesday of every month when the House and Senate are in session. A regularly scheduled meeting need not be held if there is no business to be considered and after appropriate notification is made to the ranking minority member. Additional meetings may be called by the Chairman, as he may deem necessary or at the request of the majority of the members of the Committee.

(b) If the Chairman of the Committee is not present at any meeting of the Committee, the vice-Chairman or ranking member of the majority party on the Committee who is present shall preside at the meeting.

RULE 3.—QUORUM

(a) Five members of the Committee shall constitute a quorum, which is required for the purpose of closing meetings, promulgating Committee orders or changing the rules of the Committee.

(b) Three members shall constitute a quorum for purposes of taking testimony and receiving evidence.

RULE 4.—PROXIES

(a) Written or telegraphic proxies of Committee members will be received and recorded on any vote taken by the Committee, except for the purpose of creating a quorum.

(b) Proxies will be allowed on any such votes for the purpose of recording a member's position on a question only when the absentee Committee member has been informed of the question and has affirmatively requested that he be recorded.

RULE 5.—OPEN AND CLOSED MEETINGS

(a) Each meeting for the transaction of business of the Committee shall be open to the public except when the Committee, in open session and with a quorum present, determines by roll call vote that all or part of the remainder of the meeting on that day shall be closed to the public. No such vote shall be required to close a meeting that relates solely to internal budget or personnel matters.

(b) No person other than members of the Committee, and such congressional staff and other representatives as they may authorize, shall be present in any business session that has been closed to the public.

RULE 6.—ALTERNATING CHAIRMANSHIP AND VICE-CHAIRMANSHIP BY CONGRESSES

(a) The Chairmanship and vice Chairmanship of the Committee shall alternate between the House and the Senate by Congresses: The senior member of the minority party in the House of Congress opposite of that of the Chairman shall be the ranking minority member of the Committee.

(b) In the event the House and Senate are under different party control, the Chairman and vice Chairman shall represent the majority party in their respective Houses. When the Chairman and vice-Chairman represent different parties, the vice-Chairman shall

also fulfill the responsibilities of the ranking minority member as prescribed by these rules.

RULE 7.—PARLIAMENTARY QUESTIONS

Questions as to the order of business and the procedures of Committee shall in the first instance be decided by the Chairman; subject always to an appeal to the Committee.

RULE 8.—HEARINGS: PUBLIC ANNOUNCEMENTS AND WITNESSES

(a) The Chairman, in the case of hearings to be conducted by the Committee, shall make public announcement of the date, place and subject matter of any hearing to be conducted on any measure or matter at least one week before the commencement of that hearing unless the Committee determines that there is good cause to begin such hearing at an earlier date. In the latter event, the Chairman shall make such public announcement at the earliest possible date. The staff director of the Committee shall promptly notify the Daily Digest of the Congressional Record as soon as possible after such public announcement is made.

(b) So far as practicable, all witnesses appearing before the Committee shall file advance written statements of their proposed testimony at least 48 hours in advance of their appearance and their oral testimony shall be limited to brief summaries. Limited insertions or additional germane material will be received for the record, subject to the approval of the Chairman.

RULE 9.—OFFICIAL HEARING RECORD

(a) An accurate stenographic record shall be kept of all Committee proceedings and actions. Brief supplemental materials when required to clarify the transcript may be inserted in the record subject to the approval of the Chairman.

(b) Each member of the Committee shall be provided with a copy of the hearing transcript for the purpose of correcting errors of transcription and grammar, and clarifying questions or remarks. If any other person is authorized by a Committee Member to make his corrections, the staff director shall be so notified.

(c) Members who have received unanimous consent to submit written questions to witnesses shall be allowed two days within which to submit these to the staff director for transmission to the witnesses. The record may be held open for a period not to exceed two weeks awaiting the responses by witnesses.

(d) A witness may obtain a transcript copy of his testimony given at a public session or, if given at an executive session, when authorized by the Committee. Testimony received in closed hearings shall not be released or included in any report without the approval of the Committee.

RULE 10.—WITNESSES FOR COMMITTEE HEARINGS

(a) Selection of witnesses for Committee hearings shall be made by the Committee staff under the direction of the Chairman. A list of proposed witnesses shall be submitted to the members of the Committee for review sufficiently in advance of the hearings to permit suggestions by the Committee members to receive appropriate consideration.

(b) The Chairman shall provide adequate time for questioning of witnesses by all members, including minority Members and the rule of germaneness shall be enforced in all hearings notified.

(c) Whenever a hearing is conducted by the Committee upon any measure or matter, the minority on the Committee shall be entitled, upon unanimous request to the Chairman before the completion of such hearings, to call witnesses selected by the minority to testify with respect to the measure or matter during at least one day of hearing thereon.

RULE 11.—CONFIDENTIAL INFORMATION FURNISHED TO THE COMMITTEE

The information contained in any books, papers or documents furnished to the Committee by any individual, partnership, corporation or other legal entity shall, upon the request of the individual, partnership, corporation or entity furnishing the same, be maintained in strict confidence by the members and staff of the Committee, except that any such information may be released outside of executive session of the Committee if the release thereof is effected in a manner which will not reveal the identity of such individual, partnership, corporation or entity in connection with any pending hearing or as a part of a duly authorized report of the Committee if such release is deemed essential to the performance of the functions of the Committee and is in the public interest.

RULE 12.—BROADCASTING OF COMMITTEE HEARINGS

The rule for broadcasting of Committee hearings shall be the same as Rule XI, clause 4, of the Rules of the House of Representatives.

RULE 13.—COMMITTEE REPORTS

(a) No Committee report shall be made public or transmitted to the Congress without the approval of a majority of the Committee except when Congress has adjourned: provided that any member of the Committee may make a report supplementary to or dissenting from the majority report. Such supplementary or dissenting reports should be as brief as possible.

(b) Factual reports by the Committee staff may be printed for distribution to Committee members and the public only upon authorization of the Chairman either with the approval of a majority of the Committee or with the consent of the ranking minority member.

RULE 14.—CONFIDENTIALITY OF COMMITTEE REPORTS

No summary of a Committee report, prediction of the contents of a report, or statement of conclusions concerning any investigation shall be made by a member of the Committee or by any staff member of the Committee prior to the issuance of a report of the Committee.

RULE 15.—COMMITTEE STAFF

(a) The Committee shall have a staff director, selected by the Chairman. The staff director shall be an employee of the House of Representatives or of the Senate.

(b) The Ranking Minority Member may designate an employee of the House of Representatives or of the Senate as the minority staff director.

(c) The staff director, under the general supervision of the Chairman, is authorized to deal directly with agencies of the Government and with non-Government groups and individuals on behalf of the Committee.

(d) The Chairman or staff director shall timely notify the Ranking Minority Member or the minority staff director of decisions made on behalf of the Committee.

RULE 16.—COMMITTEE CHAIRMAN

The Chairman of the Committee may establish such other procedures and take such actions as may be necessary to carry out the foregoing rules or to facilitate the effective operation of the Committee. Specifically, the Chairman is authorized, during the interim periods between meetings of the Committee, to act on all requests submitted by any executive department, independent agency, temporary or permanent commissions and committees of the Federal Government, the Government Printing Office and any other Federal entity, pursuant to the requirements of applicable Federal law and regulations.

IN SUPPORT OF THE DEENA GILBEY RELIEF BILL

Mr. TORRICELLI. Madam President I rise today in support of the private relief bill for Mrs. Deena Gilbey introduced yesterday by Senator CORZINE. Along with thousands of Americans and citizens from over 60 nations, Mrs. Gilbey lost a loved one when her husband Paul died in the attacks on the World Trade Center.

Unlike many of those families, Mrs. Gilbey was not a citizen of the United States, but rather a citizen of the United Kingdom. Therefore, for the last 8 years, she has been residing in the United States on her husband's work visa with their two American born children. Then, on September 11 she was widowed when, her husband who had safely exited the World Trade Center, chose to return to help in the evacuation of those who remained behind.

In the aftermath of this horrific moment, Mrs. Gilbey found herself ''out of status'' and facing the prospect of having to uproot her two young children from their home and return to the United Kingdom. The legislation Senator CORZINE introduced will address this injustice by making Mrs. Gilbey a citizen so that she and her young sons can continue to live in this Nation that they have for so long called home.

I am pleased to be a cosponsor of Senator CORZINE's bill and urge my fellow Senators to join Senator CORZINE and myself in support of this relief for Mrs. Gilbey.

ADDITIONAL STATEMENTS

FLOYD DOMINY

• Mr. ENZI. Mr. President, I wanted to share a very interesting story with my colleagues today. It is about a very special Distinguished Alumnus of the University of Wyoming who has compiled a remarkable record and reputation as one of our most dedicated and hardworking public servants. His 90 plus years of life—and still going strong!—are the perfect showcase of Wyoming's pioneer spirit and the patience and persistence with which the people of the West have always pursued their dreams. His name is Floyd Dominy, and he has carved quite a niche for himself in the history of Wyoming, the West and the United States.

Floyd Dominy has always been a man with a dream, a unique vision of how things ought to be that has helped him to set goals and develop a plan to achieve them. He is also a man of his word, someone who saw a problem and knew how to use his unique talents and abilities to find the best solution to fix things. He has amassed quite a record of achievements and I am sure he is as proud of it as we are proud of him. He earned his fame and reputation and it's good to know he's enjoying life in the Shenandoah. It isn't Wyoming, but it's still a nice spot to relax and take a

break to do some fishing and enjoy the beauty of some of God's finest handiwork.

Floyd Dominy's story begins with his graduation from the University of Wyoming in 1932 and his arrival in Gillette to find a home and start work. He found a simple home and began his employment as a County Agent. As a matter of fact, his home was so simple, the owner didn't charge Mr. Dominy and his wife any rent because he couldn't believe anyone would want to live there. The ''fixer upper'' Mr. Dominy and his wife called home was without every convenience you could imagine, both modern and old fashioned—even for its time.

As an Agriculture Extension Agent, one of his responsibilities was to buy cattle for the Government from ranchers who were devastated by the Great Depression. They used to trail cattle on foot back then and Floyd realized there were no places to water the cattle on the way. That is when he began working on his idea of constructing dams to hold the water to make it available where it was needed. He visited with then Wyoming U.S. Senator John O'Mahoney about his ideas and Senator O'Mahoney was able to obtain Federal emergency aid to help out the farmers of Wyoming. As a result, Wyoming's farmers got some much needed work and three hundred dams were built.

Then came his service in World War II after which he joined the Bureau of Reclamation. His talents, abilities and ingenuity were soon noticed and it wasn't long before he had landed the top job at the Bureau. He served for quite a while as the Bureau of Reclamation's Commissioner, a job he held longer than anyone else. Remarkably, he served under four Presidents.

Mr. Dominy's friends would probably call him ''90 something'' years young—because he is still living a full life and enjoying every day as he always has—with an independent streak a mile long and a yard wide. He lives the code of the West—he says what he means, and he means what he says.

In an interview for an article, he was asked about his career and his philosophy about his line of work. He made it clear that he was never afraid to stand up for what he believed in and to stand up to whomever he had to so that things got done. Thanks to his determination, drive and dedication to making a difference, a lot of things got done.

Floyd Dominy had much to look back on with a great deal of pride and the satisfaction that comes from a job well done. As the Commissioner of the Bureau or Reclamation during the Administrations of Presidents Eisenhower, Kennedy, Johnson and Nixon, he left a legacy of service in that office that will probably never again be matched. We owe him a debt of gratitude for his vision and his ability to make his dreams a reality. Thanks to him, we in the West had our access to water—one of God's greatest gifts and our most prized and precious resource—greatly enhanced.●

TRIBUTE TO HAROLD SCHAFER OF NORTH DAKOTA

● Mr. CONRAD. Mr. President, today a giant presence in North Dakota history is being laid to rest.

Harold Schafer was truly larger than life. He was perhaps North Dakota's most prominent citizen—accomplished in his public life, and generous in his private life.

He grew up in western North Dakota in hard times, and went on to be the most successful entrepreneur in our State's history. Harold Schafer was a salesman's salesman. He had a magnetic personality, boundless energy, a genuine interest in people and tremendous enthusiasm for life. His curiosity and passion for living were contagious. Harold Schafer was just plain fun to be around.

He started a small business in his basement, and grew it into a multi-million dollar national enterprise. His Gold Seal company was the kind of great American success story that gave meaning to the phrase ''household name.'' Harold Schafer gave us Glass Wax, Snowy Bleach, and Mr. Bubble. He enjoyed great financial success, and his rags-to-riches story earned him the Horatio Alger award.

But Harold Schafer was much more than a successful businessman. He was interested and involved in every part of the life of North Dakota and the Nation. His acquaintances ranged from the powerful and well-known to the shoeshine man on the corner, and he enjoyed the company of all of them. He entertained General Douglas MacArthur in his home in Bismarck. He was a friend to Ronald Reagan and Perry Como. He appeared in the movie ''How the West Was Won.''

And he will always be remembered as our State's most prominent philanthropist, even though he never sought recognition for his generosity. He helped hundreds of young North Dakotans through college, almost always anonymously. I know, because he offered to put me through college when I was a young man. He helped hundreds and hundreds of others, in ways big and small. Almost always, he reached out to assist the less fortunate in ways that others never knew about.

He preferred it that way, but how he loved to help. Harold Schafer was a big man with a big heart, and a real love for life. He could talk to anyone, and learn from everyone.

His enthusiasm and energy took him into the worlds of politics, business education and philanthropy. He was the man who restored the town of Medora in the North Dakota Badlands, an important place in the life of President Theodore Roosevelt.

Harold spent millions of dollars of his own money to bring the story of that town to a national audience. Today, Medora is the premier vacation spot in our State. It is the gateway to the rugged beauty of Theodore Roosevelt National Park, and hosts a professional show every evening in the summer in a spectacular outdoor amphitheater.

Harold Schafer did not invest in Medora to make money, but to preserve the area's rich history. Medora tells a story that has inspired thousands of young people with the vision that Theodore Roosevelt and Harold Schafer shared, the ''can-do'' attitude that says, ''every person can make a difference, and every person should try.''

Harold Schafer adopted as the symbol of his company a statue of a pioneer entitled ''Work.'' He loved to work, to build and to make things better. That was at the heart of Harold Schafer's philosophy.

I know these things because I first met Harold Schafer when I was a small boy, and had the privilege of being part of his extended family. He was a close friend of my father. When my parents were killed in an automobile accident, Harold Schafer adopted my family as he did so many others. Every Christmas Eve, Harold would come to my home with a trunkload of gifts for the family, a wide smile, and genuine glee celebrating all that life had to offer.

He brought happiness to hundreds of families that had suffered a loss or a hardship. That's the kind of man Harold Schafer was. He made the world a better place while he was here, and he leaves the world a sadder place for his passing. Our sympathy goes out to his wife, Sheila, and his children, Haroldeen, Ed, Joanne, Dianne, Pamela, Mark, Michele, and Maureen, their families, and his many grandchildren and great-grandchildren. We will miss him greatly.●

MESSAGES FROM THE HOUSE

At 12:28 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2115. An act to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the design, planning, and construction of a project to reclaim and reuse wastewater within the outside of the service area of the Lakehaven Utility District, Washington.

H.R. 2238. An act to authorize the Secretary of the Interior to acquire Fern Lake and the surrounding watershed in the States of Kentucky and Tennessee for addition to Cumberland Gap National Historical Park, and for other purposes.

H.R. 2538. An act to amend the Small Business Act to expand and improve the assistance provided by Small Business Development Centers to Indian tribe members, Alaska Natives, and Native Hawaiians.

H.R. 3248. An act to designate the facility of the United States Postal Service located at 65 North Main Street in Cranbury, New Jersey, as the ''Todd Beamer Post Office Building.''

H.R. 3322. An act bill to authorize the Secretary of the Interior to construct an education and administrative center at the Bear River Migratory Bird Refuge in Box Elder County. Utah.

H.R. 3348. An act to designate the National Foreign Affairs Training Center as the George P. Shultz National Foreign Affairs Training Center.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 102. Concurrent resolution encouraging the development of strategies to reduce hunger and poverty, and to promote free market economics and democratic institutions, in sub-Saharan Africa.

H. Con. Res. 232. Concurrent resolution expressing the sense of the Congress in honoring the crew and passengers of United Airlines Flight 93.

H. Con. Res. 242. Concurrent resolution recognizing Radio Free Europe Radio Liberty's success in promoting democracy and its continuing contribution to United States national interests.

H. Con. Res. 280. Concurrent resolution expressing solidarity with Israel in the fight against terrorism.

At 5:57 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. 3005. An act to extend trade authorities procedures with respect to reciprocal trade agreements.

H.R. 3008. An act to reauthorize the trade adjustment assistance program under the Trade Act of 1974, and for other purposes.

The message also announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2944) 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.

ENROLLED JOINT RESOLUTION SIGNED

The message further announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 76. A joint resolution making further continuing appropriations for the fiscal year 2002, and for other purposes.

The enrolled joint resolution was signed subsequently by the President pro tempore (Mr. BYRD).

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 2115. An act to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the design, planning, and construction of a project to reclaim and reuse wastewater within and outside of the service area of the Lakehaven Utility District, Washington; to the Committee on Energy and Natural Resources.

H.R. 2238. An act to authorize the Secretary of the Interior to acquire Fern Lake and the surrounding watershed in the States of Kentucky and Tennessee for addition to Cumberland Gap National Historical Park, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 2538. An act to amend the Small Business Act to expand and improve the assistance provided by Small Business Development Centers to Indian tribe members, Native Alaskans, and Native Hawaiians; to the Committee on Small Business and Entrepreneurship.

H.R. 3005. An act to extend trade authorities procedures with respect to reciprocal trade agreements; to the Committee on Finance.

H.R. 3008. An act to reauthorize the trade adjustment assistance program under the Trade Act of 1974; to the Committee on Finance.

H.R. 3248. An act to designate the facility of the United States Postal Service located at 65 North Main Street in Cranbury, New Jersey, as the ''Todd Beamer Post Office Building''; to the Committee on Governmental Affairs.

H.R. 3322. An act to authorize the Secretary of the Interior to construct an education and administrative center at the Bear River Migratory Bird Refuge in Box Elder County, Utah; to the Committee on Environment and Public Works.

H.R. 3348. An act to designate the National Foreign Affairs Training Center as the George P. Shultz National Foreign Affairs Training Center; to the Committee on Foreign Relations.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 232. Concurrent resolution expressing the sense of the Congress in honoring the crew and passengers of United Airlines Flight 93; to the Committee on Rules and Administration.

H. Con. Res. 242. Concurrent resolution recognizing Radio Free Europe Radio Liberty's success in promoting democracy and its continuing contribution to United States national interests; to the Committee on Foreign Relations.

H. Con. Res. 280. Concurrent resolution expressing solidarity with Israel in the fight against terrorism; to the Committee on Foreign Relations.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 1766. A bill to provide for the energy security of the Nation, and for other purposes.

The following concurrent resolution was read, and placed on the calendar:

H. Con. Res. 102. Concurrent resolution relating to efforts to reduce hunger in sub-Saharan Africa.

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–4843. A communication from the Chief of the Regulations Branch, United States Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Import Restrictions Imposed on Archaeological and Ethnological Materials from Bolivia'' (RIN1515–AC95) received on December 5, 2001; to the Committee on Finance.

EC–4844. A communication from the Administrator of the Agency for International Development, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1, 2001 through September 30, 2001; to the Committee on Governmental Affairs.

EC–4845. A communication from the Administrator of the General Service Administration, transmitting, pursuant to law, the semiannual report of the Office of the Inspector General for the period April 1, 2001 through September 30, 2001; to the Committee on Governmental Affairs.

EC–4846. A communication from the Acting Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Emergency Rule to List the Carson Wandering Skipper as Endangered'' (RIN1018–AI18) received on December 4, 2001; to the Committee on Environment and Public Works.

EC–4847. A communication from the Acting Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Emergency Rule and Proposed Rule to List the Columbia Basin Pygmy Rabbit as Endangered'' (RIN1080–AG17) received on December 4, 2001; to the Committee on Environment and Public Works.

EC–4848. A communication from the Acting Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Final Rule to List the MS gopher frog as Endangered'' (RIN1018–AF90) received on December 4, 2001; to the Committee on Environment and Public Works.

EC–4849. A communication from the Regulations Officer, Federal Highway Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Engineering Services'' (RIN2125–AE73) received on December 5, 2001; to the Committee on Environment and Public Works.

EC–4850. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled ''The Lead-Based Paint Pre-Renovation Education Rules''; to the Committee on Environment and Public Works.

EC–4851. 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 State Plans for Designated Facilities and Pollutants: Vermont: Negative Declaration'' (FRL7116–6) received on December 6, 2001; to the Committee on Environment and Public Works.

EC–4852. 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 Kansas'' (FRL7116–3) received on December 6, 2001; to the Committee on Environment and Public Works.

EC–4853. 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'' (FRL7098–8) received on December 6, 2001; to the Committee on Environment and Public Works.

EC–4854. A communication from the Principal Deputy Associate Administrator of the

Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revocation of Significant New Uses of Certain Chemical Substances'' (FRL6807–3) received on December 6, 2001; to the Committee on Environment and Public Works.

EC–4855. 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; Connecticut; Ozone'' (FRL7114–9) received on December 6, 2001; to the Committee on Environment and Public Works.

EC–4856. A communication from the Trial Attorney, Federal Railroad Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Locational Requirement for Dispatching of United States Rail Operations'' (RIN2130–AB38) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4857. A communication from the Attorney-Advisor of the National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Electric-Powered Vehicles; Response to Petitions for Reconsideration; Final Rule'' (RIN2127–AI57) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4858. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Antidrug and Alcohol Misuse Prevention Programs for Personnel Engaged in Specific Aviation Activities, Technical Amendment'' ((RIN2120–AH15) (2001–0002)) received on December 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4859. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations: Jamaica Bay and Connecting Waterways, NY'' ((RIN2115–AE47) (2001–0121)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4860. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Crystal River, Florida'' ((RIN2115–AA97) (2001–0146)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4861. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations: Port of Tampa, Florida'' ((RIN2115–AA97) (2001–0147)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4862. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations: Lake Washington Ship Canal, WA'' ((RIN2115–AE47) (2001–0120)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4863. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations: LPG Transits, Portland, Maine Marine Inspection Zone and Captain of the Port Zone'' ((RIN2115–AA97) (2001–0148)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4864. A communication from the Chief of Regulation and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations: Neponset River, MA'' ((RIN2115–AE47)(2001–0119)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4865. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Bombardier Model CL 600 2B19 Series Airplanes'' ((RIN2120–AA64) (2001–0568)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4866. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Dassault Model Mystere-Falcon 50, 900, and 900EX Series Airplanes'' ((RIN2120–AA64) (2001–0563)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4867. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (54); amdt. no. 2076'' ((RIN2120–AA65) (2001–0059)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4868. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Honeywell International Inc. LTP 101 Series Turboprop and LTS101 Series Turboshaft Engines'' ((RIN2120–AA64) (2001–0560)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4869. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model B 17E, F, and G, Airplanes'' ((RIN2120–AA64) (2001–0561)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4870. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 767 Series Airplanes; correction'' ((RIN2120–AA64) (2001–0562)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4871. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E5 Airspace; Reform, AL'' ((RIN2120–AA66) (2001–0174)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4872. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 747 Series Airplanes'' ((RIN2120–AA64)(2001–0564)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4873. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Fokker Model F28 Mark 0070 and 0100 Series Airplanes'' ((RIN2120–AA64)(2001–0569)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4874. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Short Brothers Model SD3 Series Airplanes'' ((RIN2120–AA64)(2001–0566)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4875. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Fokker Model F28 Series Airplanes'' ((RIN2120–AA64)(2001–0567)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4876. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standards Instrument Approach Procedures; Miscellaneous Amendment (43); amdt no. 2079'' ((RIN2120–AA65)(2001–0058)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4877. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (19); amdt. no. 2077'' ((RIN2120–AA65)(2001–0060)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4878. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: General Electric Company GE90 Series Turbofan Engines'' ((RIN2120–AA64)(2001–0559)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4879. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: McDonnell Douglas Model MD 11 Series Airplanes'' ((RIN2120–AA64)(2001–0557)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4880. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Class E Airspace; Logan, UT'' ((RIN2120–AA66)(2001–0175)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4881. A communication from the Chair of the Board of the Office of Compliance, transmitting, pursuant to law, the notice of proposed rulemaking which seeks to comment on substantive regulations being proposed to implement section 4(c) of the Veterans Employment Opportunities Act of 1998, which affords to covered employees of the legislative branch the rights and protections of selected provisions of veterans' preference law; to the Committee on Governmental Affairs. (The full text of the report follows:)

OFFICE OF COMPLIANCE

Hon ROBERT C. BYRD,
President pro tempore, United States Senate, Washington, DC, November 13, 2001.

DEAR SENATOR BYRD: Pursuant to section 4(c)(4) of the Veterans Employment Opportunities Act of 1998 (''VEOA'') (2 U.S.C. §1316a(4)) and section 304(b) of the Congressional Accountability Act of 1995 (2 U.S.C. §1384(b)), I am submitting on behalf of the Office of Compliance, U.S. Congress, this notice of proposed rulemaking for publication in the Congressional Record. This notice seeks comment on substantive regulations being proposed to implement section 4(c) of VEOA, which affords to covered employees of the legislative branch the rights and protections of selected provisions of veterans' preference law.

Very truly yours,

SUSAN S. ROBFOGEL,
Chair of the Board.

OFFICE OF COMPLIANCE

The Veterans Employment Opportunities Act of 1998: Extension of Rights and Protections Relating to Veterans' Preference Under Title 5, United States Code, to Covered Employees of the Legislative Branch

NOTICE OF PROPOSED RULEMAKING

Summary: The Board of Directors of the Office of Compliance (''Board'') is publishing proposed regulations to implement section 4(c)(4) of the Veterans Employment Opportunities Act of 1998 (''VEOA''), Pub. L. 105–339, 112 Stat. 3186, codified at 2 USC §1316a, as applied to covered employees of the House of Representatives, the Senate, and certain Congressional instrumentalities.

The VEOA applies to the legislative branch the rights and protections pertaining to veterans' preference established under section 2108, sections 3309 through 3312, and subchapter I of chapter 35, of title 5, United States Code (''USC'').

This Notice proposes that identical regulations be adopted for the Senate, the House of Representatives, and the six Congressional instrumentalities and for their covered employees. Accordingly:

(1) *Senate*. It is proposed that regulations as described in this Notice be included in the body of regulations that shall apply to the Senate and employees of the Senate, and this proposal regarding the Senate and its employees is recommended by the Office of Compliance's Deputy Executive Director for the Senate.

(2) *House of Representatives*. It is further proposed that regulations as described in this Notice be included in the body of regulations that shall apply to the House of Representatives and employees of the House of Representatives, and this proposal regarding the House of Representatives and its employees is recommneded by the Office of Compliance's Deputy Executive Director for the House of Representatives.

(3) *Certain Congressional instrumentalities*. It is further proposed that regulations as described in this Notice be included in the body of regulations that shall apply to the Capitol Guide Service, the Capitol Police, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, and the Office of Compliance, and their employees; and this proposal regarding these six Congressional instrumentalities is recommended by the Office of Compliance's Executive Director.

Dates: Interested parties may submit comments within 30 days after the date of publication of this Notice of Proposed Rulemaking in the Congressional Record.

Addresses: Submit written comments (an original and 10 copies) to the Chair of the Board of Directors, Office of Compliance, Room LA 200, John Adams Building, 110 Second Street, S.E., Washington, DC 20540–1999. Those wishing to receive notification of receipt of comments are requested to include a self-addressed, stamped post card. Comments may also be transmitted by facsimile machine to (202) 426–1913. This is not a toll-free call. Copies of comments submitted by the public will be available for review at the Law Library Reading Room, Room LM–201, Law Library of Congress, James Madison Memorial Building, Washington, DC, Monday through Friday, between the hours of 9:30 a.m. and 4:00 p.m.

For Further Information Contact: Executive Director, Office of Compliance at (202) 724–9250. This notice is also available in the following formats: large print, Braille, audiotape, and electronic file on computer disk. Requests for this notice in an alternative format should be made to the Director, Central Operations Department, Office of the Senate Sergeant at Arms, (202) 224–2705.

Supplementary Information:

Background

The Veterans Employment Opportunities Act of 1998[1] ''strengthen[s] and broadens''[2] the rights and remedies available to military veterans who are entitled, under the Veterans' Preference Act of 1944[3] (and its amendments), to preferred consideration in appointment to the Federal civil service of the executive branch and in retention during reductions in force (''RIFs''). In addition, and most relevant to this NPR, VEOA affords to ''covered employees'' of the legislative branch (as defined by section 101 of the Congressional Accountability Act (''CAA'') (2 USC §1301)) the rights and protections of selected provisions of veterans' preference law. VEOA §4(c)(2). The selected statutory sections made applicable to such legislative branch employees by VEOA may be summarized as follows.

A definitional section prescribes the categories of military veterans who are entitled to preference (''preference eligible''). 5 USC §2108. Generally, a veteran must be disabled or have served on active duty in the Armed Forces during certain specified time periods or in specified military campaigns to be entitled to preference. In addition, certain family members (mainly spouses, widow[er]s, and mothers) of preference eligible veterans are entitled to the same rights and protections.

In the appointment process, a preference eligible individual who is tested or otherwise numerically evaluated for a position in the competitive service is entitled to have either 5 or 10 points added to his/her score, depending on his or her military service, or disabling condition. 5 USC §3309. Where experience is a qualifying element for a job in the competitive service, a preference eligible individual is entitled to credit for having relevant experience in the military or in various civic activities. 5 USC §3311. Where physical requirements (age, height, weight) are a qualifying element for a position in the competitive service, preference eligible individuals (including those who are disabled) may obtain a waiver of such requirements in certain circumstances. 5 USC §3312. For certain positions in the competitive service (guards, elevator operators, messengers, custodians), only preference eligible individuals can be considered for hiring so long as such individuals are available. 5 USC §3310.

Finally, in prescribing retention rights during RIFs for positions in both the competitive and in the excepted service, the sections in subchapter I of chapter 35 of Title 5, USC, with a slightly modified definition of ''preference eligible,'' require that employing agencies give ''due effect'' to the following factors: (a) employment tenure (i.e., type of appointment); (b) veterans' preference; (c) length of service; and, (d) performance ratings. 5 USC §§3501, 3502. Such considerations also apply where RIFs occur in connection with a transfer of agency functions from one agency to another. 5 USC §3503. In addition, where physical requirements (age, height, weight) are a qualifying element for retention, preference eligible individuals (including those who are disabled) may obtain a waiver of such requirements in certain circumstances. 5 USC §3504.

On February 28, 2000, and March 9, 2000, an Advanced Notice of Proposed Rulemaking (''ANPR'') was published in the Congressional Record (144 Cong. Rec. S862 (daily ed., Feb. 28, 2000), H916 (daily ed., Mar. 9, 2000)). The ANPR identified a number of interpretative issues on which the Board sought public comment in order to assist it in proposing the substantive regulations mandated under section 4(c)(4) of VEOA. The Board had sought to obtain an array of information regarding the employment policies and practices in the various employing offices affected by VEOA. In addition, the Board sought to gain any relevant information that might aid the Board in interpreting VEOA. In response to the ANPR, the Board received two written comments, one of which was from a local unit of a labor organization and the other of which was from the national office of the same labor organization. Both comments focused on the issue of whether the term *guard* in section 3310 of 5 USC, applied by VEOA, should be interpreted to included officers and other employees of the U.S. Capitol Police. The Board received no further public input to assist it in resolving the other issues outlined in the ANPR. Therefore, the Board upon its own further research and study has decided to propose substantive regulations implementing the relevant portions of VEOA. What follows is a discussion of how the Board, tentatively at least, proposes to address the thirteen interpretative issues identified in the ANPR.

Discussion of interpretative issues

Interpretation of term ''competitive service'' and ''excepted service'' as applied to the legislative branch [Issues (1)–(7)].

The ANPR observed that VEOA confers upon covered employees the statutory rights and protections of veterans' preference in appointments to the ''competitive service.'' The ANPR also explained that veterans'' preference rights in the context of a reduction in force, as provided in the application of subchapter I of chapter 35 of title 5, USC and under VEO, are, with one exception, applicable to both the competitive service and to the excepted service. Moreover, OPM's implementing regulations regarding reductions in force, set forth in 5 CFR part 351, are couched in terms that assume application to the ''competitive service'' and the ''excepted service.'' Thus the definitions of these two terms, as applied to the legislative branch by virtue of VEOA, are central to a determination of the substantive veterans' preference rights which now apply to covered employees.

The Board received no written comments in response to a series of questions exploring how to interpret these statutory categories of Federal service. In the absence of illuminating comment or contrary definitions in VEOA, the Board believes that it must define these terms in accordance with their meaning under derivative sections of title 5, USC, made applicable by VEOA. This conclusion is

[1] Pub. L. 105–339, 112 Stat. 3186 (Oct. 31, 1998).

[2] Sen. Rept. 105–340, 105 Cong., 2d Sess. at 19 (Sept. 21, 1998).

[3] Act of June 27, 1944, ch. 287, 58 Stat. 387, amended and codified in various provisions of Title 5, USC.

supported by a directive in VEOA to issue regulations that are consistent with section 225 of the CAA (2 USC §1361), one of whose subsections embraces a rule of construction that ''definitions and exemptions in the laws made applicable by this [Congressional Accountability] Act shall apply under this [Congressional Accountability] Act.'' This section enables the Board to flesh out the meaning and scope of the various federal employment laws made applicable under the CAA by referring to their respective definitions and exemptions even though they are not expressly cited in the CAA.[4]

Section 2102 of Title 5 USC, as applied under VEOA, presents a three-fold definition of the term ''competitive service'': First, the competitive service consists of ''all civil service positions in the *executive branch*,'' with exceptions for (a) positions specifically excepted from the competitive service by statute , (b) positions requiring Senate confirmation, and (c) positions in the Senior Executive Service.[5] 5 USC §2102(a)(1)(A)–(C) (emphasis added). Second, the competitive service includes ''civil positions not in the executive branch which are specifically included in the competitive service by statute.'' 5 USC §2102(a)(2). Third, the competitive service encompasses those ''positions in the government of the District of Columbia which are specifically included in the competitive service by statute.'' 5 USC §2102(a)(3).

Section 2103 of Title 5 further defines the ''excepted service'' to include all ''civil service positions which are not in the competitive or the Senior Executive Service.'' 5 U.S.C. §2103. And section 2101 of that Title defines the ''civil service'' to include ''all appointive positions in the executive, judicial, and legislative branches of the Government of the United States, except positions in the uniformed services.'' 5 U.S.C. §2101(1).

As applied under VEOA, it would seem that section 225 requires the Board to issue regulations that take into account the definitions (and exemptions) accompanying the civil service laws from which the rights and protections of veterans' preference are derived. Accordingly, the Notice proposes a section, in the form of a proviso, requiring that the terms ''competitive service'' and ''excepted service'' in the proposed regulations be defined in reference to their statutory meaning in Title 5, USC. Where an applied regulation refers to the ''competitive service,'' such term shall have the meaning as provided in 5 USC §2102(a)(2). Where an applied regulation refers to the ''exempted service,'' such term shall have the meaning as provided in 5 USC §2103. Consistent with the definition under section 2103, it is the position of the Board that all ''covered employees''[6] holding civil service positions in the legislative branch are within the definition of excepted service, unless otherwise designated by statute as being competitive service or Senior Executive Service positions.[7]

The Board recognizes that the adoption of these definitions, consistent with the mandate of section 225, yields an unusual result in that no ''covered employee'' in the legislative branch currently satisfies the definition of ''competitive service.'' Moreover, as the substantive protections of veterans' preference in legislative branch appointment apply only to ''competitive service'' positions, the regulations which the Board proposes regarding preference in appointment would with one noted exception, currently apply to no one.[8] However, should Congress, by statute, hereinafter designate any civil service positions in the legislative branch as ''competitive service'' positions, then consistent with the second definition of section 2102(a)(2) and the parallel regulation proposed herein, the substantive regulations regarding veterans' preference in appointment would apply.

Authority of Board to exercise powers and responsibilities similar to that of OPM in executing, administering, and enforcing the federal service system [Issues (8)–(10)].

The ANPR contrasted the regulatory authority vested in OPM and in the Board of Directors of the Office of Compliance with respect to personnel management matters. Congress has established OPM as an independent agency in the executive branch and authorized it to exercise broad powers administering the civil service laws. See 5 U.S.C. §§1101, 1103–04, 1301–04.[9] It has a number of significant responsibilities, including the promulgating of rules and regulations that implement the various civil service laws and the classifying of positions in the executive branch for purposes of appointment, pay, and promotion. In addition, OPM exercises broad administrative powers over the competitive service, including the authority to develop and conduct examinations for the appointment of applicants into the competitive service and the authority to administer rules exempting positions from the competitive service.[10]

The ANPR concluded that VEOA does not vest the Board of Directors with authority comparable to that of OPM to execute, administer, and enforce a civil service system within the legislative branch. This is most clearly evident from the fact that VEOA did not make applicable to the Board the powers and responsibilities exercised by OPM under 5 U.S.C. §§1103–04, 1301–04, among other sections.

Insofar as the Board's authority under VEOA is not coextensive with that of OPM, the ANPR identified two legal implications. First, the Board's power to promulgate veterans' preference regulations that are the ''same as'' those of OPM may be circumscribed to some degree. To illustrate, if OPM has promulgated a regulation under the combined authority of two statutory sections, A and B, but the Board is given authority only under section A, any corresponding regulation proposed by the Board must be tailored to reflect only the standard, directive, or power of section A. Thus, some regulations of OPM may have to be adopted with modifications to reflect their narrower statutory basis. Other OPM regulations may not be adopted at all simply because the Board does not have the underlying statutory authority.

The second implication identified by the ANPR was that where the veterans' preference regulations contemplate a role by OPM,[11] the Board of Directors might not be empowered to exercise a comparable administrative role with respect to personnel matters in the legislative branch.

The Board received no written comments addressing these issues. Upon further study and reflection, the Board has concluded that the if the provisions of VEOA are to be given

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[4] *Compare* Notice of Proposed Rulemaking [Fair Labor Standards Act regulations under Congressional Accountability Act], 141 CONG. REC. S17603, S17604 (Daily Ed. Nov. 28, 1995)(in proposing the substantive regulations of the FLSA, 29 USC §201 *et seq.*, the Board cited section 225(f)(1) of the CAA as requiring the application of the FLSA definition of ''wages'' in 29 USC §203(m).

[5] These generally are high-level, managerial positions in the executive department whose appointment does not require Senate confirmation. *See* 5 USC §3123 (a)(2), which defines the term ''Senior Executive Service position.''

[6] The definition of ''covered employee'' under section VEO §4(c)(1) has the same meaning as the term under section 101 of the CAA, 2 USC §1302, which includes any employee of the House of Representatives, the Senate, the Capitol Guide Service, the Capitol Police, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, the Office of Compliance, or the Office of Technology Assessment. Under VEO §4(c)(5), the following employees are excluded from the term ''covered employee'': (A) presidential appointees confirmed by the Senate, (B) employees appointed by a Member of Congress or by a committee or subcommittee of either House of Congress, and (C) employees holding positions the duties of which are equivalent to those in Senior Executive Service.

[7] In the ANPR the Board had initially suggested that no ''covered employees'', as defined by VEOA, fall within the meaning of ''excepted service.'' Upon further review of the governing statutes, the Board herein submits that many ''covered employees'' within the legislative branch are encompassed by the term ''excepted service'' as discussed above. The definition of ''covered employee'' under section VEO §4(c)(1) has the same meaning as the term under section 101 of the CAA, 2 USC §1302, which includes any employee of the House of Representatives, the Senate, the Capitol Guide Service, the Capitol Police, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, the Office of Compliance, or the Office of Technology Assessment. Under VEO §4(c)(5), the following employees are excluded from the term ''covered employee'': (A) presidential appointees confirmed by the Senate, (B) employees appointed by a Member of Congress or by a committee or subcommittee of either House of Congress, and (C) employees holding positions the duties of which are equivalent to those in Senior Executive Service. Consistent with the definition at section 2103 of title 5, USC, any covered employee within the legislative branch who holds a civil service position which is not in the Senior Executive Service and which is not in the competitive service is encompassed within the definition of ''excepted service.'' The regulations which the Board here proposes reflect this interpretation of the governing statutes.

[8] The Board proposes the potential application of the substantive regulations regarding veterans' preference in the appointment process insofar as the Office of the Architect of the Capital, pursuant to the Architect of the Capital Human Resources Act, has established a personnel management system with features analogous to the ''competitive service'' as defined in §2102(a)(2) of Title 5, USC. See Section 1.106 *infra*.

[9] *See also* 5 CFR §5.1, issued by the President, which states that the ''Director, Office of Personnel Management, shall promulgate and enforce regulations necessary to carry out the provisions of the Civil Service Act and the Veterans' Preference Act, as reenacted in Title 5, United States Code, the Civil Services Rules, and all other statutes and Executive orders imposing responsibilities on the Office.''

[10] The following summary explains in part the role of the OPM in the appointment of employees to competitive service positions in executive branch agencies:

''An employee typically becomes a member of the ''competitive service'' by taking an examination administered by the Office of Personnel Management (''OPM''). See 5 U.S.C. §3304 (1976 & Supp. V 1981). An applicant who meets the minimum requirements for entrance to an examination, and who receives a rating of 70 or more on the examination, is known as an ''eligible.'' 5 C.F.R. §§210.102(b)(5), 337.101(a) (1983). OPM is required to enter on a civil service ''register'' the names of all eligibles in accordance with their numerical rankings. 5 C.F.R. §332.401 (1983).

''An agency seeking to hire an employee must submit a request to OPM for a ''certificate'' of eligibles. When OPM receives a request for certification of eligibles, it prepares a certificate by selecting names from the head of the appropriate register. This certificate consists of a sufficient number of names to permit the agency to consider three eligibles for each vacancy, 5 C.F.R. §332.402 (1983), the so-called ''rule-of-three.'' A hiring official from the agency, known as the ''appointing officer,'' 5 C.F.R. §210.102(b)(1) (1983), is obliged to fill each vacancy ''with sole regard to merit and fitness'' from the three eligibles ranking highest on the certificate who are available for appointment. 5 C.F.R. §332.404 (1983).'' *Hondros* v. *Unites States Civil Service Commission*, 720 F.2d 278, 280–82 (3d Cir. 1983) (footnotes omitted).

[11] *See, e.g.*, 5 CFR §§330.401 (OPM's role in competitive examination in restricted positions), 330.403 (OPM's role in filling restricted positions by noncompetitive action of a nonpreference eligible), 332.401 (OPM's responsibility to maintain registers of eligibles), 337.101 (OPM's role in rating applicants).

their plain meaning, the Board must propose only those OPM regulations, modified as necessary, that can be linked to those statutory sections whose rights and protections have been made applicable to covered employees in the legislative branch. The Board further concludes that VEOA does not vest the Board of Directors of the Office of Compliance with the broad-ranging authority to execute, administer, and enforce a civil service system in the legislative branch.[12] Accordingly, in certain of the proposed regulations the references to OPM have been deleted. To the extent that the executive branch regulations directed OPM to exercise certain responsibilities, including setting of standards, exercising review of agency determinations, and engaging in oversight, those duties have been eliminated in the proposed regulations.

Interpretation of provision restricting certain positions, including guards, to preference eligibles [Issue (11)].

With respect to ''competitive service'' positions restricted to preference eligible individuals under 5 USC §3310, as applied by VEOA, namely guards, elevator operators, messengers, and custodians, the Board sought information and comment on a series of issues, including the identity, in the legislative branch, of guard, elevator operator, messenger, and custodian positions within the meaning of these statutory terms. A specific question was posed whether police officers and other employees of the United State Capitol Police should be considered ''guards.'' As noted previously, the only two written comments received in response to the ANPR addressed this latter issue.

Both comments argued that the term ''guard'' should not be interpreted to include officers of the U.S. Capitol Police. One comment contrasted the use of key terms within chapter 33 of Title 5, USC, which governs the examination, selection, and placement of personnel in the competitive service and from which selected provisions made applicable under VEOA to the legislative branch are drawn. Section 3310, which is made applicable by VEOA, uses the term ''guard.'' In contrast, section 3307, which addresses maximum-age requirements in the competitive service and which is not made applicable under VEOA, refers to ''law enforcement officer.'' Because of this differentiation within the same chapter of the U.S. Code, the commenter suggests that Congress could not have intended to treat a ''guard'' under section 3310 as analogous to a ''law enforcement officer.'' Since U.S. Capitol police officers have the authority of law enforcement officers (see 40 USC §§212–212a), they are not ''guards'' for purposes of section 3310 as applied.

The other comment makes a similar distinction between guards and law enforcement officers, relying upon the interpretations of OPM, which is responsible for administering the Federal government's occupation classification system. The commenter cites to two OPM publications, *Grade Evaluation Guide for Police and Security Guard Positions, GS–0083/GS–0085* and *Digest of Significant Classification Decisions and Opinions*, No. 8, April 1986. Together, these publications establish a distinction between police officers and guards in the executive branch.

The Board finds that the comments make a persuasive case for not equating officers of the U.S. Capitol Police with ''guards'' under section 3310 as applied by VEOA. The proposed rule includes a provision that explicitly excludes law enforcement officer positions of the U.S. Capitol Police from the substantive regulations implementing section 3310 as applied by VEOA.

Executive branch regulations that either should not be adopted or should be adopted with modification [Issues (12)–(13)].

The Board received no written comments addressing the questions posed in the ANPR as to which substantive regulations should not be adopted because they are based on statutory provisions that have not been made applicable under VEOA. Similarly, no comments were received on what modifications should be adopted to make the regulations more effective for the implementation of the rights and protections made applicable under VEOA.

Nevertheless, as explained above in the discussion concerning its authority to exercise powers comparable to OPM's, the Board has concluded that it may not propose regulations that are not based on statutory rights and protections made applicable under VEOA. Conversely, the Board believes that the regulations proposed in this Notice most appropriately fulfill the statutory mandate to adopt regulations that are the ''same as the most relevant substantive regulations (applicable with respect to the executive branch) promulgated to implement the statutory provisions'' of VEOA. To the extent that modifications are being proposed, the Board believes that they are warranted to reflect the more limited statutory authority which VEOA vests in the Board.

Special provision for coverage of Architect of the Capitol

While drafting the proposed regulations following the receipt of written comments to the ANPR, it came to the attention of the Board that the Office of the Architect of the Capitol has been under a special statutory mandate with respect to managing and supervising its human resources. Because AOC is part of the legislative branch, it has not generally been subject to many of the statutes that regulate personnel policy for Federal agencies. As a consequence, the General Accounting Office reported in 1994 that AOC's personnel system was deficient in many respects. GAO, ''Federal Personnel: Architect of the Capitol's System Needs Improvement,'' B–256160 (April 29, 1994). Congress responded by enacting the Architect of the Capitol Human Resources Act (AOCHRA). P.L. 103–283, 108 Stat. 1444 (July 22, 1994), codified at 40 U.S.C. §166b–7. This law did not directly bring the AOC within the purview of the various Federal personnel laws. Rather, the AOC was directed to establish its own personnel management system. As stated in AOCHRA, Congress found that the Architect should ''develop human resources management programs that are consistent with the practices common among other Federal and private sector organizations,'' and to that end, the Architect was directed ''to establish and maintain a personnel management system that incorporates fundamental principles that exist in other modern personnel systems.'' 40 U.S.C. §166b–7(b)(1),(2). The law then sets out in broad terms eight subject areas that a model personnel management system must address, leaving it to the Architect to develop a detailed plan for implementing these model policy goals no later than fifteen months after enactment. 40 U.S.C. §166b–7(c)(2)(A)–(H), (d)(1)(B),(C). Among these objectives is the requirement that the personnel management system ''ensure[] that applicants for employment and employees of the Architect of the Capitol are appointed, promoted, and assigned on the basis of *merit* and fitness after fair and equitable consideration of all applicants and employees through *open competition*.'' 40 U.S.C. §166b–7(c)(2)(A) (emphasis added).

The notion of merit selection based on open competition, of course, is a bedrock principle of the federal civil service system, particularly its competitive service component, as described in the ANPR, 146 Cong. Rec. S864 (Daily ed. February 29, 2000)(ANPR). Thus, instead of formally placing the job positions of the Architect's Office within the federal competitive service, which is contemplated under 5 U.S.C. §2101(a)(2),[13] Congress authorized the Architect's Office to devise its own personnel system independent of the competitive service (and of the oversight responsibilities of the Office of Personnel Management) but consistent with its animating principles.

AOCHRA did not specifically mandate that the Architect's Office incorporate veterans' preference principles into its merit selection system. And there is nothing in the public record to indicate that the AOC in practice affords qualified veterans some form of preference in the selection process. However, it seems equally true that there is nothing in AOCHRA to preclude the Architect from taking veterans' preference into account in making appointments, promotions, and assignments, the same way that an executive branch agency must afford veterans' preference to appointments to positions in the competitive service. Thus, the issue arises whether VEOA may be read *in pari materia* with AOCHRA, so as to make the substantive VEOA regulations concerning appointments applicable to AOC's merit selection system notwithstanding the fact that job positions subject to that system are not technically part of the ''competitive service.''

As noted above, the Board has tentatively concluded that it must limit the application of the substantive, veterans' preference appointment regulations to those legislative branch positions that are within the ''competitive service,'' as the latter term is defined in 5 U.S.C. §2102. As a practical matter, this may significantly limit the group of ''covered employees'' who will benefit from VEOA, since it appears that the vast majority of ''covered employees'' hold civil service positions in the legislative branch, including those in the Office of AOC, that are within the definition of excepted service.

However, the congressional policy declared in the enactment of AOCHRA may warrant the promulgation of a special regulation tailoring the application of the VEOA appointment regulations to positions in Office of the AOC, for it is a general rule of statutory construction that statutes on the same subject matter are to be construed together.[14] In this case, the specific obligations under VEOA to afford veterans' preference in connection with merit appointments would be interpreted in conjunction with the preexisting, general obligations under AOCHRA to establish a merit selection personnel system. If read together, the two statutes would seem to authorize the application of substantive VEOA regulations, at least those governing appointments, insofar as AOCHRA imposes obligations on the Office of the Architect of the Capitol to establish a personnel management system which at a minimum provides

[12] *Compare* Notice of Proposed Rulemaking [Fair Labor Standards Act regulations under Congressional Accountability Act], 141 Cong. Rec. S17603, S17604 (Daily Ed. Nov. 28, 1995)(explaining that because the CAA did not incorporate the notice posting and recordkeeping requirements of section 11 of the FLSA, 29 USC §211, the Board determined that it may not impose by substantive regulations such requirements on employing offices).

[13] ''The 'competitive service' consists of—. . .''(2) civil service positions not in the executive branch which are specifically included in the competitive service by statute;''

[14] N. Singer, Statutes and Statutory Construction §51.02, at 176–178 (6th ed. 2000). See, e.g., *United States* v. *Stewart*, 311 U.S. 60 (1940) (''It is clear that 'all acts in pari materia are to be taken together, as if they were one law.' '').

for appointment, promotion and assignment on the basis of merit and fitness after fair and equitable consideration of all applicants and employees through open competition.[15]

The Board has made no final determination on the soundness of this interpretation, in part due the fact that this has insufficient information on the elements of the merit selection system which the AOC has established under AOCHRA. The Board therefore believes that it is appropriate to solicit comments on what are the elements of the AOC's current merit selection system established under 40 U.S.C. §166b–7(c)(2)(A), and on whether in particular the AOC has a policy of giving preference to qualified veterans. Aside from the factual issue, the Board believes that comments should be solicited on the legal issue whether VEOA may be interpreted *in pari materia* with AOCHRA. In addition, the Board invites comments on the related question of how substantive regulations promulgated under VEOA may be applied to AOC's personnel management system, even assuming that it currently does not include a veterans' preference component, being mindful that the Board is authorized under VEOA to propose modifications for the more effective implementation of the rights and protections under VEOA. 2 U.S.C. §1316a(c)(4)(B).

In order to frame the issues for comment, the Board has decided to include in this NPR a proposed new section §1.106, which would apply the appointment regulations governing veterans' preference to appointments made pursuant to the merit selection system under AOCHRA. This section would apply the proposed regulations notwithstanding the fact that the job positions within the AOCHRA merit selection system are not technically within the ''competitive service.'' Insofar as AOCHRA imposes obligations on the Office of the Architect of the Capitol to establish a personnel management system which at a minimum provides for appointment, promotion and assignment on the basis of merit and fitness after fair and equitable consideration of all applicants and employees through open competition, the Architect of the Capitol would be required to afford to a covered employee, including an applicant veterans' preference, in a manner and to the extent consistent with these proposed regulations.

Recommended Method of Approval

The Board recommends that (1) the version of the proposed regulations that shall apply to the Senate and employees of the Senate be approved by the Senate by resolution; (2) the version of the proposed regulations that shall apply to the House of Representatives and employees of the House of Representatives be approved by the House of Representatives by resolution; and (3) the version of the proposed regulations that shall apply to other covered employees and employing offices be approved by the Congress by concurrent resolution.

Signed at Washington, D.C., on this 13th day of November, 2001.

SUSAN S. ROBFOGEL,
Chair of the Board,
Office of Compliance.

[15] CF. *United States* v. *Jefferson Electric Mfg. Co.*, 291 U.S. 386, 396 (1934) (''As a general rule, where the legislation dealing with a particular subject consists of a system of related general provisions indicative of a settled policy, new enactments of a fragmentary nature on that subject are to be taken as intended to fit into the existing system and the carried into effect comformably to it, excepting as a different purpose is plainly shown.'').

EXTENSION OF RIGHTS AND PROTECTIONS RELATING TO VETERANS' PREFERENCE UNDER TITLE 5, UNITED STATES CODE, TO COVERED EMPLOYEES OF THE LEGISLATIVE BRANCH (SECTION 4(C) OF THE VETERANS EMPLOYMENT OPPORTUNITIES ACT OF 1998)

PART 1—MATTERS OF GENERAL APPLICABILITY TO ALL REGULATIONS PROMULGATED UNDER SECTION 4 OF THE VETERANS EMPLOYMENT OPPORTUNITIES ACT OF 1998

Sec.
1.101 Purpose and scope
1.102 Definitions
1.103 Exclusion
1.104 Adoption of regulations
1.105 Coordination with Section 225 of Congressional Accountability Act
1.106 Application of regulations to certain positions of the Office of the Architect of the Capitol

§ 1.101. Purpose and scope

(a) *Section 4(c) of the VEOA.* The Veterans Employment Opportunities Act (VEOA) applies the rights and protections of sections 2108, 3309 through 3312, and subchapter I of chapter 35 of title 5 USC, to covered employees within the legislative branch.

(b) *Purpose and scope of regulations.* The regulations set forth herein are the substantive regulations that the Board of Directors of the Office of Compliance has promulgated pursuant to section 4(c)(4) of VEOA, in accordance with the rulemaking procedure set forth in section 304 of the CAA.

§ 1.102. Definitions

Except as otherwise provided in these regulations, as used in these regulations:

(a) *Act* or *CAA* means the Congressional Accountability Act of 1995 (Pub. L. 104–1, 109 Stat. 3, 2 U.S.C. §§1301–1438).

(b) *VEOA* means the Veterans Employment Opportunities Act of 1998 (Pub. L. 105–339, 112 Stat. 3182).

(c) Except as provided by §1.103, the term *covered employee* means any employee of (1) the House of Representatives; (2) the Senate; (3) the Capitol Guide Service; (4) the Capitol Police; (5) the Congressional Budget Office; (6) the Office of the Architect of the Capitol; (7) the Office of the Attending Physician; and (8) the Office of Compliance.

(d) The term *employee* includes an applicant for employment and a former employee.

(e) The term *employee of the Office of the Architect of the Capitol* includes any employee of the Office of the Architect of the Capitol, the Botanic Gardens, or the Senate Restaurants.

(f) The term *employee of the Capitol Police* includes any member or officer of the Capitol Police.

(g) The term *employee of the House of Representatives* includes an individual occupying a position the pay for which is disbursed by the Clerk of the House of Representatives, or another official designated by the House of Representatives, or any employment position in an entity that is paid with funds derived from the clerk-hire allowance of the House of Representatives but not any such individual employed by any entity listed in subparagraphs (3) through (8) of paragraph (c) above.

(h) The term *employee of the Senate* includes any employee whose pay is disbursed by the Secretary of the Senate, but not any such individual employed by any entity listed in subparagraphs (3) through (8) of paragraph (c) above.

(i) The term *employing office* means: (1) the personal office of a Member of the House of Representatives or the Senate or a joint committee; (2) a committee of the House of Representatives or the Senate or a joint committee; (3) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the House of Representatives or the Senate; or (4) the Capitol Guide Board, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, and the Office of Compliance.

(j) *Board* means the Board of Directors of the Office of Compliance.

(k) *Office* means the Office of Compliance.

(l) *General Counsel* means the General Counsel of the Office of Compliance.

(m) The term *agency* means employing office as defined by subsection (i).

§ 1.103. Exclusions from definition of covered employee

The term *covered employee* does not include an employee

(a) whose appointment is made by the President with the advice and consent of the Senate;

(b) whose appointment is made by a Member of Congress or by a committee or subcommittee of either House of Congress; or,

(c) who is appointed to a position, the duties of which are equivalent to those of a Senior Executive Service position (within the meaning of section 3132(a)(2) of title 5, United States Code).

§ 1.104. Authority of the Board

(a) *Adoption of regulations.* Section 4(c)(4)(A) of VEOA generally authorizes the Board to issue regulations to implement section 4(c). In addition, 4(c)(4)(B) of VEOA directs the Board to promulgate regulations that are ''the same as the most relevant substantive regulations (applicable with respect to the executive branch) promulgated to implement the statutory provisions referred to in paragraph (2)'' of section 4(c) of VEOA. Those statutory provisions are section 2108, sections 3309 through 3312, and subchapter I of chapter 35, of title 5, United States Code. The regulations issued by the Board herein are on all matters for which section 4(c)(4)(B) of VEOA requires a regulation to be issued. Specifically, it is the Board's considered judgment based on the information available to it at the time of promulgation of these regulations, that, with the exception of the regulations adopted and set forth herein, there are no other ''substantive regulations (applicable with respect to the executive branch) promulgated to implement the statutory provisions referred to in paragraph (2)'' of section 4(c) of VEOA that need be adopted.

(b) *Technical and nomenclature changes.* In promulgating these regulations, the Board has made certain technical and nomenclature changes to the regulations as promulgated by the executive branch. Such changes are intended to make the provisions adopted accord more naturally to situations in the Legislative Branch. However, by making these changes, the Board does not intend a substantive difference between these regulations and those of the executive branch from which they are derived except to the extent that a modification is necessary to more effectively implement the rights and protections made applicable under VEOA.

(c) *Modification of substantive regulations.* As a qualification of the statutory obligation to issue regulations that are ''the same as the most substantive regulations (applicable with respect to the executive branch),'' section 4(c)(4)(B) of VEOA authorizes the Board to ''determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under'' section 4(c) of VEOA. In examining the relevant regulations of the executive branch, which were

promulgated by the Office of Personnel Management, the Board has concluded that a number of sections were issued under a combination of statutory authorities, some of which were made applicable under section 4(c)(2) of VEOA and some of which were not made applicable under that section. The Board has accordingly determined that given the selective application of statutory provisions, some regulations of the executive branch are not applicable to the legislative branch and some regulations must be modified in order to be made applicable.

(d) *Retention of section numbering*. Except for the sections in Part 1, the regulations adopted herein are numbered to correspond with the section numbering of the substantive regulations of the executive branch as they appear in title 5 of the Code of Federal Regulations (CFR) on which they are based.

§ 1.105. Coordination with Section 225 of Congressional Accountability Act

(a) *Statutory directive*. Section 4(c)(4)(D) of the VEOA requires that regulations promulgated must be consistent with section 225 of the CAA. Among the relevant provisions of section 225 are subsection (f)(1), which prescribes as a rule of construction that definitions and exemptions in the laws made applicable by the CAA shall apply under the CAA, and subsection (f)(3), which states that the CAA shall not be construed to authorize enforcement of the CAA by the executive branch.

(b) *Provisos necessary to satisfy statutory directive*. The Board determines that in order for certain regulations applied under VEOA to be consistent with subsections (f)(1) and (f)(3) of section 225 of the CAA, the such regulations shall be subject to the following provisos:

(1) Where an applied regulation refers to the ''competitive service,'' such term shall have the meaning as provided in 5 USC § 2102(a)(2). Where an applied regulation refers to the ''exempted service,'' such term shall have the meaning as provided in 5 USC § 2103.

(2) Where an applied regulation refers to the ''excepted service,'' such term shall have the meaning as provided in 5 USC § 2103. Consistent with the definition provided by section 2103, the Board determines that ''excepted service'' encompasses all civil service positions within the legislative branch which are neither in the ''competitive service'' nor have duties that are equivalent to the Senior Executive Service as those terms are defined in Title 5, USC.

§ 1.106. Application of regulations to certain positions of the Office of the Architect of the Capitol

(a) The Office of the Architect of the Capitol, pursuant to the provisions of the Architect of the Capitol Human Resources Act (AOCHRA), P.L. 103–283, 108 Stat. 1444 (July 22, 1994), as codified and amended in 40 USC § 166b–7, is required to establish a personnel management system that in part ''ensures that applicants for employment and employees of the Architect of the Capitol are appointed, promoted, and assigned on the basis of merit and fitness after fair and equitable consideration of all applicants and employees through open competition.'' 40 USC § 166b–7(c)(2)(A).

(b) Insofar as AOCHRA imposes obligations on the Office of the Architect of the Capitol to establish a personnel management system which at a minimum provides for appointment, promotion and assignment on the basis of merit and fitness after fair and equitable consideration of all applicants and employees through open competition, the Architect of the Capitol shall provide veterans' preference to a covered employee, including an applicant, in a manner and to the extent consistent with these regulations.

PART 211—VETERAN PREFERENCE

Sec.
211.101 Purpose
211.102 Definitions
211.103 Administration of preference

§ 211.101. Purpose

The purpose of this part is to define veterans' preference and the administration of preference in Federal employment in the legislative branch. (5 U.S.C. 2108, as applied by VEOA)

§ 211.102. Definitions

For purposes of preference in Federal employment the following definitions apply:

(a) Veteran means a person who was separated with an honorable discharge or under honorable conditions from active duty in the armed forces performed—

(1) In a war; or,

(2) In a campaign or expedition for which a campaign badge has been authorized; or

(3) During the period beginning April 28, 1952, and ending July 1, 1955; or,

(4) For more than 180 consecutive days, other than for training, any part of which occurred during the period beginning February 1, 1955, and ending October 14, 1976.

(b) Disabled veteran means a person who was separated under honorable conditions from active duty in the armed forces performed at any time and who has established the present existence of a service-connected disability or is receiving compensation, disability retirement benefits, or pensions because of a public statute administered by the Department of Veterans Affairs or a military department.

(c) Preference eligible means veterans, spouses, widows, or mothers who meet the definition of ''preference eligible'' in 5 U.S.C. 2108. Preference eligibles in the competitive service are entitled to have 5 or 10 points added to their earned score on a civil service examination (see 5 U.S.C. 3309). They are also accorded a higher retention standing in the event of a reduction in force in positions in either the competitive service or in the excepted service (see 5 U.S.C. 3502). Preference does not apply, however, to inservice placement actions such as promotions.

(d) Armed forces means the United States Army, Navy, Air Force, Marine Corps, and Coast Guard.

(e) Uniformed services means the armed forces, the commissioned corps of the Public Health Service, and the commissioned corps of the National Oceanic and Atmospheric Administration.

(f) Active duty or active military duty means full-time duty with military pay and allowances in the armed forces, except for training or for determining physical fitness and except for service in the Reserves or National Guard.

(g) Separated under honorable conditions means either an honorable or a general discharge from the armed forces. The Department of Defense is responsible for administering and defining military discharges.

§ 211.103. Administration of preference

Agencies are responsible for making all preference determinations.

PART 330—RECRUITMENT, SELECTION, AND PLACEMENT (GENERAL) IN THE COMPETITIVE SERVICE

Sec.
330.401 Competitive examination
330.402 Direct recruitment

Subpart D—Positions Restricted to Preference Eligibles

§ 330.401. Competitive examination

In each entrance examination for the positions of custodian, elevator operator, guard, and messenger in the competitive service (referred to hereinafter in this subpart as restricted positions), competition shall be restricted to preference eligibles as long as preference eligibles are available. For purposes of this part, the term *guard* does not include law enforcement officer positions of the U.S. Capitol Police Board.

§ 330.402. Direct recruitment

In direct recruitment by an agency under delegated authority, the agency shall fill each restricted position by the appointment of a preference eligible as long as preference eligibles are available.

PART 332—RECRUITMENT AND SELECTION IN THE COMPETITIVE SERVICE THROUGH COMPETITIVE EXAMINATION

Sec.
332.401 Order on registers

Subpart D—Consideration for Appointment

§ 332.401. Order on registers

Subject to apportionment, residence, and other requirements of law, the names of eligibles shall be entered on the appropriate register in accordance with their numerical ratings, except that the names of:

(a) Preference eligibles shall be entered in accordance with their augmented ratings and ahead of others having the same rating; and

(b) Preference eligibles who have a compensable service-connected disability of 10 percent or more shall be entered at the top of the register in the order of their ratings unless the register is for professional or scientific positions in pay positions comparable to GS–9 and above and in comparable pay levels under other pay-fixing authorities.

PART 337—EXAMINING SYSTEM FOR THE COMPETITIVE SERVICE

Sec.
Sec. 337.101 Rating applicants

Subpart A—General Provisions

§ 337.101. Rating applicants

(a) The relative weights shall be given subjects in an examination, and shall assign numerical ratings on a scale of 100. Each applicant who meets the minimum requirements for entrance to an examination and is rated 70 or more in the examination is eligible for appointment.

(b) There shall be added to the earned numerical ratings of applicants who make a passing grade:

(1) Five points for applicants who are preference eligibles under section 2108(3)(A) and (B) of title 5, United States Code; as applied by VEOA and

(2) Ten points for applicants who are preference eligibles under section 2108(3)(C)–(G) of that title, as applied by VEOA.

(c) When experience is a factor in determining eligibility, a preference eligible shall be credited with:

(1) Time spent in the military service (i) as an extension of time spent in the position in which he was employed immediately before his entrance into the military service, or (ii) on the basis of actual duties performed in the military service, or (iii) as a combination of both methods. Time spent in the military service shall be credited according to the method that will be of most benefit to the preference eligible.

(2) All valuable experience, including experience gained in religious, civic, welfare, service, and organizational activities, regardless of whether pay was received therefor.

PART 339—MEDICAL QUALIFICATION DETERMINATIONS IN THE COMPETITIVE SERVICE

Sec.
Sec. 339.204 Waiver of standards and requirements

Subpart B—Physical and Medical Qualifications

§ 339.204. Waiver of standards and requirements

Agencies must waive a medical standard or physical requirement when there is sufficient evidence that an applicant or employee, with or without reasonable accommodation, can perform the essential duties of the position without endangering the health and safety of the individual or others.

PART 351—REDUCTION IN FORCE IN THE COMPETITIVE SERVICE AND THE EXCEPTED SERVICE

Sec.
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Subpart B—General Provisions

§ 351.201. Use of regulations

(a)(1) Each agency is responsible for determining the categories within which positions are required, where they are to be located, and when they are to be filled, abolished, or vacated. This includes determining when there is a surplus of employees at a particular location in a particular line of work.

(2) Each agency shall follow this part when it releases a competing employee from his or her competitive level by furlough for more than 30 days, separation, demotion, or reassignment requiring displacement, when the release is required because of lack of work; shortage of funds; insufficient personnel ceiling; reorganization; the exercise of reemployment rights or restoration rights; or reclassification of an employee's position due to erosion of duties when such action will take effect after an agency has formally announced a reduction in force in the employee's competitive area and when the reduction in force will take effect within 180 days.

(b) This part does not require an agency to fill a vacant position. However, when an agency, at its discretion, chooses to fill a vacancy by an employee who has been reached for release from a competitive level for one of the reasons in paragraph (a)(2) of this section, this part shall be followed.

(c) Each agency is responsible for assuring that the provisions in this part are uniformly and consistently applied in any one reduction in force.

§ 351.202. Coverage

(a) *Employees covered.* Except as provided in paragraph (b) of this section, this part applies to covered employees as defined by section 1.102(c) of these Regulations.

(b) *Employees excluded.* This part does not apply to an employee who is within the exclusion set forth in section 1.103 of these Regulations.

(c) *Actions excluded.* This part does not apply to:

(1) The termination of a temporary or term promotion or the return of an employee to the position held before the temporary or term promotion or to one of equivalent grade and pay.

(2) A change to lower grade based on the reclassification of an employee's position due to the application of new classification standards or the correction of a classification error.

(3) A change to lower grade based on reclassification of an employee's position due to erosion of duties, except that this exclusion does not apply to such reclassification actions that will take effect after an agency has formally announced a reduction in force in the employee's competitive area and when the reduction in force will take effect within 180 days. This exception ends at the completion of the reduction in force.

(4) Placement of an employee serving on an intermittent, part-time, on-call, or seasonal basis in a nonpay and nonduty status in accordance with conditions established at time of appointment.

(5) A change in an employee's work schedule from other-than-full-time to full-time. (A change from full-time to other than full-time for a reason covered in Sec. 351.201(a)(2) is covered by this part.)

§ 351.203. Definitions

In this part:

Competing employee means an employee in tenure group I, II, or III.

Current rating of record is the rating of record for the most recently completed appraisal period as provided in Sec. 351.504(b)(3).

Days means calendar days.

Function means all or a clearly identifiable segment of an agency's mission (including all integral parts of that mission), regardless of how it is performed.

Furlough under this part means the placement of an employee in a temporary nonduty and nonpay status for more than 30 consecutive calendar days, or more than 22 workdays if done on a discontinuous basis, but not more than 1 year.

Local commuting area means the geographic area that usually constitutes one area for employment purposes. It includes any population center (or two or more neighboring ones) and the surrounding localities in which people live and can reasonably be expected to travel back and forth daily to their usual employment.

Modal rating is the summary rating level assigned most frequently among the actual ratings of record that are:

(1) Assigned under the summary level pattern that applies to the employee's position of record on the date of the reduction in force;

(2) Given within the same competitive area, or at the agency's option within a larger subdivision of the agency or agencywide; and

(3) On record for the most recently completed appraisal period prior to the date of issuance of reduction in force notices or the cutoff date the agency specifies prior to the issuance of reduction in force notices after which no new ratings will be put on record.

Rating of record means the officially designated performance rating, as provided for in the agency's appraisal system.

Reorganization means the planned elimination, addition, or redistribution of functions or duties in an organization.

Representative rate means the fourth step of the grade for a position subject to the General Schedule, the prevailing rate for a position under a wage-board or similar wage-determining procedure, and for other positions, the rate designated by the agency as representative of the position.

Transfer of function means the transfer of the performance of a continuing function from one competitive area and its addition to one or more other competitive areas, except when the function involved is virtually identical to functions already being performed in the other competitive area(s) affected; or the movement of the competitive area in which the function is performed to another commuting area.

Undue interruption means a degree of interruption that would prevent the completion of required work by the employee 90 days after the employee has been placed in a different position under this part. The 90-day standard should be considered within the allowable limits of time and quality, taking into account the pressures of priorities, deadlines, and other demands. However, a work program would generally not be unduly interrupted even if an employee needed more than 90 days after the reduction in force to perform the optimum quality or quantity of work. The 90-day standard may be extended if placement is made under this part to a low priority program or to a vacant position.

§ 351.204. Responsibility of agency

Each agency covered by this part is responsible for following and applying the regulations in this part when the agency determines that a reduction force is necessary.

Subpart C—Transfer of Function

§ 351.301. Applicability

(a) This subpart is applicable when the work of one or more employees is moved from one competitive area to another as a transfer of function regardless of whether or not the movement is made under authority of a statute, reorganization plan, or other authority.

(b) In a transfer of function, the function must cease in the losing competitive area and continue in an identical form in the gaining competitive area (i.e., in the gaining competitive area, the function continues to be carried out by competing employees rather than by noncompeting employees).

§ 351.302. Transfer of employees

(a) Before a reduction in force is made in connection with the transfer of any or all of the functions of a competitive area to another continuing competitive area, each competing employee in a position identified with the transferring function or functions shall be transferred to the continuing competitive area without any change in the tenure of his or her employment.

(b) An employee whose position is transferred under this subpart solely for liquidation, and who is not identified with an operating function specifically authorized at the time of transfer to continue in operation more than 60 days, is not a competing employee for other positions in the competitive area gaining the function.

(c) Regardless of an employee's personal preference, an employee has no right to

transfer with his or her function, unless the alternative in the competitive area losing the function is separation or demotion.

(d) Except as permitted in paragraph (e) of this section, the losing competitive area must use the adverse action procedures found in 5 CFR part 752 if it chooses to separate an employee who declines to transfer from his or her function.

(e) The losing competitive area may, at its discretion, include employees who decline to transfer with their function as part of a concurrent reduction in force.

(f) An agency may not separate an employee who declines to transfer with the function any sooner than it transfers employees who chose to transfer with the function to the gaining competitive area.

(g) Agencies may ask employees in a canvass letter whether the employee wishes to transfer with the function when the function transfers to a different local commuting area. The canvass letter must give the employee information concerning entitlements available to the employee if the employee accepts the offer to transfer, and if the employee declines the offer to transfer. An employee may later change and initial acceptance offer without penalty. However, an employee may not later change an initial declination of the offer to transfer.

§ 351.303. Identification of positions with a transferring function

(a) The competitive area losing the function is responsible for identifying the positions of competing employees with the transferring function. A competing employee is identified with the transferring function on the basis of the employee's official position. Two methods are provided to identify employees with the transferring function:

(1) Identification Method One; and

(2) Identification Method Two.

(b) Identification Method One must be used to identify each position to which it is applicable. Identification Method Two is used only to identify positions to which Identification Method One is not applicable.

(c) Under Identification Method One, a competing employee is identified with a transferring function if—

(1) The employee performs the function during at least half of his or her work time; or

(2) Regardless of the amount of time the employee performs the function during his or her work time, the function performed by the employee includes the duties controlling his or her grade or rate of pay.

(3) In determining what percentage of time an employee performs a function in the employee's official position, the agency may supplement the employee's official position description by the use of appropriate records (e.g., work reports, organizational time logs, work schedules, etc.).

(d) Identification Method Two is applicable to employees who perform the function during less than half of their work time and are not otherwise covered by Identification Method One. Under Identification Method Two, the losing competitive area must identify the number of positions it needed to perform the transferring function. To determine which employees are identified for transfer, the losing competitive area must establish a retention register in accordance with this part that includes the name of each competing employee who performed the function. Competing employees listed on the retention register are identified for transfer in the inverse order of their retention standing. If for any retention register this procedure would result in the separation or demotion by reduction in force at the losing competitive area of any employee with higher retention standing, the losing competitive area must identify competing employees on that register for transfer in the order of their retention standing.

(e)(1) The competitive area losing the function may permit other employees to volunteer for transfer with the function in place of employees identified under Identification Method One or Identification Method Two. However, the competitive area may permit these other employees to volunteer for transfer only if no competing employee who is identified for transfer under Identification Method One or Identification Method Two is separated or demoted solely because a volunteer transferred in place of him or her to the competitive area that is gaining the function.

(2) If the total number of employees who volunteer for transfer exceeds the total number of employees required to perform the function in the competitive area that is gaining the function, the losing competitive area may give preference to the volunteers with the highest retention standing, or make selections based on other appropriate criteria.

Subpart D—Scope of Competition

§ 351.401. Determining retention standing

Each agency shall determine the retention standing of each competing employee on the basis of the factors in this subpart and in subpart E of this part.

§ 351.402. Competitive area

(a) Each agency shall establish competitive areas in which employees compete for retention under this part.

(b) A competitive area must be defined solely in terms of the agency's organizational unit(s) and geographical location, and it must include all employees within the competitive area so defined. A competitive area may consist of all or part of an agency. The minimum competitive area is a subdivision of the agency under separate administration within the local commuting area.

§ 351.403. Competitive level

(a)(1) Each agency shall establish competitive levels consisting of all positions in a competitive area which are in the same grade (or occupational level) and classification series, and which are similar enough in duties, qualification requirements, pay schedules, and working conditions so that an agency may reassign the incumbent of one position to any of the other positions in the level without undue interruption.

(2) Competitive level determinations are based on each employee's official position, not the employee's personal qualifications.

(b) Each agency shall establish separate competitive levels according to the following categories:

(1) *By service*. Separate levels shall be established for positions in the competitive service and in the excepted service.

(2) *By appointment authority*. Separate levels shall be established for excepted service positions filled under different appointment authorities.

(3) *By pay schedule*. Separate levels shall be established for positions under different pay schedules.

(4) *By work schedule*. Separate levels shall be established for positions filled on a full-time, part-time, intermittent, seasonal, or on-call basis. No distinction may be made among employees in the competitive level on the basis of the number of hours or weeks scheduled to be worked.

(5) *By trainee status*. Separate levels shall be established for positions filled by an employee in a formally designated trainee or developmental program having all of the characteristics covered in Sec. 351.702(e)(1) through (e)(4) of this part.

(c) An agency may not establish a competitive level based solely upon:

(1) A difference in the number of hours or weeks scheduled to be worked by other-than-full-time employees who would otherwise be in the same competitive level;

(2) A requirement to work changing shifts;

(3) The grade promotion potential of the position; or

(4) A difference in the local wage areas in which wage grade positions are located.

§ 351.404. Retention register

(a) When a competing employee is to be released from a competitive level under this part, the agency shall establish a separate retention register for that competitive level. The retention register is prepared from the current retention records of employees. Upon displacing another employee under this part, an employee retains the same status and tenure in the new position. Except for an employee on military duty with a restoration right, the agency shall enter on the retention register, in the order of retention standing, the name of each competing employee who is:

(1) In the competitive level;

(2) Temporarily promoted from the competitive level by temporary or term promotion.

(b)(1) The name of each employee serving under a time limited appointment or promotion to a position in a competitive level shall be entered on a list apart from the retention register for that competitive level, along with the expiration date of the action.

(2) The agency shall list, at the bottom of the list prepared under paragraph b(1) of this section, the name of each employee in the competitive level with a written decision of removal under part 432 or 752 in this chapter.

§ 351.405. Demoted employees

An employee who has received a written decision under part 432 or 752 of this chapter to demote him or her competes under this part from the position to which he or she will be or has been demoted.

Subpart E—Retention Standing

§ 351.501. Order of retention—competitive service

(a) Competing employees shall be classified on a retention register on the basis of their tenure of employment, veteran preference, length of service, and performance in descending order as follows:

(1) By tenure group I, group II, group III; and

(2) Within each group by veteran preference subgroup AD, subgroup A, subgroup B; and

(3) Within each subgroup by years of service as augmented by credit for performance under Sec. 351.504, beginning with the earliest service date.

(b) Groups are defined as follows:

(1) Group I includes each career employee who is not serving a probationary period. An employee who acquires competitive status and satisfies the service requirement for career tenure when the employee's position is brought into the competitive service is in group I as soon as the employee completes any required probationary period for initial appointment.

(2) Group II includes each career-conditional employee, and each employee serving a probationary period.

(3) Group III includes all employees serving under indefinite appointments, temporary appointments pending establishment of a register, status quo appointments, term appointments, and any other nonstatus nontemporary appointments which meet the definition of provisional appointments.

(c) Subgroups are defined as follows:

(1) Subgroup AD includes each preference eligible employee who has a compensable service-connected disability of 30 percent or more.

(2) Subgroup A includes each preference eligible employee not included in subgroup AD.

(3) Subgroup B includes each nonpreference eligible employee.

(d) A retired member of a uniformed service is considered a preference eligible under this part only if the member meets at least one of the conditions of the following paragraphs (d)(1), (2), or (3) of this section, except as limited by paragraph (d)(4) or (d)(5):

(1) The employee's military retirement is based on disability that either:

(i) Resulted from injury or disease received in the line of duty as a direct result of armed conflict; or

(ii) Was caused by an instrumentality of war incurred in the line of duty during a period of war as defined by sections 101 and 301 of title 38, United States Code.

(2) The employee's retired pay from a uniformed service is not based upon 20 or more years of full-time active service, regardless of when performed but not including periods of active duty for training.

(3) The employee has been continuously employed in a position covered by this part since November 30, 1964, without a break in service of more than 30 days.

(4) An employee retired at the rank of major or above (or equivalent) is considered a preference eligible under this part if such employee is a disabled veteran as defined in section 2108(2) of title 5, United States Code, as applied by VEOA, and meets one of the conditions covered in paragraph (d)(1), (2), or (3) of this section.

(5) An employee who is eligible for retired pay under chapter 67 of title 10, United States Code, and who retired at the rank of major or above (or equivalent) is considered a preference eligible under this part at age 60, only if such employee is a disabled veteran as defined in section 2108(2) of title 5, United States Code, as applied by VEOA.

§ 351.502. Order of retention—excepted service

(a) Competing employees shall be classified on a retention register in tenure groups on the basis of their tenure of employment, veteran preference, length of service, and performance in descending order as set forth under Sec. 351.501(a) for competing employees in the competitive service.

(b) Groups are defined as follows:

(1) Group I includes each permanent employee whose appointment carries no restriction or condition such as conditional, indefinite, specific time limit, or trial period.

(2) Group II includes each employee:

(i) Serving a trial period; or

(ii) Whose tenure is equivalent to a career-conditional appointment in the competitive service in agencies having such excepted appointments.

(3) Group III includes each employee:

(i) Whose tenure is indefinite (i.e., without specific time limit), but not actually or potentially permanent;

(ii) Whose appointment has a specific time limitation of more than 1 year; or

(iii) Who is currently employed under a temporary appointment limited to 1 year or less, but who has completed 1 year of current continuous service under a temporary appointment with no break in service of 1 workday or more.

§ 351.503. Length of service

(a) Each agency shall establish a service date for each competing employee.

(b) An employee's service date is whichever of the following dates reflects the employee's creditable service:

(1) The date the employee entered on duty, when he or she has no previous creditable service;

(2) The date obtained by subtracting the employee's total creditable previous service from the date he or she last entered on duty; or

(3) The date obtained by subtracting from the date in paragraph (b)(1) or (b)(2) of this section, the service equivalent allowed for performance ratings under Sec. 351.504.

(c) An employee who is a retired member of a uniformed service is entitled to credit under this part for:

(1) The length of time in active service in the armed forces during a war, or in a campaign or expedition for which a campaign badge has been authorized; or

(2) The total length of time in active service in the armed forces if the employee is considered a preference eligible under Sec. 351.501(d) of this part.

(d) Each agency shall adjust the service date for each employee to withhold credit for noncreditable time.

§ 351.504. Credit for performance

(a) *Ratings used.* Only ratings of record as defined in Sec. 351.203 shall be used as the basis for granting additional retention service credit in a reduction in force.

(b)(1) An employee's entitlement to additional retention service credit for performance under this subpart shall be based on the employee's three most recent ratings of record received during the 4–year period prior to the date of issuance of reduction in force notices, except as otherwise provided in paragraphs (b)(2) and (c) of this section.

(2) To provide adequate time to determine employee retention standing, an agency may provide for a cutoff date, a specified number of days prior to the issuance of reduction in force notices after which no new ratings of record will be put on record and used for purposes of this subpart. When a cutoff date is used, an employee will receive performance credit for the three most recent ratings of record received during the 4–year period prior to the cutoff date.

(3) To be creditable for purposes of this subpart, a rating of record must have been issued to the employee, with all appropriate reviews and signatures, and must also be on record (i.e., the rating of record is available for use by the office responsible for establishing retention registers).

(4) The awarding of additional retention service credit based on performance for purposes of this subpart must be uniformly and consistently applied within a competitive area, and must be consistent with the agency's appropriate issuance(s) that implement these policies. Each agency must specify in its appropriate issuance(s):

(i) The conditions under which a rating of record is considered to have been received for purposes of determining whether it is within the 4–year period prior to either the date the agency issues reduction in force notices or the agency-established cutoff date for ratings of record, as appropriate; and

(ii) If the agency elects to use a cutoff date, the number of days prior to the issuance of reduction in force notices after which no new ratings of record will be put on record and used for purposes of this subpart.

(c) *Missing ratings.* Additional retention service credit for employees who do not have three actual ratings of record during the 4–year period prior to the date of issuance of reduction in force notices or the 4–year period prior to the agency-established cutoff date for ratings of record permitted in paragraph (b)(2) of this section shall be determined as appropriate, and as follows:

(1) An employee who has not received any rating of record during the 4–year period shall receive credit for performance based on the modal rating for the summary level pattern that applies to the employee's official position of record at the time of the reduction in force.

(2) An employee who has received at least one but fewer than three previous ratings of record during the 4–year period shall receive credit for performance on the basis of the value of the actual rating(s) of record divided by the number of actual ratings received. If an employee has received only two actual ratings of record during the period, the value of the ratings is added together and divided by two (and rounded in the case of a fraction to the next higher whole number) to determine the amount of additional retention service credit. If an employee has received only one actual rating of record during the period, its value is the amount of additional retention service credit provided.

§ 351.505. Records

Each agency shall maintain the current correct records needed to determine the retention standing of its competing employees. The agency shall allow the inspection of its retention registers and related records by an employee of the agency to the extent that the registers and records have a bearing on a specific action taken, or to be taken, against the employee. The agency shall preserve intact all registers and records relating to an employee for at least 1 year from the date the employee is issued a specific notice.

§ 351.506. Effective date of retention standing

Except for applying the performance factor as provided in Sec. 351.504:

(a) The retention standing of each employee released from a competitive level in the order prescribed in Sec. 351.601 is determined as of the date the employee is so released.

(b) The retention standing of each employee retained in a competitive level as an exception under Sec. 351.606(b), Sec. 351.607, or Sec. 351.608, is determined as of the date the employee would have been released had the exception not been used. The retention standing of each employee retained under any of these provisions remains fixed until completion of the reduction in force action which resulted in the temporary retention.

(c) When an agency discovers an error in the determination of an employee's retention standing, it shall correct the error and adjust any erroneous reduction-in-force action to accord with the employee's proper retention standing as of the effective date established by this section.

Subpart F—Release From Competitive Level

§ 351.601. Order of release from competitive level

(a) Each agency shall select competing employees for release from a competitive level under this part in the inverse order of retention standing, beginning with the employee with the lowest retention standing on the retention register. An agency may not release a competing employee from a competitive level while retaining in that level an employee with lower retention standing except:

(1) As required under Sec. 351.606 when an employee is retained under a mandatory exception or under Sec. 351.806 when an employee is entitled to a new written notice of reduction in force; or

(2) As permitted under Sec. 351.607 when an employee is retained under a permissive continuing exception or under Sec. 351.608 when an employee is retained under a permissive temporary exception.

(b) When employees in the same retention subgroup have identical service dates and are tied for release from a competitive level, the agency may select any tied employee for release.

§ 351.602. Prohibitions

An agency may not release a competing employee from a competitive level while retaining in that level an employee with:

(a) A specifically limited temporary appointment;

(b) A specifically limited temporary or term promotion.

§ 351.603. Actions subsequent to release from competitive level

An employee reached for release from a competitive level shall be offered assignment to another position in accordance with subpart G of this part. If the employee accepts, the employee shall be assigned to the position offered. If the employee has no assignment right or does not accept an offer under subpart G, the employee shall be furloughed or separated.

§ 351.604. Use of furlough

(a) An agency may furlough a competing employee only when it intends within 1 year to recall the employee to duty in the position from which furloughed.

(b) An agency may not separate a competing employee under this part while an employee with lower retention standing in the same competitive level is on furlough.

(c) An agency may not furlough a competing employee for more than 1 year.

(d) When an agency recalls employees to duty in the competitive level from which furloughed, it shall recall them in the order of their retention standing, beginning with highest standing employee.

§ 351.605. Liquidation provisions

When an agency will abolish all positions in a competitive area within 180 days, it must release employees in group and subgroup order consistent with Sec. 351.601(a). At its discretion, the agency may release the employees in group order without regard to retention standing within a subgroup, except as provided in Sec. 351.606. When an agency releases an employee under this section, the notice to the employee must cite this authority and give the date the liquidation will be completed. An agency may also apply Secs. 351.607 and 351.608 in a liquidation.

Sec. 351.606. Mandatory exceptions

(a) Armed Forces restoration rights. When an agency applies Sec. 351.601 or Sec. 351.605, it shall give retention priorities over other employees in the same subgroup to each group I or II employee entitled under 38 U.S.C. 2021 or 2024 to retention for, as applicable, 6 months or 1 year after restoration, as provided in part 353 of this chapter.

(b) Use of annual leave to reach initial eligibility for retirement or continuance of health benefits. (1) An agency shall make a temporary exception under this section to retain an employee who is being involuntarily separated under this part, and who elects to use annual leave to remain on the agency's rolls after the effective date the employee would otherwise have been separated by reduction in force, in order to establish initial eligibility for immediate retirement under 5 U.S.C. 8336, 8412, or 8414, and/or to establish initial eligibility under 5 U.S.C. 8905 to continue health benefits coverage into retirement.

(2) An agency shall make a temporary exception under this section to retain an employee who is being involuntarily separated under authority of part 752 of this chapter because of the employee's decision to decline relocation (including transfer of function), and who elects to use annual leave to remain on the agency's rolls after the effective date the employee would otherwise have been separated by adverse action, in order to establish initial eligibility for immediate retirement under 5 U.S.C. 8336, 8412, or 8414, and/or to establish initial eligibility under 5 U.S.C. 8905 to continue health benefits coverage into retirement.

(3) An employee retained under paragraph (b) this section must be covered by chapter 63 of title 5, United States Code.

(4) An agency may not retain an employee under this section past the date that the employee first becomes eligible for immediate retirement, or for continuation of health benefits into retirement, except that an employee may be retained long enough to satisfy both retirement and health benefits requirements.

(5) Except as permitted by 5 CFR 351.608(d), an agency may not approve an employee's use of any other type of leave after the employee has been retained under a temporary exception authorized by paragraph (b) of this section.

(6) Annual leave for purposes of paragraph (b) of this section is described in Sec. 630.212 of Title 5, CFR.

(c) Documentation. Each agency shall record on the retention register, for inspection by each employee, the reasons for any deviation from the order of release required by Sec. 351.601 or Sec. 351.605.

§ 351.607. Permissive continuing exceptions

An agency may make exception to the order of release in Sec. 351.601 and to the action provisions of Sec. 351.603 when needed to retain an employee on duties that cannot be taken over within 90 days and without undue interruption to the activity by an employee with higher retention standing. The agency shall notify in writing each higher-standing employee reached for release from the same competitive level of the reasons for the exception.

§ 351.608. Permissive temporary exceptions

(a) *General*. (1) In accordance with this section, an agency may make a temporary exception to the order of release in Sec. 351.601, and to the action provisions of Sec. 351.603, when needed to retain an employee after the effective date of a reduction in force. Except as otherwise provided in paragraphs (c) and (e) of this section, an agency may not make a temporary exception for more than 90 days.

(2) After the effective date of a reduction in force action, an agency may not amend or cancel the reduction in force notice of an employee retained under a temporary exception so as to avoid completion of the reduction in force action.

(b) *Undue interruption*. An agency may make a temporary exception for not more than 90 days when needed to continue an activity without undue interruption.

(c) *Government obligation*. An agency may make a temporary exception to satisfy a Government obligation to the retained employee without regard to the 90–day limit set forth under paragraph (a)(1) of this section.

(d) *Sick leave*. An agency may make a temporary exception to retain on sick leave a lower standing employee covered by an applicable leave system for Federal employees, who is on approved sick leave on the effective date of the reduction in force, for a period not to exceed the date the employee's sick leave is exhausted. Use of sick leave for this purpose must be in accordance with the requirements in part 630, subpart D of this chapter (or other applicable leave system for Federal employees). An agency may not approve an employee's use of any other type of leave after the employee has been retained under this paragraph (d).

(e)(1) An agency may make a temporary exception to retain on accrued annual leave a lower standing employee who:

(i) Is being involuntarily separated under this part;

(ii) Is covered by a Federal leave system under authority other than chapter 63 of title 5, United States Code; and,

(iii) Will attain first eligibility for an immediate retirement benefit under 5 U.S.C. 8336, 8412, or 8414 (or other authority), and/or establish eligibility under 5 U.S.C. 8905 (or other authority) to carry health benefits coverage into retirement during the period represented by the amount of the employee's accrued annual leave.

(2) An agency may not approve an employee's use of any other type of leave after the employee has been retained under this paragraph (e).

(3) This exception may not exceed the date the employee first becomes eligible for immediate retirement or for continuation of health benefits into retirement, except that an employee may be retained long enough to satisfy both retirement and health benefits requirements.

(4) Accrued annual leave includes all accumulated, accrued, and restored annual leave, as applicable, in addition to annual leave earned and available to the employee after the effective date of the reduction in force. When approving a temporary exception under this provision, an agency may not advance annual leave or consider any annual leave that might be credited to an employee's account after the effective date of the reduction in force other than annual leave earned while in an annual leave status.

(f) *Other exceptions*. An agency may make a temporary exception under this section to extend an employee's separation date beyond the effective date of the reduction in force when the temporary retention of a lower standing employee does not adversely affect the right of any higher standing employee who is released ahead of the lower standing employee. The agency may establish a maximum number of days, up to 90 days, for which an exception may be approved.

(g) *Notice to employees*. When an agency approves an exception for more than 30 days, it must:

(1) Notify in writing each higher standing employee in the same competitive level reached for release of the reasons for the exception and the date the lower standing employee's retention will end; and

(2) List opposite the employee's name on the retention register the reasons for the exception and the date the employee's retention will end.

Subpart G—Assignment Rights (Bump and Retreat)

351.701 Assignment involving displacement

(a) General. When a group I or II competitive service employee with a current annual performance rating of record of minimally successful (Level 2) or equivalent, or higher, is released from a competitive level, an agency shall offer assignment, rather than furlough or separate, in accordance with paragraphs (b), (c), and (d) of this section to another competitive position which requires no reduction, or the least possible reduction, in representative rate. The employee must be qualified for the offered position. The offered position shall be in the same competitive area, last at least 3 months, and have the same type of work schedule (e.g., full-time, part-time, intermittent, or seasonal) as the position from which the employee is released. Upon accepting an offer of assignment, or displacing another employee under this part, an employee retains the same status and tenure in the new position. The promotion potential of the offered position is not a consideration in determining an employee's right of assignment.

(b) Lower subgroup—bumping. A released employee shall be assigned in accordance with paragraph (a) of this section and bump to a position that:

(1) Is held by another employee in a lower tenure group or in a lower subgroup within the same tenure group; and

(2) Is no more than three grades (or appropriate grade intervals or equivalent) below the position from which the employee was released.

(c) Same subgroup—retreating. A released employee shall be assigned in accordance with paragraphs (a) and (d) of this section and retreat to a position that:

(1) Is held by another employee with lower retention standing in the same tenure group and subgroup;

(2) Is not more than three grades (or appropriate grade intervals or equivalent) below the position from which the employee was released, except that for a preference eligible employee with a compensable service-connected disability of 30 percent or more the limit is five grades (or appropriate grade intervals or equivalent); and

(3) Is the same position, or an essentially identical position, formerly held by the released employee as a competing employee in a Federal agency (i.e., when held by the released employee in an executive, legislative, or judicial branch agency, the position would have been placed in tenure groups I, II, or III, or equivalent). In determining whether a position is essentially identical, the determination is based on the competitive level criteria found in Sec. 351.403, but not necessarily in regard to the respective grade, classification series, type of work schedule, or type of service, of the two positions.

(d) Limitation. An employee with a current annual performance rating of record of minimally successful (Level 2) or equivalent may be assigned under paragraph (c) of this section only to a position held by another employee with a current annual performance rating of record no higher than minimally successful (Level 2) or equivalent.

(e) Pay rates. (1) The determination of equivalent grade intervals shall be based on a comparison of representative rates.

(2) Each employee's assignment rights shall be determined on the basis of the pay rates in effect on the date of issuance of specific reduction-in-force notices, except that when it is officially known on the date of issuance of notices that new pay rates have been approved and will become effective by the effective date of the reduction in force, assignment rights shall be determined on the basis of the new pay rates.

(f)(1) In determining applicable grades (or grade intervals) under Secs. 351. 701(b)(2) and 351.701(c)(2), the agency uses the grade progression of the released employee's position of record to determine the grade (or interval) limits of the employee's assignment rights.

(2) For positions covered by the General Schedule, the agency must determine whether a one-grade, two-grade, or mixed grade interval progression is applicable to the position of the released employee.

(3) For positions not covered by the General Schedule, the agency must determine the normal line of progression for each occupational series and grade level to determine the grade (or interval) limits of the released employee's assignment rights. If the agency determines that there is no normal line of progression for an occupational series and grade level, the agency provides the released employee with assignment rights to positions within three actual grades lower on a one-grade basis. The normal line of progression may include positions in different pay systems.

(4) For positions where no grade structure exists, the agency determines a line of progression for each occupation and pay rate, and provides assignment rights to positions within three grades (or intervals) lower on that basis.

(5) If the released employee holds a position that is less than three grades above the lowest grade in the applicable classification system (e.g., the employee holds a GS–2 position), the agency provides the released employee with assignment rights up to three actual grades lower on a one-grade basis in other pay systems.

§351.702. Qualifications for assignment

(a) Except as provided in Sec. 351.703, an employee is qualified for assignment under Sec. 351.701 if the employee:

(1) Meets the standards and requirements for the position, including any minimum educational requirement, and any selective placement factors established by the agency;

(2) Is physically qualified, with reasonable accommodation where appropriate, to perform the duties of the position;

(3) Has the capacity, adaptability, and special skills needed to satisfactorily perform the duties of the position without undue interruption. This determination includes recency of experience, when appropriate.

(b) An employee who is released from a competitive level during a leave of absence because of a corpensable injury may not be denied an assignment right solely because the employee is not physically qualified for the duties of the position if the physical disqualification resulted from the compensable injury.

(c) If an agency determines, on the basis of evidence before it, that a preference eligible employee who has a compensable service-connected disability of 30 percent or more is not able to fulfill the physical requirements of a position to which the employee would otherwise have been assigned under this part, the agency must notify the employee of the reasons for the determination.

(e) An agency may formally designate as a trainee or developmental position a position in a program with all of the following characteristics:

(1) The program must have been designed to meet the agency's needs and requirements for the development of skilled personnel;

(2) The program must have been formally designated, with its provisions made known to employees and supervisors;

(3) The program must be developmental by design, offering planned growth in duties and responsibilities, and providing advancement in recognized lines of career progression; and

(4) The program must be fully implemented, with the participants chosen through standard selection procedures. To be considered qualified for assignment under Sec. 351.701 to a formally designated trainee or developmental position in a program having all of the characteristics covered in paragraphs (e)(1), (2), (3), and (4) of this section, an employee must meet all of the conditions required for selection and entry into the program.

§351.703. Exception to qualifications

An agency may assign an employee to a vacant position under Sec. 351.201(b) or Sec. 351.701 of this part if:

(a) The employee meets any minimum education requirement for the position; and

(b) The agency determines that the employee has the capacity, adaptability, and special skills needed to satisfactorily perform the duties and responsibilities of the position.

§351.704. Rights and prohibitions

(a)(1) An agency may satisfy an employee's right to assignment under Sec. 351.701 by assignment to a vacant position under Sec. 351.201(b), or by assignment under any applicable administrative assignment provisions of Sec. 351.705, to a position having a representative rate equal to that the employee would be entitled under Sec. 351.701. An agency may also offer an employee assignment under Sec. 351.201(b) to a vacant position in lieu of separation by reduction in force under 5 CFR part 351. Any offer of assignment under Sec. 351.201(b) to a vacant position must meet the requirements set forth under Sec. 351.701.

(2) An agency may, at its discretion, choose to offer a vacant other-than-full-time position to a full-time employee or to offer a vacant full-time position to an other-than-full-time employee in lieu of separation by reduction in force.

(b) Section 351.701 does not:

(1) Authorize or permit an agency to assign an employee to a position having a higher representative rate;

(2) Authorize or permit an agency to displace a full-time employee by an other-than-full-time employee, or to satisfy an other-than-full-time employee's right to assignment by assigning the employee to a vacant full-time position.

(3) Authorize or permit an agency to displace an other-than-full-time employee by a full-time employee, or to satisfy a full-time employee's right to assignment by assigning the employee to a vacant other-than-full-time position.

(4) Authorize or permit an agency to assign a competing employee to a temporary position (i.e., a position under an appointment not to exceed 1 year), except as an offer of assignment in lieu of separation by reduction in force under this part when the employee has no right to a position under Sec. 351.701 or Sec. 351.704(a)(1) of this part. This option does not preclude an agency from, as an alternative, also using a temporary position to reemploy a competing employee following separation by reduction in force under this part.

(5) Authorize or permit an agency to displace an employee or to satisfy a competing employee's right to assignment by assigning the employee to a position with a different type of work schedule (e.g., full-time, part-time, intermittent, or seasonal) than the position from which the employee is released.

§351.705. Administrative assignment

(a) An agency may, at its discretion, adopt provisions which:

(1) Permit a competing employee to displace an employee with lower retention standing in the same subgroup consistent with Sec. 351.701 when the agency cannot make an equally reasonable assignment by displacing an employee in a lower subgroup;

(2) Permit an employee in subgroup III–AD to displace an employee in subgroup III–A or III–B, or permit an employee in subgroup III–A to displace an employee is subgroup III–B consistent with Sec. 351.701; or

(3) Provide competing employees in the excepted service with assignment rights to other positions under the same appointing authority on the same basis as assignment rights provided to competitive service employees under Sec. 351.701 and in paragraphs (a) (1) and (2) of this section.

(b) Provisions adopted by an agency under paragraph (a) of this section:

(1) Shall be consistent with this part;

(2) Shall be uniformly and consistently applied in any one reduction in force;

(3) May not provide for the assignment of an other-than-full-time employee to a full-time position;

(4) May not provide for the assignment of a full-time employee to an other-than-full-time position;

(5) May not provide for the assignment of an employee in a competitive service position to a position in the excepted service; and

(6) May not provide for the assignment of an employee in an excepted position to a position in the competitive service.

Subpart H—Notice to Employee

§351.801. Notice period

(a)(1) Except as provided in paragraph (b) of this section, each competing employee selected for release from a competitive level under this part is entitled to a specific written notice at least 60 full days before the effective date of release.

(2) At the same time an agency issues a notice to an employee, it must give a written notice to the exclusive representative(s), as defined in 5 U.S.C. 7103(a)(16), as applied by the CAA, of each affected employee at the time of the notice. When a significant number of employees will be separated, an agency must also satisfy the notice requirements of Secs. 351.803 (b) and (c).

(b) When a reduction in force is caused by circumstances not reasonably foreseeable, an agency may provide a notice period of less than 60 days, but the shortened notice period must cover at least 30 full days before the effective date of release.

(c) The notice period begins the day after the employee receives the notice.

(d) When an agency retains an employee under Sec. 351.607 or Sec. 351.608, the notice to the employee shall cite the date on which the retention period ends as the effective date of the employee's release from the competitive level.

§ 351.802. Content of notice

(a)(1) The action to be taken, the reasons for the action, and its effective date;

(2) The employee's competitive area, competitive level, subgroup, service date, and three most recent ratings of record received during the last 4 years;

(3) The place where the employee may inspect the regulations and record pertinent to this case;

(4) The reasons for retaining a lower-standing employee in the same competitive level under Sec. 351.607 or Sec. 351.608;

(5) Information on reemployment rights, except as permitted by Sec. 351.803(a); and

(6) The employee's right, as applicable, to grieve under a negotiated grievance procedure.

(b) When an agency issues an employee a notice, the agency must, upon the employee's request, provide the employee with a copy of retention regulations found in part 351 of this chapter.

§ 351.803. Notice of eligibility for reemployment and other placement assistance

(a) The employee must be given a release to authorize, at his or her option, the release of his or her resume and other relevant employment information for employment referral to State dislocated worker unit(s) and potential public or private sector employers. The employee must also be given information concerning how to apply both for unemployment insurance through the appropriate State program and benefits available under the State dislocated worker unit(s), as designated or created under title III of the Job Training Partnership Act, and an estimate of severance pay (if eligible).

(b) When 50 or more employees in a competitive area receive separation notices under this part, the agency must provide written notification of the action, at the same time it issues specific notices of separation to employees, to:

(1) The State dislocated worker unit(s), as designated or created under title III of the Job Training Partnership Act;

(2) The chief elected official of local government(s) within which these separations will occur; and

(c) The notice required by paragraph (b) of this section must include:

(1) The number of employees to be separated from the agency by reduction in force (broken down by geographic area);

(2) The effective date of the separations.

§ 351.804. Expiration of notice

(a) A notice expires when followed by the action specified, or by an action less severe than specified, in the notice or in an amendment made to the notice before the agency takes the action.

(b) An agency may not take the action before the effective date in the notice; instead, the agency may cancel the reduction in force notice and issue a new notice subject to this subpart.

§ 351.805. New notice required

(a) An employee is entitled to a written notice of, as appropriate, at least 60 or 120 full days if the agency decides to take an action more severe than first specified.

(b) An agency must give an employee an amended written notice if the reduction in force is changed to a later date. A reduction in force action taken after the date specified in the notice given to the employee is not invalid for that reason, except when it is challenged by a higher-standing employee in the competitive level who is reached out of order for a reduction in force action as a result of the change in dates.

(c) An agency must give an employee an amended written notice and allow the employee to decide whether to accept a better offer of assignment under subpart G of this part that becomes available before or on the effective date of the reduction in force. The agency must give the employee the amended notice regardless of whether the employee has accepted or rejected a previous offer of assignment, provided that the employee has not voluntarily separated from his or her official position.

§ 351.806. Status during notice period

When possible, the agency shall retain the employee on active duty status during the notice period. When in an emergency the agency lacks work or funds for all or part of the notice period, it may place the employee on annual leave with or without his or her consent, or leave without pay with his or her consent, or in a nonpay status without his or her consent.

§ 351.807. Certification of Expected Separation

(a) For the purpose of enabling otherwise eligible employees to be considered for eligibility to participate in dislocated worker programs under the Job Training Partnership Act administered by the U.S. Department of Labor, an agency may issue a Certificate of Expected Separation to a competing employee who the agency believes, with a reasonable degree of certainty, will be separated from Federal employment by reduction in force procedures under this part. A certification may be issued up to 6 months prior to the effective date of the reduction in force.

(b) This certification may be issued to a competing employee only when the agency determines:

(1) There is a good likelihood the employee will be separated under this part;

(2) Employment opportunities in the same or similar position in the local commuting area are limited or nonexistent;

(3) Placement opportunities within the employee's own or other Federal agencies in the local commuting area are limited or nonexistent; and

(4) If eligible for optional retirement, the employee has not filed a retirement application or otherwise indicated in writing an intent to retire.

(c) A certification is to be addressed to each individual eligible employee and must be signed by an appropriate agency official. A certification must contain the expected date of reduction in force, a statement that each factor in paragraph (b) of this section has been satisfied, and a description of Job Training Partnership Act programs, the Interagency Placement Program, and the Reemployment Priority List.

(d) A certification may not be used to satisfy any of the notice requirements elsewhere in this subpart.

Subpart I—Appeals and Corrective Action

§ 351.902. Correction by agency

When an agency decides that an action under this part was unjustified or unwarranted and restores an individual to the former grade or rate of pay held or to an intermediate grade or rate of pay, it shall make the restoration retroactively effective to the date of the improper action.

INTERIM SECTION 102(b) REPORT: ELECTRONIC INFORMATION SYSTEMS

[Review and Report on the Applicability to the Legislative Branch of Section 508 of the Rehabilitation Act of 1973, as Amended; submitted by the Board of Directors of the Office of Compliance Pursuant to Section 102(b) of the Congressional Accountability Act of 1995, 2 U.S.C. 1302(b), November 13, 2001]

I. INTRODUCTION

The Board of Directors (''the Board'') is charged with monitoring Federal law relating to terms and conditions of employment and access to public services and accommodations. The Congressional Accountability Act instructs the Board to report to Congress biannually: (1) whether or not those provisions are applicable to the Legislative Branch; and (2) whether inapplicable provisions should be made applicable to the Legislative Branch. Section 102(b)(1)&(2) of the Congressional Accountability Act (CAA), (2 U.S.C. 1302(b)(1)&(2)). However, the CAA does not prohibit the Board from reporting to Congress on an interim basis, in appropriate circumstances, when such a report would best effectuate the purposes of the statute.

II. SECTION 508, REHABILITATION ACT AMENDMENTS OF 1998

The Board's December 31, 2000 Report did not address certain 1998 amendments[1] to Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d), which subsequently were implemented by Executive Branch regulation in June 2001.[2] The essence of these amendments requires that Executive Branch agencies provide their disabled employees and disabled members of the public with access to an agency's electronic data and information. For example, visually impaired persons must be able to utilize agency web sites through software that converts visual information to an effective audio format. In those rare instances where such compliance would impose an undue burden on an agency or department, Section 508 permits delivery of those services in alternate manner. Section 508 does not apply to the employing offices covered by the CAA, or to the Congressional instrumentalities GAO, GPO, or Library of Congress.[3]

The section 508 amendments originated in Senate Bill S. 1579. The Labor and Human Resources Committee's Report articulated that this legislation stemmed primarily from the need to ''reestablish[] and realign[] the national workforce development and training system to make it more user-friendly and accessible.'' Sen. Rept. 105–166 at 2 (Mar. 2, 1998). Thus, the legislation was primarily perceived as a vocational rehabilitation and training matter. However, there is no doubt that the particular purpose of the

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[1] P.L. 105–220, 112 Stat. 1202, § 408(a) (Aug. 7, 1998).

[2] 65 FR 80500 (Dec. 21, 2000), codified at, 36 CFR part 1194 (2001).

[3] The CAA applies the Americans with Disabilities Act (''ADA'') directly to these instrumentalities. Some of the other statutes referenced in the CAA, such as Occupational Safety & Health Act (''OSHA'') and the Family Medical Leave Act ('' FMLA''), are applied to GAO and the Library of Congress through the CAA, as regulated by the Office of Compliance. The Office has no regulatory authority of any kind with respect to GPO.

proposed amendments to section 508 was to: require[] each Federal agency to procure, maintain, and use electronic and information technology that allows individuals with disabilities the same access to information technology as individuals without disabilities. Id. at 58.

The section 508 amendments require that employees and the general public, irrespective of disability, have comparable access to electronic information systems. The Senate proposal was incorporated as part of the Senate amendments to H.R. 1385, the Workforce Investment Act of 1998 and largely adopted in the Conference Report.[4]

III. THE OFFICE'S EXISTING EFFORTS TO ENHANCE ELECTRONIC INFORMATION ACCESS UNDER THE AMERICANS WITH DISABILITIES ACT OF 1990

The Office of Compliance already maintains an active role regarding employee accessibility to electronic information systems through the requirements of the Americans With Disabilities Act of 1990 (ADA), which is applied to employing offices of the Congress in the Congressional Accountability Act (''Act''). Section 201(a) of the Act (2 U.S.C. §1311(a)) states, in relevant part, that ''[a]ll personnel actions affecting covered employees shall be made free from any discrimination based on . . . (3) disability within the meaning of . . . sections 102 through 104 of the . . . [ADA]''.[5]

Section 210 of the Act (2 U.S.C. §1331) applies the ADA's public access requirements to employing offices, and authorizes ADA court proceedings regarding alleged violations by GAO, GPO, and the Library of Congress. The executive branch regulations implementing the public access provisions of the ADA have included the requirements at 28 CFR §35.160 that:

(a) A public entity shall take appropriate steps to ensure that communications with applicants, participants, and members of the public with disabilities are as effective as communications with others.

(b)(1) A public entity shall furnish appropriate auxiliary aids and services where necessary to afford an individual with a disability an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity conducted by a public entity.

28 CFR §36.302 also requires in relevant part:

(a) GENERAL. A public accommodation shall make reasonable modifications in policies, practices, or procedures, when the modifications are necessary to afford goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the public accommodation can demonstrate that making the modifications would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations. . . .

In 28 CFR §36.303, the concept of ''auxiliary aids and services'' is set forth as one form of ''reasonable accommodation'':

(a) GENERAL. A public accommodation shall take those steps that may be necessary to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services, unless the public accommodation can demonstrate that taking those steps would fundamentally alter the nature of the . . . services . . . being offered or would result in an undue burden. . . .

(b) EXAMPLES. The term ''auxiliary aids and services'' includes:

(1) Qualified interpreters, note takers, computer-aided transcription services, written materials, telephone handset amplifiers, assistive listening devices, assistive listening systems, telephones compatible with hearing aids, closed caption decoders, open and closed captioning, telecommunications devices for deaf persons (TDD's), videotext displays, or other effective methods of making aurally delivered materials available to individuals with hearing impairments;

(2) Qualified readers, taped texts, audio recordings,

Brailled materials, large printed materials, or other effective methods of making visually delivered materials available to individuals with visual impairments; . . . .

(c) EFFECTIVE COMMUNICATION. A public accommodation shall furnish appropriate auxiliary aids and services where necessary to ensure effective communication with individuals with disabilities.

These ADA regulations, already promulgated by the Attorney General pursuant to Title II and Title III of the ADA, and in use in the executive branch, were among those which the Board of Directors of the Office of Compliance submitted to the Senate on January 7, 1997 for final adoption as regulations under the Congressional Accountability Act. The same proposed regulations were submitted to the House two days later. Congress did not approve these proposed regulations. Consequently, pursuant to section 411 of the CAA (2 U.S.C. §1411), the Executive Branch regulations became applicable ''by default'' to all employing offices under the CAA.

In December, 1998, the General Counsel of the Office of Compliance submitted a Report on Inspections for Compliance with the Americans with Disabilities Act, as required by section 210(f)(2) of the CAA. (2 U.S.C. §1331(f)(2)). The Report outlined the requirements of the ADA, including the fact that ''[t]he ADA requires that aids to communication, called auxiliary aids, be furnished to persons with disabilities when necessary for effective communication.'' Id. at 8. The Report (at 16) also highlighted the role of electronic communication in this effort:

Legislative Information on the Internet.—A large amount of legislative information is now available on the Internet. The Library of Congress's Thomas site (http://www.loc.gov), for example, has the text of bills and information about their status; copies of the Congressional Record; committee schedules, reports, and selected hearing transcripts; House and Senate Roll Call Votes; and links to other sites with legislative information. Most Senators and Members of the House of Representatives also maintain web sites as a means of communicating with their constituents.

Persons with disabilities are often avid users of the Internet and other electronic information services. In addition to making legislative information readily available to individuals with hearing or mobility impairments, the Internet also serves people who are blind. Text on the Internet can be read aloud by a computer equipped with a speech synthesizer and text-to-speech software or can be converted to a Braille format.

The usability of the web site for a person who is blind depends on its design. For example, if image maps are used on a Member's web site, there should be an alternate method of selecting options so the text-to-speech software can process the information. Unless this is done, it will be difficult or impossible for a blind user to get access to information on the site. . . .

In the past several years, the Office staff has also responded to a number of inquiries from employing offices about the 1998 section 508 amendments to the Rehabilitation Act. The Office has informed offices regarding the section 508 required amendments in the Federal Acquisition Regulation (FAR), and has further explained that ''the public access provisions of the CAA do not apply section 508 of the Rehabilitation Act to the entities of the Legislative Branch. . . .''

Because the CAA does not give the Office or its General Counsel authority to require that electronic information systems meet applicable accessibility standards absent a specific complaint from an individual with a particular disability, our ADA enforcement activities—as distinct from our educational activities—have been necessarily restricted and reactive rather than pro-active.

IV. THE IMPACT OF SECTION 508'S IMPLEMENTING REGULATIONS

On December 21, 2000, the Architectural and Transportation Barriers Compliance Safety Board published its final regulations including ''standards setting forth a definition of electronic and information technology and the technical and functional performance criteria necessary for such technology to comply with section 508.'' See note 2 supra. The effective date of those regulations was February 20, 2001. The final amendments to the Federal Acquisition Regulation implementing section 508 were published on April 25, 2001, and went into effect as of June 25, 2001.[6] There now exists a web site concerning section 508 standards, issues, and developments in the executive branch: www.section508.gov. Individuals with specific questions are encouraged to visit that site.

There are substantial differences between the standards mandated by Title II of the ADA and by Section 508 of the Rehabilitation Act. Although the two regulatory schemes overlap, there is little question that Section 508 applies significantly more stringent technical requirements for electronic information technology accessibility. While the ADA requires that public entities—including employing offices under the CAA—provide reasonably equivalent access to information, the methodology for delivering that access remains flexible. Thus, for example, if a sight impaired employee or member of the public cannot access material on an employing office's web site, under ADA that office can satisfy its responsibility to either individual by having the relevant material read to that person. Under Section 508, however, an agency of the executive branch must offer technology through its web site that allows all individuals, with or without disabilities, directly to obtain the information through the site itself. For instance, an agency must upgrade its site with a capacity to reformat the information for sight impaired individuals by means of a ''screen reader,'' which translates the visual material on a computer screen into automated audible output.[7] Thus, section 508 requires that the means to access information exist within the electronic medium itself.

Consequently, this Office's existing authority, confined to enforcement case-by-case of the ADA requirements and the provision of general information about section 508, does not fully effectuate the public policy goal of the Section 508 Amendments.

The Office, therefore, wishes to amplify its December 31, 2000 Report to Congress by reporting that the legislative branch is not mandated to meet the higher level of electronic information accessibility which Congress requires of the executive branch pursuant to section 508.

[4] H. Conf. Rept. 105–659, 105th Cong., 2d Sess. (July 29, 1998).

[5] Section 201 of the CAA also applies, for purposes of proscribing employment discrimination, the meaning of ''disability'' as set forth in section 501 of the Rehabilitation Act. However, section 508 of the Rehabilitation Act is a separate and free standing provision and is not incorporated into the CAA simply by reason of the application of section 501.

[6] 66 FR 20893 (Apr. 25, 2001), codified at, 48 CFR part 39 (2001).

[7] This document is not the appropriate venue for any extensive technical description of the differences between section 508 and ADA requirements.

V. THE RECOMMENDATION OF THE BOARD OF DIRECTORS

When the section 508 amendments were enacted as part of the Workforce Investment Act of 1998, much if not most of the technology necessary to carry out its substantive mandates did not exist. Indeed, even at this stage, some in the electronic information community consider fully compliant technology to be non-existent. In any event, the Executive Branch is fully engaged in reaching Section 508 compliance. Furthermore, both the Library of Congress and the Government Printing Office, each of which maintains extensive and heavily visited web sites (GPO operates approximately 30 web sites for other executive and legislative branch agencies), have announced that they are proceeding voluntarily to achieve section 508 compliance. However, absent Congressional action, universal legislative branch electronic information accessibility will remain optional, and not a legal requirement.

The Congress commissioned this Board to monitor and comment on all laws which concern ''access to public services and accommodations.'' This responsibility of the Board helps ensure that the Legislative Branch is kept apprised regarding advances in access to electronic information technology, and is advised ''whether such provisions should be made applicable to the legislative branch.''

Pursuant to that mandate, the Board of Directors of the Office of Compliance recommends that the Congress enact amendments to sections 201 and 210 of the CAA to incorporate the substantive employee access and public access requirements of section 508 of the Rehabilitation Act of 1973 for all CAA-covered employing offices. We further suggest that the Office's existing section 401 and section 210 regulatory and enforcement authorities covering both employee and public access to electronic information systems be extended to include section 508 substantive requirements. Finally, we suggest that section 508 requirements regarding employee and public access also be applied to the Government Printing Office, Government Accounting Office, and Library of Congress.

The Office of Compliance stands ready to participate in the coordination of section 508 training and education for those in Congress and in the instrumentalities who are responsible for the maintenance and development of electronic information systems.

This Supplemental Section 102(b) Report is also available on the web site of the Office of Compliance, at www.compliance.gov.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BYRD, from the Committee on Appropriations:

Special Report entitled ''Further Revised Allocation to Subcommittees of Budget Totals for Fiscal Year 2002'' (Rept. No. 107–110).

By Mr. HARKIN, from the Committee on Agriculture, Nutrition, and Forestry, without amendment:

S. 1519: A bill to amend the Consolidated Farm and Rural Development Act to provide farm credit assistance for activated reservists.

By Mr. CLELAND, from the Committee on Armed Services, without amendment and with a preamble:

S. Con. Res. 55: A concurrent resolution honoring the 19 United States servicemen who died in the terrorist bombing of the Khobar Towers in Saudi Arabia on June 25, 1996.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LEVIN for the Committee on Armed Services.

*Peter B. Teets, of Maryland, to be Under Secretary of the Air Force.

By Mr. NELSON for the Committee on Armed Services.

*Claude M. Bolton, Jr., of Florida, to be an Assistant Secretary of the Army.

By Mr. LEVIN for the Committee on Armed Services.

Navy nomination of Rear Adm. (lh) Anthony W. Lengerich.

Army nomination of Col. Bruce H. Barlow.

Navy nomination of Rear Adm. (lh) Richard B. Porterfield.

Navy nomination of Capt. Stephen A. Turcotte.

Navy nomination of Rear Adm. (lh) David Architzel.

Army nominations beginning Brigadier General Keith B. Alexander and ending Brigadier General William G. Webster Jr., which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 21, 2001.

Navy nomination of Vice Adm. Charles W. Moore Jr.

Air Force nominations beginning Maj. Gen. Thomas J. Fiscus and ending Brig. Gen. Jack L. Rives, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 8, 2001.

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 Vern J. Abdoo and ending Douglas K. Zimmerman II, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 27, 2001.

Navy nomination of John B. Stockel.

Navy nomination of Philip F. Stanley.

*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 Mr. LUGAR (for himself, Mr. HELMS, Mr. HAGEL, and Mr. DOMENICI):

S. 1778. A bill to designate the National Foreign Affairs Training Center as the George P. Shultz National Foreign Affairs Training Center; to the Committee on Foreign Relations.

By Mr. BIDEN (for himself and Mr. HELMS):

S. 1779. A bill to authorize the establishment of ''Radio Free Afghanistan'', and for other purposes; to the Committee on Foreign Relations.

By Mr. THOMPSON (for himself and Mr. WARNER):

S. 1780. A bill to provide increased flexibility Governmentwide for the procurement of property and services to facilitate the defense against terrorism, and for other purposes; to the Committee on Governmental Affairs.

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

S. 1781. A bill to direct the Secretary of Commerce to establish a voluntary national registry system for greenhouse gases trading among industry, to make changes to United States Global Change Research Program, and for other purposes; to the Committee on Commerce , Science, and Transportation.

By Mr. WARNER (for himself, Mr. STEVENS, Mr. ALLEN, Mr . CLELAND, and Mr. INOUYE):

S. 1782. A bill to authorize the burial in Arlington National Cemetery of any former Reservist who died in the September 11, 2001, terrorist attacks and would have been eligible for burial in Arlington National Cemetery but for age at time of death; to the Committee on Veterans' Affairs.

ADDITIONAL COSPONSORS

S. 278

At the request of Mr. ENSIGN, his name was added as a cosponsor of S. 278, a bill to restore health care coverage to retired members of the uniformed services.

S. 605

At the request of Mrs. HUTCHISON, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 605, a bill to amend the Internal Revenue Code of 1986 to encourage a strong community-based banking system.

S. 826

At the request of Mrs. LINCOLN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 826, a bill to amend title XVIII of the Social Security Act to eliminate cost-sharing under the medicare program for bone mass measurements.

S. 839

At the request of Mrs. HUTCHISON, the name of the Senator from Missouri (Mrs. CARNAHAN) was added as a cosponsor of S. 839, a bill to amend title XVIII of the Social Security Act to increase the amount of payment for inpatient hospital services under the medicare program and to freeze the reduction in payments to hospitals for indirect costs of medical education.

S. 905

At the request of Mr. HARKIN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 905, a bill to provide incentives for school construction, and for other purposes.

S. 990

At the request of Mr. SMITH of New Hampshire, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 990, a bill to amend the Pittman-Robertson Wildlife

Restoration Act to improve the provisions relating to wildlife conservation and restoration programs, and for other purposes.

S. 1058

At the request of Mr. HUTCHINSON, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 1058, a bill to amend the Internal Revenue Code of 1986 to provide tax relief for farmers and the producers of biodiesel, and for other purposes.

S. 1140

At the request of Mr. HATCH, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor 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. 1274

At the request of Mr. KENNEDY, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 1274, a bill to amend the Public Health Service Act to provide programs for the prevention, treatment, and rehabilitation of stroke.

S. 1335

At the request of Mr. KENNEDY, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 1335, a bill to support business incubation in academic settings.

S. 1503

At the request of Mr. ROCKEFELLER, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 1503, a bill to extend and amend the Promoting Safe and Stable Families Program under subpart 2 of part B of title IV of the Social Security Act, to provide the Secretary of Health and Human Services with new authority to support programs mentoring children of incarcerated parents, to amend the Foster Care Independent Living Program under part E of title IV of the Social Security Act to provide for educational and training vouchers for youths aging out of foster care, and for other purposes.

S. 1519

At the request of Mr. DASCHLE, his name was added as a cosponsor of S. 1519, a bill to amend the Consolidated Farm and Rural Development Act to provide farm credit assistance for activated reservists.

At the request of Mr. DURBIN, his name was added as a cosponsor of S. 1519, supra.

S. 1663

At the request of Mrs. CLINTON, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 1663, a bill to amend title 4, United States Code, to add National Korean War Veterans Armistice Day to the list of days on which the flag should especially be displayed.

S. 1675

At the request of Mr. BROWNBACK, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 1675, a bill to authorize the President to reduce or suspend duties on textiles and textile products made in Pakistan until December 31, 2004.

S. 1678

At the request of Mr. MCCAIN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1678, a bill to amend the Internal Revenue Code of 1986 to provide that a member of the uniformed services or the Foreign Service shall be treated as using a principal residence while away from home on qualified official extended duty in determining the exclusion of gain from the sale of such residence.

S. 1707

At the request of Mr. JEFFORDS, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 1707, a bill to amend title XVIII of the Social Security Act to specify the update for payments under the medicare physician fee schedule for 2002 and to direct the Medicare Payment Advisory Commission to conduct a study on replacing the use of the sustainable growth rate as a factor in determining such update in subsequent years.

S. 1717

At the request of Mr. DOMENICI, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1717, a bill to provide for a payroll tax holiday.

S. 1745

At the request of Mrs. LINCOLN, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 1745, a bill to delay until at least January 1, 2003, any changes in medicaid regulations that modify the medicaid upper payment limit for non-State Government-owned or operated hospitals.

S. 1758

At the request of Mrs. FEINSTEIN, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 1758, a bill to prohibit human cloning while preserving important areas of medical research, including stem cell research.

S. CON. RES. 55

At the request of Mr. BUNNING, his name was added as a cosponsor of S. Con. Res. 55, a concurrent resolution honoring the 19 United States servicemen who died in the terrorist bombing of the Khobar Towers in Saudi Arabia on June 25, 1996.

AMENDMENT NO. 2157

At the request of Mr. MCCAIN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of amendment No. 2157 intended to be proposed to H.R. 3090, a bill to provide tax incentives for economic recovery.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LUGAR (for himself, Mr. HELMS, Mr. HAGEL, and Mr. DOMENICI):

S. 1778. A bill to designate the National Foreign Affairs Training Center as the George P. Shultz National Foreign Affairs Training Center; to the Committee on Foreign Relations.

Mr. LUGAR. Madam President, it is a great honor to rise today to introduce legislation that would name the Department of State's Foreign Affairs Training Center after former Secretary of State George P. Shultz. I am pleased to be joined by Senators HELMS, HAGEL, and DOMENICI in honoring this outstanding public servant.

Many of my most productive and enjoyable foreign policy experiences were those involving George Shultz as Secretary of State. Secretary Shultz celebrated the visits of foreign leaders to Washington by inviting hundreds of people to a luncheon or dinner at the State Department. If the guests were, for example, the President of Brazil, Shultz would identify prominent Brazilian business leaders, journalists, and scholars in the United States and a host of comparable Americans with interests in Brazil. He sprinkled the invitation list with members of the Reagan Administration and both houses of Congress. On most occasions, I was invited and introduced to a host of new friends deeply interested in international affairs.

When I became chairman of the Senate Foreign Relations Committee in 1985, the Secretary invited me to breakfast about once a month when Congress was in session. He always had a list of Reagan Administration legislative objectives for me to achieve and good suggestions on people and resources needed to accomplish each task.

In a two year period, I chaired extensive hearings on the Philippines, South Africa, and the prospects for democracy in Central America. Though the recommendations of Secretary Shultz, I co-chaired Presidential election observer efforts in Guatemala, El Salvador and the Philippines. These experiences led to considerable post-election interest and diplomacy, especially in the Philippines. These events and the influence of Secretary Shultz played a large role in the context of my book ''Letters to the Next President''.

In recent years, I have been a participant in the Asia Roundtable meetings sponsored by Stanford University and inspired by the leadership of George Shultz and his ability to bring statesmen from each Asian country to his meetings. Similarly, he brings distinguished leaders from all over the world to Stanford University Advisory Committee meetings and I have been the beneficiary of those rich experiences.

My continuing service in the United States Senate has received constant support from Secretary Shultz. His letters and wise counsel during conversations have made a significant difference in my understanding of complex issues. From the years at the State Department dinners to the present, he has introduced me to a legion of friends in many countries, and

this network of friends and advisors has been invaluable.

Secretary Shultz decided to back President George W. Bush very early in the Presidential Campaign of 2000 and has offered strong support to President Bush's bold diplomacy and the importance of employing and retaining the best foreign service personnel to achieve our international goals. Naming the National Foreign Affairs Training Center after George P. Shultz will be a fitting tribute to a great public servant who continues to exemplify the hallmark qualities in United States international leadership.

This bill has the full support of the Department of State. In fact, it is at Secretary Powell's request that we are seeking to expedite its consideration. Secretary Powell has invited former Secretary Shultz to visit Washington in January. I understand that Secretary Powell hopes to announce the dedication of the Foreign Affairs Training Center during Shultz's stay in Washington. It is my hope that the Majority and Minority Leader and the Members of the Senate will fine the opportunity to move this important legislation in the near term. Congressman HYDE and LANTOS have offered the same legislation in the House and have similar hopes for speedy passage.

By Mr. THOMPSON (for himself and Mr. WARNER):

S. 1780. A bill to provide increased flexibility Governmentwide for the procurement of property and services to facilitate the defense against terrorism, and for other purposes; to the Committee on Governmental Affairs.

Mr. THOMPSON. Madam President, I rise today to introduce a bill to help Federal agencies fight our Nation's war against terrorism. I am introducing this bill at the request of the President and on behalf of myself as ranking member of the Governmental Affairs Committee and Senator WARNER, the ranking member of the Armed Services Committee.

For many years, we have accepted that the Federal Government pays a premium, both in dollars and time spent, for the goods and services it buys solely because of unique requirements it imposes on its contractors. While the Federal procurement system has been streamlined and simplified over the last several years, much red tape and barriers to ''commercial-style'' contracting still exist. This is due in part to trying to maintain the proper balance between an efficient procurement system and accountability when spending taxpayer dollars.

In ordinary times and because of recent procurement policy reforms, we believe that a Federal agency can buy most anything it needs quickly and efficiently under current law if it has good management practices in place and smart, well-trained contracting officers. However, these are not ordinary times. Further, we know that the Federal Government is not well-managed and our acquisition workforce is rapidly dwindling. With that said, it is our responsibility to ensure that Federal agencies with a role in homeland security can purchase, quickly and efficiently, the most high-tech and sophisticated products and services to support antiterrorism efforts and to defend against biological, chemical, nuclear, radiological or technological attacks.

The bill which we are introducing builds on emergency contracting authority already in place for the Department of Defense and other agencies and goes further by providing additional contracting flexibilities. Today, national security and homeland security have the same kinds of requirements, detection, tracking, preparedness, prevention, response and recovery. By providing additional procurement flexibilities, the agencies involved in homeland security will be able to apply more easily many new and proven defense-related technologies.

For example, current law gives agencies the ability to use streamlined, simplified contracting procedures for contracts under $200,000 which are made and performed outside the United States in support of a contingency operation or a humanitarian or peacekeeping operation. This bill would raise that threshold to $500,000 for any, outside or within the United States, contract awarded for products or services in support of a contingency operation or a humanitarian or peacekeeping operation.

Current law also provides simplified contracting procedures for the purchase of commercial items, goods and services produced for the commercial marketplace and not encumbered by government specifications or requirements. The bill would allow goods and services purchased to help agencies fight against terrorism or biological, chemical, nuclear, radiological or technological attacks to be treated as if they were purchases for commercial items, in other words, agencies needing these goods and services could use the simpler, expedited procedures. This would allow agencies to quickly buy technologies or products which are cutting-edge, but which may not have made it to the commercial marketplace yet.

This legislation also encourages the use of current procurement flexibilities which are authorized in existing statutes. An agency can use these existing provisions where it is appropriate to provide quick and responsive solutions to its emergency contracting requirements. Further, the bill includes language which will allow agencies to use approaches other than contracts to buy research and development for new technologies to fight against terrorism. The Department of Defense currently has this authority and the bill would extend that authority to the rest of the Federal agencies.

And finally, this bill would encourage more competition in the Federal marketplace by requiring agencies to do ongoing market research to identify new companies with new capabilities to help agencies in the fight against terrorism.

We must ensure that Federal agencies which are preparing to fight terrorism have access to a wide variety of traditional and innovative solutions in a timely fashion. The bill we are introducing today will go a long way toward that goal.

Mr. WARNER. Madam President, I join Senator THOMPSON in introducing the Federal Emergency Procurement Flexibility Act. This bill will provide emergency contracting relief to Federal agencies in support of our Nation's fight against terrorism by allowing agencies to effectively buy what is needed to address the threats to our Nation.

While the Federal procurement system has improved in the last decade, there are still many areas where changes should be made to support the current emergency. This bill provides for streamlining the contracting process to access new technology, provides for emergency authorities for small purchases, and maximizes the use of existing streamlined procurement authorities.

The United States has some of the best ideas and technology in the world. To win the war on terrorism, the government needs to do all it can to gain access to this technology, much of which is located in the private sector. However, many firms, particularly in the biotechnology and information technology sectors, have been deterred from bidding on government contracts by the perception that government contracting is burdened with red tape and requirements.

In this time of crisis, we can not afford to keep these businesses on the sidelines. To promote the participation of these firms in solving our homeland defense problems, this bill would authorize the use by federal agencies of ''other transactions'' authority for research and development and prototype projects. ''Other transactions'' authority is a streamlined acquisition approach currently available only to the Department of Defense. This authority has been enormously helpful in allowing the Department of Defense to gain access to the research and expertise of non-traditional defense contractors. I anticipate that the Department of Health and Human Services or the Environmental Protection Agency, for example, would be able to effectively use ''other transactions'' authority to research and prototype new vaccines, detection systems, and remediation technology to meet the bioterrorist threat.

For production, service or research needs where ''other transactions'' authority is not appropriate, this bill authorizes ''commercial like'' contracting procedures for those contracts that facilitate the defense against terrorism or nuclear, chemical, biological or information attack on the United

States. These commercial contracting procedures are exempted from many government unique requirements and allow for the use of a more streamlined acquisition approach.

By Mr. McCAIN (for himself and Mr. BROWNBACK):

S. 1781. A bill to direct the Secretary of Commerce to establish a voluntary national registry system for greenhouse gases trading among industry, to make changes to United States Global Change Research Program, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. McCAIN. Madam President, I, rise to introduce the Emission Reductions Incentive Act of 2001. I thank Senator BROWNBACK for his co-sponsorship and his cooperation in drafting this bill, along with his commitment to addressing this growing problem.

Earlier this year, I announced intentions to consider the establishment of a ''cap and trade'' system for carbon dioxide emissions. I am continuing to work with Senator LIEBERMAN on this effort. However, the bill which I am introducing today is not in lieu of that commitment, but rather in support of it.

The bill proposes the establishment of a national voluntary registry for entities to register carbon emissions reductions. The registry would support current voluntary trading practices in private industry and other non-governmental organizations. Over the past years, the Commerce Committee has heard testimony from several organizations on their efforts conduct trading programs internally or across a small segment of industry. This registry bill will aid those efforts greatly by establishing a national system whereby these companies may be able to participate and be assured that a ton of carbon purchased is indeed a ton of carbon.

Establishment of the registry would also require the development of certain standards for measuring, verifying and reporting emission reductions to the registry. I believe that with these procedures in place, the registry would be able to withstand any future requirements imposed by a mandatory ''cap and trade'' system. The bill would also provide for consideration of credits realized under this program against any future mandatory system.

The bill also proposed changes to the US Global Climate Change Program, USGCRP. It requires a new strategic plan for the next 10 years. The bill would provide for dedicated management to support the interagency USGCRP and have this office report to the Director of the Office of Science and Technology Policy. We feel this will provide a needed channel to the White House for the Federal scientific community to be heard. We have also asked the office to work with the agencies' development activities.

The bill proposed additional changes to the Partnership for New Generation Vehicles, PHGV, program and provides additional incentives for the licensing of technologies. I hope that we can increase the deployment of technologies to reduce carbon dioxide emissions by providing further incentives to Federal employees, those who are ultimately responsible for the transfer of the research results. The National Research Council recently made recommendations on the PNGV program, a cooperative research and development program between the Federal Government and the US Council for Automotive Research. The bill requires the Department of Commerce to implement many of those recommendations.

As we all know, more than 160 countries recently reached an agreement on the Kyoto Protocol, which would require industrialized nations to reduce their carbon dioxide emissions. There are many US companies that operate facilities in other countries. These facilities will have to meet local emissions requirements. The bill requires the Secretary of Commerce to study the effects that a ratified treaty will have on the US industry and its ability to compete globally.

Again, I thank Senator BROWNBACK for help on this piece of legislation. I understand that other members of the Commerce Committee have recently introduced legislation in this area and look forward to working with them on a comprehensive package.

Mr. BROWNBACK. Madam President, I am please to join Senator McCAIN today in introducing the Emission Reductions Incentive Act of 2001. This bill will put into place a voluntary registry for greenhouse gas, GHG, reductions house in the Department of Commerce. Furthermore, the bill establishes structure for the independent measurement and verification of GHG reductions. This is an important step in providing an incentive for companies who wish to reduce their emissions, and it will provide assurance that companies who take positive action on climate change today will be rewarded in the future. All this can be accomplished with barely any cost to the government, since it will be private, third party groups that undertake the burden to measure, verify and prove actual greenhouse gas emission reductions.

There are those who wonder why such a measure is needed, given the fact that there is an existing registry in the Department of Energy and the uncertainty on the climate change issue. First, the new registry will only hold information that has been independently verified. Like the current registry, this new registry would be completely voluntary. However, unlike the DOE program, this registry will focus on keeping track of proven greenhouse gas reductions, and will therefore, encourage more companies to undertake measures to reduce emissions since they will have the ability to defend these reductions as real if future regulations are put in to place. Also, since this registry will be housed in the Department of Commerce and verified by independent parties, it treats the issue as an investment or transaction between companies to limit risk, rather than an environmental regulation.

Several utilities and other companies who emit high levels of carbon dioxide have expressed real concern that they need certainty to be able to plan for the life of new power plants and investment decisions which will last for 20 years or more. Currently, there is no certainty with regard to how the climate change issue will be handled. This means companies must plan for an uncertain future which leads to undue expense. This bill will allow companies to decide for themselves how much action they need to take, and provide a way of taking out an insurance policy, of sorts, on the climate change issue. This is important because we need more investment in energy infrastructure, more clean coal plants and natural gas plants. Yet these new plants won't move forward if they fear being hit with a high carbon tad in the next 5–10 years.

This bill offers industry a way to make investments in GHG reductions or carbon sequestration offsets gradually, building up credits that could be used down the road if regulations are put into place. While there is no ''one-for-one'' trade in on these credits, there would be a government certified stamp of approval on early actions to reduce greenhouse gases—which any future regulations would have to account for

Second, there are those who argue that the science is still unsettled with regard to the climate change issue, and that we should not move toward costly measures which will punish industry for a problem that is still not fully understood. Actually, this is the very reason why we should establish a voluntary, but measured and verified registry now. This bill given industry the opportunity to experiment and get credit for pro-active measures that will reduce greenhouse gas emissions without unduly burdening energy consumers. New and better technology is the key to solving this issue, but why would a company employ such technology now with the uncertainty surrounding how this issue will be addressed? They could in fact, be punished for such actions if later regulations are put into place which do not account for reductions that were already taken. This is a free-market approach to reward and encourage responsible industry to continue and even make a market out of reducing greenhouse gases. This registery will help establish and encourage the most cost-effective ways to tackle this problem while also finding where difficulties may lie.

We can not shrink from difficult challenges, nor should we overreact. When there is the opportunity to allow market force to work on a problem, we should most definitely encourage that process. I am pleased to be joining my

friend from Arizona in introducing this legislation and look forward to pursuing this policy during the upcoming energy debate.

By Mr. WARNER (for himself, Mr. STEVENS, Mr. ALLEN, Mr. CLELAND, and Mr. INOUYE):

S. 1782. A bill to authorize the burial in Arlington National Cemetery of any former Reservist who died in the September 11, 2001, terrorist attacks and would have been eligible for burial in Arlington National Cemetery but for age at time of death; to the Committee on Veterans' Affairs.

Mr. WARNER. Mr. President, I rise today to introduce legislation for myself, Senator STEVENS, Senator ALLEN Senator CLELAND, and Senator INOUYE to provide a exception to the rules governing burials at Arlington national Cemetery.

This very limited legislation will permit individuals with extensive military service, who lost their lives on September 11, to be buried at Arlington National Cemetery.

I am introducing this legislation today, along with my colleagues, to address a specific situation that involves Captain Charles F. ''Chic'' Burlingame III, a resident of Oak Hills Virginia and others who may have the same accrued entitlement.

Captain Burlingame was the pilot of American Airlines flight 77, that ill-fated aircraft which was hi-jacked by terrorists and used as a horrible weapon of destruction against the Pentagon on September 11.

Captain Burlingame, however, was more than the pilot of that plane—he was also a retired veteran of the United States Navy.

He served his country with distinction for 8 years by flying fighter planes off aircraft carriers—one of the military's most hazardous duties.

He continued his military career as a reserve officer, honorably retiring with the rank of Captain. Ironically, Captain Burlingame's reserve duty was in the Pentagon, a building he knew so well.

In the aftermath of September 11 we have learned of many heroic acts of those who lost their lives in trying to overcome the terrorists on that tragic morning. This is certainly true in the case of Captain Burlingame.

Recent information from the FBI indicate that Captain Burlingame was killed by the terrorists prior to the crash of the Flight 77 into the Pentagon. Clearly, Captain Burlingame gave his life fighting to protect the passengers of the plane and those on the ground. One can clearly see that Captain Burlingame and those who lost their lives on September 11 were the first casualties of our War on Terrorism.

Arlington Cemetery is the resting place for many American heroes who gave their lives to protect American freedoms. Certainly, Captain Burlingame's service to country and his sacrifice on Flight 77 should be recognized by our nation.

Captain Burlingame's widow, Sheri, and his brothers and sisters, desire that Captain Burlingame be buried in Arlington National Cemetery. Captain Burlingame's superb military service would make him eligible for burial in any of our other National Cemeteries.

The very strict regulations which govern burials at Arlington, however, do not allow for burial of a person retired from the Reserves until they reach sixty years of age. Had he merely reached the age of sixty, he would have been fully eligible for burial in Arlington National Cemetery.

Additionally, there may be others who lost their lives on September 11 who are in a similar situation. This bill will also allow those person to be buried in Arlington National Cemetery.

I respectfully request that my colleagues support this effort.

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. 1782

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

SECTION 1. AUTHORITY FOR BURIAL OF CERTAIN INDIVIDUALS AT ARLINGTON NATIONAL CEMETERY.

(a) IN GENERAL.—The Secretary of the Army shall authorize the burial in a separate gravesite at Arlington National Cemetery, Virginia, of any individual who—

(1) died as a direct result of the terrorist attacks on the United States on September 11, 2001; and

(2) would have been eligible for burial in Arlington National Cemetery by reason of service in a reserve component of the Armed Forces but for the fact that such individual was less than 60 years of age at the time of death.

(b) ELIGIBILITY OF SURVIVING SPOUSE.—The surviving spouse of an individual buried in a gravesite in Arlington National Cemetery under the authority provided under subsection (a) shall be eligible for burial in the gravesite of the individual to the same extent as the surviving spouse of any other individual buried in Arlington National Cemetery is eligible for burial in the gravesite of such other individual.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2243. Mr. STEVENS proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes.

SA 2244. Mr. KERRY submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2245. Mr. KERRY (for himself, Mrs. HUTCHISON, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2246. Mr. KERRY (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2247. Mr. HELMS (for himself, Mr. MILLER, Mr. HAGEL, Mr. HATCH, Mr. SHELBY, Mr. MURKOWSKI, Mr. BOND, Mr. WARNER, Mr. ALLEN, and Mr. FRIST) submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2248. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2249. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2250. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2251. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2252. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2253. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2254. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2255. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2256. Mr. NICKLES submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2257. Mr. BENNETT submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2258. Mr. LUGAR (for himself, Mr. LEVIN, Mr. BIDEN, Mr. HAGEL, Mr. DOMENICI, Mr. BINGAMAN, Mr. TORRICELLI, Mr. DODD, Mr. DASCHLE, and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2259. Mr. LOTT (for himself and Mr. COCHRAN) submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2260. Mr. LOTT (for himself and Mr. COCHRAN) submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2261. Mr. LOTT (for himself and Mr. COCHRAN) submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2262. Mr. LOTT (for himself and Mr. COCHRAN) submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2263. Mr. LOTT submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2264. Mr. LOTT submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2265. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2266. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2267. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2268. Mr. WARNER (for himself, Mr. STEVENS, Mr. ALLEN, Mr. CLELAND, and Mr. INOUYE) submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2269. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2270. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2271. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2272. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2273. Mr. HELMS (for himself and Mr. EDWARDS) submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2274. Mr. HELMS (for himself and Mr. EDWARDS) submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2275. Mr. HELMS submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2276. Mr. HELMS submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2277. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2278. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2279. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2280. Mr. WARNER submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2281. Mr. COCHRAN submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2282. Mr. LOTT (for himself and Mr. COCHRAN) submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2283. Mr. ALLEN submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2284. Mr. ALLEN submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2285. Mr. ALLEN submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2286. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2287. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2288. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2289. Mr. BINGAMAN (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2290. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2291. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2292. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2293. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2294. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2295. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2296. Mr. SPECTER (for himself and Mr. SANTORUM) submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2297. Mr. BAYH (for himself and Mr. VOINOVICH) submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2298. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2299. Mr. McCAIN submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2300. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2301. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2302. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2303. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2304. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2305. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2306. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2307. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2308. Mr. REID (for Mr. ROCKEFELLER (for himself and Mr. SPECTER)) proposed an amendment to the bill H.R. 2716, to amend title 38, United States Code, to revise, improve, and consolidate provisions of law providing benefits and services for homeless veterans.

SA 2309. Mr. THOMPSON submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 2243. Mr. STEVENS proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 326, after line 20, strike all through to page 398, line 19, and insert in lieu thereof the following:

DIVISION B—TRANSFERS FROM THE EMERGENCY RESPONSE FUND PURSUANT TO PUBLIC LAW 107–38

The funds appropriated in Public Law 107–38 subject to subsequent enactment and previously designated as an emergency by the President and Congress under the Balanced Budget and Emergency Deficit Control Act of 1985, are transferred to the following chapters and accounts as follows:

CHAPTER 1

DEPARTMENT OF AGRICULTURE

OFFICE OF THE SECRETARY

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Office of the Secretary'', $43,300,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for the ''National Food Security Fund'', $300,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

AGRICULTURAL RESEARCH SERVICE

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $45,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $76,800,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38: *Provided*, That of the total amount provided, $50,000,000 may be transferred and merged with the Agriculture Quarantine Inspection User Fee Account.

BUILDINGS AND FACILITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Buildings and Facilities'', $14,081,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

FOOD SAFETY AND INSPECTION SERVICE

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Food Safety and Inspection Service'', $12,300,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the

United States, and for other expenses necessary to support activities related to countering potential biological, disease, and chemical threats to civilian populations, for ''Food and Drug Administration, Salaries and Expenses'', $120,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

RELATED AGENCY

COMMODITY FUTURES TRADING COMMISSION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Commodity Futures Trading Commission'', $10,196,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CHAPTER 2

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

PATRIOT ACT ACTIVITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Patriot Act Activities'', $100,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38, of which $2,000,000 shall be for a feasibility report, as authorized by Section 405 of Public Law 107–56, and of which $23,000,000 shall be for implementation of such enhancements as are deemed necessary: *Provided,* That funding for the implementation of such enhancements shall be treated as a reprogramming under section 605 of Public Law 107–77 and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

ADMINISTRATIVE REVIEW AND APPEALS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Administrative Review and Appeals'', $3,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses, General Legal Activities'', $10,026,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses, United States Attorneys'', $74,600,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses, United States Marshals Service'', $11,100,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $538,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38, of which $10,283,000 is for the refurbishing of the Engineering and Research Facility and $14,135,000 is for the decommissioning and renovation of former laboratory space in the Hoover building.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States and for all costs associated with the reorganization of the Immigration and Naturalization Service, for ''Salaries and Expenses'', $399,400,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Justice Assistance'', $462,000,000, of which $100,000,000 may be used for increased security at public events, to remain available until September 30, 2003, for grants, cooperative agreements, and other assistance authorized by sections 819 and 821 of the Antiterrorism and Effective Death Penalty Act of 1996 and for other counter terrorism programs, to be obligated from amounts made available in Public Law 107–38.

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, $236,900,000 shall be for discretionary grants under the Edward Byrne Memorial State and Local Law Enforcement Assistance Program, of which $17,100,000 shall be for the Utah Olympic Public Safety Command, of which $81,600,000 shall be for New Jersey, and of which $56,500,000 shall be for Maryland, of which $81,700,000 shall be for Northern Virginia: *Provided,* That $20,000,000 shall be made available to the Office of Domestic Preparedness for a competitive grant for a project to enhance the communications interoperability of law enforcement, fire, medical services, and transportation agencies that respond to emergencies in the Greater Washington Metropolitan Area: *Provided further*, That $15,000,000 shall be made available for a chemical sensor program for the Washington area transit system, to remain available until expended, and to be obligated from amounts made available in Public Law 107–38.

CRIME VICTIMS FUND

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Crime Victims Fund'', $68,100,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Operations and Administration'', $1,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

EXPORT ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Operations and Administration'', $1,756,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

ECONOMIC DEVELOPMENT ADMINISTRATION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $335,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING AND CONSTRUCTION

For emergency grants authorized by section 392 of the Communications Act of 1934, as amended, to respond to the September 11, 2001, terrorist attacks on the United States, $8,250,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

UNITED STATES PATENT AND TRADEMARK OFFICE

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $3,360,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Scientific and Technical Research and Services'', $20,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CONSTRUCTION OF RESEARCH FACILITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Construction of Research Facilities'', $1,225,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH AND FACILITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Operations, Research and Facilities'', $2,750,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $881,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

OPERATIONS AND TRAINING

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Operations and Training'', $11,000,000, for a port security program, to remain available until September 30, 2003, to be obligated from amounts made available in Public Law 107–38.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $1,301,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $20,705,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

SMALL BUSINESS ADMINISTRATION

DISASTER LOANS PROGRAM ACCOUNT

For emergency expenses for disaster recovery activities and assistance related to the terrorist acts in New York, Virginia and Pennsylvania on September 11, 2001, for ''Disaster Loans Program Account'', $75,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CHAPTER 3

DEPARTMENT OF DEFENSE

OPERATION AND MAINTENANCE

DEFENSE EMERGENCY RESPONSE FUND

For emergency expenses to respond to the September 11, 2001 terrorist attacks on the United States, for ''Defense Emergency Response Fund'', $4,258,569,000, to remain available until expended, to be obligated from amounts made available by Public Law 107–38: *Provided,* That $20,000,000 shall be made available for the National Infrastructure Simulation and Analysis Center (NISAC): *Provided further,* That $500,000 shall be made available only for the White House Commission on the National Moment of Remembrance: *Provided further,* That—

(1) $35,000,000 shall be available for the procurement of the Advance Identification Friend-or-Foe system for integration into F–16 aircraft of the Air National Guard that are being used in continuous air patrols over Washington, District of Columbia, and New York, New York; and

(2) $20,000,000 shall be available for the procurement of the Transportation Multi-Platform Gateway for integration into the AWACS aircraft that are being used to perform early warning surveillance over the United States.

(3) $15,000,000 shall be available for the acquisition of ten Lynx SAR kits.

NATIONAL SECURITY BIO-TERRORISM DEFENSE FUND

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States to support activities related to countering potential biological, disease, and chemical threats to civilian populations, for ''Public Health and Social Services Emergency Fund'', $2,300,000,000, to remain available until September 30, 2003. Of this amount, $500,000,000 shall be for the Centers for Disease Control and Prevention for improving State and local capacity; $85,000,000 shall be for grants to hospitals, in collaboration with local governments, to improve capacity to respond to bioterrorism; $128,000,000 shall be for upgrading capacity at the Centers for Disease Control and Prevention, including research; $98,000,000 shall be for the Office of the Secretary and improving disaster response teams; $70,000,000 shall be for the National Institute of Allergy and Infectious Diseases for bioterrorism-related research and development and other related needs; $69,000,000 shall be for the National Institute of Allergy and Infectious Diseases for the construction of a biosafety laboratory and related infrastructure costs; $593,000,000 shall be for the National Pharmaceutical Stockpile; $562,000,000 shall be for the purchase and related costs of the smallpox vaccine, and $30,000,000 shall be for improving laboratory security at the National Institutes of Health and the Centers for Disease Control and Prevention. At the discretion of the Secretary, these amounts may be transferred between categories subject to normal reprogramming procedures.

PROCUREMENT

OTHER PROCUREMENT, AIR FORCE

For emergency expenses to respond to the September 11, 2001 terrorist attacks on the United States, for ''Other Procurement, Air Force'', $210,000,000, to remain available until expended, to be obligated from amounts made available by Public Law 107–38.

GENERAL PROVISIONS, THIS CHAPTER

SEC. 301. Amounts available in the ''Defense Emergency Response Fund'' shall be available for the purposes set forth in the 2001 Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the United States (Public Law 107–38): *Provided,* That the Fund may be used to reimburse other appropriations or funds of the Department of Defense only for costs incurred for such purposes between September 11 and December 31, 2001: *Provided further,* That such Fund may be used to liquidate obligations incurred by the Department under the authorities in 41 U.S.C. 11 for any costs incurred for such purposes between September 11 and September 30, 2001: *Provided further,* That the Secretary of Defense may transfer funds from the Fund to the appropriation, ''Support for International Sporting Competitions, Defense'', to be merged with, and available for the same time period and for the same purposes as that appropriation: *Provided further,* That the transfer authority provided by this section is in addition to any other transfer authority available to the Secretary of Defense: *Provided further,* That the Secretary of Defense shall report to the Congress quarterly all transfers made pursuant to this authority.

SEC. 302. Amounts in the ''Support for International Sporting Competitions, Defense'', may be used to support essential security and safety for the 2002 Winter Olympic Games in Salt Lake City, Utah, without the certification required under subsection 10 U.S.C. 2564(a). Further, the term ''active duty'', in section 5802 of Public Law 104–208 shall include State active duty and full-time National Guard duty performed by members of the Army National Guard and Air National Guard in connection with providing essential security and safety support to the 2002 Winter Olympic Games and logistical and security support to the 2002 Paralympic Games.

SEC. 303. Funds appropriated by this Act, or made available by the transfer of funds in this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414).

CHAPTER 4

DISTRICT OF COLUMBIA

FEDERAL FUNDS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for a Federal payment to the District of Columbia for Protective Clothing and Breathing Apparatus, to be obligated from amounts made available in Public Law 107–38 and to remain available until expended, $12,144,209, of which $921,833 is for the Fire and Emergency Medical Services Department, $4,269,000 is for the Metropolitan Police Department, $1,500,000 is for the Department of Health, $453,376 is for the Department of Public Works, and $5,000,000 is for the Washington Metropolitan Area Transit Authority.

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for a Federal payment to the District of Columbia for Specialized Hazardous Materials Equipment, to be obligated from amounts made available in Public Law 107–38 and to remain available until expended, $1,032,342, for the Fire and Emergency Medical Services Department.

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for a Federal payment to the District of Columbia for Chemical and Biological Weapons Preparedness, to be obligated from amounts made available in Public Law 107–38 and to remain available until expended, $10,354,415, of which $204,920 is for the Fire and Emergency Medical Services Department, $258,170 is for the Metropolitan Policy Department, and $9,891,325 is for the Department of Health.

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for a Federal payment to the District of Columbia for Pharmaceuticals for Responders, to be obligated from amounts made available in Public Law 107–38 and to remain available until expended, $2,100,000, for the Department of Health.

Notwithstanding any other provision of law, all amounts under this heading shall be apportioned quarterly by the Office of Management and Budget. The Chief financial Officer of the District of Columbia shall provide quarterly reports to the President and the Committees on Appropriations of the Senate and the House of Representatives on the use of the funds under this heading beginning no later than January 2, 2002.

DISTRICT OF COLUMBIA FUNDS

DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia and shall remain available until expended.

For Protective Clothing and Breathing Apparatus, to remain available until expended, $12,144,209, of which $921,833 is for the Fire and Emergency Medical Services Department, $4,269,000 is for the Metropolitan Police Department, $1,500,000 is for the Department of Health, $453,376 is for the Department of Public Works, and $5,000,000 is for the Washington Metropolitan Area Transit Authority.

For Specialized Hazardous Materials Equipment, to remain available until expended, $1,032,342, for the Fire and Emergency Medical Services Department.

For Chemical and Biological Weapons Preparedness, to remain available until expended, $10,354,415, of which $204,920 is for the Fire and Emergency Medical Services Department, $258,170 is for the Metropolitan Police Department, and $9,891,325 is for the Department of Health.

For Pharmaceuticals for Responders, to remain available until expended, $2,100,000, for the Department of Health.

CHAPTER 5

DEPARTMENT OF ENERGY

ATOMIC ENERGY DEFENSE ACTIVITIES

NATIONAL NUCLEAR SECURITY ADMINISTRATION

WEAPONS ACTIVITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and for other expenses to increase the security of the Nation's nuclear weapons complex, for ''Weapons Activities'', $199,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEFENSE NUCLEAR NONPROLIFERATION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and for other expenses to improve nuclear nonproliferation and

verification research and development, for ''Defense Nuclear Nonproliferation'', $155,000,000, to remain available until September 30, 2003, to be obligated from amounts made available in Public Law 107–38.

OTHER DEFENSE RELATED ACTIVITIES

OTHER DEFENSE ACTIVITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and for other expenses necessary to support activities related to countering potential biological threats to civilian populations, for ''Other Defense Activities'', $3,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Defense Environmental Restoration and Waste Management'', $8,200,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

INDEPENDENT AGENCY

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and for other expenses to increase the security of the Nation's nuclear power plants, for ''Salaries and Expenses'', $36,000,000, to remain available until September 30, 2003: *Provided,* That the funds appropriated herein shall be excluded from license fee revenues, notwithstanding 42 U.S.C. 2214, to be obligated from amounts made available in Public Law 107–38.

CHAPTER 6

DEPARTMENT OF THE INTERIOR

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Operation of the National Park System'', $10,098,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

UNITED STATES PARK POLICE

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''United States Park Police'', $25,295,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CONSTRUCTION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Construction'', $21,624,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEPARTMENTAL OFFICES

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $2,205,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38, for the working capital fund of the Department of the Interior.

RELATED AGENCIES

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $21,707,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

NATIONAL GALLERY OF ART

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $2,148,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

OPERATIONS AND MAINTENANCE

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Operations and Maintenance'', $4,310,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

NATIONAL CAPITAL PLANNING COMMISSION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $758,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CHAPTER 7

LEGISLATIVE BRANCH

JOINT ITEMS

LEGISLATIVE BRANCH EMERGENCY RESPONSE FUND

(INCLUDING TRANSFER OF FUNDS)

For emergency expenses to respond to the terrorist attacks on the United States, $256,081,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38: *Provided,* That $34,500,000 shall be transferred to the ''SENATE'', ''Sergeant at Arms and Doorkeeper of the Senate'' and shall be obligated with the prior approval of the Senate Committee on Appropriations: *Provided further,* That $40,712,000 shall be transferred to ''HOUSE OF REPRESENTATIVES'', ''Salaries and Expenses'' and shall be obligated with the prior approval of the House Committee on Appropriations: *Provided further,* That the remaining balance of $180,869,000 shall be transferred to the Capitol Police Board, which shall transfer to the affected entities in the Legislative Branch such amounts as are approved by the House and Senate Committees on Appropriations: *Provided further,* That any Legislative Branch entity receiving funds pursuant to the Emergency Response Fund established by Public Law 107–38 (without regard to whether the funds are provided under this chapter or pursuant to any other provision of law) may transfer any funds provided to the entity to any other Legislative Branch entity receiving funds under Public Law 107–38 in an amount equal to that required to provide support for security enhancements, subject to the approval of the Committees on Appropriations of the House of Representatives and Senate.

SENATE

ADMINISTRATIVE PROVISIONS

SEC. 701. (a) ACQUISITION OF BUILDINGS AND FACILITIES.—Notwithstanding any other provision of law, in order to respond to an emergency situation, the Sergeant at Arms of the Senate may acquire buildings and facilities, subject to the availability of appropriations, for the use of the Senate, as appropriate, by lease, purchase, or such other arrangement as the Sergeant at Arms of the Senate considers appropriate (including a memorandum of understanding with the head of an Executive Agency, as defined in section 105 of title 5, United States Code, in the case of a building or facility under the control of such Agency). Actions taken by the Sergeant at Arms of the Senate must be approved by the Committees on Appropriations and Rules and Administration.

(b) AGREEMENTS.—Notwithstanding any other provision of law, for purposes of carrying out subsection (a), the Sergeant at Arms of the Senate may carry out such activities and enter into such agreements related to the use of any building or facility acquired pursuant to such subsection as the Sergeant at Arms of the Senate considers appropriate, including—

(1) agreements with the United States Capitol Police or any other entity relating to the policing of such building or facility; and

(2) agreements with the Architect of the Capitol or any other entity relating to the care and maintenance of such building or facility.

(c) AUTHORITY OF CAPITOL POLICE AND ARCHITECT.—

(1) ARCHITECT OF THE CAPITOL.—Notwithstanding any other provision of law, the Architect of the Capitol may take any action necessary to carry out an agreement entered into with the Sergeant at Arms of the Senate pursuant to subsection (b).

(2) CAPITOL POLICE.—Section 9 of the Act of July 31, 1946 (40 U.S.C. 212a) is amended—

(A) by striking ''The Capitol Police'' and inserting ''(a) The Capitol Police''; and

(B) by adding at the end the following new subsection:

''(b) For purposes of this section, 'the United States Capitol Buildings and Grounds' shall include any building or facility acquired by the Sergeant at Arms of the Senate for the use of the Senate for which the Sergeant at Arms of the Senate has entered into an agreement with the United States Capitol Police for the policing of the building or facility.''.

(d) TRANSFER OF CERTAIN FUNDS.—Subject to the approval of the Committee on Appropriations of the Senate, the Architect of the Capitol may transfer to the Sergeant at Arms of the Senate amounts made available to the Architect for necessary expenses for the maintenance, care and operation of the Senate office buildings during a fiscal year in order to cover any portion of the costs incurred by the Sergeant at Arms of the Senate during the year in acquiring a building or facility pursuant to subsection (a).

(e) EFFECTIVE DATE.—This section and the amendments made by this section shall apply with respect to fiscal year 2002 and each succeeding fiscal year.

SEC. 702. (a) Notwithstanding any other provision of law—

(1) subject to subsection (b), the Sergeant at Arms of the Senate and the head of an Executive Agency (as defined in section 105 of title 5, United States Code) may enter into a memorandum of understanding under which the Agency may provide facilities, equipment, supplies, personnel, and other support services for the use of the Senate during an emergency situation; and

(2) the Sergeant at Arms of the Senate and the head of the Agency may take any action necessary to carry out the terms of the memorandum of understanding.

(b) The Sergeant at Arms of the Senate may enter into a memorandum of understanding described in subsection (a)(1) consistent with the Senate Procurement Regulations.

(c) This section shall apply with respect to fiscal year 2002 and each succeeding fiscal year.

OTHER LEGISLATIVE BRANCH

ADMINISTRATIVE PROVISIONS

SEC. 703. (a) Section 1(c) of Public Law 96–152 (40 U.S.C. 206–1) is amended by striking

''but not to exceed'' and all that follows and inserting the following: ''but not to exceed $2,500 less than the lesser of the annual salary for the Sergeant at Arms of the House of Representatives or the annual salary for the Sergeant at Arms and Doorkeeper of the Senate.''.

(b) The Assistant Chief of the Capitol Police shall receive compensation at a rate determined by the Capitol Police Board, but not to exceed $1,000 less than the annual salary for the chief of the United States Capitol Police.

(c) This section and the amendment made by this section shall apply with respect to pay periods beginning on or after the date of the enactment of this Act.

SEC. 704. (a) ASSISTANCE FOR CAPITOL POLICE FROM EXECUTIVE DEPARTMENTS AND AGENCIES.—Notwithstanding any other provision of law, Executive departments and Executive agencies may assist the United States Capitol Police in the same manner and to the same extent as such departments and agencies assist the United States Secret Service under section 6 of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note), except as may otherwise be provided in this section.

(b) TERMS OF ASSISTANCE.—Assistance under this section shall be provided—

(1) consistent with the authority of the Capitol Police under sections 9 and 9A of the Act of July 31, 1946 (40 U.S.C. 212a and 212a–2);

(2) upon the advance written request of—

(A) the Chairman of the Capitol Police Board, or

(B) in the absence of the Chairman of the Capitol Police Board—

(i) the Sergeant at Arms and Doorkeeper of the Senate, in the case of any matter relating to the Senate; or

(ii) the Sergeant at Arms of the House of Representatives, in the case of any matter relating to the House; and

(3) either—

(A) on a temporary and non-reimbursable basis,

(B) on a temporary and reimbursable basis, or

(C) on a permanent reimbursable basis upon advance written request of the Chairman of the Capitol Police Board.

(c) REPORTS ON EXPENDITURES FOR ASSISTANCE.—

(1) REPORTS.—With respect to any fiscal year in which an Executive department or Executive agency provides assistance under this section, the head of that department or agency shall submit a report not later than 30 days after the end of the fiscal year to the Chairman of the Capitol Police Board.

(2) CONTENTS.—The report submitted under paragraph (1) shall contain a detailed account of all expenditures made by the Executive department or Executive agency in providing assistance under this section during the applicable fiscal year.

(3) SUMMARY OF REPORTS.—After receipt of all reports under paragraph (2) with respect to any fiscal year, the Chairman of the Capitol Police Board shall submit a summary of such reports to the Committees on Appropriations of the Senate and the House of Representatives.

(d) EFFECTIVE DATE.—This section shall apply with respect to fiscal year 2002 and each succeeding fiscal year.

SEC. 705. (a) The Chief of the Capitol Police may, upon any emergency as determined by the Capitol Police Board, deputize members of the National Guard (while in the performance of Federal or State service), members of components of the Armed Forces other than the National Guard, and Federal, State or local law enforcement officers as may be necessary to address that emergency. Any person deputized under this section shall possess all the powers and privileges and may perform all duties of a member or officer of the Capitol Police.

(b) The Capitol Police Board may promulgate regulations, as determined necessary, to carry out provisions of this section.

(c) This section shall apply to fiscal year 2002 and each fiscal year thereafter.

SEC. 706. (a) Notwithstanding any other provision of law, the United States Capitol Preservation Commission established under section 801 of the Arizona-Idaho Conservation Act of 1988 (40 U.S.C. 188a) may transfer to the Architect of the Capitol amounts in the Capitol Preservation Fund established under section 803 of such Act (40 U.S.C. 188a–2) if the amounts are to be used by the Architect for the planning, engineering, design, or construction of the Capitol Visitor Center.

(b) Any amounts transferred pursuant to subsection (a) shall remain available for the use of the Architect of the Capitol until expended.

(c) This section shall apply with respect to fiscal year 2002 and each succeeding fiscal year.

CHAPTER 8

MILITARY CONSTRUCTION

MILITARY CONSTRUCTION, DEFENSE-WIDE

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Military Construction, Defense-wide'', $510,000,000 to remain available until expended, to be obligated from amounts made available in Public Law 107–38: *Provided,* That of such amount, $35,000,000 shall be available for transfer to ''Military Construction, Army''.

MILITARY CONSTRUCTION, ARMY

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Military Construction, Army'', $20,700,000 to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

MILITARY CONSTRUCTION, NAVY

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Military Construction, Navy'', $2,000,000 to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

MILITARY CONSTRUCTION, AIR FORCE

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Military Construction, Air Force'', $47,700,000 to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

GENERAL PROVISIONS, THIS CHAPTER

SEC. 801. (a) AVAILABILITY OF AMOUNTS FOR MILITARY CONSTRUCTION RELATING TO TERRORISM.—Amounts made available to the Department of Defense from funds appropriated in Public Law 107–38 and this Act may be used to carry out military construction projects, not otherwise authorized by law, that the Secretary of Defense determines are necessary to respond to or protect against acts or threatened acts of terrorism.

(b) NOTICE TO CONGRESS.—Not later than 15 days before obligating amounts available under subsection (a) for military construction projects referred to in that subsection the Secretary shall notify the appropriate committees of Congress the following:

(1) The determination to use such amounts for the project.

(2) The estimated cost of the project.

(c) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section the term ''appropriate committees of Congress'' has the meaning given that term in section 2801 (4) of title 10, United States Code.

SEC. 802. Notwithstanding section 2808(a) of title 10, United States Code, the Secretary of Defense may not utilize the authority in that section to undertake or authorize the undertaking of, any military construction project described by that section using amounts appropriated or otherwise made available by the Military Construction Appropriations Act, 2002, or any act appropriating funds for Military Construction for a fiscal year before fiscal year 2002.

CHAPTER 9

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', for the Office of the Secretary and intelligence activities, $1,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

PAYMENTS TO AIR CARRIERS

(AIRPORT AND AIRWAY TRUST FUND)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, in addition to funds made available from any other source to carry out the essential air service program under 49 U.S.C. 41731 through 41742, to be derived from the Airport and Airway Trust Fund, $37,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

COAST GUARD

OPERATING EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Operating Expenses'', $203,000,000, to remain available until September 30, 2003, to be obligated from amounts made available in Public Law 107–38.

FEDERAL AVIATION ADMINISTRATION

OPERATIONS

(AIRPORT AND AIRWAY TRUST FUND)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Operations'', $232,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until September 30, 2003, to be obligated from amounts made available in Public Law 107–38, of which $32,000,000 shall be only for the Metropolitan Washington Airports Authority.

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Facilities and Equipment'', $108,500,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

GRANTS-IN-AID FOR AIRPORTS

(AIRPORT AND AIRWAY TRUST FUND)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, notwithstanding any other provision of law, for ''Grants-in-aid for airports'', to enable the Federal Aviation Administrator to compensate airports for a portion of the direct costs associated with new, additional or revised security requirements imposed on airport operators by the Administrator on or after September 11, 2001, $100,000,000, to be derived from the Airport and Airway Trust Fund, to remain available until September 30, 2003, to be obligated from

amounts made available in Public Law 107–38.

FEDERAL HIGHWAY ADMINISTRATION

MISCELLANEOUS APPROPRIATIONS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Miscellaneous Appropriations'', including the operation and construction of ferrys and ferry facilities, $10,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

FEDERAL-AID HIGHWAYS

EMERGENCY RELIEF PROGRAM

(HIGHWAY TRUST FUND)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Emergency Relief Program'', as authorized by section 125 of title 23, United States Code, $75,000,000, to be derived from the Highway Trust Fund and to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

FEDERAL RAILROAD ADMINISTRATION

SAFETY AND OPERATIONS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Safety and Operations'', $6,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

FEDERAL TRANSIT ADMINISTRATION

FORMULA GRANTS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Formula Grants'', $23,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States and for other safety and security related audit and monitoring responsibilities, for ''Salaries and Expenses'', $2,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

RELATED AGENCY

NATIONAL TRANSPORTATION SAFETY BOARD

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $836,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CHAPTER 10

DEPARTMENT OF THE TREASURY

INSPECTOR GENERAL FOR TAX ADMINISTRATION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $2,032,000, to remain available until expended, to be obligated from amounts made available by Public Law 107–38.

FINANCIAL CRIMES ENFORCEMENT NETWORK

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $1,700,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $22,846,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

FINANCIAL MANAGEMENT SERVICE

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $600,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $31,431,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $127,603,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38; of this amount, not less than $21,000,000 shall be available for increased staffing to combat terrorism along the Nation's borders.

OPERATION, MAINTENANCE AND PROCUREMENT, AIR AND MARINE INTERDICTION PROGRAMS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Operation, Maintenance and Procurement, Air and Marine Interdiction Programs'', $6,700,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

INTERNAL REVENUE SERVICE

PROCESSING, ASSISTANCE AND MANAGEMENT

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Processing, Assistance and Management'', $16,658,000, to remain available until expended, to be obligated from amounts made available by Public Law 107–38.

TAX LAW ENFORCEMENT

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Tax Law Enforcement'', $4,544,000, to remain available until expended, to be obligated from amounts made available by Public Law 107–38.

INFORMATION SYSTEMS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Information Systems'', $15,991,000, to remain available until expended, to be obligated from amounts made available by Public Law 107–38.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $104,769,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF ADMINISTRATION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $50,040,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

POSTAL SERVICE

PAYMENT TO THE POSTAL SERVICE FUND

For emergency expenses to the Postal Service Fund to enable the Postal Service to build and establish a system for sanitizing and screening mail matter, to protect postal employees and postal customers from exposure to biohazardous material, and to replace or repair Postal Service facilities destroyed or damaged in New York City as a result of the September 11, 2001, terrorist attacks, $575,000,000, to remain available until September 30, 2003, to be obligated from amounts made available in Public Law 107–38.

INDEPENDENT AGENCIES

GENERAL SERVICES ADMINISTRATION

REAL PROPERTY ACTIVITIES

FEDERAL BUILDING FUND

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Federal Buildings Fund'', $86,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

OPERATING EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Operating Expenses'', $4,818,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

REPAIRS AND RESTORATION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Repairs and Restoration'', $2,180,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CHAPTER 11

DEPARTMENT OF VETERANS AFFAIRS

CONSTRUCTION, MAJOR PROJECTS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Construction, Major Projects'', $2,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT FUND

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Community development fund'', $2,000,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38: *Provided*, That such funds shall be subject to the first through sixth provisos in section 434 of Public Law 107–73: *Provided further*, That within 45 days of enactment, the State of New York, in conjunction with the City of New York, shall establish a corporation for the obligation of the funds provided under this heading, issue the initial criteria and requirements necessary to accept applications from individuals, nonprofits and small businesses for economic losses from the September 11, 2001, terrorist attacks, and begin processing such applications: *Provided further*, That the corporation shall respond to any application from an individual, nonprofit or small business for economic losses under this heading within 45 days of the submission of an application for funding: *Provided further*, That individuals, nonprofits or small businesses shall be eligible for compensation only if located in New York City in the area located on or south of Canal

Street, on or south of East Broadway (east of its intersection with Canal Street), or on or south of Grand Street (east of its intersection with East Broadway): *Provided further*, That, of the amount made available under this heading, no less than $500,000,000 shall be made available for individuals, nonprofits or small businesses described in the prior three provisos with a limit of $500,000 per small business for economic losses.

MANAGEMENT AND ADMINISTRATION

OFFICE OF INSPECTOR GENERAL

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Office of Inspector General'', $1,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

INDEPENDENT AGENCIES

ENVIRONMENTAL PROTECTION AGENCY

SCIENCE AND TECHNOLOGY

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and to support activities related to countering terrorism, for ''Science and Technology'', $100,514,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38: *Provided*, That amounts made available under this heading may be used for grants to States and localities for technical assistance, vulnerability assessments, remedial work, and emergency operations plans for drinking water systems.

ENVIRONMENTAL PROGRAMS AND MANAGEMENT

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and to support activities related to countering terrorism, for ''Environmental Programs and Management'', $32,194,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

HAZARDOUS SUBSTANCE SUPERFUND

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and to support activities related to countering terrorism, for ''Hazardous Substance Superfund'', $18,292,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

STATE AND TRIBAL ASSISTANCE GRANTS

For making grants for emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and to support activities related to countering potential biological and chemical threats to populations, for ''State and Tribal Assistance Grants'', $5,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

(INCLUDING TRANSFER OF FUNDS)

For disaster recovery activities and assistance related to the terrorist attacks in New York, Virginia, and Pennsylvania on September 11, 2001, for ''Disaster Relief'', $5,050,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38: *Provided*, That of the amount made available under this heading, $290,000,000 shall be transferred to ''Emergency Management Planning and Assistance'', to remain available until September 30, 2003, for programs as authorized by section 33 of the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2201 et seq.): *Provided further*, That of this $290,000,000, grants may be made available for equipment, training, and vehicle needs related to hazards associated with bioterrorism: *Provided further*, That up to 5 percent of the $290,000,000 shall be transferred to ''Salaries and Expenses'' for program administration: *Provided further*, That of the total amount made available under this heading, $1,000,000 shall be made available to the Fairfax County Water Authority for water infrastructure reliability and vulnerability improvements.

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $20,000,000, to remain available until expended, for the Office of National Preparedness, to be obligated from amounts made available in Public Law 107–38.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

HUMAN SPACE FLIGHT

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Human Space Flight'', $64,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

SCIENCE, AERONAUTICS AND TECHNOLOGY

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Science, Aeronautics and Technology'', $28,600,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Research and Related Activities'', $300,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CHAPTER 12

GENERAL PROVISIONS, THIS DIVISION

SEC. 1201. Amounts which may be obligated pursuant to this division are subject to the terms and conditions provided in Public Law 107–38.

SEC. 1202. No part of any appropriation contained in this division shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

This division may be cited as the ''Emergency Supplemental Act, 2002''.

SA 2244. Mr. KERRY submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in division A, insert the following:

SEC. . Of the amount available in title IV of this division under the heading ''Research, Development, Test and Evaluation, Army'' that is available for missile technology, $8,500,000 may be available for the Surveillance Denial Solid Dye Laser Technology program of the Aviation and Missile Research, Development and Engineering Center of the Army.

SA 2245. Mr. KERRY (for himself, Mrs. HUTCHISON, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in division A, insert the following:

SEC. . Of the amount appropriated by title IV of this division under the heading ''Research, Development, Test and Evaluation, Defense-Wide'' and available for the Advanced Technology Development for Arms Control Technology element, $12,500,000 may be made available for the Nuclear Treaty sub-element of such element for peer-reviewed seismic research to support Air Force operational nuclear test monitoring requirements.

SA 2246. Mr. KERRY (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in division A, insert the following:

SEC. . Of the amount available in title III of this division under the heading ''Procurement of Ammunition, Air Force'', $14,200,000 may be available for procurement of Sensor Fused Weapons (CBU–97).

SA 2247. Mr. HELMS (for himself, Mr. MILLER, Mr. HAGEL, Mr. HATCH, Mr. SHELBY, Mr. MURKOWSKI, Mr. BOND, Mr. WARNER, Mr. ALLEN, and Mr. FRIST) submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of division A, add the following new title:

TITLE ___—AMERICAN SERVICEMEMBERS' PROTECTION ACT OF 2001

SEC. ___01. SHORT TITLE.

This title may be cited as the ''American Servicemembers' Protection Act of 2001''.

SEC. ___02. FINDINGS.

Congress makes the following findings:

(1) On July 17, 1998, the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, meeting in Rome, Italy, adopted the ''Rome Statute of the International Criminal Court''. The vote on whether to proceed with the statute was 120 in favor to 7 against, with 21 countries abstaining. The United States voted against final adoption of the Rome Statute.

(2) As of April 30, 2001, 139 countries had signed the Rome Statute and 30 had ratified it. Pursuant to Article 126 of the Rome Statute, the statute will enter into force on the first day of the month after the 60th day following the date on which the 60th country deposits an instrument ratifying the statute.

(3) Since adoption of the Rome Statute, a Preparatory Commission for the International Criminal Court has met regularly to draft documents to implement the Rome Statute, including Rules of Procedure and Evidence, Elements of Crimes, and a definition of the Crime of Aggression.

(4) During testimony before the Congress following the adoption of the Rome Statute, the lead United States negotiator, Ambassador David Scheffer stated that the United States could not sign the Rome Statute because certain critical negotiating objectives

of the United States had not been achieved. As a result, he stated: ''We are left with consequences that do not serve the cause of international justice.''

(5) Ambassador Scheffer went on to tell the Congress that: ''Multinational peacekeeping forces operating in a country that has joined the treaty can be exposed to the Court's jurisdiction even if the country of the individual peacekeeper has not joined the treaty. Thus, the treaty purports to establish an arrangement whereby United States armed forces operating overseas could be conceivably prosecuted by the international court even if the United States has not agreed to be bound by the treaty. Not only is this contrary to the most fundamental principles of treaty law, it could inhibit the ability of the United States to use its military to meet alliance obligations and participate in multinational operations, including humanitarian interventions to save civilian lives. Other contributors to peacekeeping operations will be similarly exposed.''.

(6) Notwithstanding these concerns, President Clinton directed that the United States sign the Rome Statute on December 31, 2000. In a statement issued that day, he stated that in view of the unremedied deficiencies of the Rome Statute, ''I will not, and do not recommend that my successor submit the Treaty to the Senate for advice and consent until our fundamental concerns are satisfied''.

(7) Any American prosecuted by the International Criminal Court will, under the Rome Statute, be denied procedural protections to which all Americans are entitled under the Bill of Rights to the United States Constitution, such as the right to trial by jury.

(8) Members of the Armed Forces of the United States should be free from the risk of prosecution by the International Criminal Court, especially when they are stationed or deployed around the world to protect the vital national interests of the United States. The United States Government has an obligation to protect the members of its Armed Forces, to the maximum extent possible, against criminal prosecutions carried out by the International Criminal Court.

(9) In addition to exposing members of the Armed Forces of the United States to the risk of international criminal prosecution, the Rome Statute creates a risk that the President and other senior elected and appointed officials of the United States Government may be prosecuted by the International Criminal Court. Particularly if the Preparatory Commission agrees on a definition of the Crime of Aggression over United States objections, senior United States officials may be at risk of criminal prosecution for national security decisions involving such matters as responding to acts of terrorism, preventing the proliferation of weapons of mass destruction, and deterring aggression. No less than members of the Armed Forces of the United States, senior officials of the United States Government should be free from the risk of prosecution by the International Criminal Court, especially with respect to official actions taken by them to protect the national interests of the United States.

(10) Any agreement within the Preparatory Commission on a definition of the Crime of Aggression that usurps the prerogative of the United Nations Security Council under Article 39 of the charter of the United Nations to ''determine the existence of any .... act of aggression'' would contravene the charter of the United Nations and undermine deterrence.

(11) It is a fundamental principle of international law that a treaty is binding upon its parties only and that it does not create obligations for nonparties without their consent to be bound. The United States is not a party to the Rome Statute and will not be bound by any of its terms. The United States will not recognize the jurisdiction of the International Criminal Court over United States nationals.

SEC. ___03. WAIVER AND TERMINATION OF PROHIBITIONS OF THIS TITLE.

(a) AUTHORITY TO INITIALLY WAIVE SECTIONS ___05 AND ___07.—The President is authorized to waive the prohibitions and requirements of sections ___05 and ___07 for a single period of one year. A waiver under this subsection may be issued only if the President at least 15 days in advance of exercising such authority—

(1) notifies the appropriate congressional committees of the intention to exercise such authority; and

(2) determines and reports to the appropriate congressional committees that the International Criminal Court has entered into a binding agreement that—

(A) prohibits the International Criminal Court from seeking to exercise jurisdiction over the following persons with respect to actions undertaken by them in an official capacity:

(i) covered United States persons;

(ii) covered allied persons; and

(iii) individuals who were covered United States persons or covered allied persons; and

(B) ensures that no person described in subparagraph (A) will be arrested, detained, prosecuted, or imprisoned by or on behalf of the International Criminal Court.

(b) AUTHORITY TO EXTEND WAIVER OF SECTIONS ___05 AND ___07.—The President is authorized to waive the prohibitions and requirements of sections ___05 and ___07 for successive periods of one year each upon the expiration of a previous waiver pursuant to subsection (a) or this subsection. A waiver under this subsection may be issued only if the President at least fifteen days in advance of exercising such authority—

(1) notifies the appropriate congressional committees of the intention to exercise such authority; and

(2) determines and reports to the appropriate congressional committees that the International Criminal Court—

(A) remains party to, and has continued to abide by, a binding agreement that—

(i) prohibits the International Criminal Court from seeking to exercise jurisdiction over the following persons with respect to actions undertaken by them in an official capacity:

(I) covered United States persons;

(II) covered allied persons; and

(III) individuals who were covered United States persons or covered allied persons; and

(ii) ensures that no person described in clause (i) will be arrested, detained, prosecuted, or imprisoned by or on behalf of the International Criminal Court; and

(B) has taken no steps to arrest, detain, prosecute, or imprison any person described in clause (i) of subparagraph (A).

(c) AUTHORITY TO WAIVE SECTIONS ___04 AND ___06 WITH RESPECT TO AN INVESTIGATION OR PROSECUTION OF A NAMED INDIVIDUAL.—The President is authorized to waive the prohibitions and requirements of sections ___04 and ___06 to the degree such prohibitions and requirements would prevent United States cooperation with an investigation or prosecution of a named individual by the International Criminal Court. A waiver under this subsection may be issued only if the President at least 15 days in advance of exercising such authority—

(1) notifies the appropriate congressional committees of the intention to exercise such authority; and

(2) determines and reports to the appropriate congressional committees that—

(A) a waiver pursuant to subsection (a) or (b) of the prohibitions and requirements of sections ___05 and ___07 is in effect;

(B) there is reason to believe that the named individual committed the crime or crimes that are the subject of the International Criminal Court's investigation or prosecution;

(C) it is in the national interest of the United States for the International Criminal Court's investigation or prosecution of the named individual to proceed; and

(D) in investigating events related to actions by the named individual, none of the following persons will be investigated, arrested, detained, prosecuted, or imprisoned by or on behalf of the International Criminal Court with respect to actions undertaken by them in an official capacity:

(i) Covered United States persons.

(ii) Covered allied persons.

(iii) Individuals who were covered United States persons or covered allied persons.

(d) TERMINATION OF WAIVER PURSUANT TO SUBSECTION (c).—Any waiver or waivers exercised pursuant to subsection (c) of the prohibitions and requirements of sections ___04 and ___06 shall terminate at any time that a waiver pursuant to subsection (a) or (b) of the prohibitions and requirements of sections ___05 and ___07 expires and is not extended pursuant to subsection (b).

(e) TERMINATION OF PROHIBITIONS OF THIS TITLE.—The prohibitions and requirements of sections ___04, ___05, ___06, and ___07 shall cease to apply, and the authority of section ___08 shall terminate, if the United States becomes a party to the International Criminal Court pursuant to a treaty made under article II, section 2, clause 2 of the Constitution of the United States.

SEC. ___04. PROHIBITION ON COOPERATION WITH THE INTERNATIONAL CRIMINAL COURT.

(a) APPLICATION.—The provisions of this section—

(1) apply only to cooperation with the International Criminal Court and shall not apply to cooperation with an ad hoc international criminal tribunal established by the United Nations Security Council before or after the date of the enactment of this Act to investigate and prosecute war crimes committed in a specific country or during a specific conflict; and

(2) shall not prohibit—

(A) any action permitted under section ___08; or

(B) communication by the United States of its policy with respect to a matter.

(b) PROHIBITION ON RESPONDING TO REQUESTS FOR COOPERATION.—Notwithstanding section 1782 of title 28, United States Code, or any other provision of law, no United States Court, and no agency or entity of any State or local government, including any court, may cooperate with the International Criminal Court in response to a request for cooperation submitted by the International Criminal Court pursuant to the Rome Statute.

(c) PROHIBITION ON TRANSMITTAL OF LETTERS ROGATORY FROM THE INTERNATIONAL CRIMINAL COURT.—Notwithstanding section 1781 of title 28, United States Code, or any other provision of law, no agency of the United States Government may transmit for execution any letter rogatory issued, or other request for cooperation made, by the International Criminal Court to the tribunal, officer, or agency in the United States to whom it is addressed.

(d) PROHIBITION ON EXTRADITION TO THE INTERNATIONAL CRIMINAL COURT.—Notwithstanding any other provision of law, no agency or entity of the United States Government or of any State or local government

may extradite any person from the United States to the International Criminal Court, nor support the transfer of any United States citizen or permanent resident alien to the International Criminal Court.

(e) PROHIBITION ON PROVISION OF SUPPORT TO THE INTERNATIONAL CRIMINAL COURT.—Notwithstanding any other provision of law, no agency or entity of the United States Government or of any State or local government, including any court, may provide support to the International Criminal Court.

(f) PROHIBITION ON USE OF APPROPRIATED FUNDS TO ASSIST THE INTERNATIONAL CRIMINAL COURT.—Notwithstanding any other provision of law, no funds appropriated under any provision of law may be used for the purpose of assisting the investigation, arrest, detention, extradition, or prosecution of any United States citizen or permanent resident alien by the International Criminal Court.

(g) RESTRICTION ON ASSISTANCE PURSUANT TO MUTUAL LEGAL ASSISTANCE TREATIES.—The United States shall exercise its rights to limit the use of assistance provided under all treaties and executive agreements for mutual legal assistance in criminal matters, multilateral conventions with legal assistance provisions, and extradition treaties, to which the United States is a party, and in connection with the execution or issuance of any letter rogatory, to prevent the transfer to, or other use by, the International Criminal Court of any assistance provided by the United States under such treaties and letters rogatory.

(h) PROHIBITION ON INVESTIGATIVE ACTIVITIES OF AGENTS.—No agent of the International Criminal Court may conduct, in the United States or any territory subject to the jurisdiction of the United States, any investigative activity relating to a preliminary inquiry, investigation, prosecution, or other proceeding at the International Criminal Court.

SEC. ____05. RESTRICTION ON UNITED STATES PARTICIPATION IN CERTAIN UNITED NATIONS PEACEKEEPING OPERATIONS.

(a) POLICY.—Effective beginning on the date on which the Rome Statute enters into force pursuant to Article 126 of the Rome Statute, the President should use the voice and vote of the United States in the United Nations Security Council to ensure that each resolution of the Security Council authorizing any peacekeeping operation under chapter VI of the charter of the United Nations or peace enforcement operation under chapter VII of the charter of the United Nations permanently exempts, at a minimum, members of the Armed Forces of the United States participating in such operation from criminal prosecution or other assertion of jurisdiction by the International Criminal Court for actions undertaken by such personnel in connection with the operation.

(b) RESTRICTION.—Members of the Armed Forces of the United States may not participate in any peacekeeping operation under chapter VI of the charter of the United Nations or peace enforcement operation under chapter VII of the charter of the United Nations, the creation of which is authorized by the United Nations Security Council on or after the date that the Rome Statute enters into effect pursuant to Article 126 of the Rome Statute, unless the President has submitted to the appropriate congressional committees a certification described in subsection (c) with respect to such operation.

(c) CERTIFICATION.—The certification referred to in subsection (b) is a certification by the President that—

(1) members of the Armed Forces of the United States are able to participate in the peacekeeping or peace enforcement operation without risk of criminal prosecution or other assertion of jurisdiction by the International Criminal Court because, in authorizing the operation, the United Nations Security Council permanently exempted, at a minimum, members of the Armed Forces of the United States participating in the operation from criminal prosecution or other assertion of jurisdiction by the International Criminal Court for actions undertaken by them in connection with the operation;

(2) members of the Armed Forces of the United States are able to participate in the peacekeeping or peace enforcement operation without risk of criminal prosecution or other assertion of jurisdiction by the International Criminal Court because each country in which members of the Armed Forces of the United States participating in the operation will be present either is not a party to the International Criminal Court and has not invoked the jurisdiction of the International Criminal Court pursuant to Article 12 of the Rome Statute, or has entered into an agreement in accordance with Article 98 of the Rome Statute preventing the International Criminal Court from proceeding against members of the Armed Forces of the United States present in that country; or

(3) the national interests of the United States justify participation by members of the Armed Forces of the United States in the peacekeeping or peace enforcement operation.

SEC. ____06. PROHIBITION ON DIRECT OR INDIRECT TRANSFER OF CLASSIFIED NATIONAL SECURITY INFORMATION AND LAW ENFORCEMENT INFORMATION TO THE INTERNATIONAL CRIMINAL COURT.

(a) IN GENERAL.—Not later than the date on which the Rome Statute enters into force, the President shall ensure that appropriate procedures are in place to prevent the transfer of classified national security information and law enforcement information to the International Criminal Court for the purpose of facilitating an investigation, apprehension, or prosecution.

(b) INDIRECT TRANSFER.—The procedures adopted pursuant to subsection (a) shall be designed to prevent the transfer to the United Nations and to the government of any country that is party to the International Criminal Court of classified national security information and law enforcement information that specifically relates to matters known to be under investigation or prosecution by the International Criminal Court, except to the degree that satisfactory assurances are received from the United Nations or that government, as the case may be, that such information will not be made available to the International Criminal Court for the purpose of facilitating an investigation, apprehension, or prosecution.

(c) CONSTRUCTION.—The provisions of this section shall not be construed to prohibit any action permitted under section ____08.

SEC. ____07. PROHIBITION OF UNITED STATES MILITARY ASSISTANCE TO PARTIES TO THE INTERNATIONAL CRIMINAL COURT.

(a) PROHIBITION OF MILITARY ASSISTANCE.—Subject to subsections (b) and (c), and effective one year after the date on which the Rome Statute enters into force pursuant to Article 126 of the Rome Statute, no United States military assistance may be provided to the government of a country that is a party to the International Criminal Court.

(b) NATIONAL INTEREST WAIVER.—The President may, without prior notice to Congress, waive the prohibition of subsection (a) with respect to a particular country if he determines and reports to the appropriate congressional committees that it is important to the national interest of the United States to waive such prohibition.

(c) ARTICLE 98 WAIVER.—The President may, without prior notice to Congress, waive the prohibition of subsection (a) with respect to a particular country if he determines and reports to the appropriate congressional committees that such country has entered into an agreement with the United States pursuant to Article 98 of the Rome Statute preventing the International Criminal court from proceeding against United States personnel present in such country.

(d) EXEMPTION.—The prohibition of subsection (a) shall not apply to the government of—

(1) a NATO member country;

(2) a major non-NATO ally (including Australia, Egypt, Israel, Japan, Jordan, Argentina, the Republic of Korea, and New Zealand); or

(3) Taiwan.

SEC. ____08. AUTHORITY TO FREE MEMBERS OF THE ARMED FORCES OF THE UNITED STATES AND CERTAIN OTHER PERSONS DETAINED OR IMPRISONED BY OR ON BEHALF OF THE INTERNATIONAL CRIMINAL COURT.

(a) AUTHORITY.—The President is authorized to use all means necessary and appropriate to bring about the release of any person described in subsection (b) who is being detained or imprisoned by, on behalf of, or at the request of the International Criminal Court.

(b) PERSONS AUTHORIZED TO BE FREED.—The authority of subsection (a) shall extend to the following persons:

(1) Covered United States persons.

(2) Covered allied persons.

(3) Individuals detained or imprisoned for official actions taken while the individual was a covered United States person or a covered allied person, and in the case of a covered allied person, upon the request of such government.

(c) AUTHORIZATION OF LEGAL ASSISTANCE.—When any person described in subsection (b) is arrested, detained, investigated, prosecuted, or imprisoned by, on behalf of, or at the request of the International Criminal Court, the President is authorized to direct any agency of the United States Government to provide—

(1) legal representation and other legal assistance to that person (including, in the case of a person entitled to assistance under section 1037 of title 10, United States Code, representation and other assistance in the manner provided in that section);

(2) exculpatory evidence on behalf of that person; and

(3) defense of the interests of the United States through appearance before the International Criminal Court pursuant to Article 18 or 19 of the Rome Statute, or before the courts or tribunals of any country.

(d) BRIBES AND OTHER INDUCEMENTS NOT AUTHORIZED.—This section does not authorize the payment of bribes or the provision of other such incentives to induce the release of a person described in subsection (b).

SEC. ____09. ALLIANCE COMMAND ARRANGEMENTS.

(a) REPORT ON ALLIANCE COMMAND ARRANGEMENTS.—Not later than 6 months after the date of the enactment of this Act, the President should transmit to the appropriate congressional committees a report with respect to each military alliance to which the United States is party—

(1) describing the degree to which members of the Armed Forces of the United States may, in the context of military operations undertaken by or pursuant to that alliance, be placed under the command or operational control of foreign military officers subject to the jurisdiction of the International Criminal Court because they are nationals of a

party to the International Criminal Court; and

(2) evaluating the degree to which members of the Armed Forces of the United States engaged in military operations undertaken by or pursuant to that alliance may be exposed to greater risks as a result of being placed under the command or operational control of foreign military officers subject to the jurisdiction of the International Criminal Court.

(b) DESCRIPTION OF MEASURES TO ACHIEVE ENHANCED PROTECTION FOR MEMBERS OF THE ARMED FORCES OF THE UNITED STATES.—Not later than one year after the date of the enactment of this Act, the President should transmit to the appropriate congressional committees a description of modifications to command and operational control arrangements within military alliances to which the United States is a party that could be made in order to reduce any risks to members of the Armed Forces of the United States identified pursuant to subsection (a)(2).

(c) SUBMISSION IN CLASSIFIED FORM.—The report under subsection (a), and the description of measures under subsection (b), or appropriate parts thereof, may be submitted in classified form.

SEC. ___10. WITHHOLDINGS.

Funds withheld from the United States share of assessments to the United Nations or any other international organization during any fiscal year pursuant to section 705 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (as enacted by section 1000(a)(7) of Public Law 106–113; 113 Stat. 1501A–460), are authorized to be transferred to the Embassy Security, Construction and Maintenance Account of the Department of State.

SEC. ___11. APPLICATION OF SECTIONS ___04 AND ___06 TO EXERCISE OF CONSTITUTIONAL AUTHORITIES.

(a) IN GENERAL.—Sections ___04 and ___06 shall not apply to any action or actions with respect to a specific matter involving the International Criminal Court taken or directed by the President on a case-by-case basis in the exercise of the President's authority as Commander in Chief of the Armed Forces of the United States under article II, section 2 of the United States Constitution or in the exercise of the executive power under article II, section 1 of the United States Constitution.

(b) NOTIFICATION TO CONGRESS.—

(1) IN GENERAL.—Subject to paragraph (2), not later than 15 days after the President takes or directs an action or actions described in subsection (a) that would otherwise be prohibited under section ___04 or ___06, the President shall submit a notification of such action to the appropriate congressional committees. A notification under this paragraph shall include a description of the action, a determination that the action is in the national interest of the United States, and a justification for the action.

(2) EXCEPTION.—If the President determines that a full notification under paragraph (1) could jeopardize the national security of the United States or compromise a United States law enforcement activity, not later than 15 days after the President takes or directs an action or actions referred to in paragraph (1) the President shall notify the appropriate congressional committees that an action has been taken and a determination has been made pursuant to this paragraph. The President shall provide a full notification under paragraph (1) not later than 15 days after the reasons for the determination under this paragraph no longer apply.

(c) CONSTRUCTION.—Nothing in this section shall be construed as a grant of statutory authority to the President to take any action.

SEC. ___12. NONDELEGATION.

The authorities vested in the President by sections ___03 and ___11(a) may not be delegated by the President pursuant to section 301 of title 3, United States Code, or any other provision of law. The authority vested in the President by section ___05(c)(3) may not be delegated by the President pursuant to section 301 of title 3, United States Code, or any other provision of law to any official other than the Secretary of Defense, and if so delegated may not be subdelegated.

SEC. ___13. DEFINITIONS.

As used in this title and in section 706 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

(2) CLASSIFIED NATIONAL SECURITY INFORMATION.—The term ''classified national security information'' means information that is classified or classifiable under Executive Order 12958 or a successor Executive order.

(3) COVERED ALLIED PERSONS.—The term ''covered allied persons'' means military personnel, elected or appointed officials, and other persons employed by or working on behalf of the government of a NATO member country, a major non-NATO ally (including Australia, Egypt, Israel, Japan, Jordan, Argentina, the Republic of Korea, and New Zealand), or Taiwan, for so long as that government is not a party to the International Criminal Court and wishes its officials and other persons working on its behalf to be exempted from the jurisdiction of the International Criminal Court.

(4) COVERED UNITED STATES PERSONS.—The term ''covered United States persons'' means members of the Armed Forces of the United States, elected or appointed officials of the United States Government, and other persons employed by or working on behalf of the United States Government, for so long as the United States is not a party to the International Criminal Court.

(5) EXTRADITION.—The terms ''extradition'' and ''extradite'' mean the extradition of a person in accordance with the provisions of chapter 209 of title 18, United States Code, (including section 3181(b) of such title) and such terms include both extradition and surrender as those terms are defined in Article 102 of the Rome Statute.

(6) INTERNATIONAL CRIMINAL COURT.—The term ''International Criminal Court'' means the court established by the Rome Statute.

(7) MAJOR NON-NATO ALLY.—The term ''major non-NATO ally'' means a country that has been so designated in accordance with section 517 of the Foreign Assistance Act of 1961.

(8) PARTICIPATE IN ANY PEACEKEEPING OPERATION UNDER CHAPTER VI OF THE CHARTER OF THE UNITED NATIONS OR PEACE ENFORCEMENT OPERATION UNDER CHAPTER VII OF THE CHARTER OF THE UNITED NATIONS.—The term ''participate in any peacekeeping operation under chapter VI of the charter of the United Nations or peace enforcement operation under chapter VII of the charter of the United Nations'' means to assign members of the Armed Forces of the United States to a United Nations military command structure as part of a peacekeeping operation under chapter VI of the charter of the United Nations or peace enforcement operation under chapter VII of the charter of the United Nations in which those members of the Armed Forces of the United States are subject to the command or operational control of one or more foreign military officers not appointed in conformity with article II, section 2, clause 2 of the Constitution of the United States.

(9) PARTY TO THE INTERNATIONAL CRIMINAL COURT.—The term ''party to the International Criminal Court'' means a government that has deposited an instrument of ratification, acceptance, approval, or accession to the Rome Statute, and has not withdrawn from the Rome Statute pursuant to Article 127 thereof.

(10) PEACEKEEPING OPERATION UNDER CHAPTER VI OF THE CHARTER OF THE UNITED NATIONS OR PEACE ENFORCEMENT OPERATION UNDER CHAPTER VII OF THE CHARTER OF THE UNITED NATIONS.—The term ''peacekeeping operation under chapter VI of the charter of the United Nations or peace enforcement operation under chapter VII of the charter of the United Nations'' means any military operation to maintain or restore international peace and security that—

(A) is authorized by the United Nations Security Council under chapter VI or VII of the charter of the United Nations; and

(B) is paid for from assessed contributions of United Nations members that are made available for peacekeeping or peace enforcement activities.

(11) ROME STATUTE.—The term ''Rome Statute'' means the Rome Statute of the International Criminal Court, adopted by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court on July 17, 1998.

(12) SUPPORT.—The term ''support'' means assistance of any kind, including financial support, transfer of property or other material support, services, intelligence sharing, law enforcement cooperation, the training or detail of personnel, and the arrest or detention of individuals.

(13) UNITED STATES MILITARY ASSISTANCE.—The term ''United States military assistance'' means—

(A) assistance provided under chapter 2 or 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.); or

(B) defense articles or defense services furnished with the financial assistance of the United States Government, including through loans and guarantees, under section 23 of the Arms Export Control Act (22 U.S.C. 2763).

SEC. ___14. PERIOD OF EFFECTIVENESS OF THE TITLE.

Except as otherwise provided in this title, the provisions of this title shall take effect on the date of enactment of this Act and remain in effect without regard to the expiration of fiscal year 2002.

SA 2248. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in division A, insert the following:

SEC.—.Of the amount appropriated by title III of this division under the heading ''OTHER PROCUREMENT, ARMY'', $10,000,000 may be made available for procurement of Shortstop Electronic Protection Systems for critical force protection.

SA 2249. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes;

which was ordered to lie on the table; as follows:

At the appropriate place in division A, insert the following:

SEC.—.Of the amount appropriated by title III of this division under the heading ''OTHER PROCUREMENT, NAVY'', $8,000,000 may be made available for procurement of the Tactical Support Center, Mobile Acoustic Analysis System.

SA 2250. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in division A, insert the following:

SEC.—.Of the amount appropriated by title III of this division under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY'', $20,000,000 may be made available for the Broad Area Maritime Surveillance program.

SA 2251. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 370, strike lines 3 through 11.

SA 2252. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 305, strike line 15 and all that follows through page 308, line 25.

SA 2253. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 8016, relating to Buy American requirements for welded shipboard anchor and mooring chains.

SA 2254. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 8094, relating to Buy American requirements for main propulsion diesel engines and propulsors for the T–AKE class of ships.

SA 2255. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII of division A, add the following:

SEC. . (a) NO PROHIBITION ON BURIAL OF RESERVISTS AT ARLINGTON NATIONAL CEMETERY BASED SOLELY ON AGE AT DEATH.—The Secretary of the Army may not prohibit the burial at Arlington National Cemetery, Virginia, of a deceased member of the Reserves who at death is qualified for burial at Arlington National Cemetery in all respects but age at death based solely on the age of the member at death.

(b) EFFECTIVE DATE.—Subsection (a) shall apply with respect to deaths occurring on or after September 11, 2001.

SA 2256. Mr. NICKLES submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

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

SEC. . Of the funds appropriated in the Act under the heading ''Research, Development, Test and Evaluation, Air Force'' up to $4,000,000 may be made available to extend the modeling and reengineering program now being performed at the Oklahoma City Air Logistics Center Propulsion Directorate.

SA 2257. Mr. BENNETT submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. EXTENSION OF TIME FOR FEDERAL ENERGY REGULATORY COMMISSION PROJECT.

(a) IN GENERAL.—Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission project numbered 10756, the Commission shall, at the request of the licensee for the project, and after reasonable notice, in accordance with the good faith, due diligence, and public interest requirements of that section and the Commission's procedures under that section, extend the time period during which the licensee is required to commence the construction of the project for 3 consecutive 2-year periods.

(b) EFFECTIVE DATE.—Subsection (a) takes effect on the date of the expiration of the extension issued by the Commission before the date of the enactment of this Act under section 13 of the Federal Power Act (16 U.S.C. 806).

(c) REINSTATEMENT OF EXPIRED LICENSE.—If the period required for commencement of construction of the project described in subsection (a) expired before the date of the enactment of this Act—

(1) the Commission shall reinstate the license effective as of the date of its expiration;

(2) the reinstatement shall preserve the demonstration by the licensee of compliance with all the requirements of Public Law No. 103–450 (108 Stat. 4766) applicable to the project; and

(3) the first extension authorized under subsection (a) shall take effect on the expiration date.

SA 2258. Mr. LUGAR (for himself, Mr. LEVIN, Mr. BIDEN, Mr. HAGEL, Mr. DOMENICI, Mr. BINGAMAN, Mr. TORRICELLI, Mr. DODD, Mr. DASCHLE, and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII of division A, add the following:

SEC. 8135. (a) INCREASE IN AMOUNT AVAILABLE FOR FORMER SOVIET UNION THREAT REDUCTION.—The amount appropriated in title II of this division under the heading ''FORMER SOVIET UNION THREAT REDUCTION'' is hereby increased by $46,000,000.

(b) OFFSET.—Notwithstanding any other provision of this Act, the amount of the reduction provided for in section 8098 of this title is hereby increased by $46,000,000, with the amount of the increase to be distributed equally among each of the accounts set forth in that section.

SA 2259. Mr. LOTT (for himself and Mr. COCHRAN) submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 389, line 9, of Division C, after the period insert ''Of the amounts provided for equipment grants, $7,500,000 shall be made available for projects utilizing the techniques of Risk Management Planning to provide real time crisis planning, training, and response services to any widely attended event, including sporting events, which receives a terrorist threat advisory from the Federal Bureau of Investigation or similar warnings from any other Federal law enforcement agency.''

SA 2260. Mr. LOTT (for himself and Mr. COCHRAN) submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 223, line 23, insert before the period '', of which, $3,000,000 shall be used for a Processible Rigid-Rod Polymeric Material Supplier Initiative under title III of the Defense Production Act of 1950 (50 U.S.C. App. 2091 et seq.) to develop affordable production methods and a domestic supplier for military and commercial processible rigid-rod materials''.

SA 2261. Mr. LOTT (for himself and Mr. COCHRAN) submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . *Provided,* That any request for advance appropriations for large capital projects, to include shipbuilding, may be proposed if such proposals include contractual provisions which yield cost savings for such projects. *Provided further,* That for purposes of this section shipbuilding advance appropriations are defined as appropriations

made in any fiscal year for any naval vessel for such fiscal year together with each of not more than five subsequent fiscal years, in accordance with which the government may incur obligations. Appropriations only for long lead items or other advanced components are not included in this definition.

SA 2262. Mr. LOTT (for himself and Mr. COCHRAN) submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . Of the total amount appropriated by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE WIDE'', $2,000,000 is available for Military Personnel Research.

SA 2263. Mr. LOTT submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . Of the total amount appropriated by title VI under the heading ''OTHER DEPARTMENT OF DEFENSE APPROPRIATIONS'', $7,500,000 is available for Armed Forces Retirement Homes.

SA 2264. Mr. LOTT submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . *Provided,* That the funds appropriated by this act for C–130J aircraft shall be used to support the Air Force's long-range plan called the ''C–130 Roadmap'' to assist in the planning, budgeting, and beddown of the C–130J fleet. The ''C–130 Roadmap'' gives consideration to the needs of the service, the condition of the aircraft to be replaced, and the requirement to properly phase facilities to determine the best C–130J aircraft beddown sequence.

SA 2265. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 326, between lines 17 and 18, insert the following:

SEC. 8135. Of the total amount appropriated by this division for operation and maintenance, Air National Guard, $4,000,000 may be used for continuation of the Air National Guard Information Analysis Network (GUARDIAN).

SA 2266. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the title of general provisions, add the following:

SEC. . Of the amount appropriated by title II for operation and maintenance, Defense-wide, $55,700,000 shall be available only for the Defense Leadership and Management Program.

SA 2267. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 326, between lines 17 and 18, insert the following:

SEC. 8135. Of the total amount appropriated by this division for operation and maintenance, Marine Corps, $2,800,000 may be used for completing the fielding of half-zip, pullover, fleece uniform shirts for all members of the Marine Corps, including the Marine Corps Reserve.

SA 2268. Mr. WARNER (for himself, Mr. STEVENS, Mr. ALLEN, Mr. CLELAND, and Mr. INOUYE) submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII of division A, add the following:

SEC. 8135. (a) AUTHORITY FOR BURIAL OF CERTAIN INDIVIDUALS AT ARLINGTON NATIONAL CEMETERY.—The Secretary of the Army shall authorize the burial in a separate gravesite at Arlington National Cemetery, Virginia, of any individual who—

(1) died as a direct result of the terrorist attacks on the United States on September 11, 2001; and

(2) would have been eligible for burial in Arlington National Cemetery by reason of service in a reserve component of the Armed Forces but for the fact that such individual was less than 60 years of age at the time of death.

(b) ELIGIBILITY OF SURVIVING SPOUSE.—The surviving spouse of an individual buried in a gravesite in Arlington National Cemetery under the authority provided under subsection (a) shall be eligible for burial in the gravesite of the individual to the same extent as the surviving spouse of any other individual buried in Arlington National Cemetery is eligible for burial in the gravesite of such other individual.

SA 2269. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII of division A, add the following:

SEC. 8135. (a) FUNDING FOR HIGH SPEED ASSAULT CRAFT ADVANCED COMPOSITE ENGINEERING AND MANUFACTURING DEMONSTRATOR.—The amount appropriated by title IV of this division under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE'' is hereby increased by $2,000,000, with the amount of increase to be allocated to the High Speed Assault Craft Advanced Composite Engineering and Manufacturing Demonstrator.

(b) SUPPLEMENT NOT SUPPLANT.—The amount made available by subsection (a) for the High Speed Assault Craft Advanced Composite Engineering and Manufacturing Demonstrator is in addition to any other amounts made available by this Act for the High Speed Assault Craft Advanced Composite Engineering and Manufacturing Demonstrator.

(c) OFFSET.—The total amount appropriated by this Act for activities with respect to B–52 aircraft is hereby reduced by $2,000,000.

SA 2270. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII of division A, add the following:

SEC. 8135. Of the amounts appropriated by title VI of this division under the heading ''DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE'', $15,000,000 shall be available for the Gulf States Initiative.

SA 2271. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII of division A, add the following:

SEC. 8135. (a) FUNDING FOR PARTNERSHIP FOR PEACE INFORMATION MANAGEMENT SYSTEM.—The amount available for the Partnership for Peace (PFP) Information Management System under title IV of this division under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE'' is hereby increased by $2,000,000 to $3,922,000.

(4) OFFSET.—The amount made available by this Act for C4I Interoperability is hereby reduced by $2,000,000.

SA 2272. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII of division A, add the following:

SEC. (a) FUNDING FOR ARMY NUTRITION PROJECT.—The amount appropriated by title IV of this division under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE'' is hereby increased by $2,500,000, with the amount of the increase to be allocated to the Army Nutrition Project (PE0603002A).

(b) SUPPLEMENT NOT SUPPLANT.—The amount made available under subsection (a) for the Army Nutrition Project is in addition to any other amounts available under this Act for the Army Nutrition Project.

(c) OFFSET.—(1) The amount made available by this Act for the Defense Research Sciences, Southeast Atlantic Coastal Ocean Observing System is hereby reduced by $2,000,000.

(2) The amount made available by this Act for RF Systems Advanced Technology, M3CAS is hereby reduced by $500,000.

SA 2273. Mr. HELMS (for himself and Mr. EDWARDS) submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the bill, add the following new section:

Of the funds made available in title IV of this Act under the heading ''Research Development, Test and Evaluation, Army'', up to $4,000,000 may be made available for the Display Performance and Environmental Evaluation Laboratory Project of the Army Research Laboratory.

SA 2274. Mr. HELMS (for himself and Mr. EDWARDS) submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the bill, add the following new section:

Of the funds made available in Title II of this Act under the heading ''Operation and Maintenance, Army'', $2,550,000 shall be available for the U.S. Army Materiel Command's Logistics and Technology Project (LOGTECH)

SA 2275. Mr. HELMS submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the bill, add the following new section:

Of the funds made available in Title II of this Act under the heading ''Operation and Maintenance, Navy'', up to $2,000,000 may be made available for the U.S. Navy to expand the number of combat aircrews who can benefit from outsourced Joint Airborne Tactical Electronic Combat Training.

SA 2276. Mr. HELMS submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the bill, add the following new section:

SEC. .Of the funds made available in Title II of this Act under the heading ''Operation and Maintenance, Air Force,'', up to $2,000,000 may be made available for the U.S. Air Force to expand the number of combat aircrews who can benefit from outsourced Joint Airborne Tactical Electronic Combat Training.

SA 2277. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in division A, insert the following:

SEC. .Of the amount appropriated by title III of this division under the heading ''AIRCRAFT PROCUREMENT, AIR FORCE'', $6,000,000 may be available for 10 radars in the Air Force Radar Modernization Program for C–130H2 aircraft (PEO40115) for aircraft of the Nevada Air National Guard at Reno, Nevada.

SA 2278. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in division A, insert the following:

SEC. . Of the amount appropriated by title IV of this division under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY'', $3,000,000 may be made available for Medical Development (PE604771N) for the Clark County, Nevada, bioterrorism and public health laboratory.

SA 2279. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in division A, insert the following:

SEC. . Of the amount appropriated by title IV of this division under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE '', $1,000,000 may be made available for Agile Combat Support (PE64617) for the Rural Low Bandwidth Medical Collaboration System.

SA 2280. Mr. WARNER submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 326, between lines 17 and 18, insert the following:

SEC. 8135. Of the total amount appropriated by this division for operation and maintenance, Navy, $6,000,000 may be available for the critical infrastructure protection initiative.

SA 2281. Mr. COCHRAN submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII of this division, add the following:

SEC. 8135. (a) FUNDING FOR DOMED HOUSING UNITS ON MARSHALL ISLANDS.—The amount appropriated by title IV of this division under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY'' is hereby increased by $4,400,000, with the amount of the increase to be available to the Commanding General of the Army Space and Missile Defense Command for the acquisition, installation, and maintenance of not more than 50 domed housing units for military personnel on Kwajalein Atoll and other islands and locations in support of the mission of the command.

(b) LIMITATION.—Funds available under subsection (a) may not be used for a contract with a person or entity if the person or entity has not installed domed housing units on the Marshall Islands as of the date of the enactment of this Act.

(c) OFFSET.—The amount appropriated by title III of this division under the heading ''PROCUREMENT, MARINE CORPS'' is hereby reduced by $4,400,000, with the amount of the reduction to be allocated to amounts available for the family of internally transportable vehicles (ITV).

SA 2282. Mr. LOTT (for himself and Mr. COCHRAN) submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . Of the total amount appropriated by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY'', $12,000,000 is available for the planning and design for evolutionary improvements for the next LHD-type Amphibious Assault Ship.

SA 2283. Mr. ALLEN submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

Strike the following:

SEC. 8032 (f) Notwithstanding any other provision of this Act, the total amount appropriated in this Act for FFRDCs is hereby reduced by $60,000,000.

SA 2284. Mr. ALLEN submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII of division A, add the following:

SEC. . NO PROHIBITION ON BURIAL OF RESERVISTS AT ARLINGTON NATIONAL CEMETERY BASED SOLELY ON AGE AT DEATH.

(a) The Secretary of the Army may not prohibit the burial at Arlington National Cemetery, Virginia, of a deceased member of the Reserves who at death is qualified for burial in their own grave at Arlington National Cemetery in all respects but age at death based solely on the age of the member at death.

(b) DATE OF ENACTMENT.—This section will take effect on September 11, 2001, and for all occurrences thereafter.

SA 2285. Mr. ALLEN submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of Division A, insert the following.

SEC. . POSTHUMOUS RECALL TO ACTIVE DUTY.

(a) POSTHUMOUS RECALL PROCEDURE.—The Secretary of Defense may posthumously and involuntarily recall to active duty previously retired members of the Ready Reserve provided:

(1) There is reason to believe they were killed attempting to stop a terrorist attack on domestic soil or abroad, or

(2) They were killed while engaged in the defense of the United States.

(b) DATE OF ENACTMENT.—This section will take effect on September 11, 2001, and for all occurrences thereafter.

SA 2286. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

In chapter 3 of title I of division C, under the heading ''NATIONAL NUCLEAR SECURITY ADMINISTRATION'' under the paragraph ''DEFENSE NUCLEAR PROLIFERATION'', insert after ''nuclear nonproliferation and verification research and development'' the following: ''(including research and development with respect to radiological dispersion devices, also known as 'dirty bombs')''.

SA 2287. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

In chapter 3 of title I of division C, under the heading ''NUCLEAR REGULATORY COMMISSION'' under the paragraph ''SALARIES AND EXPENSES'', insert after ''nuclear power plants'' the following: ''and spent nuclear fuel storage facilities''.

SA 2288. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

In chapter 3 of title I of division C, insert after the matter relating to ''DEFENSE NUCLEAR NONPROLIFERATION'' the following:

OFFICE OF CRITICAL INFRASTRUCTURE PROTECTION

NATIONAL INFRASTRUCTURE SIMULATION AND ANALYSIS CENTER

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, and to improve the security of the Nation's oil refineries against cyber and physical attack, $16,000,000, to remain available until September 30, 2003: *Provided,* That the amount appropriated by chapter 12 of division B under the heading ''ENVIRONMENTAL PROTECTION AGENCY'' under the paragraph ''ENVIRONMENTAL PROGRAMS AND MANAGEMENT'' is hereby reduced by $14,000,000; *Provided further,* That the amount appropriated by chapter 7 of this title under the heading ''ENVIRONMENTAL PROTECTION AGENCY'' under the paragraph ''ENVIRONMENTAL PROGRAMS AND MANAGEMENT'' is hereby reduced by $2,000,000.

SA 2289. Mr. BINGAMAN (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in Division B, insert the following:

SEC. ___. TRANSIT ECONOMIC STIMULUS PILOT PROGRAM.

(a) DEFINITIONS.—In this section:

(1) HEAVY-DUTY TRANSIT BUS.—The term ''heavy-duty transit bus'' has the same meaning given that term in the American Public Transportation Association Standard Procurement Guideline Specifications dated March 25, 1999 and July 3, 2001.

(2) INTERCITY COACH.—The term ''intercity coach'' has the same meaning given that term in Solicitation FFAH-B1-002272-N, section 1-4B, Amendment number 2, dated June 6, 2000.

(b) PILOT PROGRAM.—

(1) IN GENERAL.—The Federal Transit Administration of the Department of Transportation shall carry out a pilot program to facilitate and accelerate the immediate procurement of heavy-duty transit buses and intercity coaches by State, local, and regional transportation authorities that are recipients of Federal Transit Administration assistance or grants through existing contracts with the General Services Administration.

(2) TERMINATION.—The pilot program carried out under paragraph (1) shall terminate on December 31, 2003.

(c) ESTABLISHMENT OF MULTIPLE AWARD SCHEDULE BY GSA.—Not later than December 31, 2003, the General Services Administration, with assistance from the Federal Transit Administration, shall establish and publish a multiple award schedule for heavy-duty transit buses and intercity coaches which shall permit Federal agencies and State, regional, or local transportation authorities that are recipients of Federal Transit Administration assistance or grants, or other ordering entities, to acquire heavy-duty transit buses and intercity coaches under those schedules.

(d) REPORT.—

(1) IN GENERAL.—The Administrator of the Federal Transit Administration shall submit a report quarterly, in writing, to the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate, and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives.

(2) CONTENTS.—The report required to be submitted under paragraph (1) shall describe, with specificity—

(A) all measures being taken to accelerate the processes authorized under this section, including estimates on the effect of this section on job retention in the bus and intercity coach manufacturing industry;

(B) job creation in the bus and intercity coach manufacturing industry as a result of the economic stimulus program established under this section; and

(C) bus and intercity coach manufacturing economic growth in those States and localities that have participated in the pilot program carried out under subsection (b).

(e) COMPLIANCE WITH OTHER LAWS.—This section shall be carried out in accordance with all existing Federal transit laws and requirements.

(f) TERMINATION.—This section shall terminate on December 31, 2006.

SA 2290. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

DIVISION F—OTHER PROVISIONS

SEC. 101. (a) SMALL MANUFACTURERS EXEMPT FROM FIREARMS EXCISE TAX.—Section 4182 of the Internal Revenue Code of 1986 (relating to exemptions) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

''(c) SMALL MANUFACTURERS, ETC.—

''(1) IN GENERAL.—The tax imposed by section 4181 shall not apply to any article described in such section if manufactured, produced, or imported by a person who manufactures, produces, and imports less than 50 of such articles during the calendar year.

''(2) CONTROLLED GROUPS.—All persons treated as a single employer for purposes of subsection (a) or (b) of section 52 shall be treated as one person for purposes of paragraph (1).''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after the date of the enactment of this Act.

SA 2291. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII of division A, add the following:

SEC. 8135. (a) FUNDING FOR NATIONAL TISSUE ENGINEERING CENTER.—The amount appropriated by title IV of this division under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY'' is hereby increased by $4,000,000, with the amount of the increase to be allocated to Medical Technology and available for the National Tissue Engineering Center.

(b) SUPPLEMENT NOT SUPPLANT.—The amount made available by subsection (a) for the National Tissue Engineering Center is in addition to any other amounts made available by this Act for the National Tissue Engineering Center.

(c) OFFSET.—The amount appropriated by title III of this division under the heading ''PROCUREMENT OF AMMUNITION, ARMY'' is hereby reduced by $4,000,000, with the amount of the reduction to be allocated to amounts available for the Armament Retooling Manufacturing Support (ARMS) initiative.

SA 2292. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 204, line 20, increase the amount by $5,000,000.

On page 213, line 10, reduce the amount by $5,000,000.

SA 2293. Mr. SANTORUM submitted an amendment intended to be proposed

by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 225, line 8, increase the amount by $1,000,000.

On page 213, line 10, reduce the amount by $1,000,000.

SA 2294. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 225, line 1, increase the amount by $3,000,000.

On page 213, line 10, reduce the amount by $3,000,000.

SA 2295. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 214, line 16, increase the amount by $5,000,000.

On page 213, line 10, reduce the amount by $5,000,000.

SA 2296. Mr. SPECTER (for himself and Mr. SANTORUM) submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 409, after line 21, add the following:

DIVISION F—MEDICARE RECLASSIFICATIONS

SEC. 6101. THREE-YEAR RECLASSIFICATION OF CERTAIN COUNTIES FOR PURPOSES OF REIMBURSEMENT UNDER THE MEDICARE PROGRAM.

(a) IN GENERAL.—Notwithstanding any other provision of law, effective for discharges occurring during fiscal years 2002, 2003, and 2004, for purposes of making payments under subsections (d) and (j) of section 1886 of the Social Security Act (42 U.S.C. 1395ww) to hospitals (including rehabilitation hospitals and rehabilitation units under such subsection (j))—

(1) in Columbia, Lackawanna, Luzerne, Wyoming, and Lycoming Counties, Pennsylvania, such counties are deemed to be located in the Newburgh, New York-PA Metropolitan Statistical Area;

(2) in Northumberland County, Pennsylvania, such county is deemed to be located in the Harrisburg-Lebanon-Carlisle, Pennsylvania Metropolitan Statistical Area; and

(3) in Mercer County, Pennsylvania, such county is deemed to be located in the Youngstown-Warren, Ohio Metropolitan Statistical Area.

(b) RULES.—The reclassifications made under subsection (a) shall be treated as decisions of the Medicare Geographic Classification Review Board under paragraph (10) of section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)), except that, subject to paragraph (8)(D) of that section, payments shall be made under such section to any hospital reclassified into—

(1) the Newburgh, New York-PA Metropolitan Statistical Area as of October 1, 2001, as if the counties described in subsection (a)(1) had not been reclassified into such Area under such subsection;

(2) the Harrisburg-Lebanon-Carlisle, Pennsylvania Metropolitan Statistical Area as of October 1, 2001, as if the county described in subsection (a)(2) had not been reclassified into such Area under such subsection; and

(3) the Youngstown-Warren, Ohio Metropolitan Statistical Area as of October 1, 2001, as if the county described in subsection (a)(3) had not been reclassified into such Area under such subsection.

SA 2297. Mr. BAYH (for himself and Mr. VOINOVICH) submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. (a) AUTHORIZATION.—The Secretary of Health and Human Services (referred to in this section as ''secretary'') is authorized to award grants to, or enter into cooperative agreements with, States to increase the level of bioterrorism preparedness.

(b) AMOUNT OF ALLOTMENTS.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), of the amount made available for the purpose of carrying out this section the Secretary shall allot to each State that submits a State preparedness plan under subsection (c) an amount equal to the amount that bears the same ratio to such funds as the population in the State bears to the population of all States.

(2) EXCEPTION.—The Secretary may provide additional funds under paragraph (1) to a State that has extraordinary needs with respect to bioterrorism preparedness.

(3) MINIMUM ALLOTMENT.—No allotment to a State under this section, other than an allotment to the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, shall be less than $5,000,000.

(4) PRO RATA REDUCTIONS.—The Secretary shall make such pro rata reductions to the allotments determined under paragraphs (1) and (2), as are necessary to comply with the requirement of paragraph (3).

(5) SUPPLEMENT NOT SUPPLANT.—Amounts allotted to a State under this subsection shall be used to supplement and not supplant other Federal, State, or local funds provided to the State under any other provision of law that are used to support programs and activities similar to the activities described in subparagraph (a).

(c) STATE PREPAREDNESS PLAN.—

(1) IN GENERAL.—Each State desiring an allotment under this section shall submit a State preparedness plan to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(2) REQUIREMENTS.—Each State developing a plan for submission under paragraph (1) shall consult with any entities that may be affected by such plan.

(d) REGULATIONS.—The Secretary shall implement regulations to ensure funds are used consistent with the State plan submitted under subsection (c).

(e) DEFINITION OF STATE.—For the purposes of this section, the term ''State'' means the 50 states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(f) FUNDING.—Of the amount allocated under this Act to prepare for or respond to bioterrorism, $670,000,000 shall be used for the purpose of carrying out this section.

SA 2298. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 326, between lines 17 and 18, insert the following:

SEC. 8135. Of the total amount appropriated by title III of this division for other procurement, Navy, $14,000,000 shall be available for the NULKA decoy procurement.

SA 2299. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 226, line 20, strike the colon and all that follows through page 227, line 15, and insert a period.

SA 2300. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 326, between lines 17, and 18, insert the following:

SEC. 8135. (a) Of the total amount appropriated by title III of this division for the Navy for procurement for shipbuilding and conversion, $50,000,000 shall be available for the DDG–51 destroyer program.

(b) Using funds available under subsection (a), the Secretary of the Navy may, in fiscal year 2002, enter into one or more contracts with the shipbuilder and other sources for advance procurement and advance construction of components for one additional DDG–51 Arleigh Burke class destroyer.

(c) It is the sense of Congress that the President should include in the budget for fiscal year 2003 submitted to Congress under section 1105 of title 31, United States Code, funding for the DDG–51 Arleigh Burke Destroyer program in amounts sufficient to support the commencement of construction of a third DDG–51 Arleigh Burke class destroyer at the lead shipyard for the program in fiscal year 2003.

SA 2301. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 326, between lines 17 and 18, insert the following:

SEC. 8135. (a) Of the total amount appropriated by title III of this division for procurement, Defense-Wide, $5,000,000 shall be available for low-rate initial production of

the Striker advanced lightweight grenade launcher.

(b) Of the total amount appropriated by title IV of this division for research, development, test and evaluation, Navy, $1,000,000 shall be available for the Warfighting Laboratory for delivery and evaluation of prototype units of the Striker advanced lightweight grenade launcher.

SA 2302. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 326, between lines 17 and 18, insert the following:

SEC. 8135. Of the total amount appropriated by title IV of this division for research, development, test and evaluation, Defense-Wide, $4,000,000 shall be available for the Intelligent Spatial Technologies for Smart Maps Initiative of the National Imagery and Mapping Agency.

SA 2303. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 326, between lines 17 and 18, insert the following:

SEC. 8135. Of the total amount appropriated by title IV of this division for research, development, test, and evaluation, Defense-Wide, $5,000,000 shall be available for further development of light weight sensors of chemical and biological agents using fluorescence-based detection.

SA 2304. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 326, between lines 17 and 18, insert the following:

SEC. 8135. Of the total amount appropriated by title IV of this division for research, development, test, and evaluation, Navy, $4,300,000 shall be available for the demonstration and validation of laser fabricated steel reinforcement for ship construction.

SA 2305. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 326, between lines 17 and 18, insert the following:

SEC. 8135. Of the total amount appropriated by title IV of this division for research, development, test, and evaluation, Army, $5,000,000 shall be available for further development, fabrication, and testing of composite materials and missile components for the next general of tactical missiles.

SA 2306. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII of division A, add the following:

SEC. 8135. Of the amount appropriated by title IV of this division under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY'' and available for the Medical Advanced Technology Account, $2,500,000 may be made available for the Army Nutrition Project (PE0603002A).

SA 2307. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII of division A, add the following:

SEC. 8135. Of the total amount appropriated by title IV of this division under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE'', $2,000,000 may be made available for the Partnership for Peace (PFP) Information Management System. Any amount made available for the Partnership for Peace Information Management System under this section is in addition to other amounts available for the Partnership for Peace Information Management System under the Act.

SA 2308. Mr. REID (for Mr. ROCKEFELLER (for himself and Mr. SPECTER)) proposed an amendment to the bill H.R. 2716, to amend title 38, United States Code, to revise, improve, and consolidate provisions of law providing benefits and services for homeless veterans; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the ''Homeless Veterans Comprehensive Assistance Act of 2001''.

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

Sec. 1. Short title; table of contents; references to title 38, United States Code.
Sec. 2. Definitions.
Sec. 3. National goal to end homelessness among veterans.
Sec. 4. Sense of the Congress regarding the needs of homeless veterans and the responsibility of Federal agencies.
Sec. 5. Consolidation and improvement of provisions of law relating to homeless veterans.
Sec. 6. Evaluation centers for homeless veterans programs.
Sec. 7. Study of outcome effectiveness of grant program for homeless veterans with special needs.
Sec. 8. Expansion of other programs.
Sec. 9. Coordination of employment services.
Sec. 10. Use of real property.
Sec. 11. Meetings of Interagency Council on Homeless.
Sec. 12. Rental assistance vouchers for HUD Veterans Affairs Supported Housing program.

(c) REFERENCES TO TITLE 38, UNITED STATES CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. DEFINITIONS.

For purposes of this Act:

(1) The term ''homeless veteran'' has the meaning given such term in section 2002 of title 38, United States Code, as added by section 5(a)(1).

(2) The term ''grant and per diem provider'' means an entity in receipt of a grant under section 2011 or 2012 of title 38, United States Code, as so added.

SEC. 3. NATIONAL GOAL TO END HOMELESSNESS AMONG VETERANS.

(a) NATIONAL GOAL.—Congress hereby declares it to be a national goal to end chronic homelessness among veterans within a decade of the enactment of this Act.

(b) COOPERATIVE EFFORTS ENCOURAGED.—Congress hereby encourages all departments and agencies of Federal, State, and local governments, quasi-governmental organizations, private and public sector entities, including community-based organizations, faith-based organizations, and individuals to work cooperatively to end chronic homelessness among veterans within a decade.

SEC. 4. SENSE OF THE CONGRESS REGARDING THE NEEDS OF HOMELESS VETERANS AND THE RESPONSIBILITY OF FEDERAL AGENCIES.

It is the sense of the Congress that—

(1) homelessness is a significant problem in the veterans community and veterans are disproportionately represented among homeless men;

(2) while many effective programs assist homeless veterans to again become productive and self-sufficient members of society, current resources provided to such programs and other activities that assist homeless veterans are inadequate to provide all needed essential services, assistance, and support to homeless veterans;

(3) the most effective programs for the assistance of homeless veterans should be identified and expanded;

(4) federally funded programs for homeless veterans should be held accountable for achieving clearly defined results;

(5) Federal efforts to assist homeless veterans should include prevention of homelessness; and

(6) Federal agencies, particularly the Department of Veterans Affairs, the Department of Housing and Urban Development, and the Department of Labor, should cooperate more fully to address the problem of homelessness among veterans.

SEC. 5. CONSOLIDATION AND IMPROVEMENT OF PROVISIONS OF LAW RELATING TO HOMELESS VETERANS.

(a) IN GENERAL.—(1) Part II is amended by inserting after chapter 19 the following new chapter:

''CHAPTER 20—BENEFITS FOR HOMELESS VETERANS

''SUBCHAPTER I—PURPOSE; DEFINITIONS; ADMINISTRATIVE MATTERS

''Sec.
''2001. Purpose.
''2002. Definitions.
''2003. Staffing requirements.

''SUBCHAPTER II—COMPREHENSIVE SERVICE PROGRAMS

''2011. Grants.
''2012. Per diem payments.
''2013. Authorization of appropriations.

''SUBCHAPTER III—TRAINING AND OUTREACH

''2021. Homeless veterans reintegration programs.

''2022. Coordination of outreach services for veterans at risk of homelessness.
''2023. Demonstration program of referral and counseling for veterans transitioning from certain institutions who are at risk for homelessness.
''SUBCHAPTER IV—TREATMENT AND REHABILITATION FOR SERIOUSLY MENTALLY ILL AND HOMELESS VETERANS
''2031. General treatment.
''2032. Therapeutic housing.
''2033. Additional services at certain locations.
''2034. Coordination with other agencies and organizations.
''SUBCHAPTER V—HOUSING ASSISTANCE
''2041. Housing assistance for homeless veterans.
''2042. Supported housing for veterans participating in compensated work therapies.
''2043. Domiciliary care programs.
''SUBCHAPTER VI—LOAN GUARANTEE FOR MULTIFAMILY TRANSITIONAL HOUSING
''2051. General authority.
''2052. Requirements.
''2053. Default.
''2054. Audit.
''SUBCHAPTER VII—OTHER PROVISIONS
''2061. Grant program for homeless veterans with special needs.
''2062. Dental care.
''2063. Employment assistance.
''2064. Technical assistance grants for nonprofit community-based groups.
''2065. Annual report on assistance to homeless veterans.
''2066. Advisory Committee on Homeless Veterans.

''SUBCHAPTER I—PURPOSE; DEFINITIONS; ADMINISTRATIVE MATTERS

''§ 2001. Purpose

''The purpose of this chapter is to provide for the special needs of homeless veterans.

''§ 2002. Definitions

''In this chapter:

''(1) The term 'homeless veteran' means a veteran who is homeless (as that term is defined in section 103(a) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302(a)).

''(2) The term 'grant and per diem provider' means an entity in receipt of a grant under section 2011 or 2012 of this title.

''§ 2003. Staffing requirements

''(a) VBA STAFFING AT REGIONAL OFFICES.—The Secretary shall ensure that there is at least one full-time employee assigned to oversee and coordinate homeless veterans programs at each of the 20 Veterans Benefits Administration regional offices that the Secretary determines have the largest homeless veteran populations within the regions of the Administration. The programs covered by such oversight and coordination include the following:

''(1) Housing programs administered by the Secretary under this title or any other provision of law.

''(2) Compensation, pension, vocational rehabilitation, and education benefits programs administered by the Secretary under this title or any other provision of law.

''(3) The housing program for veterans supported by the Department of Housing and Urban Development.

''(4) The homeless veterans reintegration program of the Department of Labor under section 2021 of this title.

''(5) The programs under section 2033 of this title.

''(6) The assessments required by section 2034 of this title.

''(7) Such other programs relating to homeless veterans as may be specified by the Secretary.

''(b) VHA CASE MANAGERS.—The Secretary shall ensure that the number of case managers in the Veterans Health Administration is sufficient to assure that every veteran who is provided a housing voucher through section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) is assigned to, and is seen as needed by, a case manager.

''SUBCHAPTER II—COMPREHENSIVE SERVICE PROGRAMS

''§ 2011. Grants

''(a) AUTHORITY TO MAKE GRANTS.—(1) Subject to the availability of appropriations provided for such purpose, the Secretary shall make grants to assist eligible entities in establishing programs to furnish, and expanding or modifying existing programs for furnishing, the following to homeless veterans:

''(A) Outreach.

''(B) Rehabilitative services.

''(C) Vocational counseling and training

''(D) Transitional housing assistance.

''(2) The authority of the Secretary to make grants under this section expires on September 30, 2005.

''(b) CRITERIA FOR GRANTS.—The Secretary shall establish criteria and requirements for grants under this section, including criteria for entities eligible to receive grants, and shall publish such criteria and requirements in the Federal Register. The criteria established under this subsection shall include the following:

''(1) Specification as to the kinds of projects for which grants are available, which shall include—

''(A) expansion, remodeling, or alteration of existing buildings, or acquisition of facilities, for use as service centers, transitional housing, or other facilities to serve homeless veterans; and

''(B) procurement of vans for use in outreach to and transportation for homeless veterans for purposes of a program referred to in subsection (a).

''(2) Specification as to the number of projects for which grants are available.

''(3) Criteria for staffing for the provision of services under a project for which grants are made.

''(4) Provisions to ensure that grants under this section—

''(A) shall not result in duplication of ongoing services; and

''(B) to the maximum extent practicable, shall reflect appropriate geographic dispersion and an appropriate balance between urban and other locations.

''(5) Provisions to ensure that an entity receiving a grant shall meet fire and safety requirements established by the Secretary, which shall include—

''(A) such State and local requirements that may apply; and

''(B) fire and safety requirements applicable under the Life Safety Code of the National Fire Protection Association or such other comparable fire and safety requirements as the Secretary may specify.

''(6) Specification as to the means by which an entity receiving a grant may contribute in-kind services to the start-up costs of a project for which a grant is sought and the methodology for assigning a cost to that contribution for purposes of subsection (c).

''(c) FUNDING LIMITATIONS.—A grant under this section may not be used to support operational costs. The amount of a grant under this section may not exceed 65 percent of the estimated cost of the project concerned.

''(d) ELIGIBLE ENTITIES.—The Secretary may make a grant under this section to an entity applying for such a grant only if the applicant for the grant—

''(1) is a public or nonprofit private entity with the capacity (as determined by the Secretary) to effectively administer a grant under this section;

''(2) demonstrates that adequate financial support will be available to carry out the project for which the grant is sought consistent with the plans, specifications, and schedule submitted by the applicant; and

''(3) agrees to meet the applicable criteria and requirements established under subsections (b) and (g) and has, as determined by the Secretary, the capacity to meet such criteria and requirements.

''(e) APPLICATION REQUIREMENT.—An entity seeking a grant for a project under this section shall submit to the Secretary an application for the grant. The application shall set forth the following:

''(1) The amount of the grant sought for the project.

''(2) A description of the site for the project.

''(3) Plans, specifications, and the schedule for implementation of the project in accordance with criteria and requirements prescribed by the Secretary under subsection (b).

''(4) Reasonable assurance that upon completion of the work for which the grant is sought, the project will become operational and the facilities will be used principally to provide to veterans the services for which the project was designed, and that not more than 25 percent of the services provided under the project will be provided to individuals who are not veterans.

''(f) PROGRAM REQUIREMENTS.—The Secretary may not make a grant for a project to an applicant under this section unless the applicant in the application for the grant agrees to each of the following requirements:

''(1) To provide the services for which the grant is made at locations accessible to homeless veterans.

''(2) To maintain referral networks for homeless veterans for establishing eligibility for assistance and obtaining services, under available entitlement and assistance programs, and to aid such veterans in establishing eligibility for and obtaining such services.

''(3) To ensure the confidentiality of records maintained on homeless veterans receiving services through the project.

''(4) To establish such procedures for fiscal control and fund accounting as may be necessary to ensure proper disbursement and accounting with respect to the grant and to such payments as may be made under section 2012 of this title.

''(5) To seek to employ homeless veterans and formerly homeless veterans in positions created for purposes of the grant for which those veterans are qualified.

''(g) SERVICE CENTER REQUIREMENTS.—In addition to criteria and requirements established under subsection (b), in the case of an application for a grant under this section for a service center for homeless veterans, the Secretary shall require each of the following:

''(1) That such center provide services to homeless veterans during such hours as the Secretary may specify and be open to such veterans on an as-needed, unscheduled basis.

''(2) That space at such center be made available, as mutually agreeable, for use by staff of the Department of Veterans Affairs, the Department of Labor, and other appropriate agencies and organizations in assisting homeless veterans served by such center.

''(3) That such center be equipped and staffed to provide or to assist in providing health care, mental health services, hygiene facilities, benefits and employment counseling, meals, transportation assistance, and such other services as the Secretary determines necessary.

''(4) That such center be equipped and staffed to provide, or to assist in providing, job training, counseling, and placement services (including job readiness and literacy and skills training), as well as any outreach and case management services that may be necessary to carry out this paragraph.

''(h) RECOVERY OF UNUSED GRANT FUNDS.—(1) If a grant recipient under this section does not establish a program in accordance with this section or ceases to furnish services under such a program for which the grant was made, the United States shall be entitled to recover from such recipient the total of all unused grant amounts made under this section to such recipient in connection with such program.

''(2) Any amount recovered by the United States under paragraph (1) may be obligated by the Secretary without fiscal year limitation to carry out provisions of this subchapter.

''(3) An amount may not be recovered under paragraph (1) as an unused grant amount before the end of the three-year period beginning on the date on which the grant is made.

''§ 2012. Per diem payments

''(a) PER DIEM PAYMENTS FOR FURNISHING SERVICES TO HOMELESS VETERANS.—(1) Subject to the availability of appropriations provided for such purpose, the Secretary, pursuant to such criteria as the Secretary shall prescribe, shall provide to a recipient of a grant under section 2011 of this title (or an entity eligible to receive a grant under that section which after November 10, 1992, establishes a program that the Secretary determines carries out the purposes described in that section) per diem payments for services furnished to any homeless veteran—

''(A) whom the Secretary has referred to the grant recipient (or entity eligible for such a grant); or

''(B) for whom the Secretary has authorized the provision of services.

''(2)(A) The rate for such per diem payments shall be the daily cost of care estimated by the grant recipient or eligible entity adjusted by the Secretary under subparagraph (B). In no case may the rate determined under this paragraph exceed the rate authorized for State homes for domiciliary care under subsection (a)(1)(A) of section 1741 of this title, as the Secretary may increase from time to time under subsection (c) of that section.

''(B) The Secretary shall adjust the rate estimated by the grant recipient or eligible entity under subparagraph (A) to exclude other sources of income described in subparagraph (D) that the grant recipient or eligible entity certifies to be correct.

''(C) Each grant recipient or eligible entity shall provide to the Secretary such information with respect to other sources of income as the Secretary may require to make the adjustment under subparagraph (B).

''(D) The other sources of income referred to in subparagraphs (B) and (C) are payments to the grant recipient or eligible entity for furnishing services to homeless veterans under programs other than under this subchapter, including payments and grants from other departments and agencies of the United States, from departments or agencies of State or local government, and from private entities or organizations.

''(3) In a case in which the Secretary has authorized the provision of services, per diem payments under paragraph (1) may be paid retroactively for services provided not more than three days before the authorization was provided.

''(b) INSPECTIONS.—The Secretary may inspect any facility of a grant recipient or entity eligible for payments under subsection (a) at such times as the Secretary considers necessary. No per diem payment may be provided to a grant recipient or eligible entity under this section unless the facilities of the grant recipient or eligible entity meet such standards as the Secretary shall prescribe.

''(c) LIFE SAFETY CODE.—(1) Except as provided in paragraph (2), a per diem payment may not be provided under this section to a grant recipient or eligible entity unless the facilities of the grant recipient or eligible entity, as the case may be, meet applicable fire and safety requirements under the Life Safety Code of the National Fire Protection Association or such other comparable fire and safety requirements as the Secretary may specify.

''(2) During the five-year period beginning on the date of the enactment of this section, paragraph (1) shall not apply to an entity that received a grant under section 3 of the Homeless Veterans Comprehensive Service Programs Act of 1992 (Public Law 102–590; 38 U.S.C. 7721 note) before that date if the entity meets fire and safety requirements established by the Secretary.

''(3) From amounts available for purposes of this section, not less than $5,000,000 shall be used only for grants to assist entities covered by paragraph (2) in meeting the Life Safety Code of the National Fire Protection Association or such other comparable fire and safety requirements as the Secretary may specify.

''§ 2013. Authorization of appropriations

''There are authorized to be appropriated to carry out this subchapter amounts as follows:

''(1) $60,000,000 for fiscal year 2002.
''(2) $75,000,000 for fiscal year 2003.
''(3) $75,000,000 for fiscal year 2004.
''(4) $75,000,000 for fiscal year 2005.

''SUBCHAPTER III—TRAINING AND OUTREACH

''§ 2021. Homeless veterans reintegration programs

''(a) IN GENERAL.—Subject to the availability of appropriations provided for such purpose, the Secretary of Labor shall conduct, directly or through grant or contract, such programs as the Secretary determines appropriate to provide job training, counseling, and placement services (including job readiness and literacy and skills training) to expedite the reintegration of homeless veterans into the labor force.

''(b) REQUIREMENT TO MONITOR EXPENDITURES OF FUNDS.—(1) The Secretary of Labor shall collect such information as that Secretary considers appropriate to monitor and evaluate the distribution and expenditure of funds appropriated to carry out this section. The information shall include data with respect to the results or outcomes of the services provided to each homeless veteran under this section.

''(2) Information under paragraph (1) shall be furnished in such form and manner as the Secretary of Labor may specify.

''(c) ADMINISTRATION THROUGH THE ASSISTANT SECRETARY OF LABOR FOR VETERANS' EMPLOYMENT AND TRAINING.—The Secretary of Labor shall carry out this section through the Assistant Secretary of Labor for Veterans' Employment and Training.

''(d) BIENNIAL REPORT TO CONGRESS.—Not less than every two years, the Secretary of Labor shall submit to Congress a report on the programs conducted under this section. The Secretary of Labor shall include in the report an evaluation of services furnished to veterans under this section and an analysis of the information collected under subsection (b).

''(e) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated to carry out this section amounts as follows:

''(A) $50,000,000 for fiscal year 2002.
''(B) $50,000,000 for fiscal year 2003.
''(C) $50,000,000 for fiscal year 2004.
''(D) $50,000,000 for fiscal year 2005.
''(E) $50,000,000 for fiscal year 2006.

''(2) Funds appropriated to carry out this section shall remain available until expended. Funds obligated in any fiscal year to carry out this section may be expended in that fiscal year and the succeeding fiscal year.

''§ 2022. Coordination of outreach services for veterans at risk of homelessness

''(a) OUTREACH PLAN.—The Secretary, acting through the Under Secretary for Health, shall provide for appropriate officials of the Mental Health Service and the Readjustment Counseling Service of the Veterans Health Administration to develop a coordinated plan for joint outreach by the two Services to veterans at risk of homelessness, including particularly veterans who are being discharged or released from institutions after inpatient psychiatric care, substance abuse treatment, or imprisonment.

''(b) MATTERS TO BE INCLUDED.—The outreach plan under subsection (a) shall include the following:

''(1) Strategies to identify and collaborate with non-Department entities used by veterans who have not traditionally used Department services to further outreach efforts.

''(2) Strategies to ensure that mentoring programs, recovery support groups, and other appropriate support networks are optimally available to veterans.

''(3) Appropriate programs or referrals to family support programs.

''(4) Means to increase access to case management services.

''(5) Plans for making additional employment services accessible to veterans.

''(6) Appropriate referral sources for mental health and substance abuse services.

''(c) COOPERATIVE RELATIONSHIPS.—The outreach plan under subsection (a) shall identify strategies for the Department to enter into formal cooperative relationships with entities outside the Department to facilitate making services and resources optimally available to veterans.

''(d) REVIEW OF PLAN.—The Secretary shall submit the outreach plan under subsection (a) to the Advisory Committee on Homeless Veterans for its review and consultation.

''(e) OUTREACH PROGRAM.—(1) The Secretary shall carry out an outreach program to provide information to homeless veterans and veterans at risk of homelessness. The program shall include at a minimum—

''(A) provision of information about benefits available to eligible veterans from the Department; and

''(B) contact information for local Department facilities, including medical facilities, regional offices, and veterans centers.

''(2) In developing and carrying out the program under paragraph (1), the Secretary shall, to the extent practicable, consult with appropriate public and private organizations, including the Bureau of Prisons, State social service agencies, the Department of Defense, and mental health, veterans, and homeless advocates—

''(A) for assistance in identifying and contacting veterans who are homeless or at risk of homelessness;

''(B) to coordinate appropriate outreach activities with those organizations; and

''(C) to coordinate services provided to veterans with services provided by those organizations.

''(f) REPORTS.—(1) Not later than October 1, 2002, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives an initial report that contains an evaluation of outreach

activities carried out by the Secretary with respect to homeless veterans, including outreach regarding clinical issues and other benefits administered under this title. The Secretary shall conduct the evaluation in consultation with the Under Secretary for Benefits, the Department of Veterans Affairs central office official responsible for the administration of the Readjustment Counseling Service, the Director of Homeless Veterans Programs, and the Department of Veterans Affairs central office official responsible for the administration of the Mental Health Strategic Health Care Group.

''(2) Not later than December 31, 2005, the Secretary shall submit to the committees referred to in paragraph (1) an interim report on outreach activities carried out by the Secretary with respect to homeless veterans. The report shall include the following:

''(A) The Secretary's outreach plan under subsection (a), including goals and time lines for implementation of the plan for particular facilities and service networks.

''(B) A description of the implementation and operation of the outreach program under subsection (e).

''(C) A description of the implementation and operation of the demonstration program under section 2023 of this title.

''(3) Not later than July 1, 2007, the Secretary shall submit to the committees referred to in paragraph (1) a final report on outreach activities carried out by the Secretary with respect to homeless veterans. The report shall include the following:

''(A) An evaluation of the effectiveness of the outreach plan under subsection (a).

''(B) An evaluation of the effectiveness of the outreach program under subsection (e).

''(C) An evaluation of the effectiveness of the demonstration program under section 2023 of this title.

''(D) Recommendations, if any, regarding an extension or modification of such outreach plan, such outreach program, and such demonstration program.

''§ 2023. Demonstration program of referral and counseling for veterans transitioning from certain institutions who are at risk for homelessness

''(a) PROGRAM AUTHORITY.—The Secretary and the Secretary of Labor (hereinafter in this section referred to as the 'Secretaries') shall carry out a demonstration program for the purpose of determining the costs and benefits of providing referral and counseling services to eligible veterans with respect to benefits and services available to such veterans under this title and under State law.

''(b) LOCATION OF DEMONSTRATION PROGRAM.—The demonstration program shall be carried out in at least six locations. One location shall be a penal institution under the jurisdiction of the Bureau of Prisons.

''(c) SCOPE OF PROGRAM.—(1) To the extent practicable, the demonstration program shall provide both referral and counseling services, and in the case of counseling services, shall include counseling with respect to job training and placement (including job readiness), housing, health care, and other benefits to assist the eligible veteran in the transition from institutional living.

''(2)(A) To the extent that referral or counseling services are provided at a location under the program, referral services shall be provided in person during such period of time that the Secretaries may specify that precedes the date of release or discharge of the eligible veteran, and counseling services shall be furnished after such date.

''(B) The Secretaries may, as part of the program, furnish to officials of penal institutions outreach information with respect to referral and counseling services for presentation to veterans in the custody of such officials during the 18-month period that precedes such date of release or discharge.

''(3) The Secretaries may enter into contracts to carry out the referral and counseling services required under the program with entities or organizations that meet such requirements as the Secretaries may establish.

''(4) In developing the program, the Secretaries shall consult with officials of the Bureau of Prisons, officials of penal institutions of States and political subdivisions of States, and such other officials as the Secretaries determine appropriate.

''(d) DURATION.—The authority of the Secretaries to provide referral and counseling services under the demonstration program shall cease on the date that is four years after the date of the commencement of the program.

''(e) DEFINITION.—In this section, the term 'eligible veteran' means a veteran who—

''(1) is a resident of a penal institution or an institution that provides long-term care for mental illness; and

''(2) is at risk for homelessness absent referral and counseling services provided under the demonstration program (as determined under guidelines established by the Secretaries).

''SUBCHAPTER V—HOUSING ASSISTANCE

''§ 2042. Supported housing for veterans participating in compensated work therapies

''The Secretary may authorize homeless veterans in the compensated work therapy program to be provided housing through the therapeutic residence program under section 2032 of this title or through grant and per diem providers under subchapter II of this chapter.

''§ 2043. Domiciliary care programs

''(a) AUTHORITY.—The Secretary may establish up to 10 programs under section 1710(b) of this title (in addition to any program that is established as of the date of the enactment of this section) to provide domiciliary services under such section to homeless veterans.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary $5,000,000 for each of fiscal years 2003 and 2004 to establish the programs referred to in subsection (a).

''SUBCHAPTER VII—OTHER PROVISIONS

''§ 2061. Grant program for homeless veterans with special needs

''(a) ESTABLISHMENT.—The Secretary shall carry out a program to make grants to health care facilities of the Department and to grant and per diem providers in order to encourage development by those facilities and providers of programs for homeless veterans with special needs.

''(b) HOMELESS VETERANS WITH SPECIAL NEEDS.—For purposes of this section, homeless veterans with special needs include homeless veterans who are—

''(1) women, including women who have care of minor dependents;

''(2) frail elderly;

''(3) terminally ill; or

''(4) chronically mentally ill.

''(c) FUNDING.—(1) From amounts appropriated to the Department for 'Medical Care' for each of fiscal years 2003, 2004, and 2005, $5,000,000 shall be available for each such fiscal year for the purposes of the program under this section.

''(2) The Secretary shall ensure that funds for grants under this section are designated for the first three years of operation of the program under this section as a special purpose program for which funds are not allocated through the Veterans Equitable Resource Allocation system.

''§ 2062. Dental care

''(a) IN GENERAL.—For purposes of section 1712(a)(1)(H) of this title, outpatient dental services and treatment of a dental condition or disability of a veteran described in subsection (b) shall be considered to be medically necessary, subject to subsection (c), if—

''(1) the dental services and treatment are necessary for the veteran to successfully gain or regain employment;

''(2) the dental services and treatment are necessary to alleviate pain; or

''(3) the dental services and treatment are necessary for treatment of moderate, severe, or severe and complicated gingival and periodontal pathology.

''(b) ELIGIBLE VETERANS.—Subsection (a) applies to a veteran—

''(1) who is enrolled for care under section 1705(a) of this title; and

''(2) who, for a period of 60 consecutive days, is receiving care (directly or by contract) in any of the following settings:

''(A) A domiciliary under section 1710 of this title.

''(B) A therapeutic residence under section 2032 of this title.

''(C) Community residential care coordinated by the Secretary under section 1730 of this title.

''(D) A setting for which the Secretary provides funds for a grant and per diem provider.

''(3) For purposes of paragraph (2), in determining whether a veteran has received treatment for a period of 60 consecutive days, the Secretary may disregard breaks in the continuity of treatment for which the veteran is not responsible.

''(c) LIMITATION.—Dental benefits provided by reason of this section shall be a one-time course of dental care provided in the same manner as the dental benefits provided to a newly discharged veteran.

''§ 2063. Employment assistance

''The Secretary may authorize homeless veterans receiving care through vocational rehabilitation programs to participate in the compensated work therapy program under section 1718 of this title.

''§ 2064. Technical assistance grants for nonprofit community-based groups

''(a) GRANT PROGRAM.—The Secretary shall carry out a program to make grants to entities or organizations with expertise in preparing grant applications. Under the program, the entities or organizations receiving grants shall provide technical assistance to nonprofit community-based groups with experience in providing assistance to homeless veterans in order to assist such groups in applying for grants under this chapter and other grants relating to addressing problems of homeless veterans.

''(b) FUNDING.—There is authorized to be appropriated $750,000 for each of fiscal years 2002 through 2005 to carry out the program under this section.

''§ 2065. Annual report on assistance to homeless veterans

''(a) ANNUAL REPORT.—Not later than April 15 of each year, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the activities of the Department during the calendar year preceding the report under programs of the Department under this chapter and other programs of the Department for the provision of assistance to homeless veterans.

''(b) GENERAL CONTENTS OF REPORT.—Each report under subsection (a) shall include the following:

''(1) The number of homeless veterans provided assistance under the programs referred to in subsection (a).

''(2) The cost to the Department of providing such assistance under those programs.

''(3) The Secretary's evaluation of the effectiveness of the programs of the Department in providing assistance to homeless veterans, including—

''(A) residential work-therapy programs;

''(B) programs combining outreach, community-based residential treatment, and case-management; and

''(C) contract care programs for alcohol and drug-dependence or use disabilities).

''(4) The Secretary's evaluation of the effectiveness of programs established by recipients of grants under section 2011 of this title and a description of the experience of those recipients in applying for and receiving grants from the Secretary of Housing and Urban Development to serve primarily homeless persons who are veterans.

''(5) Any other information on those programs and on the provision of such assistance that the Secretary considers appropriate.

''(c) HEALTH CARE CONTENTS OF REPORT.—Each report under subsection (a) shall include, with respect to programs of the Department addressing health care needs of homeless veterans, the following:

''(1) Information about expenditures, costs, and workload under the program of the Department known as the Health Care for Homeless Veterans program (HCHV).

''(2) Information about the veterans contacted through that program.

''(3) Information about program treatment outcomes under that program.

''(4) Information about supported housing programs.

''(5) Information about the Department's grant and per diem provider program under subchapter II of this chapter.

''(6) The findings and conclusions of the assessments of the medical needs of homeless veterans conducted under section 2034(b) of this title.

''(7) Other information the Secretary considers relevant in assessing those programs.

''(d) BENEFITS CONTENT OF REPORT.—Each report under subsection (a) shall include, with respect to programs and activities of the Veterans Benefits Administration in processing of claims for benefits of homeless veterans during the preceding year, the following:

''(1) Information on costs, expenditures, and workload of Veterans Benefits Administration claims evaluators in processing claims for benefits of homeless veterans.

''(2) Information on the filing of claims for benefits by homeless veterans.

''(3) Information on efforts undertaken to expedite the processing of claims for benefits of homeless veterans.

''(4) Other information that the Secretary considers relevant in assessing the programs and activities.

''§ 2066. Advisory Committee on Homeless Veterans

''(a) ESTABLISHMENT.—(1) There is established in the Department the Advisory Committee on Homeless Veterans (hereinafter in this section referred to as the 'Committee').

''(2) The Committee shall consist of not more than 15 members appointed by the Secretary from among the following:

''(A) Veterans service organizations.

''(B) Advocates of homeless veterans and other homeless individuals.

''(C) Community-based providers of services to homeless individuals.

''(D) Previously homeless veterans.

''(E) State veterans affairs officials.

''(F) Experts in the treatment of individuals with mental illness.

''(G) Experts in the treatment of substance use disorders.

''(H) Experts in the development of permanent housing alternatives for lower income populations.

''(I) Experts in vocational rehabilitation.

''(J) Such other organizations or groups as the Secretary considers appropriate.

''(3) The Committee shall include, as ex officio members, the following:

''(A) The Secretary of Labor (or a representative of the Secretary selected after consultation with the Assistant Secretary of Labor for Veterans' Employment).

''(B) The Secretary of Defense (or a representative of the Secretary).

''(C) The Secretary of Health and Human Services (or a representative of the Secretary).

''(D) The Secretary of Housing and Urban Development (or a representative of the Secretary).

''(4)(A) The Secretary shall determine the terms of service and allowances of the members of the Committee, except that a term of service may not exceed three years. The Secretary may reappoint any member for additional terms of service.

''(B) Members of the Committee shall serve without pay. Members may receive travel expenses, including per diem in lieu of subsistence for travel in connection with their duties as members of the Committee.

''(b) DUTIES.—(1) The Secretary shall consult with and seek the advice of the Committee on a regular basis with respect to the provision by the Department of benefits and services to homeless veterans.

''(2) In providing advice to the Secretary under this subsection, the Committee shall—

''(A) assemble and review information relating to the needs of homeless veterans;

''(B) provide an on-going assessment of the effectiveness of the policies, organizational structures, and services of the Department in assisting homeless veterans; and

''(C) provide on-going advice on the most appropriate means of providing assistance to homeless veterans.

''(3) The Committee shall—

''(A) review the continuum of services provided by the Department directly or by contract in order to define cross-cutting issues and to improve coordination of all services with the Department that are involved in addressing the special needs of homeless veterans;

''(B) identify (through the annual assessments under section 2034 of this title and other available resources) gaps in programs of the Department in serving homeless veterans, including identification of geographic areas with unmet needs, and provide recommendations to address those gaps;

''(C) identify gaps in existing information systems on homeless veterans, both within and outside the Department, and provide recommendations about redressing problems in data collection;

''(D) identify barriers under existing laws and policies to effective coordination by the Department with other Federal agencies and with State and local agencies addressing homeless populations;

''(E) identify opportunities for increased liaison by the Department with nongovernmental organizations and individual groups providing services to homeless populations;

''(F) with appropriate officials of the Department designated by the Secretary, participate with the Interagency Council on the Homeless under title II of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11311 et seq.);

''(G) recommend appropriate funding levels for specialized programs for homeless veterans provided or funded by the Department;

''(H) recommend appropriate placement options for veterans who, because of advanced age, frailty, or severe mental illness, may not be appropriate candidates for vocational rehabilitation or independent living; and

''(I) perform such other functions as the Secretary may direct.

''(c) REPORTS.—(1) Not later than March 31 of each year, the Committee shall submit to the Secretary a report on the programs and activities of the Department that relate to homeless veterans. Each such report shall include—

''(A) an assessment of the needs of homeless veterans;

''(B) a review of the programs and activities of the Department designed to meet such needs;

''(C) a review of the activities of the Committee; and

''(D) such recommendations (including recommendations for administrative and legislative action) as the Committee considers appropriate.

''(2) Not later than 90 days after the receipt of a report under paragraph (1), the Secretary shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives a copy of the report, together with any comments and recommendations concerning the report that the Secretary considers appropriate.

''(3) The Committee may also submit to the Secretary such other reports and recommendations as the Committee considers appropriate.

''(4) The Secretary shall submit with each annual report submitted to the Congress pursuant to section 529 of this title a summary of all reports and recommendations of the Committee submitted to the Secretary since the previous annual report of the Secretary submitted pursuant to that section.

''(d) TERMINATION.—The Committee shall cease to exist December 31, 2006.''.

(2) The tables of chapters before part I and at the beginning of part II are each amended by inserting after the item relating to chapter 19 the following new item:

''20. Benefits for Homeless Veterans .. 2001''.

(b) HEALTH CARE.—(1) Subchapter VII of chapter 17 is transferred to chapter 20 (as added by subsection (a)), inserted after section 2023 (as so added), and redesignated as subchapter IV, and sections 1771, 1772, 1773, and 1774 therein are redesignated as sections 2031, 2032, 2033, and 2034, respectively.

(2) Subsection (a)(3) of section 2031, as so transferred and redesignated, is amended by striking ''section 1772 of this title'' and inserting ''section 2032 of this title''.

(c) HOUSING ASSISTANCE.—Section 3735 is transferred to chapter 20 (as added by subsection (a)), inserted after the heading for subchapter V, and redesignated as section 2041.

(d) MULTIFAMILY TRANSITIONAL HOUSING.—(1) Subchapter VI of chapter 37 (other than section 3771) is transferred to chapter 20 (as added by subsection (a)) and inserted after section 2043 (as so added), and sections 3772, 3773, 3774, and 3775 therein are redesignated as sections 2051, 2052, 2053, and 2054, respectively.

(2) Such subchapter is amended—

(A) in the heading, by striking ''FOR HOMELESS VETERANS'';

(B) in subsection (d)(1) of section 2051, as so transferred and redesignated, by striking ''section 3773 of this title'' and inserting ''section 2052 of this title''; and

(C) in subsection (a) of section 2052, as so transferred and redesignated, by striking ''section 3772 of this title'' and inserting ''section 2051 of this title''.

(3) Section 3771 is repealed.

(e) REPEAL OF CODIFIED PROVISIONS.—The following provisions of law are repealed:

(1) Sections 3, 4, and 12 of the Homeless Veterans Comprehensive Service Programs Act of 1992 (Public Law 102–590; 38 U.S.C. 7721 note).

(2) Section 1001 of the Veterans' Benefits Improvements Act of 1994 (Public Law 103–446; 38 U.S.C. 7721 note).

(3) Section 4111.

(4) Section 738 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11448).

(f) EXTENSION OF EXPIRING AUTHORITIES.—Subsection (b) of section 2031, as redesignated by subsection (b)(1), and subsection (d) of section 2033, as so redesignated, are amended by striking ''December 31, 2001'' and inserting ''December 31, 2006''.

(g) CLERICAL AMENDMENTS.—(1) The table of sections at the beginning of chapter 17 is amended by striking the item relating to subchapter VII and the items relating to sections 1771, 1772, 1773, and 1774.

(2) The table of sections at the beginning of chapter 37 is amended—

(A) by striking the item relating to section 3735; and

(B) by striking the item relating to subchapter VI and the items relating to sections 3771, 3772, 3773, 3774, and 3775.

(3) The table of sections at the beginning of chapter 41 is amended by striking the item relating to section 4111.

SEC. 6. EVALUATION CENTERS FOR HOMELESS VETERANS PROGRAMS.

(a) EVALUATION CENTERS.—The Secretary of Veterans Affairs shall support the continuation within the Department of Veterans Affairs of at least one center for evaluation to monitor the structure, process, and outcome of programs of the Department of Veterans Affairs that address homeless veterans.

(b) ANNUAL PROGRAM ASSESSMENT.—Section 2034(b), as transferred and redesignated by section 5(b)(1), is amended—

(1) by inserting ''annual'' in paragraph (1) after ''to make an''; and

(2) by adding at the end the following new paragraph:

''(6) The Secretary shall review each annual assessment under this subsection and shall consolidate the findings and conclusions of each such assessment into the next annual report submitted to Congress under section 2065 of this title.''.

SEC. 7. STUDY OF OUTCOME EFFECTIVENESS OF GRANT PROGRAM FOR HOMELESS VETERANS WITH SPECIAL NEEDS.

(a) STUDY.—The Secretary of Veterans Affairs shall conduct a study of the effectiveness during fiscal year 2002 through fiscal year 2004 of the grant program under section 2061 of title 38, United States Code, as added by section 5(a), in meeting the needs of homeless veterans with special needs (as specified in that section). As part of the study, the Secretary shall compare the results of programs carried out under that section, in terms of veterans' satisfaction, health status, reduction in addiction severity, housing, and encouragement of productive activity, with results for similar veterans in programs of the Department or of grant and per diem providers that are designed to meet the general needs of homeless veterans.

(b) REPORT.—Not later than March 31, 2005, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report setting forth the results of the study under subsection (a).

SEC. 8. EXPANSION OF OTHER PROGRAMS.

(a) ACCESS TO MENTAL HEALTH SERVICES.—Section 1706 is amended by adding at the end the following new subsection:

''(c) The Secretary shall ensure that each primary care health care facility of the Department develops and carries out a plan to provide mental health services, either through referral or direct provision of services, to veterans who require such services.''.

(b) COMPREHENSIVE HOMELESS SERVICES PROGRAM.—Subsection (b) of section 2033, as transferred and redesignated by section 5(b)(1), is amended—

(1) by striking ''not fewer'' in the first sentence and all that follows through ''services) at''; and

(2) by adding at the end the following new sentence: ''The Secretary shall carry out the program under this section in sites in at least each of the 20 largest metropolitan statistical areas.''.

(c) ACCESS TO SUBSTANCE USE DISORDER SERVICES.—Section 1720A is amended by adding at the end the following new subsection:

''(d)(1) The Secretary shall ensure that each medical center of the Department develops and carries out a plan to provide treatment for substance use disorders, either through referral or direct provision of services, to veterans who require such treatment.

''(2) Each plan under paragraph (1) shall make available clinically proven substance abuse treatment methods, including opioid substitution therapy, to veterans with respect to whom a qualified medical professional has determined such treatment methods to be appropriate.''.

SEC. 9. COORDINATION OF EMPLOYMENT SERVICES.

(a) DISABLED VETERANS' OUTREACH PROGRAM.—Section 4103A(c) is amended by adding at the end the following new paragraph:

''(11) Coordination of employment services with training assistance provided to veterans by entities receiving funds under section 2021 of this title.''.

(b) LOCAL VETERANS' EMPLOYMENT REPRESENTATIVES.—Section 4104(b) is amended—

(1) by striking ''and'' at the end of paragraph (11);

(2) by striking the period at the end of paragraph (12) and inserting ''; and''; and

(3) by adding at the end the following new paragraph:

''(13) coordinate employment services with training assistance provided to veterans by entities receiving funds under section 2021 of this title.''.

SEC. 10. USE OF REAL PROPERTY.

(a) LIMITATION ON DECLARING PROPERTY EXCESS TO THE NEEDS OF THE DEPARTMENT.—Section 8122(d) is amended by inserting before the period at the end the following: ''and is not suitable for use for the provision of services to homeless veterans by the Department or by another entity under an enhanced-use lease of such property under section 8162 of this title''.

(b) WAIVER OF COMPETITIVE SELECTION PROCESS FOR ENHANCED-USE LEASES FOR PROPERTIES USED TO SERVE HOMELESS VETERANS.—Section 8162(b)(1) is amended—

(1) by inserting ''(A)'' after ''(b)(1)''; and

(2) by adding at the end the following:

''(B) In the case of a property that the Secretary determines is appropriate for use as a facility to furnish services to homeless veterans under chapter 20 of this title, the Secretary may enter into an enhanced-use lease with a provider of homeless services without regard to the selection procedures required under subparagraph (A).''.

(c) EFFECTIVE DATE.—The amendments made by subsection (b) shall apply to leases entered into on or after the date of the enactment of this Act.

SEC. 11. MEETINGS OF INTERAGENCY COUNCIL ON HOMELESS.

Section 202(c) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11312(c)) is amended to read as follows:

''(c) MEETINGS.—The Council shall meet at the call of its Chairperson or a majority of its members, but not less often than annually.''.

SEC. 12. RENTAL ASSISTANCE VOUCHERS FOR HUD VETERANS AFFAIRS SUPPORTED HOUSING PROGRAM.

Section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) is amended by adding at the end the following new paragraph:

''(19) RENTAL VOUCHERS FOR VETERANS AFFAIRS SUPPORTED HOUSING PROGRAM.—

''(A) SET ASIDE.—Subject to subparagraph (C), the Secretary shall set aside, from amounts made available for rental assistance under this subsection, the amounts specified in subparagraph (B) for use only for providing such assistance through a supported housing program administered in conjunction with the Department of Veterans Affairs. Such program shall provide rental assistance on behalf of homeless veterans who have chronic mental illnesses or chronic substance use disorders, shall require agreement of the veteran to continued treatment for such mental illness or substance use disorder as a condition of receipt of such rental assistance, and shall ensure such treatment and appropriate case management for each veteran receiving such rental assistance.

''(B) AMOUNT.—The amount specified in this subparagraph is—

''(i) for fiscal year 2003, the amount necessary to provide 500 vouchers for rental assistance under this subsection;

''(ii) for fiscal year 2004, the amount necessary to provide 1,000 vouchers for rental assistance under this subsection;

''(iii) for fiscal year 2005, the amount necessary to provide 1,500 vouchers for rental assistance under this subsection; and

''(iv) for fiscal year 2006, the amount necessary to provide 2,000 vouchers for rental assistance under this subsection.

''(C) FUNDING THROUGH INCREMENTAL ASSISTANCE.—In any fiscal year, to the extent that this paragraph requires the Secretary to set aside rental assistance amounts for use under this paragraph in an amount that exceeds the amount set aside in the preceding fiscal year, such requirement shall be effective only to such extent or in such amounts as are or have been provided in appropriation Acts for such fiscal year for incremental rental assistance under this subsection.''.

SA 2309. Mr. THOMPSON submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII of division A, add the following:

SEC. 8135. Of the amount appropriated by title III of this division under the heading ''OTHER PROCUREMENT ARMY'', $4,892,000 shall be used for the Communicator Automated Emergency Notification System of the Army National Guard.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. INOUYE. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on December 6, 2001, at 10 a.m., to conduct a hearing on the nomination of Mr. J. Joseph Grandmaison, of New Hampshire, to be a member of the Board of Directors of the Export-Import Bank of the United States; and Mr. Kenneth M. Donohue, of Virginia, to be inspector general of the Department of Housing and Urban Development.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. INOUYE. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, December 6, 2001, at 9:30 a.m. on corporate average fuel economy reform (CAFÉ).

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. INOUYE. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, December 6, 2001, at 2:30 p.m. on the nominations of Jeffrey Shane (DOT) and Emil Frankel to be Assistant Secretary of Transportation Policy (DOT).

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. INOUYE. 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 Thursday, December 6 at 9:30 a.m. To conduct a hearing. The committee will receive testimony on the negotiations for renewing the Compact of Free Association.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. INOUYE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, December 6, 2001 at 10:30 a.m. to hold a hearing titled, 'The Future of Afghanistan'.

Agenda

WITNESSES

Panel 1: The Honorable Christina Rocca, Assistant Secretary for South Asia Affairs, U.S. Department of State, Washington, DC; and the Honorable Richard Haass, Director of Policy Planning, U.S. Department of State, Washington, DC.

Panel 2: Mr. Thomas E. Gouttierre, Dean of International Studies and Director of the Center for Afghanistan Studies, University of Nebraska, Omaha, Nebraska; and Ms. Fatima Gailani, Advisor, National Islamic Front of Afghanistan, Providence, RI.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. INOUYE. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Thursday, December 6, 2001 at 9 a.m. to hold a hearing entitled ''Weak Links: Assessing the Vulnerability of U.S. Ports and Whether the Government is Adequately Structured to Safeguard Them.''

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

COMMITTEE ON THE JUDICIARY

Mr. INOUYE. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on ''Department of Justice Oversight: Preserving Our Freedoms while Defending Against Terrorism'' on Thursday, December 6, 2001 at 10 a.m. in Dirksen Room 106. Witness: The Honorable John Ashcroft, United States Attorney General, Department of Justice, Washington, DC.

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

PRIVILEGE OF THE FLOOR

Mr. INOUYE. Madam President, I ask unanimous consent that Duane Seward of Senator KENNEDY's office, Douglas Jackson of my staff, and John Kem, an intern on the Appropriations Committee staff, be granted floor privileges during consideration of the Defense appropriations bill for the fiscal year 2002.

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

Mr. STEVENS. Madam President, I ask unanimous consent that John Kem, Kraig Siracuse, Sid Ashworth, Alycia Farrell, and Andrew Givens of the Appropriations Committee staff, and Mark Robbins of my staff, be granted floor privileges during consideration of H.R. 3338.

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

Mr. STEVENS. Madam President, I ask unanimous consent that Senator MCCAIN's legislative fellow, Navy LCDR Dell Bull, be granted floor privileges during consideration of the National Defense Appropriations Act for Fiscal Year 2002.

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

Mr. REID. Madam President, I ask unanimous consent that Peter Winokur, a congressional fellow in my office, be allowed floor privileges during consideration of the National Defense Appropriations Act for Fiscal Year 2002.

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

Mr. INOUYE. Madam President, I ask unanimous consent that David Dorsey and David Bowen of Senator KENNEDY's office and Susan Seaman of Senator MIKULSKI's office be granted floor privileges during the consideration of this measure.

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Nos. 570 and 571; that the nominations be confirmed, the motions to reconsider be laid upon the table, any statements thereon be printed in the RECORD, the President be immediately notified of the Senate's action, and the Senate return to legislative session.

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

The nominations considered and confirmed are as follows:

FEDERAL RESERVE SYSTEM

Mark W. Olson, of Minnesota, to be a Member of the Board of Governors of the Federal Reserve System for the unexpired term of fourteen years from February 1, 1996.

Susan Schmidt Bies, of Tennessee, to be a Member of the Board of Governors of the Federal Reserve System for a term of fourteen years from February 1, 1998.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

AMENDING THE CHARTER OF SOUTHEASTERN UNIVERSITY OF THE DISTRICT OF COLUMBIA

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 245, H.R. 2061.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2061) to amend the charter of Southeastern University of the District of Columbia.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Madam President, I ask unanimous consent that the bill be read a third time, passed, and the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements related thereto be printed in the RECORD.

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

The bill (H.R. 2061) was read the third time and passed.

HONORING DR. JAMES HARVEY EARLY

Mr. REID. Madam President, I ask unanimous consent that the Governmental Affairs Committee be discharged from further consideration of S. 1714, and the Senate proceed to its immediate consideration.

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

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1714) to provide for the installation of a plaque to honor Dr. James Harvey Early in the Williamsburg, Kentucky Post Office Building.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Madam President, I ask unanimous consent that the bill be read three times, passed, the motion to

reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD, with no intervening action or debate.

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

The bill (S. 1714) was read the third time and passed, as follows:

S. 1714

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

SECTION 1. INSTALLATION OF PLAQUE TO HONOR DR. JAMES HARVEY EARLY.

(a) IN GENERAL.—The United States Postmaster General shall install a plaque to honor Dr. James Harvey Early in the Williamsburg, Kentucky Post Office Building located at 1000 North Highway 23 West, Williamsburg, Kentucky 40769.

(b) CONTENTS OF PLAQUE.—The plaque installed under subsection (a) shall contain the following text:

''Dr. James Harvey Early was born on June 14, 1808 in Knox County, Kentucky. He was appointed postmaster of the first United States Post Office that was opened in the town of Whitley Courthouse, now Williamsburg, Kentucky in 1829. In 1844 he served in the Kentucky Legislature. Dr. Early married twice, first to Frances Ann Hammond, died 1860; and then to Rebecca Cummins Sammons, died 1914. Dr. Early died at home in Rockhold, Kentucky on May 24, 1885 at the age of 77.''.

HERB HARRIS POST OFFICE BUILDING

Mr. REID. Madam President, I ask unanimous consent that the Governmental Affairs Committee be discharged from further consideration of H.R. 1761, and that the Senate then proceed to its immediate consideration.

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

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 1761) to designate the facility of the United States Postal Service located at 8588 Richmond Highway in Alexandria, Virginia, as the ''Herb Harris Post Office Building.''

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Madam President, I ask unanimous consent that the bill be read three times, passed, the motion to consider be laid upon the table, and that any statements relating thereto be printed in the RECORD, with no intervening action or debate.

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

The bill (H.R. 1761) was read the third time and passed.

HOMELESS VETERANS COMPREHENSIVE ASSISTANCE ACT OF 2001

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 201, H.R. 2716.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2716) to amend title 38, United States Code, to revise, improve, and consolidate provisions of law providing benefits and services for homeless veterans.

There being no objection, the Senate proceeded to consider the bill.

Mr. ROCKEFELLER. Madam President, as chairman of the Committee on Veterans' Affairs, I urge prompt Senate passage of H.R. 2716, the ''Comprehensive Homeless Veterans Assistance Act of 2001,'' a bill that enhances VA's efforts to combat homelessness among our Nation's veterans. This bill represents a compromise between S. 739, as passed by the Senate on November 15, 2001; and H.R. 2716, which passed the House on October 16, 2001.

This bill sets a rather lofty—but, in my view, attainable—goal of ending chronic homelessness among veterans within a decade. Unless we aim high, we will never end the problem. The bill also encourages interagency cooperation to facilitate meeting that goal. With the Departments of Veterans Affairs, Housing and Urban Development, and Health and Human Services administering most programs targeting homelessness, it seeks to revive the Interagency Council on the Homeless, of which all three agencies are members.

I will highlight some of the other key provisions in this important piece of legislation.

Proposed new section 2062 of title 38, United States Code, is intended to authorize VA to provide essential dental care services to those homeless veterans who demonstrate a commitment to rehabilitation and reintegration into society. In the course of developing this provision, the Committee members agreed that there is a unique and urgent need for basic dental care within the homeless population.

Consequently, the bill provides a one-time course of dental care to those homeless veterans who enroll and remain in a specified VA, grant or contract assistance, or specialized health program for 60 consecutive days. The treatment is limited to a ''one-time'' course of care that would allow VA to carry out a treatment plan as medically indicated by the veteran's needs. The Committee members also recognized there may be a break in treatment services that could occur through no fault of the veteran. In those cases, the compromise agreement makes allowance for the Secretary to aggregate days of treatment, by disregarding these breaks in continuous treatment.

Section 8(a) of the compromise agreement contains a provision requiring that every VA facility develop a plan to treat patients who present themselves at the facility and are in need of mental health care. This can include referral to another facility that has the mental health treatment capability if the original facility does not. A similar provision was included in section 8(c) with regard to the availability of substance abuse treatment at every VA medical center. It requires VA to have a plan ready to implement should a veteran walk into a VA medical center and require such treatment. Opioid substitution therapy is specifically mentioned in this section because it has proven to be very successful for the treatment of heroin addiction.

In closing, I acknowledge the tireless efforts of the original namesake of the bill, Heather French Henry, Miss America 2000. She dedicated her tenure to raising the Nation's awareness of the plight of homeless veterans, traveling some 20,000 miles a month to visit with veterans in recovery programs and offer encouragement.

Mrs. Henry's father and uncle provided the inspiration for her to commit herself to the issue, as they both had suffered and recovered from substance abuse and ultimately homelessness following their military service. The work that Heather French Henry has done on behalf of homeless veterans did not stop at the end of her reign, but has continued on. This bill is a testament to her profound dedication.

I also thank my good friend and colleague Senator WELLSTONE for his strong dedication to this issue. His unwavering commitment to homeless veterans was exemplified by his introduction of the Senate version of the bill and his tenacious efforts to get it passed. I applaud his efforts on behalf of this forgotten segment of the veterans population.

Finally, Mr. President, I recognize the hard work of Alexandra Sardegna of the Democratic staff of the Committee on Veterans' Affairs; Bill Cahill of the Republican staff of the Committee; and John Bradley and Susan Edgerton of the House Veterans' Affairs Committee in developing this legislation and seeing it through the legislative process.

I ask unanimous consent that a summary of provisions be printed in the RECORD.

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

SUMMARY OF H.R. 2716 (AS AMENDED): THE ''COMPREHENSIVE HOMELESS VETERANS ASSISTANCE ACT OF 2001''

The Compromise Agreement incorporates provisions from S. 739, passed by the Senate on November 15, 2001; with provisions of H.R. 2716, passed by the House on October 16, 2001. It seeks to enhance and provide additional support for VA programs that combat homelessness among veterans.

SUMMARY OF PROVISIONS

The following is a summary of key provisions in the Compromise Agreement, H.R. 2716:

Programmatic Expansions: Authorizes VA to spend up to $60 million per year on the transitional housing Grant and Per Diem program. Requires VA to establish at least twenty new comprehensive service centers for homeless veterans in those metropolitan areas found to have the greatest need. Extends the Homeless Chronically Mentally Ill and Comprehensive Homeless Programs until December 31, 2006.

Mental Health Treatment Capability: Requires VA to develop and carry out a comprehensive plan to treat those patients, either on-site or through referral to another

facility, who present themselves at VA facilities and are in need of mental health services.

Advisory Committee on Homeless Veterans: Establishes a Committee that will examine and report to the Secretary on various services provided to homeless veterans.

Interagency Council on the Homeless: Requires annual meetings of the Interagency Council on the Homeless, as the Council has yet to get underway.

Dental Care: Provides a one-time course of dental care to homeless veterans who complete 60 consecutive days of a rehabilitative program. Makes an exception for those veterans who have a break in services through no fault of their own.

Evaluation of Homeless Programs: Encourages the continued support of at least one evaluation center to monitor the effectiveness of VA's various homeless programs. Requires VA to report on both the benefits and health care aspects of combating homelessness.

Life Safety Code: Requires that real property of grantees under VA's homeless Grant and Per Diem program meet fire and safety requirements applicable under the Life Safety Code of the National Fire Protection Association.

Technical Assistance Grants: Authorizes the Secretary to conduct a technical assistance grants program to assist nonprofit groups in applying for grants relating to addressing problems of homeless veterans. Provides $750,000 for each of fiscal years 2002 through 2006 for these purposes.

Homeless Veterans Reintegration Program: Extends the Homeless Veterans Reintegration Program and authorizes $50 million a year for each of fiscal years 2002 through 2006.

Mr. REID. Madam President, I understand that Senators ROCKEFELLER and SPECTER have a substitute amendment at the desk. I ask unanimous consent that the amendment be agreed to, the act, as amended, be read three times and passed, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD.

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

The amendment (No. 2308) was agreed to.

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

The bill (H.R. 2716), as amended, was read the third time and passed.

UNANIMOUS CONSENT AGREEMENT—CONFERENCE REPORT TO ACCOMPANY H.R. 2944

Mr. REID. Madam President, I ask unanimous consent that on Friday, December 7, at 9:30 a.m., immediately following the normal opening proceedings of the Senate, the Chair lay before the Senate the conference report to accompany H.R. 2944, the District of Columbia Appropriations Act; that there be a time limitation with the time equally divided and controlled between the chair and ranking member of the subcommittee; and that upon the use of all the time, without further intervening action, the Senate proceed to vote on adoption of the conference report. I further ask for the yeas and nays on adoption of the conference report.

The PRESIDING OFFICER. Without objection, it is so ordered. It is in order to ask for the yeas and nays.

Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

ORDERS FOR FRIDAY, DECEMBER 7, 2001

Mr. REID. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9:30 a.m., Friday, December 7; that immediately following the prayer and pledge, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate begin consideration of the District of Columbia Appropriations conference report.

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

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. Madam President, I appreciate the patience of the Presiding Officer.

If there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:46 p.m., adjourned until Friday, December 7, 2001, at 9:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate December 6, 2001:

FEDERAL RESERVE SYSTEM

MARK W. OLSON, OF MINNESOTA, TO BE A MEMBER OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR THE UNEXPIRED TERM OF FOURTEEN YEARS FROM FEBRUARY 1, 1996.

SUSAN SCHMIDT BIES, OF TENNESSEE, TO BE A MEMBER OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR A TERM OF FOURTEEN YEARS FROM FEBRUARY 1, 1998.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

THE JUDICIARY

HARRIS L. HARTZ, OF NEW MEXICO, TO BE UNITED STATES CIRCUIT JUDGE FOR THE TENTH CIRCUIT.

DANNY C. REEVES, OF KENTUCKY, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF KENTUCKY.

JOE L. HEATON, OF OKLAHOMA, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF OKLAHOMA.