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Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable ZELL MILLER, a Senator from the State of Georgia.

The PRESIDING OFFICER. Today's prayer will be offered by Rabbi Gerald Kane of Temple Beth-El, Las Cruces, NM.

PRAYER

The guest Chaplain offered the following prayer:

In these most challenging of times, may this parable from Jewish tradition provide inspiration and guidance to you, the distinguished Senators of our wonder-filled country.

A man, wandering lost in a dark forest for several days, finally encounters another. He calls out: ''Brother, show me the way out of here.''

The man replies: ''Brother, I too am lost. I can only tell you this: the paths I have tried to get out of this forest have led me nowhere. They have only led me astray. Here, take hold of my hand, and let us search for a way out of this dark place together.''

''And so it is with us,'' the author of the parable concludes. ''When we go our separate ways, we may go astray. Let us join hands and look for the path out of the darkness together.''

Dear God, inspire those gathered in this historic chamber to walk on the path of freedom, respect, and solidarity together in to the light of a sun-filled day.

Imbue them with Your wise guidance, tremendous strength, and awesome courage. Together may we better pursue the high ideals of liberty, justice, and equality for all upon which this, our great Nation, is founded.

Lift up Thy countenance upon us, and grant us Thy most precious of blessings, the gift of shalom, balance, and peace. Amen.

PLEDGE OF ALLEGIANCE

The Honorable ZELL MILLER led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 1, 2002.

To the Senate:

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

ROBERT C. BYRD,
President pro tempore.

Mr. MILLER thereupon assumed the Chair as Acting President pro tempore.

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

SCHEDULE

Mr. REID. Mr. President, the Chair will shortly announce a period of morning business with the first half under the control of the Republicans and the second half under the control of the majority. I ask unanimous consent that after the Chair's ruling the Senator from New Mexico be recognized for up to 5 minutes to speak, as the guest Chaplain is from the State of New Mexico. I ask unanimous consent that the time not be charged against either the Democrats or the Republicans in that morning business.

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

The Senator from New Mexico is recognized.

THE GUEST CHAPLAIN

Mr. BINGAMAN. Mr. President, I wish to take a moment of the Senate's time to particularly acknowledge the presence of our guest Chaplain, Gerald Kane, who is the Rabbi of Temple Beth-El in Las Cruces, NM.

Rabbi Kane was ordained first in Cincinnati in 1970 at the Hebrew Union College-Jewish Institute of Religion. He has served pulpits in Portland, OR, New Orleans, Phoenix, and in Kansas City, before coming to Las Cruces some 3 years ago.

Las Cruces is the second largest city in my home State of New Mexico, a very vibrant, growing metropolitan area. It is one of only five communities in New Mexico that has a synagogue. It has the third synagogue that was built in our State.

Our Jewish community has always had a special role in the life of Las Cruces. Three of the mayors of that city have been of the Jewish faith.

Following the September 11 attacks, Rabbi Kane, together with other religious leaders in Las Cruces, issued a statement of unity and support at the Las Cruces Islamic Center. He has coordinated clergy participation in this year following 9/11, and has worked very hard to bring the community together in that regard.

We are very proud that he is here. In talking with him this morning, we were at a loss to think when we last had a clergyman from New Mexico as our guest Chaplain in the Senate. But it is entirely appropriate that we do today.

I am very honored that Rabbi Kane was able to be with us.

Also, I wish to acknowledge the presence of his wife Cyrille, who is here with him. They have four children and nine grandchildren.

Let me also acknowledge the very good work of one of the staff people who works with me, Jeff Steinborn, who works in our Las Cruces office and who helped make the arrangements today for Rabbi Kane to be here.

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

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RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the 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 not to extend beyond the hour of 11 a.m., with Senators permitted to speak therein for up to 10 minutes each. Under the previous order, the first half of the time shall be under the control of the Republican leader or his designee.

The Senator from Florida is recognized.

ORDER OF PROCEDURE

Mr. NELSON of Florida. Mr. President, I have already cleared this with the Senator from Wyoming. I ask unanimous consent that I be allowed to speak for up to 10 minutes and it be charged against the Democrat's time.

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

DEFICIT SPENDING

Mr. NELSON of Florida. Mr. President, during the last few weeks, there has been much discussion about whether or not we should expand our war against terrorism to a specific war in Iraq. A lot of us have been on the talk shows and on the news programs. This morning Senator BROWNBACK of Kansas and I were on CNN talking about this very subject. It is expected that we will take up a resolution with regard to a war with Iraq probably later this week.

In the midst of this very public discussion, largely neglected have been conversations about a battle we are in the midst of fighting on our own soil—an economic battle against the long-term fiscal stability of our country, an economic battle involving the condition of our budget and our national economy.

As we talk about protecting against terrorism and protecting against Saddam Hussein in Iraq, clearly, we have to talk about military strength. But there is also a major component to being militarily strong; that is, to be economically strong.

Let's look at our condition. Last year the administration told us we could expect over $5 trillion of surpluses over the next decade. As a member of the Budget Committee, having gone through a similar situation way back in the early 1980s, I warned that that was a risky gamble. I cited the experiences of 1981 when we voted for a huge tax cut. I recalled, as we had this debate over a year ago about the projected surpluses over time, that those surpluses may not materialize. If you give a tax cut that is too large, it is going to throw you back into deficit financing.

Indeed, that is what happened in 1981. We had a tax cut that was so huge, we had to undo it—not once, not twice, but three times in the decade of the 1980s.

Last year when we were having this debate, I suggested that you just couldn't count on a 10-year forecast, that there was too much risk associated with planning that far in advance. At the time I supported a huge tax cut. I supported one version on an amendment that was up to $1.2 trillion over a decade and one that would give back to our citizens and assist those who were struggling to make ends meet but one that wouldn't break the back of the Federal Government should things not appear quite as rosy as we thought they were going to be, which has been the case.

Things didn't turn out anywhere close to the rosy picture that was painted for us a year ago. After passing last year's tax cut, which goes upwards of $2 trillion over a decade, we find that if we adopt over the next decade the administration's, the President's spending and tax policies, we will not see the $5.6 trillion of surpluses, but we will see instead $400 billion of deficits.

Some point to congressional spending as the root of this problem. That is simply not accurate. We will experience these deficits using the administration's, the President's, the White House's own proposals for spending and additional tax cuts. This doesn't even take into account the trillions of dollars of Social Security funds that are also going to be spent.

The true deficit, not counting Social Security surpluses, is not $400 billion. Over that decade, it is going to be $2.7 trillion. Remember, in the election of 2000 we all said we were not going to touch the surpluses in Social Security; that we were going to leave those alone; that there was going to be a fence off of Social Security surpluses. Then those surpluses would pay off the national debt over a 12-year period. That didn't happen.

The Congressional Budget Office tells us nearly $6 trillion of last year's projected surplus is gone. There is nothing left.

Now, let's recap where it went. According to CBO, 34 percent of the lost surplus went to last year's tax cuts. Twenty-nine percent of it was lost due to the overestimations of revenue by the administration; that was the rosy picture of what the surpluses were going to be, projecting over 10 years. In other words, lost revenue accounts for 63 percent of the disappearance of last year's surplus.

The remainder of the lost surplus went to the war on terrorism—something we obviously have to finance—or was directly related to the recession. Twenty-two percent of that went to increased spending on national defense, and only 15 percent of the disappearance of the surplus is as a result of the economic downturn.

For all of those folks asserting the overspending has eaten through our surplus projects, that is simply not accurate. The two largest reasons for the disappearance of the surplus are tax cuts and the administration's rosy estimates of the revenue.

The third biggest reason is what you would expect: Spending on defense. The smallest cause of the disappearance is the economic downturn.

The fact is, the surplus is gone. We are back up to our eyeballs in national debt. Last year, the administration said the debt held by the public would be virtually eliminated. Last year, the administration said the debt would be eliminated by 2008. It didn't happen that way.

Now we are in the middle of deficit financing. Instead of having no debt, we are going to be stuck over that decade with $3.8 trillion of debt, and the consequences of this enormously increased debt are that the interest cost to the Federal Government will have tripled from $620 billion over the decade to $1.9 trillion. That is going to have real consequences in our national economy.

Why do you think the stock market is going in the tank, it is right now? Every day it is losing. It is down in the 7,000 range on the Dow Jones. It is not just because of the threatened war on Iraq. That is one element of it. But it is a fact that the Federal Government has now gone back into its old ways of deficit financing; that is, borrowing money to pay present bills every year, projected over this decade to the point that we said we were not going to do it. We must pay attention to our bottom line and to the economic security and the fundamental financial strength of America. That is what gives texture and vibrancy for us as a Nation that needs to be militarily strong, as well as morally strong. We need that undergirding of economic strength.

With deficits projected the rest of the decade, we are going to be digging a deeper national debt hole. And when is that going to occur? Lo and behold, it is going to occur just at the time that all of the baby boomers are going to retire and our cashflow situation is going to get worse.

We are living right now on the positive cashflow out of the Medicare and the Social Security trust funds. But by the year 2016, those trust funds go from cash positive to cash negative, and they do it in a very big way.

We cannot afford to continue to cut receipts in the hope that doing so will somehow miraculously turn into more revenues. We have to begin to think more realistically before our overly rosy optimism financially paralyzes our Federal Government. At the same time, our economy is continuing to be sluggish. Although most analysts remain optimistic that we will pull out of this recession eventually, the path is not rising very fast, if it is rising at all.

The economic indicators are disturbing: Last week, leading economic indicators dropped for the third month

in a row, and Nasdaq hit a 6-year low. The Dow Jones is down 1,200 points since August 22. Oil prices just recently spiked to a 19-month high, and consumer confidence is at its lowest since November 2001.

Since the beginning of 2001, 2 million jobs have been lost, the first decline in the number of private sector jobs in 50 years. The U.S. poverty rate rose last year for the first time in 8 years.

Last year's administration spending and tax cut plan has resulted in today's collision course of more deficits, more debt, more economic insecurity, higher interest rates, lower economic growth and lower employment.

All of this is occurring right under our noses. Yet I do not believe that the administration is paying attention. I appreciate the ongoing dialog about a potentially impending war in the Middle East—but we also need to pay attention to the battles that we are already waging. We must do something to reinvigorate the economy. We must pay attention to our Government bottom line. We must not continue to raise the debt for our grandchildren to later pay off.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming.

Mr. THOMAS. Mr. President, I want to make a few short comments before I turn it over to my friend from Iowa. I have been listening to my friend from Florida. He is blaming the administration for the deficit. I remind him who it is that spends the money. The administration cannot spend a dime unless it is authorized by the Congress.

We find ourselves in a Congress that doesn't even have a budget. When we talk about spending and deficits, we should talk about ourselves and wonder why we haven't done one of the things we have done every year, and that is have a budget. We don't have a budget.

So I agree, as a matter of fact, with the spending, but we need to take action.

SENATE AGENDA

Mr. THOMAS. Mr. President, there are a lot of rumors about where we are going in the next few days we have remaining, basically the rest of this week and I presume next week, as to what is going to be done. There is talk about pulling homeland defense. I hope that is not the case. Of all the issues we have before us, certainly that has to be one of the most important.

There is talk of bringing all the kind of politically oriented issues to the floor, knowing they will not pass, but to be able to say we tried. I don't think that is the best way to govern. It seems to me we have to make some priorities. We have a shortage of time. We have to decide what are the most important things that need to be done during that time. It seems to me they are fairly clear.

I hope we will address those things. Homeland defense has been on the floor for 4 weeks now. It is one that, obviously, is necessary. I don't think there is a soul here who believes we ought not to be doing that. We have argued about governmental employee unions. Certainly, the highest priority of this administration, and I think for the Congress, would be to put into place a homeland defense program, which we have before us.

The Iraq resolution apparently is coming to the floor, hopefully tomorrow, to be discussed a rather short time. It is very obvious that needs to be done.

We have passed no appropriations this year. We are supposed to have been finished with appropriations. Today, we start a new fiscal year—without the passage of any appropriations bills. Obviously, we plan to go with a continuing resolution for most of them, but we cannot do that for Defense or military construction. We have to decide those as priorities. Then we have to have a continuing resolution to carry on Government operations until sometime in the future—whether it is a November return, December, January or February, whatever. That has to be done and, I hope, in a clean way that allows us to move forward with attaching a great many things to it.

So that is where we are. Certainly, we are all aware of the necessity of accomplishing those things in a reasonably short time we have in which to do that. So I urge the leadership and all of us to try to decide how we handle those things and do them as quickly as we can, so we will be able to leave here when the time comes. These things must be done in the meantime.

I yield the floor.

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

DEMOCRATIC LEADERSHIP'S ATTACK ON PRESIDENT BUSH'S FISCAL POLICIES

Mr. GRASSLEY. Mr. President, I want to respond to what has been a coordinated attack by the Democratic leadership on President Bush. This drumbeat, as we all know, started a couple of weeks ago. Our distinguished majority leader, Senator DASCHLE, took the lead on a Senate floor speech to question the leadership of President Bush. He was joined by others in the Democratic leadership who pummeled the President and used many colorful charts and other props to make their points. I was tempted to respond at that time, but, as you know, the Senate has been in debate on homeland security, so I didn't have an opportunity at that time.

It is probably good to reflect upon what was said 2 weeks ago and remind the public once again. The attack basically blamed the President for all that ails our economy. There was an article in the Wall Street Journal, dated September 18 of this year, the day the attacks started, summarizing the strategy of the other party and the substance of their arguments. I will put that article in the RECORD. I will quote from it:

> In a Senate floor speech he plans to make following the breakfast meeting with Mr. Bush, Mr. DASCHLE . . . expected to say the President's policies are responsible for U.S. job losses, weak economy, declining business investment, shrinking retirement accounts, an erosion of consumer confidence, rising health care costs, vanishing budget surpluses and record executive pay.

Indeed, we have seen our Democratic friends on several occasions use charts with the listing referenced in the article. Let me be clear on the attack because this kind of summarizes the various issues I am going to address. According to the Democratic leadership, the President's policies are the cause of job losses, weak economic growth, declining business investment, shrinking retirement accounts, an erosion in consumer confidence, rising health care costs, vanishing budget surpluses, and record executive pay—meaning record executive pay in the private sector.

I will tell you, Mr. President, that is an awesome amount of power that has been attributed to one individual—the President of the United States. But there is a little bit of irony here. The distinguished majority leader ascribes so much power to the President you could almost make the public believe the President is a king. Maybe this much power makes the President an emperor. Now, how many times have we heard another Democrat—the distinguished chairman of the Appropriations Committee, Senator BYRD—pull his Constitution out of his pocket and say the President is not a king. So who is right? Is it Senator DASCHLE, who has made the President such an imperial figure, or is it Senator BYRD, who says the President is not a king?

I think we need to work through this. My view is reality and history favor Senator BYRD's point of view that the President is only the President of the United States and not an imperial power.

So I want to go through the Democratic leadership's attack point by point. According to Senator DASCHLE, the President singlehandedly fired millions of workers. Funny, Mr. President, I thought employers laid off workers, not the President of the United States. It seems to me the President can fire political appointees, such as White House staff, but I don't think he can even fire Federal workers in America. Heck, right now we are hung up on the homeland security debate. That is a fight over the extent of the President's powers with respect to Federal workers in the Department of Homeland Security.

The next charge, Mr. President. All by himself, the President has slowed economic growth. Funny, I thought we had a global economic downturn, we had war on terrorism, we had overcapacity in telecom, and we had a bubble in the stock market during the Clinton years. These things might have had something to do with it—but not acccording to Senator DASCHLE. No.

Under the Democratic leadership's theory, all of these things are the fault of the President of the United States.

A third charge. Declining business investment is all George W. Bush's fault under the Daschle theory as well. Funny, I thought businesses made investment decisions, not the President of the United States. Actually, we had a stimulus package pushed by the President. Well, that hasn't had any effect, according to Democratic leadership. I guess the business cycle doesn't exist under Daschle economics.

The fourth charge. Democratic leaders blame recent decline in 401(k) accounts all on President Bush. Senator DASCHLE seems fixated on recent stock market decline. I have a lot of concern myself.

The Democratic leadership, however, seems very obsessed with assigning blame. By contrast, folks in the heartland, such as my State of Iowa, tell me they want us to look forward and do something. They do not want a bunch of political fingerpointing.

If we look forward, we see some very good issues in the area of retirement security. In fact, last year's bipartisan tax relief bill contained the largest expansion of tax incentives for retirement security in a whole generation. There is $50 billion in new incentives. I guess Senator DASCHLE's opposition to the largest increase in IRA and 401(k) account contributions in last year's tax bill does not make a bit of difference; it just does not matter. While some may want to find fault, constructive legislators can point to bipartisan initiatives on retirement security that workers can look forward to in the future.

Why scare workers? Why whip up anger? Why not work together? Why not recognize some good we do around here, such as the retirement security package that phases in as part of the bipartisan tax relief legislation?

Why not bring up the bipartisan Finance Committee pension bill which has been on the calendar for the last 3 months? I introduced it only this year as a consensus document, and the Finance Committee approved it. Let's get out of the partisan blame game and do some bipartisan work for the benefit of our workers. Let's build on what we did last year.

The fifth charge: Senator DASCHLE blames an erosion in consumer confidence all on President Bush. Funny, it seems to me that the President, although being a very important leader, cannot stimulate consumer confidence all by himself. What he can do is propose to return more taxpayers' money to the taxpayers so they have a brighter future. As policymakers in a time of slackening demand, we hope consumers will spend the extra tax dollars that were left in their pockets by this tax bill.

So the Bush tax cut, the largest tax cut in a whole generation, with checks to every taxpayer, which the Democratic leadership opposed, had a negative effect on consumer confidence? Give me a break. But that is the charge Senator DASCHLE has made. More money to spend for every American on their needs negatively affects their confidence? That is the charge.

It goes to tell you, this makes no sense. In the parlance of a hunter, that dog does not hunt.

The sixth charge: The Democratic leadership says rising health care costs are all the fault of the President. Funny, the last time I checked, the President of the United States was not a physician. He is not a nurse. He is not an insurance company executive. He is not a pharmaceutical executive. He is not a trial lawyer who sues physicians, nurses, and hospitals. The President of the United States does not send you a health care bill. But none of that matters. It just does not matter. No, ignore market dynamics and other conditions. According to Daschle economics, the President all by himself is responsible for these rising health care costs.

The seventh charge: Vanishing budget surpluses are all the President's fault, according to Senator DASCHLE. According to the Democratic leadership, their spending demands have never fit into the ledger. The recession does not matter. The money for rebuilding New York after September 11 does not matter. Bailing out airlines has no consequences on the budget, or fighting the war in Afghanistan and the war on terrorism have no consequences. These are all unanticipated bipartisan responses to unexpected events, and all that does not matter.

No, under Daschle economics, it is all the fault of President Bush. Just plain and simple, it is the President's fault.

Fairminded folks back home know it is not that plain. They know it is not that simple. And the folks in the heartland of America are right. I will get back to that in just a minute. I want to go to the eighth and final charge. And hold on to your hat. This one is pretty amazing.

According to the Democratic leadership, record executive pay is all the President's fault. Apparently, Senator DASCHLE thinks the President votes every share, controls every board of every corporation that has suffered from excessive executive pay. So folks such as Terry McAuliffe, the Democratic National Committee chairman who profited from insider deals, are somehow not accountable for their own actions. The boards of directors do not matter, according to Daschle economics.

Oh, and there is another thing. Just ignore the fact that a lot of these sweetheart insider deals occurred long before President Bush was ever sworn in on January 20, 2001. Do not let that little fact get in the way of the debate.

How can anyone take that charge seriously, that the President of the United States is responsible for excessive executive pay of corporations? The President no more sets executive pay than you or I do, Mr. President. It is true that we can affect how executive pay is taxed, or disclosure, but we do not decide the level of that pay.

Let's be clear: Either the President is an imperial figure or the charges made by the Democratic leadership are without merit. Both cannot be true in a modern global economy.

I will take a few minutes to talk specifically about the bipartisan tax relief package enacted last year. Despite the-sky-is-falling partisan opposition during the tax debate last year, the passage of time tells a very different story and it discounts the fictitious picture of doom and gloom portrayed last year by my big-spending friends, most on the other side of the aisle.

According to revised economic data released by the Federal Government in August, the economy started to falter earlier than previously believed. The figures from economists show that the economy started negative growth as early as January 2001, 20 days before President Bush was sworn in. This proves the economy needed a shot in the arm sooner rather than later to get things rolling again; quite frankly, even more so than we thought at the time we passed the tax bill.

What is more, the primary weakness causing the economy to sputter was lackluster business investment, not a waning of personal consumption and the expenditure by our consumers.

Clearly, the job-creating machine in America needed a tuneup, and that is just what the President set out to do when he took his oath of office. As a cornerstone of his campaign for the White House, the President made good on his pledge to return more hard-earned money to the working men and women of America.

As the chairman of the Senate Finance Committee at that time, I had the privilege of steering through Congress the largest Federal income tax cut in a generation.

The best way to grow the economy is not by growing Government, it is by allowing the industrious people of the United States to manage their own income.

Reducing marginal tax rates on income and investment was exactly the right policy prescription to cure sluggish business investments and prime the pumps that enable American entrepreneurs, small business owners, manufacturers, and corporate employers to grow the economy and create jobs.

It was the right policy. We thought so at the time. History now, learning that the recession started on January 1, 2001, and not in the fall 2001, as we had anticipated, it was absolutely the right policy to do. And we are fortunate it came along at the time it did, in the middle of that recession.

Letting workers, investors, entrepreneurs, employers, families, and retirees keep more of their money unleashes chain reaction because they spend two-thirds of the economy. They save it—not enough of our economy. They invest it—probably not enough of

our economy. But they open small businesses, creating jobs; they pay higher wages, or they buy a house, upgrade manufacturing equipment, pay for higher education. The list goes on.

It is a fundamental principle that policymakers need to remember. Money recycled through Washington does not squeeze the most bang out of our almighty dollar, and yet plenty of critics continue to blame the Republican tax cut rather than the bipartisan tax cut for the Federal budget shortfall. This was a bipartisan tax bill because one-quarter of the Democratic caucus in the Senate voted for the tax cuts. In an election year, too many candidates still like to divide the American electorate, and they do that in the demagogic way of pitting the rich against everyone else.

I am sure voters will get their fill of statistics claiming that the Bush tax cut hands out 40 percent of the benefit to the top 1 percent of the taxpayers. This is not merely misleading, it is outright false. Some folks must be under the impression that as long as something is repeated often enough, it will become true. That was how Adolf Hitler got to the top.

The facts certainly are thorny little details for the critics of the bipartisan tax relief package. According to the Joint Committee on Taxation, Congress's official nonpartisan scorekeeper, the Federal Tax Code became more progressive with the tax relief package passed in Congress last year, and taxpayers in the lower to middle income brackets get the biggest break.

For example, taxpayers with incomes between $10,000 and $20,000 will see their taxes reduced almost 14 percent when the tax cut takes full effect, whereas taxpayers with over $200,000 a year in income will see their taxes reduced by a mere 6 percent compared to that 14 percent.

As for the budget, the bipartisan tax cut was a minimal factor in the Federal Government's surplus to deficit situation. In its first year, the tax cut accounted for just 8 percent of the shortfall. Indeed, increased spending outpaced tax cuts by $6 billion. In other words, Congress spent $6 billion more than the taxpayers got back in their pocket from the tax bill.

Over the long term, the 10-year surplus declines from $5.6 trillion to $300 billion. The tax cut represents 33 percent of the decline. Those who are looking to lay blame need to point their fingers then at Congress's appetite to spend. Folks who decry the tax cut should instead weep for the hard-working taxpayer because of the bite that Uncle Sam takes out of their paychecks.

The Bush tax cut saved Iowa households $752, on average, in its first year. So I ask Iowans if they can't use that money and if that money probably has not been put to good use, now that the economy has slowed, to keep the economy out of recession once again.

Even with that tax cut, the Federal Government takes 19 cents out of every dollar earned. That is a record burden, higher than any decade since World War II. So thanks in part to the bipartisan tax cut enacted in the summer of 2001, things are starting to turn around. Weaknesses persist in the manufacturing and employment sectors, but regardless, the U.S. economy is as resilient as the spirit of the American people.

Lowering the tax burden in America triggers growth, creates jobs, spreads economic opportunity. Plus, tax cut opponents need to be reminded that a bigger economic pie will dish up a bigger slice of revenue to fulfill the Government's needs and priorities, including what is a result of the war on terrorism and the need for homeland security.

As the top Republican on the Senate tax-writing committee, I will continue to champion progrowth economic policies. That includes making last year's tax cuts a permanent part of the Tax Code.

We have, as I am told, maybe just a handful of days between now and the end of the session. There are a lot of bipartisan measures that are on the agenda that are going to be left undone because we have wasted the whole month of September not wanting to vote on a lot of critical issues.

We have the Enron-induced 401(k) refinements so that workers can control their own 401(k). We have prescription drugs for senior citizens on the agenda. We have the bipartisan approach to recapturing lost corporate tax revenue because corporations overseas set up shell corporations to avoid tax policy. We have welfare reform that needs to be reauthorized. We can go on and on.

Not just economic policy but the management of the Senate needs to be an issue in this election because with so much left undone on the Senate calendar that is bipartisan, there is no excuse for that not having been done because somebody does not want to take some hard political votes between now and the election that could have moved the Interior appropriations bill and homeland security along very quickly.

Management of the Senate is a very important issue in this upcoming election based upon what is left on the calendar's unfinished business.

The PRESIDING OFFICER (Mr. CARPER). The Senator from New York.

THE ECONOMY

Mrs. CLINTON. Mr. President, I rise to talk about hard-working Americans, their needs in our current economy, and the kind of obligations we owe to one another.

I have the greatest respect for the ranking member on the Finance Committee. Senator GRASSLEY is an extraordinarily effective advocate and Senator on behalf not only of the people from Iowa he represents but on behalf of Americans. Of course, we have a difference of opinion about what is the best thing to do to get the economy going, to start creating jobs, to put people back to work, and to make sure that the economic prospects are bright for our young people. That is an honest disagreement, but there could be no disagreement that we do, unfortunately, at this moment have what is called a jobless recovery.

That is half right. I think the jobless part is right. I think the recovery part is a bit of a stretch. Unfortunately, many hard-working Americans, from New York City to Des Moines to San Francisco, have been unemployed through no fault of their own but through the downturn in the economy, through the economic impacts of the disastrous and horrible terrorist attacks we suffered. I think we owe something to these hard-working Americans. Every other Congress, every other administration, has recognized that obligation.

When you do what you are supposed to, when you get up, you go to your job, and you do what you are asked to do to get the paycheck at the end of the week to support yourself and your family, that is what we want for all Americans. The goal of our economic policy in this wonderful free enterprise society that we cherish is to create enough jobs so everyone who is willing to work can work.

Unfortunately, we now have rising unemployment, and 1.2 million Americans have exhausted the safety net that has always been there for people who lose their jobs. That is called unemployment insurance. Believe me, no one I know wants to be on unemployment insurance instead of having a job. It does not provide enough benefits. It does not take you anywhere. It is the dead end of all dead ends, but it does provide subsistence support for you and your family. I have been talking with so many of the Americans, especially New Yorkers, who are unemployed. That is what they tell me. They have been looking for work.

The economy of the 1990s has receded. There are not enough jobs for the people who are looking for work. Many have told me heartbreaking stories of going to job fairs, of walking the streets, of answering every ad they can find, of absolutely making a nuisance of themselves to try to find some job opening to get working again. Unfortunately, there are not enough jobs right now.

We have an honest disagreement in this Chamber about the best way to start creating jobs again. It will not surprise my colleagues that I come from the Clinton school of economics. We need a balanced approach. Stimulate the economy, have targeted tax cuts, pay down the debt, and make investments that will lead to our Nation being richer, safer, smarter, and stronger.

The administration and my colleagues on the other side of the aisle have a different theory. Evidence does count for something. The evidence is on our side, not their side. Eventually

they will get around to recognizing that and we will go back to a sensible economic policy. In the meantime, honest, hard-working Americans should not bear the brunt for bad economic policies. They should not bear the brunt because the administration does not have an economic plan. We need to help them. We have the means to do so. We should act immediately.

Around the country the headlines read: ''Prospects for Work Fade with Economy,'' ''Jobless Recovery,'' ''Help is Needed on the Home Front,'' ''The Jobless Need the Helping Hand of Congress and the President.''

In addition to no jobs for honest, hard-working people looking for jobs, the poverty rate has gone back up. For the first time in 8 years, the poverty rate increased by 1.3 million people. For families, that number increased by almost half a million. For the first time since 1991 the median household income dropped by 2.2 percent. The DOW has had its worst September since 1937. The number of Americans who no longer have health insurance has increased by 1.4 million.

How much more of a wakeup call do we need to penetrate the fog of ideology that sits over this Capitol? How much more information and evidence do we require to admit we have millions of Americans who are unemployed, on the brink of financial ruin because we are not giving them a helping hand? We can take steps right now to extend unemployment insurance. It may seem like a small step to some who are not unemployed. That is always the problem. We are sitting here with a cushy job, and we hear of people who do not have work, thinking good luck to them. That is inexcusable. Those fortunate enough to have a job to count on during a jobless recovery know there are a lot of people ''there but for the grace of God go us.'' We should be there with a helping hand. It is not right to ignore their plight any longer.

Many Americans are exhausting all of their unemployment benefits. That is understandable; we only extended it for 13 weeks. I keep thinking of the contrast between the recession of the early 1990s and this recession. In the early 1990s, former President Bush extended unemployment three times. And then President Clinton extended it twice until the economy began picking up and jobs began to be available again. I don't think we need to look any further than our own history of the past 10 years.

When times get tough and people cannot find work because the economy is not creating jobs, that is what unemployment insurance is for. It is not only the right thing to do, it is also smart. It provides a direct stimulus into our economy. Every dollar we spend on unemployment insurance generates $2.15 in our gross domestic product. It puts into the hands of people who will spend that money immediately the means to pay their rent, to buy the food, to buy the school books, to pay the mortgage, to pay the car payment.

I don't think there is any doubt that Americans are the hardest working people in the world. We do not take vacations like the rest of the developed world. We work longer hours. Some of us take more than one job in order to get ahead. It is the story of America. It is a great story. It is filled with optimism. It rests on the bedrock belief that hard work will pay off.

Sometimes, through no fault of someone, something terrible happens, something unforeseen happens. A CEO of a major corporation starts looting the corporation to have a $100 million house or a $30 million boat. All of a sudden people are down the drain: Their jobs, their income, their pensions, their retirement security. They are unemployed. Sometimes the worst happens and the waiters and waitresses and janitors and maintenance people who got up every day and for years went to work at the World Trade Center see not just their jobs but their friends' lives and literally the buildings in which they work collapse.

I am hoping we will extend benefits once again. We have only done it once. We have the money in the fund to pay for the right thing and the smart thing. We need to do it because so many of our unemployed will run out of benefits completely by the end of December. I am hoping this Congress will act to extend unemployment insurance and disaster unemployment assistance for an additional 13 weeks for all States and 20 weeks for States such as New York that are suffering from high unemployment, much of it directly related to the attacks we also suffered. I don't think we should take another day. We should send a clear message that we care about the working men and women of this country. We care about their families. We are going to try to help them get back on their feet. We will give them the help they deserve because they paid into this fund. We just have to pull the trigger so it goes out to them in their time of need.

The PRESIDING OFFICER. The Senator from Utah.

THE ECONOMY

Mr. BENNETT. Mr. President, I have listened with some interest to the Senator from New York and I have some comments to make which I hope will clearly set the record in some areas.

She referred to the jobless recovery in which we find ourselves. This is exactly parallel to the jobless recovery that occurred in the early 1990s as we came out of the recession that started in 1990, and the recovery started in 1991. There was a period when the Congress was concerned about the fact that we were recovering, but not enough jobs were created. That is fairly typical of a recovery.

The present recovery is no different in that regard.

Mrs. CLINTON. Will the Senator yield?

Mr. BENNETT. I will be happy to yield for a comment.

Mrs. CLINTON. The Senator is correct, we had a jobless recovery in the early 1990s, and a jobless recovery in the early part of this new century. In the early jobless recovery of the early 1990s, the first President Bush extended unemployment benefits three times. Is it the position of the Senator that this job of recovery means it is so different we shouldn't extend the same helping hand the President did in the early nineties to those who lost their jobs then?

Mr. BENNETT. I have not gotten to the issue of extending unemployment. I have no particular objection to extending unemployment. I am trying to set the record straight about some of the statistics that are being quoted.

Mrs. CLINTON. I thank the Senator for his lack of objection, and I hope it transforms into support for extending unemployment insurance.

Mr. BENNETT. When the bill comes to the floor of the Senate, I will be happy to give it consideration, and I see no reason at the moment why I should oppose it.

The Senator commented on unemployment rising. The fact is the unemployment rate is falling. The unemployment rate hit its high in the circumstance of 6 percent and starting to come down in August. It was 5.7 percent. We do not have the September numbers yet.

I remember being taught in economics if we were at 6 percent unemployment, we were at full employment. The assumption was the economy could not absorb more jobs than that without going into inflation. We have proven that is not the case.

But to panic because unemployment hits 6 percent and is now falling and to say we are not in recovery is, frankly, not accurate. We are in a recovery. However slow it may be, however sluggish it may be, it is a genuine recovery, and we should not panic everybody into believing we are on the verge of a double dip or a major recurrence of recession.

Personal income was unchanged in July and rose in August. The Senator said personal income was falling. Again, that is not sustained by the actual numbers. Personal income is rising, and the recovery is stronger than the Senator from New York would have us believe.

I spoke on this issue yesterday, and pointed out we were in a recovery which began in the fourth quarter of 2001 when the gross domestic product rose at 2.7 percent. From the first quarter of this year, gross domestic product rose at 5 percent. Previous figures for the second quarter of this year indicate the gross domestic product was rising at 1.1 percent. Those figures have now been revised. They have been revised upward.

Looking back over it, we are now told the recovery continued in the second quarter with gross domestic product rising at 1.3 instead of 1.1, and the blue-chip forecast which said in the current quarter—the third quarter—we would see gross domestic product rising at 2.7, the same rate it did in the fourth quarter of last year, that those figures are low; that, in fact, the forecast now is the third quarter of this year will see gross domestic product numbers closer to 3 percent instead of 2.7 as previously forecast.

I don't expect anyone to remember all of these numbers I recite. I hope they will remember that the general trend is up and is more encouraging than the Senator from New York and others would lead us to believe.

We keep being told we are in a period of great distress and disaster, and we must do something and do something drastic about it. One of the things that is proposed is we must postpone the effect of the tax cut that was passed by wide margins—both in this body and the other body—at the beginning of the Bush Presidency.

I want to discuss that for just a moment. It has been framed with the same kind of statistical maneuvering I have tried to address here. The question that makes for a good headline in a political stump speech is who lost the surplus? They are talking about a $5.6 trillion surplus that was projected at the time we had the tax cut debate. That surplus has now disappeared in the projections that were being made, and we are being asked again and again, Who lost the surplus?

The first point I want to make on that score is the surplus never existed. The surplus was a projection. I can take the Nation back through every projection made by the CBO; before that by the Office of Management and Budget; before the Congressional Budget Office was created, by the old Bureau of Budget; and before the Office of Management and Budget was created, and demonstrate virtually every projection of surplus or deficit made by those entities has always been wrong. Sometimes it has been wrong on the high side. Sometimes it has been wrong on the low side. But the one consistency is every project, surplus, or deficit in future years has always been wrong.

It comes as no surprise to discover the projection of the $5.6 trillion surplus was wrong in this case as well.

I remember a discussion with Alan Greenspan when he was before the Banking Committee, or perhaps the Joint Economic Committee. I sit on both, and he testifies before both. Someone asked him about the projections that were being given to us at the time with great confidence. They said, Mr. Chairman, how likely is it this projection will be realized? He said it will not be realized. This projection will be wrong. He said I cannot tell you whether it will be wrong on the high side or the low side. I cannot tell you and neither can any other economist tell you whether we will reap the benefits of the new age economy to a degree far greater than demonstrated by this projection or whether we will fall on our face and come in flat.

The problem is—I am not now quoting Greenspan—with an economy doing something like $11 trillion a year and subject to the uncertainties of the business cycle as well as the outside shocks that can occur in this world, no one can look 10 years into a crystal ball and tell you with absolute certainty what is going to happen.

I find it interesting that those who insist the loss of the $5.6 trillion surplus is due to the Bush tax cut and solely to the Bush tax cut also say to us why don't we deal with our current economic problems by postponing the effective date of the Bush tax cut? And, after all, that is going to take place in the outyears, anyway. So postponing the effective date will have no particular impact short term.

All right. Hold onto that argument for just a minute and listen to the other argument that we are being told.

We are being told it was the Bush tax cut that blew the hole into the surplus. Wait a minute. If the impact of the Bush tax cut is going to come in later years so it can be postponed without making any difference, how could it have been the primary mover in creating the deficit right now? Well, I can tell you how. I was part of the discussions as we crafted the tax cut. Democrats said to us at the time the tax cut was being considered it would have to have an immediate impact. We have to put money in the hands of people right now. We can't wait for the tax cut impact in the outyears.

The proposal was made primarily from the Democratic side of the aisle that in addition to cutting the marginal rates for taxes there be an immediate rebate, $300 per taxpayer, right away. That was not part of the original Bush proposal. That came out of Democratic proposals. And, frankly, it seemed like a good idea. The Bush administration embraced it. We have a combination of cutting the marginal tax rates over a period of time into the future and a rebate to get money into the hands of the economy and into the hands of people right away.

If, indeed, it was the tax cut that destroyed the surplus right away, it was the rebate side of the tax cut that was proposed by Members of the Democratic party and endorsed certainly by me and other Members of the Republican party.

You cannot have it both ways. You cannot say postponing the effective date of the tax cut won't affect the present situation. You cannot say there was an immediate impact which was bad and then say our proposal will have no immediate impact and that is good. This debate has gotten somewhat into Alice in Wonderland. I hope we can stay with the facts.

The PRESIDING OFFICER. The deputy majority leader.

ORDER OF PROCEDURE

Mr. REID. Mr. President, the majority has 21 minutes. I am going to use a few minutes. Following my remarks, I ask unanimous consent that the Senator from Missouri, Mrs. CARNAHAN, have 6 minutes; the Senator from Washington, Ms. CANTWELL, have 5 minutes; and Senator KENNEDY have 10 minutes. And if we use extra time, that would just be counted against the time we have before the cloture vote. We each have a half hour on that.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

THE ECONOMY

Mr. REID. Mr. President, my friend from Utah—and he is my friend; I think the world of him—has a unique argument: Who lost the surplus? I never heard that until he talked about it. I think we all know who lost the surplus. He never answered that question.

And then the unique observation is: It never existed. We never had a surplus.

Talk about Alice in Wonderland. About a month ago—actually it was in August—I went on a family vacation. I had not read ''Alice in Wonderland'' for a long time. I read ''Alice in Wonderland,'' and there are a lot of strange things that go on in that little girl's life when she takes this strange odyssey.

But part of that is, as the Senator from Utah mentioned, Alice in Wonderland, because the statements he has just made really are—I say this respectfully—illogical and illusionary. They simply do not exist.

The fact is we have, in the Bush economic record, weak economic growth, record job loss, declining business investment, a falling stock market, shrinking retirement accounts, eroding consumer confidence, rising health care costs, escalating foreclosures, vanishing surpluses, higher interest costs, raiding Social Security, record executive pay, and stagnating minimum wage.

In the Bush world, everything that should be up is down, and everything that should be down is up. Job losses should be down; they are up. Health care costs should be down; they are up. Foreclosures should be down; they are up. The national debt should be down; it is up. Federal interest costs should be up; they are down. The Social Security trust, we should not be raiding it. In fact, we are doing just the opposite of what we should be doing.

Those things that should be going up in the Bush economic plan are going down: economic growth, going down; business investment, going down; the stock market, going down; retirement accounts, going down; consumer confidence, going down; minimum wage, going down. Everything you would think should be up economically is down.

They have things reversed.

For someone to come on this floor and tell people we are in the midst of a recovery? Come on. We are in the midst of a recovery? I talked to Senator JOHN KERRY today. He indicated that a company in Massachusetts is laying off, I think he said, 9,000 or 10,000 people today. That is economic recovery? Last week we had all these layoffs taking place with a phone company where they laid off 14,000 people.

More than 2 million jobs have been lost in 18 months. That is economic recovery? We have the weakest economic growth in 50 years. That is economic recovery? Business investment was down each of the last six quarters; the weakest trend in 50 years. That is economic recovery?

There has been $4.5 trillion of lost stock market wealth; the sharpest decline since President Hoover was President of the United States in the early 1930s; $440 billion of lost 401(k) and IRA retirement savings in the last year. That is economic recovery?

The Nasdaq Stock Exchange is down to its lowest level in 6 or 7 years; the Dow Jones Industrial Average is down drastically and still going down; the poverty rate up for the first time since 1992.

Let's at least talk realism. We are not in an economic recovery. We have to address the economy, as Congress should. We are not doing that. We are focusing on only Iraq. I have no problem with focusing on Iraq, but we can do more than one thing. This is the beginning of the fifth week since we came back after the August recess, and we have not done a single thing to address the staggering, faltering, stumbling economy.

Mr. President, was my unanimous consent request granted?

The PRESIDING OFFICER. It was.

Mr. REID. I thank the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

EXTENSION OF UNEMPLOYMENT COMPENSATION

Mrs. CARNAHAN. Mr. President, the state of our economy is causing great concern. The experts may tell us the recession is officially over, but that is cold comfort to many Americans.

Last week, we got some startling new numbers on the pain being felt by working families. The income of middle-class families fell for the first time since the last recession. And for the first time in 12 years, our national poverty rate grew. Today, almost 33 million Americans live below the poverty line.

The stock market is also reflecting the uncertainty Americans feel. Yesterday, the market finished its worst quarter since 1987. The Dow Jones lost nearly 1,200 points in the last month, and the Nasdaq just hit a 6-year low.

These losses are more than numbers. They are a crushing reality for far too many Americans who are working hard to save for their retirement.

The recent declines are especially painful to our seniors who are living off their savings or planned to in the next couple of years.

Congress has taken some important steps to address our economic woes. In July, we worked together to pass accounting reform legislation to begin restoring investor confidence. The American people are now receiving accurate information about a company's financial condition.

Congress also worked across party lines last spring to enact a stimulus package. That legislation provides tax incentives for businesses to help them grow, invest, and avoid laying off employees.

That law also extended unemployment insurance for workers who were hit the hardest by the economic slowdown. At that time, we made sure workers who had lost their jobs and exhausted their State employment compensation received an additional 13 weeks of unemployment insurance while they were looking for jobs.

It is urgent that Congress act again. Our economic recovery is disappointingly slow.

Last quarter, our economy grew at a meager 1.3 percent. Such an anemic growth rate means businesses are struggling to stay afloat and workers are struggling to pay their bills.

Some have called this a jobless recovery. But there is no recovery for the jobless. Over the last year, my home State of Missouri has lost more than 55,000 jobs in manufacturing and farming.

More than 8 million Americans are unemployed today. An alarming number of unemployed workers have been looking for jobs for more than 6 months. By the end of the year, more than 2 million workers are expected to exhaust their unemployment compensation.

Unemployment benefits are supposed to help tide workers over during hard times. It is intended to help them support their families, to help them pay the rent, and put food on the table.

Right now our economy is not creating enough jobs for these people to get back to work. It will take more time for them to find a job.

It is appropriate that we respond to this emergency as we have done in the past. In the early 1990s, Congress provided 26 weeks of additional unemployment insurance.

I am very pleased to be a cosponsor of legislation introduced last week that will provide the same temporary relief. Our bill will ensure that if a worker cannot find a new job, and if that worker has completely exhausted the unemployment insurance currently available, then that worker could receive another 13 weeks of assistance.

Workers and their families deserve this safety net. Congress cannot turn a blind eye to the hardships of jobless men and women, those who are hurting in this economy: the hurting, the helpless, and the hopeless.

I urge my colleagues to act quickly. The time is running out for too many Americans.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Ms. CANTWELL. Mr. President, I rise today to urge my colleagues to consider a bipartisan effort to pass legislation on which Senators KENNEDY, CLINTON, and WELLSTONE have worked so hard. Their leadership has shown it is critical that we pass this legislation now.

No other State, probably, needs this legislation more than Washington.

Washington State is in the middle of an economic crisis resulting from a downturn in both our aviation and high-tech sectors. With the jobless rate at 7.2 percent, we are teetering among the highest, if not the highest, unemployment rates in the country.

Mr. President, 202,000 Washingtonians are unable to find work. And over the last 12 months, our State has lost 50,000 jobs, and 60 percent of those are in the high-paying manufacturing sector.

Just in the last 2 weeks, Boeing announced it would exceed its original projections of 30,000 layoffs that it has already carried out.

Last month alone, 56,000 unemployed workers of Washington State received extended unemployment benefits. But all those benefits will expire on December 31, 2002, unless we take the proposal before us today and pass it into legislation. That means if we don't pass this legislation, those 56,000 workers will not be adding to our State's troubled economy.

We can no longer wait because things are not getting better. Our State economist Chang Mook Sohn issued a report saying we are not going to see a recovery anytime soon and very little growth in the next 6 months.

We understand that unemployment checks are not long-term answers; jobs are. But while people look for new work, extending unemployment benefits will help unemployed workers make mortgage payments, put food on the table, pay utility bills, health care bills, and, in my State, the high cost of energy bills.

Extending unemployment benefits will give people a new opportunity to upgrade their skills. As has been pointed out, extending benefits will also boost our economy, injecting into communities that have already been strapped with high unemployment rates a little bit of stimulus. A 1999 Department of Labor study concluded that for every dollar spent on unemployment, it generates $2.15 of economic activity. This proposal for Washington State over the next 6 months would mean over $1 billion in economic stimulus.

The cost of extending this program will be paid by the unemployment insurance trust fund, which has nearly $30 billion in it and is a very healthy account.

Congress created unemployment insurance in 1935 to help unemployed workers get through the Great Depression. In the 1990s, we expanded that five times and even higher for the States that had high unemployment. So far this year, Congress has only done this once.

We, in Washington State, need the support of our colleagues and of the White House in dealing with this economic crisis. It is clearly imperative that we should pass the Kennedy-Clinton-Wellstone legislation and do so immediately so that as our economy continues to struggle, we bridge the gap with a stimulus and a helping hand to working men and women in America.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I bring to the attention of the Senate a major challenge facing many of the families in my State of Massachusetts, and that is the continued escalation of those on the unemployment list. We have seen that grow to a figure of 175,000.

In Massachusetts, we have the highest number of unemployed workers of any of the New England States. Two years ago we had the lowest unemployment of any of the States. Now we have the highest, with very little hope in the future for getting these workers back to work.

There has been a reduction in the total number of jobs. We have more workers searching for fewer jobs than at any time in recent history. These are not just figures developed by the Democratic Party. They are figures developed by the Department of Labor: 8.1 million unemployed, trying to fill 3.2 million positions. The disparity between the high number of unemployed and the available jobs is one of the highest percentages of any recent time, and that is true all over this country.

The people of my State are wondering how they are going to make ends meet, whether they are going to see the expiration of their unemployment compensation.

I was here in the early 1990s, when on four to five different occasions we had bipartisan support for extension of unemployment compensation.

The purpose of unemployment compensation is to reach out a helping hand to workers who work hard, play by the rules, are trying to pay a mortgage, trying to pay for children's school clothes, and to live a somewhat normal life, but because of the economic exigencies they are out of a job.

The unemployment fund is now at a surplus of some $25 billion. It was developed for just the kinds of reasons we are facing today. We, on this side, believe we ought to have an opportunity to extend unemployment compensation to the families of this country thrown out of work through no fault of their own. They ought to be able to at least have this lifeline that will help support them during this difficult time before they are able to get back on their feet.

That is the issue. It is one of decency, fairness, and humanity. At other times in our history, Republicans and Democrats in this body came together in order to provide that.

Now we are finding the Republican leadership opposing this proposal, effectively saying thumbs down to workers in my State, thumb downs to workers all across New England and all across the country. It is the wrong policy at the wrong time.

I join with my colleagues, with Senator WELLSTONE, who has been the leader in this battle for extended unemployment compensation, and my friend and colleague, Senator CLINTON, Senator CARNAHAN, Senator CANTWELL and others, urging the Senate to take action. We can do it. It has been done in a bipartisan way. It should not be partisan. This is about hard-working Americans. Are we going to reach out with a helping hand to make sure their interests are going to be protected?

We ask the Senate for consent to provide additional unemployment benefits for millions of out-of-work Americans. I urge my colleagues to give that consent.

Over 2 million Americans who have lost their jobs are about to also lose their unemployment benefits. The Emergency Unemployment Compensation Act of 2002 will extend their benefits just as we have every recession over the past three decades. Families are struggling, and we must act.

In fact, since President Bush assumed office in January 2001, the economic well-being of America's families has dramatically deteriorated. This is not just an economic coincidence, it is the result of the economic policies of this administration—policies which neglect the basic needs of working men and women, lavish extravagant tax breaks on the wealthiest taxpayers, and allow corporate abuse and excess to go unchecked.

President Bush says he has already taken care of the troubled economy by cutting taxes and, instead of supporting our bill, called on Congress to make the tax cuts permanent.

There are now 8.1 million unemployed Americans, 2.2 million more than when President Bush took office. And no amount of tax cuts for the wealthy can restore their jobs and pay their bills.

But this is deja vu all over again. The first President Bush twice blocked legislation to provide much-needed unemployment benefits before finally signing into law three benefit extensions. In this recession, 800,000 more workers are expected to run out of unemployment benefits than in the last recession during the early 1990s. It will only get worse if we don't act.

Last March, Congress extended benefits for the first and only time during this recession. That is not enough. Already, more than 1 million workers have exhausted these benefits without finding a new job, and another 2 million will join their ranks by the end of the year.

Most of them have families to support. They are scrimping on school supplies; maxing out credit cards; and juggling electric bills with mortgage payments. These are our fellow citizens, and they need help now.

We are supporting legislation that mirrors the benefits signed into law by the first President Bush in the early 1990s. The bill will extend benefits for workers in all States, and provide additional benefits for those in high-unemployment States. This bill will ensure that workers can keep a roof over their heads and food on their tables while they search for jobs in this tight economy.

This Bush administration has fought efforts to provide adequate unemployment assistance to workers. But the administration can no longer afford to ignore the pain and the needs of struggling families. We must act—and act now—to live up to our obligations to help our fellow citizens in their time of need.

Alan Gonsenhauser of Northborough, MA, is one of those workers who has exhausted his benefits. Formerly the vice president of a consulting firm whose largest client was Enron, he was laid off last December. Nine months later, he is still looking for a job. He, his wife, and their two children have relied on unemployment benefits and personal savings to cover family expenses, but his benefits expired last month.

Many hard-working Americans and their families have suffered as a result of the recent spate of corporate scandals and the failure of the administration to take decisive action. At WorldCom, more than 20,000 workers were laid off. At Arthur Andersen, 7,000 workers were laid off. At Global Crossing, over 9,000 workers were laid off. Enron laid off about 4,000 workers.

Americans who are out of work are watching their savings shrink while the cost of living just grows and grows. The cost of health insurance for families has risen 16 percent in the last year and a half, and 27 percent for single individuals. Even more workers are being forced to go without health insurance. The cost of prescription drugs is going up at three times the rate of inflation. Yet this administration repeatedly sides with the health care industry and against working families.

Families are struggling to pay for college for their children. Tuition alone at a public 4-year college costs nearly 8 percent more this year than last year—an increase of more than triple the rate of inflation. The importance of higher education is increasing but the ability of middle-class families to pay for it is decreasing.

Out-of-work Americans are not only losing their health benefits, they are also losing their homes. According to new data from the Mortgage Bankers Association of America, home foreclosures are at all-time highs. Families who spent years saving to purchase their dream homes are now unable to afford to keep them.

These are the economic fears which are keeping American workers up at night—losing their job, losing their homes, losing their retirement savings, losing their health care, and paying for college.

Millions more of them are kept awake by these fears today than were 18 months ago. The Bush economy has turned the American dream into a nightmare for them.

It's time to restore economic security for workers and the Nation. Democrats support extending unemployment benefits, guaranteeing retirement security through pension reform, raising the minimum wage, insuring health care for the uninsured, and making prescription drugs and college more affordable for millions of Americans. America's working families deserve nothing less.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Mr. President, I compliment the distinguished Senator from Massachusetts for his powerful statement and my colleagues, the Senators from New York, Missouri, and Washington State, and others, in support of the Wellstone unanimous consent request. I know he will propound it momentarily. We are waiting for the assistant Republican leader to come to the Chamber.

In the meantime, I add my voice to those who have spoken this morning. The economic conditions in this country continue to worsen. We now have 2 million jobs that have been lost over the last 20 months. The number of the private sector unemployed has gone up by over 2 million people. We have seen the number of long-term unemployed go from about 650,000 now to 1.5 million people—those who are unemployed for more than 6 months. We have seen a $4.5 trillion loss in market capitalization. We have seen the number of foreclosures go up at a rate higher than anything in recent years.

Over and over, every single indicator points to the fact that this economy continues to worsen. Yet we have an administration that, for whatever reason, chooses to ignore it entirely.

The point we make this morning and have made now for some time is that at the very least we ought to be sensitive to those who are the victims of this tragic set of economic circumstances.

Felix Batista is one of those people. I heard about Mr. Batista when I was in New York in the last couple of days. Felix Batista worked for the World Trade Center for 23 years. After the tragedy of 9/11, Mr. Batista was left unemployed. He has yet to find a job more than a year later, in spite of the fact that he was an outstanding employee, that he has family, that he has run out of his unemployment benefits. He has no recourse but to continue to plead for help, ask for our understanding. I don't know whether Mr. Batista is watching this morning, but I am sure if there are those who are unemployed with access to C–SPAN, they have to be wondering, hoping, wishing the Senate would act expeditiously.

They didn't have to hope or wait 10 years ago. We went through a recession at that time and we extended unemployment benefits—not once, not twice, but on three occasions. We provided the safety net to those who were unemployed in the long term. We provided some hope, some opportunity to have a sense of worth. That is all we are asking, Mr. President. Give these people a chance. Give them the hope and the real opportunity they need to be able to pay their bills, buy groceries, to ensure that their rent payments are made so they are not evicted in addition to being unemployed. So I hope that, at the very least, we can extend unemployment benefits again. We have done it before. The need could not be more urgent.

While we can talk about all the other things we need to do about the economy, there should not be any difference in opinion whatsoever, Republican or Democrat, when it comes to economic security for these unemployed workers, these families left with nothing—the Felix Batistas of the world, who are good employees, who work hard, who expect at least some understanding for their circumstances now.

I yield to the Senator from Minnesota to make his unanimous consent request.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. Mr. President, I know the Senator wants to speak on this matter as well. I can do this in a very brief timespan, though I think this is a critically important issue. I thank, as always, my colleague Senator KENNEDY for his leadership, along with Senator CLINTON.

My State of Minnesota has lost 40,000 jobs in the last 18 months. I have not seen anything like this for a long time. We have 123,000 Minnesotans who are officially unemployed, and that doesn't include people who are self-employed, people who work part time, and those people who have become discouraged workers. Right now, unemployed workers in Minnesota are looking for jobs, and they outnumber unfilled jobs by 2 to 1. This is a serious situation.

Look at the reports today about the stock market and the economy. The good thing we did in the 1990s, in a bipartisan way, is that when we were in the earlier years, before President Clinton, in recession, we extended the unemployment benefits another 13 weeks. That is exactly what we are talking about here—the Emergency Unemployment Compensation Act. It is a bipartisan measure. It is critically important. Basically what we are saying is that we ought to at least, with this Economic Security Act, provide an additional 13 weeks of extended benefits for workers who are either running out of benefits and won't even get the 13 weeks they are due in December or those who have already run out of all of their benefits. For those States with high levels of unemployment, we are talking about another 20 weeks of unemployment benefits.

Colleagues, this is compassion. This is bipartisan. The economy is not doing well, and the families we represent in our States are not doing well.

UNANIMOUS CONSENT REQUEST—S. 3009

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 619, S. 3009, a bill to provide economic security for America's workers; that the bill be read the third time, passed, and the motion to reconsider be laid upon the table, without intervening action or debate.

I say to my colleague from Oklahoma, I don't know whether he wants to do this. I know Senator SMITH wanted to speak. If you are going to support this, I hope he can speak after—or maybe you want to let him speak a few words before. Would that be possible?

Mr. NICKLES. Is the Senator going to make a unanimous consent request?

Mr. WELLSTONE. The Senator can follow then. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 619, S. 3009, a bill to provide economic security for American workers—this is to extend it another 13 weeks, and we should do that—that the bill be read three times, passed, and the motion to reconsider be laid upon the table, without intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. NICKLES. Mr. President, reserving the right to object, I need to ask my colleague a couple of questions.

I am sympathetic to granting an extension of unemployment compensation. As the Senator mentioned, we have done it in the past. I am not familiar with the Senator's bill. Has the bill been printed yet? Not to get in too big a hurry, but is the bill available? My staff said maybe we can find it on the Internet, but I don't believe it has been printed yet.

Mr. WELLSTONE. I have a copy of the bill that I would be pleased to give to the Senator.

Mr. NICKLES. I would appreciate a copy. I would like to look at it.

Mr. WELLSTONE. There is nothing really complicated about this. We have a lot of people out of work. The economy is not doing well. They have run out of benefits, and they need another 13 weeks.

Mr. NICKLES. I don't think asking a couple of questions is too much to ask. Is this a clean 13-week extension in unemployment compensation?

Mr. WELLSTONE. The Senator is absolutely correct.

Mr. NICKLES. Is that all it is?

Mr. WELLSTONE. The Senator is correct. Although it is 13 weeks, it is 20 weeks for States with higher levels of unemployment.

Mr. NICKLES. Back to my question, it is not just a 13-week extension of unemployment compensation——

Mr. WELLSTONE. The same way, I say to my colleague, we did it in a bipartisan way in the early 1990s, where it was 13 weeks, and for States with higher levels of unemployment, it went to 20 weeks. We have done it before, and we can do it again right now.

Mr. NICKLES. I will just inform my colleague that I just need to see his bill.

One additional question: Has there been a cost estimate? I think I am familiar with old cost estimates on a clean 13-week extension, but I am not familiar with how much additional the Senator is asking. Does he have a cost estimate on his bill?

Mr. WELLSTONE. CBO has not given us an estimate. I think it will be $10 billion to $13 billion. If I may say to my colleague for a moment, I appreciate his question and what he is talking about, and we will let you read it. But people are flat on their backs. In the case of States with high unemployment, it would be 20 weeks. We have done it before. The CBO estimate—I have given you what I believe it is going to be. I am not neutral. We need to do this. We need to take this action.

Mr. NICKLES. Just for my colleagues' information, I have not seen his bill. I understand from staff it was introduced on Thursday, but it has not been printed yet. I would appreciate a copy of the bill. We would like to review it and see what it is. I will work with my colleague and my friend from Oregon, who I know is interested in the bill as well. We have other colleagues who are also interested in passing some extension of unemployment. Whether it goes beyond the 13 weeks or not needs to be discussed. There are Democrats and Republicans—other Senators—besides just a couple who want to address this issue.

At this point, I will object. But I will tell my colleague that I will work with all interested Senators to see if we can pass some form of unemployment compensation extension before we adjourn in the next week or so. We at least need to see the bill. This idea of having a bill introduced on Thursday and not printed in the RECORD yet, and then wanting to pass it on Tuesday, without other people looking at it, I think is premature. So at this point I shall object.

The PRESIDING OFFICER. Objection is heard.

Mr. WELLSTONE. Mr. President, if I may say to my colleague from Oklahoma, I appreciate what I heard and his willingness to move forward. I can guarantee him that he will have the bill in a matter of seconds, lest we harp on the complexity of all of this to the point where it becomes a reason for not taking action; it is very simple and straightforward, as I have defined. We have done this before in a bipartisan way. God knows, there is not one Senator in here who doesn't understand the economy in their State. We can take prompt action right away, and for people out of work in Minnesota and around the country, they need this. We are pleased to do this. We will come back to the floor ASAP and pass it in a bipartisan fashion.

The PRESIDING OFFICER. At this time, all time remaining under morning business belongs to the minority.

Mr. REID. Parliamentary inquiry, Mr. President. The minority has how much time remaining?

The PRESIDING OFFICER. Two minutes 17 seconds.

Mr. REID. Mr. President, we have a number of people who wish to speak. We are told we are not going to be able, even though we are going forward for the fifth time, to invoke cloture. I do not think on our side we need all that time. Each side has a half hour. While my friend, the distinguished Senator from Oklahoma, is in the Chamber, I am wondering if we can have 15 minutes on our side for Senator LIEBERMAN to talk about cloture, and the other 15 minutes would be for morning business because Senator KENNEDY has been here all morning wishing to speak, Senator SARBANES is here, and Senator DURBIN has shown up.

I, therefore, ask unanimous consent we have the vote at 12:15 p.m. rather than 12 o'clock, and that the time be apportioned accordingly.

The PRESIDING OFFICER. Is there objection?

Mr. NICKLES. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, the vote was originally scheduled for 12 o'clock, with 1 hour debate equally divided. I know my colleague from Oregon wishes to speak on the unemployment compensation issue. I know he has not had a chance. Does the Senator want to move the vote to 12:15 p.m.?

Mr. REID. Yes, we want to use 15 minutes of Senator LIEBERMAN's time for morning business. Senator LIEBERMAN only needs 15 minutes. He is so good he can handle it in 15 minutes.

Mr. NICKLES. That is perfectly acceptable. The assistant majority leader is basically saying this side gets 30 minutes and his side gets 30 minutes, and he is going to change the time allocation of the 30 minutes?

Mr. REID. That is right.

Mr. NICKLES. I have no objection, except I would like the Senator from Oregon to be able to speak.

Mr. SMITH of Oregon. I wonder if I may take the remaining 2 minutes on the minority side even though I am speaking for the majority position.

Mr. NICKLES. The Senator is entitled to speak. They can get their vote at 12:15 p.m. Can the Senator from Oregon have 5 minutes to speak on the unemployment compensation issue, and then we will divide the hour as described?

Mr. REID. The Republican side has 2 minutes left. He can take that 2 minutes.

Mr. NICKLES. We will give him 5 minutes.

Mr. REID. From where does his 5 minutes come? I do not care as long I know.

Mr. NICKLES. Mr. President, I ask unanimous consent that the Senator from Oregon have 5 minutes and then the hour be apportioned as described by the assistant Democratic leader.

Mr. REID. I dare the Presiding Officer to tell us what we have just done.

Mr. NICKLES. The Senator from Oregon gets 5 minutes and then we have 1 hour.

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

Mr. REID. I ask the Chair, how much time do we have for the three speakers on our side?

The PRESIDING OFFICER. Thirty minutes.

Mr. REID. Ten minutes per speaker. Ten minutes to Senator KENNEDY, 10 minutes to Senator SARBANES——

Mr. SARBANES. Five minutes. We are saving 15 minutes for Senator LIEBERMAN. It will be 5 minutes.

Mr. REID. Five minutes for Senator KENNEDY, 5 minutes for Senator SARBANES, 5 minutes for Senator DURBIN, and then the other 15 minutes for Senator LIEBERMAN. If he feels very generous, he can yield part of his 15 minutes to these other Senators.

The PRESIDING OFFICER. The Senator from Oregon.

EMERGENCY UNEMPLOYMENT COMPENSATION ACT OF 2002

Mr. SMITH of Oregon. Mr. President, I probably will not use all the 5 minutes allocated. I thank my colleagues for their courtesy in granting me this time.

I have been on the floor this morning listening to charges and countercharges between the parties as to who is to blame for the current state of the economy. Frankly, I do not believe we planned this economy. I think Congresses and Presidents are given too much credit and blame for the free-market system. I think the people at home could care less about all the fingerpointing. In my view, now is the time to come together, not as partisans but as Americans and as bipartisans, if you will, to support legislation that is critical to those who are bearing the brunt of the economic downturn our country has been experiencing.

I have joined Senator KENNEDY as the lead cosponsor of this legislation to extend emergency benefits for workers who have already exhausted their benefits under the Unemployment Insurance Program. I am here again to offer my support for another attempt to extend the emergency benefits for unemployed workers.

Last week, Senator KENNEDY, Senator WELLSTONE, and I introduced the Emergency Unemployment Compensation Act of 2002. This is yet another effort to push the issue to provide benefits from this Congress before it adjourns.

I note for the record, I have been pushing emergency benefits for unemployed workers in Oregon for a year

now, since October of 2001. After months of work, last March Congress finally extended emergency unemployment benefits to workers who have lost their jobs during the economic downturn, but this is no longer adequate.

Under the extension, unemployed workers in 48 States received 13 additional weeks of benefits, and those in 2 States received 26 weeks. My State, the State of Oregon, was one of those two States, as our economy has been hurt, in a relative sense, worse than any other in the United States.

Now those benefits are ending for Oregonians. Starting this month about 1,000 Oregonians a week will stop receiving badly needed emergency unemployment benefits. That is a lot of buying power that will leave the economy of the State of Oregon if it happens but, more importantly, there will be an awful lot of human hardship that will ensue among these Oregonians if it happens.

These benefits are not gratuitous. They are not excessive. They are the barest of safety nets required by these families. For many of these families, as I have said, 1,000 a week, these benefits will cease if we do not act before we go home. For that reason, we are, again, introducing legislation, this time the Emergency Unemployment Compensation Act of 2002, in an effort to provide for these families.

Under this new legislation, those Oregonians will receive up to an additional 20 weeks of emergency benefits. This is a temporary extension through July of 2003. Oregon's unemployment rate is simply the highest in America, and this is the least we can do for those who are bearing most of the burden of this economic downturn.

I am going to join with Senator KENNEDY and Senator WELLSTONE again to work in a bipartisan way to get this bill passed before we go home and influence our leadership to come to an agreement, as the assistant Republican leader indicated his willingness to do. This is a must-do before we go home.

I thank my colleagues for the time and yield the floor.

Mr. BINGAMAN. Mr. President, I rise today to address the increasingly serious problem of unemployment in the United States, in particular the number of workers who have exhausted their unemployment insurance benefits and are still unable to find work.

According to the latest data from the Department of Labor, the adjusted unemployment rate in the United States is now 5.7 percent, with over 8.1 million, 8.1 million, workers now unemployed. 1.4 million other workers who want work but cannot find it are not included in this total because they had not looked for work in the four weeks before the survey was completed.

In my State of New Mexico, we are doing much, much worse than this. Our adjusted unemployment rate is 6.3 percent, which puts us at number nine in the Nation in terms of the worst unemployment rate. Our unadjusted unemployment rate is 6.6 percent. We have had an increase of 31.6 percent in initial unemployment insurance claims since July 2001, and an increase of 33.4 percent in continued unemployment insurance claims in that same timeframe.

The bottom line in my State and across the Nation is that jobs are being lost, and there are no new jobs being created that workers can apply for. Even worse, the workers that have not been able to find work now face an additional crisis, that being that they have been on unemployment insurance for as long as allowed and will soon no longer be eligible for new benefits.

According to the Department of Labor, by the end of August over 1.1 million workers have exhausted the extended unemployment insurance benefits provided by the stimulus legislation and now have no funding at all available to them. According to the Center for Budget and Policy Priorities, this number will rise to over 2.2 million by the end of 2002. The number of workers who exhausted their regular unemployment insurance benefits in August 2002 was 46 percent higher than the number of who exhausted such benefits in August 2001. The number who exhausted their regular unemployment benefits in the first six months of 2002 is 75 percent greater than the number who exhausted these benefits in the first eight months of 2001, and is more than double the number who exhausted these benefits during the same months of 2000.

For workers in New Mexico and across the Nation, these data are truly frightening. And in spite of these data, the comments we keep hearing from the administration is that we are on the verge of a recovery, or we have a strong foundation for a recovery, or the recovery is just around the corner. But I see no evidence of this. Investment in new research and development is falling. Investment in new equipment is flat. Production is falling. Layoffs are rising. From what I can tell the economy stalled, and I have seen no evidence at all that the administration knows what to do. Even worse, from what I can tell there is a complete lack of concern in the administration about where the economy is going right now. Nothing is being said about what should be done or when it should be done.

Given this lack of response by the administration, I say it is time we in Congress act. The Emergency Unemployment Insurance Act of 2002 is a very positive step in this direction. Its purpose is very straightforward: it will revise and extend the temporary unemployment program to provide an additional 20 weeks of temporary extended benefits for ''high unemployment'' States, States like New Mexico, and an additional 13 weeks to all other states until June 2003.

As a practical matter, this means workers can continue to get unemployment insurance benefits while they continue to search for work. In my view it is the least we can do for these folks. Unemployment insurance offers at most a subsistence-level existence, and most workers who receive benefits are forced to choose between paying for education, health care, mortgages, and food. These are folks that have played by the rules over the years and now find themselves in hard times. Personally, I would prefer that we offer them more, but if we cannot, then it seems to me we should be able to offer them some minimal financial security when they need it the most.

So I want to add my voice to the others today and say that we must pass this legislation before we go out on recess. American workers deserve to be dealt with in a fair and equitable manner, especially in this time of need. They need a lifeline, and its up to us to provide it. I recognize that there are a number of important issues that we have to address in a very short timeframe. But from where I sit, this is a priority. The administration can talk all it wants about how the economy is going to improve, but what matters to the folks in my home state is whether they can find good jobs and keep them. Right now, they can't do that. We need to give them some help until they can. This is one step in that direction.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mrs. CARNAHAN.) Morning business is closed.

HOMELAND SECURITY ACT OF 2002

The PRESIDING OFFICER. Under the previous order, the hour of 11 a.m. having arrived, the Senate will resume consideration of H.R. 5005, which the clerk will report.

The legislative clerk read as follows:

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

Pending:

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

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

Nelson of Nebraska amendment No. 4740 (to amendment No. 4738) to modify certain personnel provisions.

The PRESIDING OFFICER. Under the previous order, there will now be an hour for debate equally divided between the two leaders or their designees. The Senator from Maryland.

Mr. SARBANES. Madam President, pursuant to the unanimous consent agreement, I have been allocated 5 minutes to speak?

The PRESIDING OFFICER. The Senator is correct.

EMERGENCY UNEMPLOYMENT COMPENSATION ACT OF 2002

Mr. SARBANES. Madam President, I rise in very strong support of the legislation to extend unemployment insurance benefits, the Emergency Unemployment Compensation Act, which Senator WELLSTONE and others have introduced. I am very pleased to have joined in cosponsoring this legislation.

I have a few points to make in the limited amount of time that has been allotted to me this morning. First of all, we have extended unemployment benefits in every previous recession. The concept behind extending benefits is that when the economy goes soft and people lose their jobs, in order to help support them, we extend unemployment benefits beyond the standard 26 weeks. Otherwise, benefits are limited to 26 weeks. Let me underscore we are talking about working people. One cannot draw unemployment insurance if one has not been working. So by definition, the people we are trying to help are people who were working and producing and helping to move our economy forward and, because of conditions beyond their control, find themselves out of a job. Therefore, they are out of income that is needed in order to support themselves and often their families.

Traditionally, we give benefits for 26 weeks and then we figure that people will find a job and go back to work. But when the economy goes soft, then we have a very difficult problem on our hands, which is there are not any jobs to go back to.

Most of the economic indicators now are trending downwards. We continue to face a serious economic problem, and the effort to extend the unemployment insurance benefits is a response to this pressing need. This need is felt by unemployed workers all across the country as they confront the problem of how will they take care of their families, and where will they find the income with which to make it from day to day.

Unemployment insurance pays only a small percentage of what people were previously earning. When a person is receiving unemployment insurance benefits their income takes a real hit. In any event, these benefits provide unemployed workers some support so that they are not completely cast out without any means of sustenance.

Unemployment insurance has been carefully devised to be a countercyclical measure against recession because it provides extra income at a time of economic downturn. Almost by definition this money will be spent since the formerly employed workers are receiving benefits that are far below what they were previously earning. Thus, these benefits will all go into the income stream. They will help to provide an impetus to the economy. Those who talk about how can we get the economy moving again, this is one way to do it.

Furthermore, there is a trust fund that is designed to take care of paying these unemployment benefits. Payments have been made into the trust fund in good times, such as when we experienced low unemployment rates over the last 7 or 8 years, and as a result of this we have well over $20 billion in that Federal trust fund. That money is in the trust fund because it was paid for the purpose of paying unemployment benefits when we confronted an economic downturn.

People ask: Where is the money going to come from? It is going to come from the trust fund. It ought to come from the trust fund. That is why the trust fund is there, and that is why the money has been paid into the trust fund—for the purpose of providing a safety net at the very time that we run up against the kind of economy we are witnessing today.

So the rationale for extending these unemployment benefits is overwhelming. It is consistent with past precedents. We have done it in every previous recession. It conforms to the structure of the system in the sense that we have paid into a trust fund to pay this money out. It will meet the pressing needs of formerly employed workers now confronting the very real problem of how they are going to support their family now that they have lost their income, and it will provide a boost to the economy because this money will be paid to formerly employed workers who will spend this money back into the economy, helping to boost this economy.

The PRESIDING OFFICER. The Senator has used 5 minutes.

Mr. SARBANES. I urge my colleagues to support this legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Madam President, it is my understanding that I was allotted 5 minutes under the unanimous consent request.

The PRESIDING OFFICER. The Senator is correct.

Mr. DURBIN. Madam President, we are discussing unemployment insurance. A few of these charts really tell the story. If we take a look at the economic record over the last year and a half, we see some rather dramatic things have occurred. When President Bush took office in January 2001, 648,000 Americans were listed as ''long-term unemployed.'' That is more than just a temporary loss of a job. These are people who have been unemployed for more than 26 weeks.

By August of this year, that number had more than doubled to 1.4 million Americans facing long-term unemployment. In fact, if we compare the record of the Bush administration on private sector jobs, it is a dramatic indication of the failure of our economic policy.

This chart starts with President Eisenhower, goes through every single President, all the way to President George W. Bush. Without exception, every one of these Presidents saw an increase in private sector jobs during their administration. The largest increases came under President Johnson, then President Carter and President Clinton. There is only one President who has seen a decline in the number of private sector jobs in their administration, and that is the current President, George W. Bush.

So fewer jobs are being created, and there is higher unemployment. Traditionally, the Senate has not wasted any time in reacting. Take a look at what happened in the second worst record of the last 50 years—under President Bush's father—when they had a job increase of only four-tenths of 1 percent. When they faced high unemployment under President Bush's father, the Senate went to great lengths to pass extensions of unemployment benefits, realizing there were hundreds of thousands, perhaps millions, of Americans out of work. Look at how quickly Congress responded, not only once but five times, to increase and extend unemployment benefits.

Then look at the votes in the Senate. There is not a single vote with fewer than 66 Senators supporting it. In some cases, as many as 94 Senators supported it. So there has been strong bipartisan support.

I cannot understand this, but why is this administration resisting the effort of providing unemployment compensation to Americans who have lost their jobs? The President's economic policy has failed. It has created an economy which is sluggish. Take a look at the stock market on a day-to-day basis and tell me there is any indication of hope on the horizon.

This morning, I met with representatives of major businesses. I went around the table and asked: What do you think the future holds? And not a single one of them is optimistic beyond the range of a year or two from now. So more and more people will face unemployment.

Why, then, should unemployment insurance become this political football? The Democratic side is insisting we extend unemployment insurance, to make certain that people have some more money to live on in the hopes that they can find another job or at least keep their families together during some of the most perilous times.

In the State of Illinois, we announced an unemployment rate in the month of August that put us fifth in the Nation for the highest unemployment rate. We frankly have a situation now where across this country many people are losing their jobs and, frankly, have nowhere to turn. The August 2002 unemployment rate of 5.7 percent nationwide is more than 18 percent higher than it was the year before.

So under the Bush administration, the value of people's savings has declined because of the stock market crashing. We have seen people's pension plans decimated and their plans for their actual activity changed because they have had to decide to go back to work.

I heard a report recently where one investment counselor said: I never dreamed there would come a day when I had to call a retired person and say I am sorry, I have taken a look at your portfolio, and you are not going to make it. You have to go back to work. But this person said they had to do it. That is a reality. That is what is facing people.

So there is a rush on for these jobs and for a lot of people who have lost their pension savings. Now, there is a situation where people who are unemployed have nowhere to turn. They have run out of unemployment insurance benefits.

This morning, the minority whip, Senator NICKLES from Oklahoma, said the Senate Republicans would certainly consider unemployment insurance extensions.

The PRESIDING OFFICER. The Senator has used 5 minutes.

Mr. DURBIN. Madam President, I believe Senator KENNEDY was given 5 minutes, and I ask unanimous consent that I be given that time pending his return.

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

Mr. DURBIN. The point I am getting to is that this effort by Senator KENNEDY, Senator CLINTON, Senator WELLSTONE, myself, and Senator SMITH of Oregon is a really tradition that we have seen over and over again in the Senate and the Congress. When we are in a recession, the best thing that can be done to spark economic activity is to give some buying power to people who are out of work. We have done that repeatedly, no questions asked.

For some reason, the Bush administration, which has presided over this recession getting deeper, darker, and gloomier, does not want to do that. They do not want to provide the basic necessities of life for these people. I do not understand that. One would think the President would have stepped up as his father did three different times and say we are going to provide the resources for these people who, through no fault of their own, are out of work. Yet the Bush administration has not done it.

The situation gets worse. The Bush economic record shows in private sector jobs, we have lost more than 2 million jobs. We had 111.7 million private sector jobs when President George W. Bush took office. Today, we are down to 109.6 million. It is an indication of how serious it is. Unemployment has become a national phenomenon under this failed Bush economic record.

I mentioned earlier the situation with people and their savings and investments. This chart is a graphic presentation of something we all know. Look at the impact of President Bush's policies on worker retirement savings. Take an average person. Assume, for example, they had $100,000 in their 401(k) retirement plan as of the date President George W. Bush took office and they had it invested in the Standard & Poors 500—considered a pretty good barometer of business success in America. They would have lost 30 percent of the value of their retirement. People who were tied into it have seen their retirement savings go down. Many have been forced to go back to work. The stock market losses, $4.5 trillion, are an indication of lost stock market wealth since President Bush took office. I caution people who are following this debate, this chart was prepared last week. The numbers are worse today. We know what is going on.

We need to do something in this country. We focus on national security. We should. Shouldn't we spend time discussing economic security? Or some time addressing this dramatic loss of wealth and savings in America through no fault of the families who thought they were well invested in a strong economy? This economy has hit the skids under President Bush. His idea to hold a conference with close friends in Texas will not cut it. We need to do things to make a dramatic difference.

Ask economists the thing to do to put life back in the economy, and they say: Put buying power back in the hands of people who are unemployed. They will spend the money. They have to, for the necessities of life. Spending it, with the multiplier in our economy, creates jobs as a result.

This Senate, before it adjourns and goes home to campaign or relax or whatever individual Senators care to do, should face its responsibility. The responsibility faced earlier by President Bush's father should be faced by this President Bush as well, to extend the unemployment benefits.

This bill we are supporting, the Emergency Unemployment Compensation Act of 2002, ensures that the millions of workers exhausting their regular unemployment benefits will have a safety net on which they can rely. It ensures that over 800,000 workers benefitting from temporary extended benefits at the end of the year will not be faced with the abrupt expiration of that benefit on December 28. It ensures that over 863,000 workers who have already exhausted their temporary extended benefits and remain unemployed for over 39 weeks have a place to which to turn. It is basic. It is essential.

For goodness' sake, don't we owe it to the people of America to talk about the issues that hit them at home? Hit them in their pocketbooks? It is enough to talk about the Middle East and Iraq 23 hours a day, but can we spend an hour a day on the economy? I don't think it is unreasonable. If the President would suspend his conversations relative to campaigns for 1 hour a week to address the economy, it is something the American people believe is long overdue.

I hope my colleagues will support this extension of unemployment benefits.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. SPECTER. Parliamentary inquiry: Are we on the homeland security bill?

The PRESIDING OFFICER. The Senator is correct.

Mr. SPECTER. Madam President, I have sought recognition to urge my colleagues to work to resolve the outstanding differences on the labor-management issues because I believe the two sides are very close. I submit further that it is of vital importance that the Congress proceed to enact legislation on homeland security and the Senate move ahead to iron out the remaining differences, go to conference with the House, and then present a bill to the President for signature. It is imperative that all of the intelligence agencies be brought under one umbrella in an effort to avoid a repetition of 9/11.

My analysis shows me that had all of the dots been put together prior to 9/11, 9/11 might well have been avoided. I am not prepared to accept the Intelligence Committee's analysis that another terrorist attack will occur. I believe if we put all the dots together, we can prevent it.

Had we had the Phoenix FBI report, together with the information from Kuala Lumpur about two of the hijackers known to the CIA, not told to the FBI or INS, had we had the National Security Agency warning on September 10 that something was going to happen the next day, had the warrant under the Foreign Intelligence Surveillance Act been pursued as to Mr. Zacarias Moussaoui, there would have been a blueprint. But the system broke down because there was not one overall umbrella.

What we are faced with now, the differences in the two positions, involves the labor-management issues. Last Thursday, we had a discussion in the Senate where it was agreed that the provisions of the Nelson-Chafee-Breaux amendment did not supplant the provisions of title V which have a national security exemption but were in addition to the existing provisions of title V on collective bargaining. When you take a look at the language in the Nelson amendment, it is very close to the language of the existing law. The existing law refers to counterintelligence, investigative, or national security, and the Nelson amendment refers to counterintelligence or investigative work directly related to terrorism investigation.

It may be that the language of Nelson would have to be modified slightly so that instead of providing for a ''majority'' of such employees, it would be a ''significant number'' of such employees.

Then with respect to the issue of negotiability, the Gramm-Miller bill has six categories: Performance appraisal under chapter 43, classification under chapter 51, pay rates and systems under chapter 53, labor-management relations under chapter 71, adverse actions under chapter 75, and appeals under chapter 77.

The Nelson amendment would leave in four of those categories—performance appraisal, classification, pay rates and systems, and adverse actions—and would subject their implementation to review by the Federal Services Impasses Panel, seven appointees, all appointed by the President.

It seems to me we could borrow the language from chapter 71 under labor-management relations, under a national security waiver, and provide flexibility which the President is seeking in the event that there is a national security issue.

I believe it is very important we resolve this matter so we can move ahead with enactment of a homeland security bill. As I said last Thursday and repeated yesterday, I have not taken a position in favor either of the provisions of the Nelson amendment or of the provisions which are in the Gramm amendment.

But I believe we are so close together these differences can be reconciled.

I wonder if I might have the attention of the manager of the bill, the Senator from Connecticut. Will the Senator from Connecticut respond to a question?

I ask unanimous consent I may ask a question of the Senator from Connecticut without losing my right to the floor.

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

Mr. SPECTER. My question to the Senator from Connecticut is:

When you take the language of title V, chapter 71, which specifies the President may issue an order excluding any agency or subdivision thereof from coverage under this chapter if the President determines (a) the agency or subdivision has as a primary function intelligence, counterintelligence, investigative or national security work; and, (b) the provisions of this chapter cannot be applied to that agency or subdivision in a manner consistent with national security requirements or considerations;

And, add to that the language from the Nelson-Chafee-Breaux amendment which specifies that the President could not use his authority without showing that, (1) the mission and responsibilities of the agency or subdivision materially change; and, (2) a majority of such employees within such agency or subdivision have as their primary duty intelligence, counterintelligence or investigative work directly related to terrorism investigation.0

My question is, isn't it true the provisions of existing law and the additions made by the Nelson amendment are very close?

Mr. LIEBERMAN. Responding, Madam President, to the Senator from Pennsylvania, that is my understanding as well. The language with regard to the particular section cited by the Senator from Pennsylvania in the Nelson-Chafee-Breaux language is supplementary to what is in the statute, and essentially adds those two extra determinations the President makes to waive collective bargaining rights of Federal employees because of national security reasons, and the determination is totally that of the President.

Mr. SPECTER. Madam President, I direct another question to the Senator from Connecticut; that is, it has been reported to me the White House may be willing to accept the language of Nelson on the clause if a ''majority'' of such employees was modified to ''significant number'' of such employees. I ask the Senator from Connecticut if he thinks we might be able to make that minor modification if that would in fact close the area of disagreement on this issue.

Mr. LIEBERMAN. Madam President, responding to my friend from Pennsylvania, I think the question in the report of what the White House has really demonstrates how close we are to an agreement. I prefer the word ''majority;'' that is, to set some standard. Basically, this provision of Nelson-Chafee-Breaux gives some minimal due process protection for Federal workers in the future from a President who would arbitrarily apply this national security waiver to remove collective bargaining rights of Federal employees.

One of the elements of due process is to say for the determination to be made, a ''majority'' of the employees of the agency or office department would have to be involved and, speaking generally, national security. A ''significant'' number seems a little lower. I think we can probably find a word. It is a little too low, it seems to me, between those two words to grant both some comfort level for Federal employees without diminishing the authority of the President.

I say again these statements are some of the reasons the President will have to make his determination. But the President's determination, for all intents and purposes, is final. As we discussed last week, there is one reported case where an appeal was made of a determination by President Reagan. He just gave an order. He didn't make a determination. The circuit court even upheld that because the presumption in favor of the President when he invokes national security is so high.

But I welcome this colloquy with the Senator from Pennsylvania. I think somewhere, if the concern of the White House on this particular section is about the word ''majority,'' we can find another word which I hope can satisfy all concerned and still provide that minimal due process for Federal employees.

After this vote that is coming up, I hope we will continue to work. I fear cloture will not be invoked. I think the Senator from Pennsylvania, along with my colleague, the Senator from Tennessee, can play a critical role in getting us over this last obstacle which stands between us and adopting a bill we all say we agree on 95 percent of, except this major disagreement.

Mr. SPECTER. Madam President, I thank the Senator from Connecticut for that answer. The purpose of the question and the colloquy is to demonstrate how close we are; that when the Senator from Connecticut says he prefers language of a ''majority'' of such employees to a ''significant number'' of such employees, I can understand his preference. But what I especially liked about his answer was his determination which matches mine to find language which will find another word which will bridge the gap. When we talk about a 95 percent agreement, I think we are really much closer than that when you really strip down all the language.

If I might have the attention of the Senator from Connecticut again for another question, moving now to the issue of so-called flexibility where the Nelson amendment is willing to give the flexibility which the President sought under four of the six chapters, subject only to reference to the Federal Services Impasses Panel in the event of disagreement over implementation—again, noting that all seven of those appointees are designated by the President—the thought I believe might bridge the gap would be if as to five of these areas—performance appraisal, chapter 43; classification, chapter 51; pay raise systems, chapter 53; adverse actions, chapter 75; and appeals, chapter 77, excluding only labor-management relations under chapter 71, for which there already is a national security waiver—my question to the Senator from Connecticut is whether we might be able to bridge the gap by giving the President national security authority for waiver to devise the human resource management system in the event the President makes a determination national security requires it, borrowing the language from chapter 71 where the agency or subdivision has a primary function of intelligence, counterintelligence, investigative or national security work, and the human resources arrangements cannot be applied in a manner consistent with national security requirements and considerations so in effect we are borrowing the national security waiver provisions which apply as to collective bargaining for the other five categories where the President is seeking some flexibility.

Mr. LIEBERMAN. Madam President, responding through you to the Senator from Pennsylvania, I genuinely appreciate the thought and effort he is giving to this to try to find a way out of an impasse that is stopping us from

doing what we really have a responsibility to do, which is to create the Department of Homeland Security as soon as possible. And he has just offered, on the floor of the Senate, a new idea, at least one I had not heard before and I do not believe has been part of the negotiations.

I think we ought to try to sit down—involving, obviously, some of those who have been working on this compromise; Senators NELSON, CHAFEE, BREAUX, folks from the White House, Senator THOMPSON and I and yourself, I say to you, Senator SPECTER—as soon as we can to see whether this idea you have offered can be a breakthrough.

The fact is, on collective bargaining rules, as I have been saying throughout this debate, not on a national security premise for eliminating the right to be a member of a union, but throughout the statute there is a system that says that a President, a Secretary, an agency head, in time of national emergency, can do almost anything to override collective bargaining provisions because the national emergency, national security comes first.

In a way, you are suggesting a similar priority, hierarchy, for the civil service rules. It is an idea very much worth considering. I fear we are kind of on automatic pilot, with a cloture vote—the fifth one, if I count correctly—on which we are not going to invoke cloture. And the clock is running because we are heading, soon, towards a debate on an Iraq resolution, which would take the homeland security measure back to the calendar.

So I welcome your thoughtful initiative. I, for one, will be glad to spend any amount of time with you and the others I mentioned, and anyone else, to see if we can break this logjam, present some due process for Federal workers—which I know is your desire as well, I say to Senator SPECTER—but also preserve the executive authority, not just of this President but of the Presidency on into the future, particularly when national security is involved.

So I thank my colleague, and I hope we can go to work on this idea.

Mr. SPECTER. Madam President, I thank the Senator from Connecticut for that answer. When he focuses in on the national security requirements, I think he puts his finger on the nub of the issue: That if there is a national security interest here that would warrant the waiver on the collective bargaining matters, which are already set forth in existing law, the same rationale ought to apply to give the President greater authority under the other chapters where there really is a national security issue at stake.

I quite agree with the statement by the Senator from Connecticut that we have to move with speed because if we do not come to terms, this matter will be removed from the calendar in deference to the consideration of a resolution authorizing the use of force as to Iraq.

We all know there is a target date of this Friday, October 4, which has been delayed until next Friday, October 11; and that is the date by which we are likely to be out of session. So if we do not bridge this narrow gap now, and if we then go on to the resolution for the use of force, it is highly likely we will not conclude the legislation on homeland security before we recess. I think that would be a grave mistake.

The proponents of the Gramm-Miller amendment have asked for a vote on their amendment without any intervening second-degree amendments. And while I would be prepared to give the proponents of Gramm-Miller such a vote, the proponents of the Nelson amendment have a right, as a second-degree amendment, to proceed to have a vote on their second-degree amendment.

So while I supported the position and voted against cloture when the cloture motion was made on Gramm-Miller last week—and I did so in part to give an opportunity for compromise on this matter, but also in part to leave an opportunity for an amendment which this Senator intends to offer, which would bring all of the intelligence agencies under one umbrella—but it seems to me at this point that we ought to move ahead and invoke cloture on Gramm-Miller. That will then bring to a head the second-degree amendment offered by Senator NELSON. And then we would finally get down to some of the really tough negotiations to try to bridge the gap. There is nothing that promotes the negotiations like the imminence of a vote on a specific subject.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. THOMPSON. May I inquire as to how much time we have left?

The PRESIDING OFFICER. Does the Senator from Pennsylvania yield?

Mr. SPECTER. I do, without losing my right to the floor, for a question.

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

Mr. THOMPSON. Madam President, let me withdraw that inquiry for the moment and say that it appears we are about out of time with regard to those who oppose cloture. The time has been running against us. And now it appears that the Senator from Pennsylvania supports cloture. I would suggest that the time should not run against those of us who oppose cloture. Should that time not be allocated differently?

Mr. SPECTER. Madam President, I think the Senator from Tennessee raises a very good point. I will yield the floor momentarily. But before doing so, if I might have the attention of the Senator from Tennessee. I will yield the floor after a question to the Senator from Tennessee.

The Senator from Connecticut and the Senator from Tennessee and I had been in the cloakroom discussing these matters, and we had discussed how close we are. As the Senator from Tennessee has noted, the Senator from Connecticut ventured the view that we were very close on the two labor-management issues, as to adding the language of Nelson to the existing law which retains the national security waiver, and then the suggestion of giving the President flexibility where the President makes a determination of national security.

I inquire of the Senator from Tennessee what his view is as to how close we are to resolving these two outstanding issues.

Mr. THOMPSON. Madam President, if I may respond.

Unfortunately, not as close as I think the Senator apparently thinks. With regard to the labor-management relations issue that was referred to initially by the Senator from Pennsylvania, and was the subject of the conversation, the dialog, a moment ago with the Senator from Connecticut with regard to the Presidential authority, the point was made that there is a disagreement with the wording of the portion of the amendment that refers to the ''majority of the employees.'' The suggestion was made it should be ''substantial number of employees.'' The Senator is correct that is a point, but it is only one point.

My understanding is we have submitted language to those on the other side of this issue that addresses, in addition to that, the concern that the President is limited to acting with regard to matters of terrorism only.

It is the last couple of lines of page 12, of the draft that I have anyway, where the current language says ''or investigative work directly related to terrorism investigation.''

The language that has been submitted by us is ''or preventing investigation or responding to terrorists or other serious threats to homeland security.'' In other words, why should this President be limited to exercising his authority to a more narrow range of activity—that would be terrorism—when there could be some other national security issues that prior Presidents have had the opportunity to deal with that this President would not? So the compromise was suggested to keep the focus on terrorism but also add other serious threats to homeland security.

As I understand it, that suggestion lies at this moment with the other side. We have not had a response to that. I wouldn't want those listening to think there is only a one-word difference between us with regard to that issue, as unfortunate as that may be.

Mr. SPECTER. Madam President, I thank the Senator from Tennessee for that response. He raises a good issue. I agree with him the earlier language which exists presently, categorizing national security generally and consistent with national security requirements and considerations, is the broader language. I do not think the additional language of terrorism seeks to limit that, but I think the Senator from Tennessee raises a good point that it ought to be clarified so the national security considerations are broader than just terrorism.

I direct the attention of the Senator from Tennessee to the second consideration; that is, whether a national security waiver or determination by the President of national security considerations would be sufficient on the issues of the flexibility on the other five chapters.

Mr. THOMPSON. Madam President, that is certainly worth considering, as Senator LIEBERMAN reflected a moment ago. Once you get down to it, the issue has to do with two situations, as I see it. One has to do with disputes involving collective bargaining agreements and what you do about that. There are issues as to matters somewhat minor, if not frivolous. Some matters have taken years to resolve—whether or not the annual company picnic was called off and things of that nature.

On the other hand, there are other issues that may be part of a collective bargaining agreement that might limit, for example, the authority to transfer someone to a border where that was needed.

Unless there is a national emergency situation, the President or the Secretary should not be limited to situations that have already become emergencies. They should be proactive and preventive. That is one category of issues.

I could see why we might have the status quo with regard to the run-of-the-mill kind of collective bargaining issues we have, limit the Secretary's flexibility even with regard to those matters, as long as with regard to the matters that really mattered, the President had such a waiver or a certain amount of discretion in that area.

The same thing could be said with regard to the second category of matters at issue; that is, matters concerning individual employees in terms of dismissal, discipline, things of that nature. It often takes up to 18 months to process—multilevel, multiappeal, multiavenue, multimonths, into years. The status quo with the national security waiver would be less likely to work in such a situation because I can't imagine a situation where the President would want to step in and intervene with regard to the disciplining of one particular employee.

There is a category, that first category I mentioned, of things where what the Senator suggests should be seriously considered.

The PRESIDING OFFICER (Mrs. CLINTON). Time allotted to the minority has expired.

The Senator from Connecticut.

Mr. LIEBERMAN. Madam President, had my friend from Tennessee used his time?

The PRESIDING OFFICER. Yes.

Mr. THOMPSON. In a manner of speaking, I have now discovered that the Senator from Pennsylvania is on the other side of this issue.

Mr. LIEBERMAN. May I say to my friend from Tennessee, that was a surprise to me as well, a pleasant surprise in my case, one I appreciate.

Mr. THOMPSON. Madam President, I ask whether or not the Senator would entertain a unanimous consent request perhaps for however much time the Senator needs, 15 minutes, and perhaps 10 minutes additional time for me.

Mr. REID. Reserving the right to object, we have our party conferences starting at 12:30. We really have a lot to do today. If we do that, this vote will not be completed until nearly 1 o'clock. I would have to respectfully object.

The PRESIDING OFFICER. The Senator from Connecticut has 12 minutes 30 seconds remaining.

Mr. THOMPSON. Would the Senator from Connecticut give me a couple of minutes of his time?

Mr. REID. Madam President, I ask unanimous consent that the Senator from Tennessee have 3 minutes on his own time.

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

Mrs. FEINSTEIN. Mr. President, I rise to express my deep disappointment in the language in the Gramm substitute related to unaccompanied alien children. As a result, I stand in support of Title XII of the Lieberman substitute, which contains provisions based on S. 121, bipartisan legislation I introduced in Jan. 2001.

My disappointment is best understood with the following example. Not long ago, the Nation's attention was focused on the plight of Elian Gonzalez and whether he should be allowed to stay in the U.S. or return to Cuba.

At the same time, a young 15-year old Chinese girl stood before a U.S. immigration court facing deportation proceedings.

She had found her way to the United States as a stowaway in a container ship captured off Guam, hoping to escape the repression she had experienced in her home country.

And although she had committed no crime, the INS sent her to a Portland jail, where she languished for seven months. When the INS brought her before an immigration judge, she stood before him confused, not understanding the proceedings against her.

Tears streamed down her face, yet she could not wipe them away because her hands were handcuffed and chained to her waist.

While the young girl eventually received asylum in our country, she unnecessarily faced an ordeal no child should bear under our immigration system.

This young Chinese girl represents only one of 5,000 foreign-born children who, without parents or legal guardians to protect them, are discovered in the United States each year in need of protection.

When discovered by Federal authorities, these children are not always greeted with the special care and attention they deserve. Nearly 2,000 of them served time in juvenile jails, even though most had committed no crime. One child was even detained for 5 years. Many are handcuffed and placed in cells with other juveniles who have committed serious violent crimes.

Because of their age and inexperience, children may not be able to articulate their fears or testify to their needs with the same degree of accuracy as adults. Yet despite these facts, no Federal laws and policies have been developed and implemented, thus far, to protect them.

While not all children will merit asylum, providing them appointed counsel would help the INS and the courts understand the special circumstances of the child's arrival in the United States, while at the same time help the child to understand the process he or she is undergoing.

In my mind this goes a long way in explaining my opposition to the Gramm substitute as it relates to unaccompanied alien children and why the Lieberman substitute is much stronger in this regard.

Both pieces of legislation sought comprehensive reform in the way in which these vulnerable children are treated while under the watch of immigration authorities.

The Gramm substitute, however, would strip many of the important reforms relating to unaccompanied alien children from the homeland security bill.

Moreover, the provisions with respect to these children included in the Gramm substitute are nothing more than a legislative sleight of hand that appears to make reforms, but in reality would render those provisions meaningless.

Clearly, most unaccompanied alien children do not pose a threat to our national security, and must be treated with all the care and decency they deserve outside the reach of this new Department.

More specifically, the unaccompanied child protection provisions now contained in Title XII of the Lieberman substitute would make critical reforms to the manner in which unaccompanied alien children are treated under our immigration system.

These provisions would also: preserve the functions of apprehending and adjudicating immigration claims of such children, and, when the situation warrants, of repatriating a child to his home country, within the Immigration Affairs Agency, and under the larger umbrella of homeland security.

The unaccompanied alien child protection provisions would transfer the care and custody of these children to the Department of Health and Human Services. Its Office of Refugee Resettlement has real expertise in dealing with both child welfare and immigration issues.

At the same time, these provisions would establish minimum standards for the care of unaccompanied alien children; provide mechanisms to ensure that unaccompanied alien children have access to counsel; permit the Director of the Office of Refugee Resettlement to appoint guardian ad litem,

if necessary, to look after the children's interests; and provide safeguards to ensure that children engaged in criminal behavior remain under the control of immigration enforcement authorities at all times.

Roughly 5,000 foreign-born children under the age of 18 enter the United States each year unaccompanied by parents or other legal guardians. Some have fled political persecution, war, famine, abusive families, or other life-threatening conditions in their home countries.

They often have a harder time than adults in expressing their fears or testifying in court, especially if they lack English language proficiency.

Unbelievably, some of these children are subjected to such punitive actions as shackling, the use of leg manacles, and strip searches while in INS custody. Others are housed with violent juvenile offenders, or subjected to solitary confinement.

Despite these horrific circumstances, the Federal response has fallen short in providing for their protection.

Unaccompanied minors are among the most vulnerable of the world's asylum seekers, and they deserve our support and protection.

And yet, no immigration laws or policies currently exist that effectively meet the needs of these children. Instead, children are being forced to struggle through a complex system that was designed for adults.

It is important that we address this issue in this present legislation for a number of reasons.

First of all, as we contemplate transferring the functions of the Immigration and Naturalization Service (INS) into the proposed new Department of Homeland Security, we must ensure that the new Department is not burdened with functions that do not relate to its core mission.

For decades now, the INS has failed in its responsibility to care for these vulnerable children. As we transfer and reshape the INS in this legislation, it is imperative to relieve the agency of its responsibility of the care and custody of unaccompanied children.

Doing so would accomplish two ends: one, it would permit the INS to focus its energies, efforts, and attention on its core missions; and two, it would transfer the care and custody of the these children to the Office of Refugee Resettlement, ORR, an office that is better suited and much more experienced in handling the complexities of the children's situations.

As we turn over these responsibilities to a different agency, Congress must clearly define its expectations of the agency regarding the standards of care for these children.

It would be irresponsible for us to do anything less.

Quite frankly, it confounds me that, after more than a century since the first federal immigration law was enacted, our immigration system is still incapable of meeting the special needs of these children, whether those needs are medical, psychological, or legal.

This is why, in an effort to change current U.S. policy toward the treatment of unaccompanied foreign-born children, I introduced the ''Unaccompanied Alien Child Protection Act'', S. 121.

The overall purpose of this legislation is to refocus our policy away from treating these children like criminals, and to move toward a system that protects and serves their best interests.

Sometimes, this means safely returning them to a parent or guardian in their home country.

In other, more extraordinary cases, a child's best interest may involve a grant of asylum.

As introduced, S. 121 was a reasonable, moderate, bipartisan bill with the main purpose of reforming the care of unaccompanied alien children who come to the attention of Federal authorities.

As reasonable as it was, my staff and I conducted numerous meetings and phone calls with the Department of Justice and the INS, to further refine the bill's provisions.

Last February, the Judiciary Subcommittee in Immigration held a hearing on the legislation.

I listened to all of the ideas that they expressed, and I addressed almost all of them in the modifications that were made in the version of the legislation now included in Title XII of the Lieberman substitute.

Still, after all this compromise, the administration did not bother to even mention Title XII in its statement of administration policy of this legislation.

Given the moderate nature of Title XII, and given the fact that so many Republicans are cosponsors of it, I urge the Senate to maintain the provisions I have outlined today, rather than accept the evisceration of the bill's core protections that would result under the Gramm substitute.

If it becomes necessary, in the coming days I intend to offer an amendment to restore these important provisions to the homeland security bill.

And I will call on my colleagues to support that amendment.

Mr. AKAKA. Mr. President, today I rise once again to point out problems with the amendment offered by Senators GRAMM and MILLER which would take away the rights of Federal workers. Last week I spoke of the need to provide full whistleblower protection to employees in the new Department of Homeland Security, and how the Gramm-Miller amendment fails to provide such protection despite claims to the contrary. While the substantive rights are maintained for whistleblowers, the methods to enforce such rights are not part of the amendment.

And despite claims made by the Senator from Tennessee, Senator THOMPSON, yesterday that veterans' preference would be protected, the Gramm-Miller amendment fails to fully protect veterans in the new Department.

It appears that my colleagues believe that by maintaining the merit system principles, the new Department will protect our Federal employees from retaliation for blowing the whistle and from violations of veterans' preference requirements. However, simply following the merit principles will not fully protect the Federal workers who protect our Nation from terrorist attacks. We must provide a neutral third-party method to enforce such rights.

The Gramm-Miller amendment fails to do this.

Currently, Federal employees, who believe that they have been denied a position or have been subject to a designer Reduction-In-Force, RIF, action in violation of veterans' preference requirements, can challenge such wrongful actions through the Merit Systems Protection Board or through a union grievance procedure. Whistleblowers who allege that they have been subject to a prohibited personnel practice may go through the Office of Special Counsel and to the MSPB for corrective action. In addition, whistleblowers can bring allegations of retaliation through the union grievance procedure. The Gramm-Miller substitute amendment would block both routes for redress.

Under Gramm-Miller, the Department of Homeland Security could waive any and all due process appeals to the Merit Systems Protection Board. Instead, the due process procedures in current law would be replaced with an internal department appeals process. By allowing the agency, rather than an independent third party, to determine whether the agency violated veterans' preference or other employee protection laws, we will have removed the impartiality of the process.

However, under the Lieberman substitute, as well as the Nelson-Chafee-Breaux amendment, veterans' rights are not compromised. The appeals to the MSPB under 5 U.S.C. Chapter 77 may not be waived.

In addition, Chapter 71 of Title 5 which relates to Labor-Management Relations, may not be waived. This allows veterans and whistleblowers who are in collective bargaining units to exercise their right to use a negotiated grievance process to challenge violations of veterans' preference requirements or the Whistleblower Protection Act. Under the Gramm-Miller substitute, the new Department could waive the labor-management statutory requirements in Title 5. As such, grievance rights and union representation could quickly disappear.

Quite simply, under the Gramm-Miller substitute, veterans may still have veterans' preference rights, but they will have no way to seek redress for any violation of those rights. We have a proud history of protecting the rights of veterans and federal workers who protect this country. Whether they are whistleblowers or veterans, these Federal employees serve their Nation well. We need to support those who are willing to serve their Government.

Mrs. FEINSTEIN. Mr. President, I rise to reaffirm my overall support for a Department of Homeland Security. And I remain convinced that it is still possible to reach a consensus on this critical issue, and that we must strive to do so before the end of this session.

However, after giving this matter a great deal of thought, I must stand in opposition to the provisions in the Gramm-Miller bill that would strip many of the protections afforded to employees of the new Department.

As it stands, the bill's language would take away rights from some 200,000 Federal employees, rights that have been available for decades to most of the Federal workforce.

None of us dispute that any organization, particularly one entrusted with such a vital mission as homeland security, can function properly only if its managers have the authority both to offer incentives to talented employees and to fire negligent or ineffective employees.

And despite a great deal of rhetoric to the contrary, such flexibility already exists under the current labor provisions that govern the Federal workforce.

This flexibility was granted under the terms of the Civil Service Reform Act of 1978, allowing managers to: performance standards, and have the power to fire employees for performance failures as long as there is at least some plausible evidence.

In light of these facts, it is downright wrong to suggest that the Government cannot fire employees who, say, are drunk on the job or who commit crimes.

In fact, under current law, managers can remove such employees from their jobs immediately, while the employees' appeal can be settled definitively within 30 days.

Under current law, managers also have wide latitude in transferring, suspending, and reassigning employees, as well as in appointing candidates from outside the federal government to fill open positions.

On both sides of the aisle, there is virtual unanimity that any homeland security legislation must include a package of additional flexibilities regarding hiring, training, separation, and retirement. These additional flexibilities are in the Lieberman substitute.

And yet, the President has threatened to veto the Lieberman substitute, unless the Senate agrees to the labor provisions of the Gramm-Miller substitute.

Apparently, the President is willing to scrap crucial legislation to protect our country from terrorism if he is not given open-ended authority to abolish or limit federal employee rights and protections.

In my view, this threat is unnecessary, unwarranted, and highly unproductive.

And now the President has rejected a perfectly sound bipartisan compromise proposed by Senators NELSON, BREAUX, and CHAFEE. This compromise, which I support, provides what he wants, management flexibility authority, and what the Federal Government requires, safeguards to ensure that he cannot abuse that power.

This amendment provides the President broad leeway to change the civil service rules governing hiring, promotions, dismissals, performance appraisals, classifications, and pay rates for Homeland Security Department employees.

At the same time, Federal employee unions could object. If the two sides could not agree on the changes, then the Federal Services Impasses Panel, a board of seven presidential appointees, would arbitrate.

This amendment allows the President to revoke an employee's rights to collectively bargain and to form unions, if that employee's duties materially change and these duties directly relate to intelligence, counter-intelligence, or investigations relating to terrorism.

In threatening to veto this compromise, the administration has tried to frame the debate in terms of national security.

For instance, the President's spokesman recently said that the compromise bill would prevent the president ''from making decisions based on national security, no matter how urgent a crisis we find ourselves in.''

I find it disturbing that the administration has suggested that putting any restriction on the President's authority to limit or abolish federal employee rights and protections somehow jeopardizes our national security.

The way I see it, the administration is getting it exactly backwards.

The administration's attempt to give the executive branch total authority to rewrite the civil service system without consulting anyone would not help protect our country. Indeed, it would leave it more vulnerable.

At a time of such massive restructuring of the federal government, it is absolutely critical that we maintain as much continuity as possible.

Yet the Gramm-Miller substitute's open-ended language would allow the President to eliminate, by fiat, many important workers' rights.

This would be a huge blow to the morale and productivity of many thousands of Federal employees, and would risk the loss of many highly qualified individuals to the private sector.

There is also a large percentage of workers who, if push comes to shove, can option for early retirement. This is no time for the federal government to suffer a so-called ''brain drain,'' and be forced to train novices from scratch.

In the middle of our war on terrorism, the last thing we want to do is lose experienced employees on the front lines of this war.

We are talking about employees at the Coast Guard, the Department of Defense, the Federal Emergency Management Administration, the Border Patrol, the Federal Aviation Authority, and other agencies.

We are talking about men and women who are working around the clock to prevent another terrorist attack and to protect our citizens.

I for one do not see any inherent clash between collective bargaining rights and homeland security.

For example, Department of Defense civilians with top secret clearances are long-standing union members whose membership has not compromised our national security.

And many of the heroes of September 11 were unionized. The New York City firefighters who ran up the Twin Towers did not see any conflict between worker rights and emergency response.

And let's not forget that Federal employees do not have the right to strike.

Why haven't supporters of the President's proposal not been able to identify one instance of a labor dispute which contributed to a breakdown in our national security?

I have heard from many Federal employees in California who would be affected by this legislation. I would like to share with you the words of just one.

Joseph Dassaro is a Senior Border Patrol Agent assigned to the San Diego Sector of our southern border. He has been an agent for ten years, and is President of the San Diego Chapter of the National Border Patrol Council. In his words: ''The loss of collective bargaining rights and civil service protections would force me to leave the Border Patrol. Simply put, without the union and the Civil Service Reform Act . . .''

''I have no faith in the ability of the agency, or any subsequently created agency, to provide working conditions in which I can operate in the best interests of this nation. Additionally, based on the vast input I have received from the many agents I represent, I can assure you that [if the President's proposal is enacted], Border Patrol attrition rates would more than double . . .

''At record levels, agents are applying for local police positions in Southern California. Recently, the San Diego County Sheriffs [Department] interviewed over twelve agents from one Border Patrol station. Not only do these agencies offer better pay, incentives, and working conditions, they also offer an environment which rewards merit and seniority.''

Mr. Dassaro, along with the hundreds of thousands of other Federal employees, has been working day in and day out to keep our country secure.

I do not know why the administration wants to take fundamental rights and protections away from these patriotic Americans. We should not be attacking job security under the guise of national security.

This debate on homeland security should not be an exercise in scoring political points at the expense of labor protections for Federal employees, protections that are already in place at

virtually every other Federal agency and which have functioned smoothly for many years.

Which is why I ask my colleagues to vote against the anti-union provisions in Gramm-Miller, while urging the Bush Administration to reconsider the compromise offered by Senators NELSON, BREAUX and CHAFEE.

Mr. KENNEDY. Mr. President, we know that our Nation faces a very serious threat of terrorism. To protect our national security in today's world, we need an immigration system that can carefully screen foreign nationals seeking to enter the United States and that can protect our Nation's borders. We need a system that can make effective use of intelligence information and identify those who seek to harm us.

Unfortunately, our current Immigration and Naturalization Service is not up to these challenges. For years, INS has been plagued with problems, from mission, overload to mismanagement to inadequate resources. As a result, INS has been unable to meet its dual responsibility to enforce our immigration laws and to provide services to immigrants, refugees, and aspiring citizens.

The immigration reforms in the Lieberman substitute amendment are carefully designed to correct these problems and bring our immigration system into the 21st century. The amendment untangles the overlapping and often confusing structure of the INS and replaces it with two clear lines of command, one for enforcement and the other for services. It also includes a strong chief executive officer, the Under Secretary for Immigration Affairs, who, under the direction of the Secretary of Homeland Defense, will act as a central authority to ensure a uniform immigration policy and provide effective coordination between the service and the enforcement functions. Developed on a bipartisan basis, in consultation with respected experts, the immigration reforms in the Lieberman substitute emphasize clear direction, close coordination, and genuine accountability to the American people.

On these key issues, the Gramm-Miller substitute moves in exactly the wrong direction. Rather than establishing a single, accountable director for immigration policy, Gramm-Miller establishes three: the Under Secretary for Border and Transportation Security, the Under Secretary for Immigration Affairs, and the Chief of Immigration Policy within the Deputy Secretary's office. Little coordination is provided among these three positions. These officials will have authority to issue conflicting policies and conflicting interpretations of law. The result for the Nation's immigration system is likely to be a new period of disarray, not real reform.

Given the vast responsibilities of our immigration agency, the large number of people who cross our borders, and the major national-security concerns that have arisen since September 11, we will do the country a great disservice if we enact a so-called ''reform'' that makes the chronic problems of the INS even worse. We deserve a well-thought-out, effective reform, like that included in the Lieberman substitute, not the proposal offered by Gramm-Miller.

We need a separate and comprehensive directorate within which we can balance border security, provision of services, and efficient and fair enforcement of the immigration laws. Within this separate directorate, it is essential to include both the service and the enforcement components of immigration policy. Nearly every immigration-related action involves both enforcement and service components. Coordination between the two is critical to ensure that the laws are interpreted and implemented consistently. Coordination cannot be achieved merely by sharing a database or having a common management structure far up the ladder. Coordination will not be achieved if enforcement and services are housed in different departments.

That, however, is exactly what the Gramm-Miller proposal does. The two most critical enforcement functions, border patrol and inspections, will be taken from other immigration functions and placed in the Border and Transportation Protection Directorate. The formulation of immigration policy, our only chance to achieve coordination between these dispersed functions, will be subject to the conflicting views of various officials spread out in the new Department. With its dispersed immigration functions and failure to provide centralized coordination, Gramm-Miller is a recipe for failure.

Consider this example. An executive for a large international corporation arrives in the United States with a business visa that expires in 30 days. The inspector is reluctant to admit the executive, since his visa will soon expire. The executive states that his attorney has filed for a renewal of the visa. Under Gramm-Miller, with its failure to provide coordination between the service and enforcement functions, the inspector will not be able to verify that a renewal application has been filed, and the executive will be denied admission. Such a mistake, repeated many times each year, will be disruptive to our economy.

Or consider an asylum seeker picked up by a border patrol agent. He claims that he will face persecution if returned to his home country. His brother enters the U.S. with a visa and is granted asylum, a service bureau function. Without effective coordination between services and enforcement, the brother processed by the service bureau will be allowed to stay and become a permanent resident, while the brother picked up by the border patrol may be returned to face persecution or even death. These are mistakes that we cannot tolerate.

We need a reform that ensures uniform policies and consistent interpretations of the law. We know from painful experience that inconsistencies in interpretation and enforcement, with no one in charge to resolve differences, can lead to unacceptable results. We need an immigration system that works. The Lieberman substitute will give us that system. The Gramm-Miller substitute will repeat—and increase—the mistakes of our past.

The Lieberman substitute also deals with another serious flaw in our current immigration system—the care and custody of unaccompanied alien children. Senator FEINSTEIN has been working on this issue for many years, and her bipartisan legislation is included in our reforms. It addresses the needs of children arriving alone in the United States. Often, these children have fled from armed conflict and abuses of human rights. They are traumatized and desperately need protection. As children, they deserve special care and protection.

Jurisdiction over their care and custody does not belong in a department dedicated to preventing security threats. Our plan transfers responsibility for these children to the Office of Refugee Resettlement in the Department of Health and Human Services, an office that has decades of experience working with foreign-born children and is well-equipped to place these children in appropriate facilities where they will receive the care and attention they deserve.

We also provide safeguards to ensure that children have the assistance of counsel and guardians in the course of their proceedings. Currently, over half of the children in immigration proceedings are unrepresented by counsel. Children as young as 18-months-old have appeared in immigration court without a lawyer. These children simply cannot be expected to effectively represent themselves when faced with the complexities of U.S. immigration law.

The Gramm-Miller substitute provides plainly inadequate protections for these vulnerable children. Although care and custody is transferred to the Office of Refugee Resettlement, this substitute leaves out the counsel and guardian provisions.

The fear that providing government-funded counsel for children will set a precedent for the provision of counsel for other populations in immigration proceedings is unfounded. Our plan contains a very narrow exception for vulnerable children, and only Congress can extend that exception to other groups.

Guardians are crucial in order to ensure that the best interests of children are addressed throughout their immigration proceedings. Guardians would ensure that the child understands the nature of the proceedings. Immigration proceedings are the only legal proceedings in the United States in which children are not provided the assistance of a guardian or court-appointed special advocate.

Finally, the Lieberman substitute remedies decades-old problems with our immigration court system. That system—called the Executive Office for Immigration Review—is part of the Department of Justice. Every day, immigration courts make life-altering decisions. The interests at stake are significant, especially for persons facing persecution and for long-time permanent residents, who face permanent separation from family members.

Despite these major responsibilities, the immigration court system exists by regulation only. As such, it can be moved, dissolved, or reconfigured at any time, without Congressional involvement. For years, immigration judges have been criticized because they are too closely aligned with immigration enforcers. Their impartiality is jeopardized when both judge and prosecutor are too closely linked. These criticisms will only intensify if the immigration courts are relocated to the new security agency.

We need an immigration court system that provides individuals with a fair hearing before an impartial and independent tribunal, and meaningful appellate review. The Lieberman substitute maintains the immigration court system at the Justice Department, so that immigration judges and immigration enforcers are effectively separated. It also codifies the existing court structure and its components, making it a permanent part of our immigration system.

The Gramm-Miller substitute would seriously undermine the role of immigration judges. It vests the Attorney General with all-encompassing authority, depriving immigration judges of their ability to exercise independent judgement. Even more disturbing, the Gramm-Miller proposal could curtail the right to appeal adverse decisions, since the Attorney General will have the authority to change or even eliminate appellate review. This result is a recipe for mistakes and abuse. An independent judicial system is essential to our system of checks and balances. Immigrants who face the severest of consequences deserve their day in court.

In reforming our immigration system, we must isolate terrorists without isolating America. We must protect our Nation, and we must also protect immigrants. In strengthening our defenses against terrorism, we must settle for nothing less. Americans are united in our commitment to win the war on terrorism and protect the country from future attack. An essential part of meeting this challenge is protecting the ideals that America stands for here at home and around the world.

The Lieberman substitute acts on this principle by providing basic civil rights and privacy safeguards in the new Department of Homeland Security. A civil rights officer will oversee civil rights issues and advise the Secretary on policy matters. A privacy officer will perform similar functions on privacy issues. An official in the Inspector General's office will investigate civil rights abuses.

We have heard no complaint from either the administration or our Republican colleagues about these civil rights provisions. The administration's detailed Statement of Policy on September 3rd did not contain a single objection to them. Nevertheless, all of these provisions have been removed from the Gramm-Miller substitute.

Today, many Americans are concerned about the preservation of basic liberties protected by the Constitution. There continues to be a debate over the constitutionality and wisdom of some of the administration's polices and actions since September 11. Clearly, as we work together to bring terrorists to justice and enhance our security, we must also act to preserve and protect our Constitution.

The civil rights provisions in the Lieberman substitute are limited in scope, but will be essential to the proper role of the new Department of Homeland Security. They should be included in whatever bill the Senate ultimately passes, and I urge the Senate to accept them.

Earlier this week, our committee held a hearing on the grave public health challenge of West Nile fever. We heard how vital it is for CDC, NIH and FDA to work together closely to respond to this deadly epidemic. The same health agencies that are responding to West Nile today may need to respond to a biological attack tomorrow. The last thing we should do is disrupt the close coordination among our health agencies that will be needed for an effective response to such an attack. Yet this is exactly what the Gramm-Miller amendment would do by transferring responsibilities for bioterrorism research and response to the new Department of Homeland Security. While claiming to enhance our preparedness for bioterrorism, the amendment would actually diminish it by needlessly splitting responsibilities for bioterrorism between HHS and the new Department.

We heard from Dr. Tony Fauci, the Nation's leading expert on infectious disease, that NIH is working swiftly to develop a new vaccine against the West Nile virus. Dr. Fauci and the other medical leaders at NIH should retain the responsibility for developing new vaccines for anthrax, Ebola and other biological weapons. These responsibilities should not be transferred to a new department with unproven scientific expertise. Certainly, the new Department should set broad priorities for our homeland security research program, but the funding and the scientific responsibility for carrying out that research should remain with NIH.

Sadly, the Gramm-Miller amendment also includes fails to include protections for the ethical treatment of human subjects in research. America has a tragic history of ethical abuses in national security research. In our Senate inquiries during the 1970s, we learned how the CIA had given LSD and other dangerous drugs to experimental subjects without their knowledge or their consent. These shameful experiments led to the death by suicide of an agent in New York.

We must not let history repeat itself in the research carried out by this new Department. Basic protections for human subjects cover research conducted by all other Federal agencies. They should also apply to the new Department. These protections should not be discretionary. They should be a required element of every research project that the new Department conducts.

I also want to speak today about America's workers. We live in a nation forever changed by the tragic events of September 11. The dreadful images seared into our memories on that fateful day were grim proof to every American that we are vulnerable to grave new threats. We must take the necessary steps to protect America from these new dangers. We must act wisely as we create a new Department of Homeland Security. We must ensure that our actions truly enhance, rather than diminish, our Nation's security. And we must meet our security needs in ways that reflect the values that make America the envy of the world.

As we debate the formation of this new agency, we should remember the events of September 11 and the heroism of our Nation's union workers in the cause of homeland security. Union members risked and lost their lives and saved countless others through their actions on September 11. We will never forget the example that firefighters, construction workers and many government workers set that day.

Union workers have also shown great bravery and extraordinary sacrifice in the service of homeland security since September 11. The postal workers and the hospital worker killed as a result of bioterrorism were all union members. The brave flight attendant, whom the President recognized in the State of the Union Address for preventing terrorism, is a member of a union.

The dedication and resolve of these union members truly represents the best of America. Over 43,000 of the Federal workers affected by the proposed Government reorganization are currently union members. These are the workers who risk their lives each day to protect our Nation's borders. They are the workers from the Federal Emergency Management Authority who coordinated the Federal emergency response on September 11. These workers are out every day on the high seas to rescue those in need and to prevent dangerous cargo from reaching our shores. They are also the workers dedicated to making our Nation safer from the threat of bioterrorism.

Among the ranks of unionized Federal workers are true heroes who have served their Nation with distinction in battle and are now contributing to our Nation as civilian employees and as active members of their community. I am

talking about Federal workers like Robert J. Patterson, who was awarded the Purple Heart medal and the Bronze Star and many other honors for his service in Vietnam. He was ambushed and shot in the legs, the stomach and the shoulder while on patrol in Vietnam, but he still managed to call for backup and save the lives of many other members of his squad. For nearly 20 years now, Mr. Patterson has worked as a civilian employee for the Federal Government, and he now serves as Vice Commander of his local VFW post and is active with the Boy Scouts and as a mentor for troubled youth.

Dedicated Federal workers like Mr. Patterson take pride in their work, love their country, and have served it with distinction for decades. Nearly half a million Federal workers are veterans of our Nation's armed services. Veterans are represented at twice the rate in the Federal workforce as in the private sector. Disabled veterans, those who have paid a great price for serving this Nation, are five times more likely to work in the Federal Government as the private sector.

On September 11, unionized Federal workers were on the scene and played critical roles at both the World Trade Center and the Pentagon as they worked round-the-clock to make our homeland secure. Denise Dukes, of the Federal Emergency Management Agency, worked a 24-hour shift in Washington on September 11 to ensure that food and water was reaching the rescue personnel at Ground Zero. Afterwards, she left her two children to go to New York and coordinate the response and recovery effort on the ground. As Ms. Dukes explains of her fellow Federal workers: ''We were proud and eager to serve our fellow Americans, and we would never allow anything to stand in the way of that mission.''

Michael Brescio, who works for the Environmental Protection Agency's Response Team, got tens of thousands of urgently needed respirators to the rescue workers at Ground Zero immediately after the attack. Far away in Kodiak, AK, Mark Andrew Jamison went on high security alert in order to protect our Nation's coastline. Mr. Jamison, a veteran of our Nation's armed services who was entrusted with a top secret security clearance, loves his job because, as he put it: ''Above all . . . I'm a patriot like the hundreds of thousands of other Federal employees who keep our country secure and safe day-in and day-out.''

We must protect the rights of these dedicated Federal workers to remain union members and we must allow other workers in the new department to exercise their fundamental right to form a union.

Unions are critical to protecting our Nation's homeland security. Many Federal workers would not speak out about security lapses without the protection of a union because of the legitimate fear of retaliation by their supervisors. After September 11, an 18-year veteran of the U.S. Border Patrol named Mark Hall bravely spoke out about the vulnerability of our Northern border after INS management ignored this concern. Mr. HALL was threatened with being fired by the INS and faced a 90-day suspension without pay for speaking out to protect the American public.

The actions of Mr. HALL helped to make our borders safer. Congress subsequently acted to triple the border patrol personnel on the Northern border. Union membership was critical to Mr. HALL's ability to speak out in the first place. As he explains, he ''would never have spoken out if I hadn't had my union behind me because whistleblower protections alone would not have been enough.'' Federal workers who are denied union rights will be far less likely to speak out and protect the public in the future for fear of unjust retaliation. Denying Federal workers fundamental rights will undermine our Nation's homeland security at a time when we can ill afford it.

The President now has the executive authority to exclude workers engaged in intelligence work or particularly sensitive investigative work from basic collective bargaining. Past presidents have used this authority sparingly, out of respect for government workers—even in times of war. They have barred collective bargaining only in highly specialized and sensitive positions, such as U.S. Army Intelligence, Naval Intelligence, Naval Special Warfare Development Group and the Air Force Office of Special Investigations.

This administration has already demonstrated its intention to go far beyond every past administration in its use of this authority. Earlier this year, this Administration stripped clerical and other workers in the Department of Justice and the U.S. Attorney's office of their long-held union membership. After decades of dedicated service to this Nation as union members, secretaries in the civil division of the U.S. Attorney's office were excluded from collective bargaining. These secretaries were not involved in national security; they were processing claims by people injured on government property and others suing over their denial of benefits. Nonetheless, this administration chose to deny these dedicated workers their fundamental rights.

We all know that this administration is not a champion of worker rights. They do not support a much-needed extension of unemployment insurance benefits. They oppose an increase in the minimum wage for the millions of Americans who work hard but still don't make enough to stay above the poverty line. This administration opposes ergonomic protections that would keep millions of workers from suffering debilitating injuries while at work. Immediately after taking office, this administration overturned rules requiring Federal contractors to obey our Nation's labor laws and undermined protections for Federal workers. But how far is this anti-worker agenda going to go?

We have witnessed the bravery of these workers, their dedication to their country, their military service, their contributions to their communities. Yet, this administration displays a contempt for workers and particularly for the Federal workers who serve with dedication every day to keep our Nation safe.

These unionized contract workers maintain the highest security clearances and do extensive work for the Department of Defense. Under the administration's proposal, we could well see Federal workers working alongside contractors with the federal workers being denied the same fundamental rights and protections that the contractors continue to hold.

These are the very rights held by the brave firefighters and police in New York City who paid the ultimate price to protect others. They are the rights that allowed those courageous border patrol officers to speak out and improve homeland security. It is essential that any reorganization respect and protect the rights of these, and thousands of other hardworking Federal employees, whose work is so vital to the new Department's success and the Nation's security. Denying basic rights to those who strive and sacrifice to make us safer will not protect homeland security.

Some on the other side of the aisle claim that union membership is inconsistent with service to our country. For example, Senator GRAMM claims that union workers kept Logan Airport's luggage inspection area from being renovated by the Customs Service. He claims that the renovation had to be negotiated with the union as part of a collective bargaining agreement.

This is just one example of the many distortions being offered on the other side by those who want to deny dedicated Federal workers their fundamental rights. In fact, the collective bargaining agreement of those dedicated Customs workers did not prevent the Customs Service from renovating the terminal. The union did not have the right to bargain over whether any renovation could take place. The agreement between these workers and the Customs service simply provided that the workers should be notified of the change and be able to discuss the impact of the particular implementation of the change. Since the workers were not notified, the new construction was poorly done. It left the Customs inspectors with an obstructed view, making it much harder for them to do their job well. The result was that the rate of Customs seizures subsequently went down at the airport.

This case is a perfect example of how ignoring the front-line workers who protect America day in and day out will not make us safer. These workers want to do the best job possible each and every day. For that reason, they challenged the Customs service for failing to properly notify and consult the

workers and won the case before the Federal Labor Relations Authority.

The real test of our core values come not during easy times but during times of crisis. We must stand up for the right of free association and the basic protections for these dedicated Federal workers. This is the real test of who we are as a nation. By being true to the values that make America great, we honor the sacrifices of America's veterans even as we protect the security of our homeland.

Mr. LIEBERMAN. Madam President, we have now entered the sixth week in which the Senate has been considering legislation to create a Department of Homeland Security which all of us, most all of us, agree is urgently necessary because the current disorganization in the Federal homeland security apparatus is dangerous. This is the sixth week, not all day every day, but parts of 6 weeks, beginning today.

Second, we are about to have the fifth opportunity to invoke cloture on this bill, to stop the debate in deference to the urgent national security interests in adopting this legislation.

I fear the majority of my colleagues are on automatic pilot in which they are, once again, for reasons I consider to be peripheral, marginal, and unknowing, insensitive to the fact that the Senator from Texas, Mr. GRAMM, and I and everybody else have acknowledged that on more than 90 percent of this bill, we all agree. So we are prohibiting action on a matter of urgent national security importance because of a small disagreement.

There is a lot of interest in it. It means a lot to Members on both sides. Why not follow the leadership and independence of the Senator from Pennsylvania who has just said: My Republican colleague, this is too urgent a matter to delay any longer. I will vote for cloture.

There is nothing like cloture and the imminence of a vote on the underlying bill to force the kind of compromise that we need to have in the interest of national security and that we are so close to having.

Up until this time, largely through the good work of Senators BEN NELSON, JOHN BREAUX, LINCOLN CHAFEE, encouraged by a lot of us, there has been a show of flexibility with regard to the protections for homeland security workers and the President's desire for executive authority, particularly in cases of national emergency, that Federal employees and those who are concerned about their rights in the Chamber have moved.

In fact, the Nelson-Chafee-Breaux compromise moves back from the protections for homeland security workers our bipartisan committee bill provided.

I supported those compromises, and the Federal employee associations, workers groups, unions also supported them because they know how urgent it is to adopt a homeland security bill.

The White House regrettably has moved hardly at all. The Senator from Texas who led the debate on the other side has moved hardly at all. That is why we are at this impasse.

Mr. DURBIN. If the Senator will yield, I want to point out how hard the Senator has worked on this, even before the President announced his commitment to a Department of Homeland Security. The Senator worked through the Governmental Affairs Committee on a bill. There were long hearings and markups, and they brought it to the floor, and now for 6 weeks we have been on it. This is the fifth time we are going to try to bring debate to a close and a final vote.

I say to my colleague from Connecticut, if the Senate Republicans reject this effort to end the debate, I frankly think we ought to harken back to the Cub fans back in Chicago, who said: It is time to wait until next year.

Mr. LIEBERMAN. I thank my friend from Illinois for his kind comments. I hate to say it because, by nature, I am an optimistic and trusting person. As we all know, the clock is ticking and the Senate is going to move to debate on a resolution concerning possible military action in Iraq. That means this will go back to the calendar. Will it ever emerge? I don't know. I would hate to think that will happen on a matter of such critical national security interest. This is the protection of the lives and safety of the American people we are discussing.

The evidence grows that the disorganization of the Federal bureaucracy contributed to the vulnerability that the terrorists took advantage of on September 11. As I say, I am a trusting person. So I keep asking myself, why won't the White House negotiate on these matters? I have been reading and listening with alarm to some of the things being said, and they trouble me because I worry now that we are being stopped from achieving an agreement on a matter that we agree 95 percent on, for reasons that have something to do with the election.

Last week on this floor, Senator HARRY REID of Nevada introduced into the RECORD an e-mail sent apparently to almost 2 million people on the Republican National Committee mailing list that said the Senate is more interested in special interests in Washington and not in the security of the American people, and we will not accept a Homeland Security Department that doesn't allow this President and—et cetera, et cetera, and then quoting President Bush. It also says the bipartisan approach is stalled in the Senate because some Democrats chose to put special interests and Federal Government employees ahead of the American people. That is untrue.

President Bush altered his rhetoric at the end of last week after the eruption over that language and toned it down a bit—but still kept it in a political context. In Flagstaff, AZ, last week, reading from the Washington Post of September 28, the day before, the reporter Edward Walsh says:

> The President today portrayed his differences with the Senate over the creation of a Department of Homeland Security as a struggle between common sense and business as usual, and he urged the election of Republicans to help him implement his idea.

Mort Kondracke reports yesterday Roll Call a conversation with our colleague, the other Senator from Tennessee, Mr. FRIST, chair of the National Republican Senate Committee:

> In an interview, Bill Frist, chairman of the NRSC told me he has no intention of turning Iraq into a campaign issue, but every intention of doing so with homeland security.

Of course, it is the right of the Republican Party and the President to make an election issue out of anything they want to make an election issue out of, but this is a matter on which we should not be engaged in politics. This is a matter on which we should be reasoning together to get over the small differences that remain on this question, to reach common ground and get this done. The Gramm-Miller substitute leaves out some very critical parts that our committee put in. Senator DURBIN has a part on information technology. Of course we should support it. Senators CARNAHAN and COLLINS put in an amendment to create a COPS-like program for firefighters. There should be broad, bipartisan agreement on that. I could go on. Senator CARPER has a provision relating to the safety and security of Amtrak facilities. None of those are in Gramm-Miller. If we can reach agreement on this question of protection for Federal Homeland Security workers and protecting also the President's prerogatives regarding national security, I would guess that the Gramm-Miller substitute, as amended by NELSON-CHAFEE-BREAUX, would have a real head of steam behind it and would probably find its way rapidly to the conference committee.

Let me make this appeal to my colleagues on the other side. We are not a unicameral legislature. The White House seems to be insisting that we negotiate to the final point here in the Senate bill, and with that stubborn intransigence they are blocking us from achieving all the rest that we want to achieve in terms of homeland security. We can pass the bill here. It then goes to conference. The process continues.

So let's not have it reach a dead end here, which it is rapidly approaching, as we move on to the Iraq resolution and the probability of adjourning—or at least recessing—quite soon thereafter. I appeal to my colleagues—mostly Republicans, but some of those Democrats who voted against cloture the first time on Gramm-Miller—to listen to the words of the Senator from Pennsylvania. The best way to get this moving is to invoke cloture, force the compromises we need. Let's have the meetings that Senator THOMPSON, Senator SPECTER and I have talked about with Senators NELSON, BREAUX, CHAFEE, and anybody else who wants to come. This is an eminently solvable

dispute, if we have the will to do it. Then we can go on to protect the security of our people and dispatch our responsibility under the Constitution.

How much time do I have remaining?

The PRESIDING OFFICER. Two minutes.

Mr. LIEBERMAN. I yield that time to the Senator from Louisiana, unless the Senator from Tennessee wishes to go forward.

Mr. THOMPSON. No.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. BREAUX. Mr. President, I think the Senator is right on target. We have two differences of opinion about how to approach this matter, and there is not a dime's worth of difference between the two. The easiest way to figure out how to reach a legitimate compromise is to vote cloture, and then we can negotiate what is the proper approach to this legislation. If you read both offerings in this particular area, we will give the President essentially the authority to take away collective bargaining rights of American workers if they are related to national security or threats of national security. We also basically give him the authority to make management changes. I will address this quickly.

If you are going to make management changes, do you want the people whose jobs are being changed to be involved in that decision or do you want to take away their collective bargaining rights, one, and tell them arbitrarily what they are going to have to do? What type of a worker are you going to have if you take that away and then not even let them talk about what their duties are going to be. You are going to have a very reluctant workforce, which is not in the interest of this country from a homeland security standpoint. We have suggested models after the IRS, which say let them come in and negotiate, talk, and find out what their duties are going to be. If you cannot agree, we suggested turning it over to a Federal board that the President appoints to resolve the conflict and let them make the decision. At least the workers will have an opportunity to be heard. I don't think that is asking too much when you have taken away all of their collective bargaining rights.

This thing can be resolved. We are going to continue our meetings this afternoon. We have taken 3, 4 weeks already and have not made a lot of headway. Perhaps we ought to appoint a Federal negotiating board to handle the Senate, and maybe we can resolve it that way because, obviously, right now we are not making progress. But we are going to continue our efforts.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. THOMPSON. Madam President, the issue here with regard to this cloture motion is whether or not the President of the United States is entitled to an up-or-down vote on his proposal to make this country more safe. I repeat. The issue—and the only issue—on this cloture vote is whether or not the President of the United States, at this time in our history, is entitled to an up-or-down vote on his proposal to make this country safer. I think the answer to that is yes and the answer to cloture should therefore be no.

If there is not a dime's worth of difference between these proposals, I would like to think the President in this time in our history would be given the benefit of the doubt on these issues, which our friends on the other side say are really insignificant.

The Senator from Connecticut says the evidence mounts as to shortcomings of the Federal bureaucracy and that it contributed to the problem we had on September 11. I could not agree more. My only question is: Then why are we not allowed to make some changes that might improve the situation?

Gramm-Miller does provide for consultation. The implication has just been made that Gramm-Miller does not provide for consultation. Why shouldn't employees be brought in and enter into a dialog? It provides for that.

However, the Nelson-Chafee-Breaux so-called compromise still puts additional hurdles in the path of this President that other Presidents have not had. For some reason, at this time, with regard to this Department of Homeland Security, we are putting forward additional hurdles and additional determinations this President must make that other Presidents have not had to make.

The Nelson-Chafee-Breaux compromise takes the issue of labor-management and the issue of appeals off the table altogether and says: You shall make no changes, regardless of the myriad indications we have had where we have deficiencies in our system with regard to these issues.

There is no reason why these issues should take years and years to resolve. There is no reason why we should fiddle while Rome is burning. Surely we can do better, but this so-called compromise takes those issues off the table and out of the power to make any kind of adjustments. I suggest that is not a reasonable compromise. I suggest the President is entitled to an up-or-down vote.

I agree with my good friend from Connecticut; we are in the last stages of this discussion. If we do not resolve this matter within the next day or so, there will be no homeland security bill this year. That is a tragedy for this country. We apparently divided sides and decided who benefits. That is the fact, and, therefore, I urge no on the cloture vote.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The legislative clerk read as follows:

CLOTURE MOTION

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

Joseph Lieberman, Max Baucus, Ben Nelson of Nebraska, Dianne Feinstein, Tim Johnson, Patrick Leahy, Jeff Bingaman, Jack Reed, Hillary Rodham Clinton, Jim Jeffords, Debbie Stabenow, Daniel K. Akaka, Harry Reid, Maria Cantwell, Byron L. Dorgan, Herb Kohl.

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

The question is, Is it the sense of the Senate that debate on the Gramm-Miller amendment No. 4738 to H.R. 5005, an act to establish the Department of Homeland Security, and for other purposes, shall be brought to a close? The yeas and nays are required under the rule. The clerk will call the roll.

The assistant legislative clerk called the roll.

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

I further announce that, if present and voting, the Senator from New Jersey (Mr. CORZINE) would vote ''aye''.

Mr. NICKLES. I announce that the Senator from Colorado (Mr. ALLARD) is necessarily absent.

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

The yeas and nays resulted—yeas 45, nays 52, as follows:

[Rollcall Vote No. 228 Leg.]

YEAS—45

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

NAYS—52

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

NOT VOTING—3

Allard	Corzine	Torricelli

The PRESIDING OFFICER. On this vote, the yeas are 45, the nays are 52.

Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 having come and gone, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:52 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. CLELAND).

The PRESIDING OFFICER. The Senator from Nevada.

ORDER OF PROCEDURE

Mr. REID. Mr. President, the majority leader shortly wishes to make a statement. I see my friend from Missouri is in the Chamber, and a number of other Senators.

Do any of the Senators wish to speak now?

I yield to my friend from Missouri for purposes of a question. Does the Senator wish to speak now?

Mr. BOND. Mr. President, I have a number of issues to speak about. I wish to speak in relation to a welcoming resolution, and then I have further remarks upon which I wish to expound.

I am happy to accommodate the floor leader's desire. I ask what his intentions are.

Mr. REID. My intention was that we go into a quorum call until the majority leader appears on the floor. But maybe—and does the Senator from Louisiana wish to speak?

Ms. LANDRIEU. Yes. Thank you, I say to the assistant majority leader. I wish to talk about the West Nile virus for a few moments because it is an issue that is so important to Louisiana and many States.

Mr. REID. How long does the Senator wish to speak?

Ms. LANDRIEU. Maybe 10 minutes. But we may not be ready. The House is passing their bill. I am kind of open to the time.

Mr. REID. How long does the Senator from Missouri wish to speak, approximately?

Mr. BOND. Mr. President, I have one matter that will take 2 minutes and another matter that will take 10 to 15 minutes. And if nothing else is happening, I could go for another 20.

Mr. REID. I am wondering if my two friends, the Senator from Louisiana and the Senator from Missouri, if the majority leader comes to the floor, would be willing to yield to him for his statement?

Mr. BOND. Pardon?

Mr. REID. I said, if the majority leader appears on the floor, will you be willing to yield to him for a statement?

Mr. BOND. Mr. President, of course. I am always happy to accommodate my colleague.

Mr. REID. Mr. President, I ask unanimous consent that the Senator from Missouri be recognized for up to 20 minutes; and that following that, the Senator from Louisiana be recognized for 10 minutes; and that they both agree, when the majority leader appears, that they will yield to him for his statement.

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

Mr. BOND. Mr. President, I thank my good friend, the majority floor leader. My first item should be a noncontroversial one.

WELCOMING HER MAJESTY QUEEN SIRIKIT OF THAILAND

Mr. BOND. Mr. President, we are going to be having a visit from a very important leader of a great ally, the Queen of Thailand. Her Majesty Queen Sirikit arrives here in Washington on Friday of this week.

We know that Thailand and the United States have a shared commitment to peace, liberty, democracy, and free enterprise. We are very dependent upon that country for economic trade as well as security. Queen Sirikit has done a remarkable job in leading the way in humanitarian efforts, including in rural Thailand.

Mr. President, we are experiencing a period of national tension as the United States girds itself to confront those nations and those faceless individuals who would threaten our prosperity, our security and, indeed, our very lives. However, in such times of anxiety, it is important that we recall that the globe is populated much more heavily with our friends than with our enemies and that, while we must face those enemies, we should also pause to honor our faithful allies.

With this thought in mind, I take a moment to draw the attention of the Senate to the Government and people of Thailand whose Queen, Her Majesty Queen Sirikit, arrives here in Washington, D.C. on Friday, October 4, 2002.

The United States enjoys a long and constructive relationship with the people of Thailand, dating back to 1833 when the administration of President Andrew Jackson negotiated and signed the Treaty of Amity and Commerce in which the two signatories pledged to establish ''a perpetual peace'' between them. That treaty, the first such that the United States signed with any Asian nation, commenced a 169-year period of amicable, mutually beneficial relations.

Thailand and the United States enjoyed a shared commitment to peace, liberty, democracy and free enterprise, enabling us to cooperate both in the broadening and the protection of those values. Thailand is one of the only five countries in Asia with whom the United States has a bilateral security agreement. Furthermore, this country has a military assistance agreement with Thailand that was negotiated and signed following the end of the conflict in the Korean peninsula. Each year, our armed forces join with the Thai defense establishment in military maneuvers dubbed ''Cobra Gold''. These are the largest military exercises involving U.S. forces in the whole of the Asian continent.

We are all aware of, and deeply regret, the pain that many of the Thai people have had to absorb following the recent retreat of many Asian economies. However, after implementing painful but necessary reforms, the Thai economy is clearly bouncing back, with a recovered currency and annual economic growth that could prove to be as high as 5 percent his year. The U.S. remains Thailand's largest export market while Thailand ranks 22nd as a destiny of U.S. exports. This nation has an aggregate investment of almost $20 billion, while 600 U.S. companies, large and small, are currently doing business there.

But I do not wish to talk solely of general U.S.-Thai relations. I also wish to acquaint the Senate with the splendid humanitarian work of Queen Sirikit, who has worked tirelessly to promote the well being of both Thais and non Thais alike. For the past 46 years she has served as President of the Thai Red Cross Society. In this capacity, she had to address the massive humanitarian problems posed by the influx of 40,000 Cambodian refugees as they flooded across the Thai border to flee the turmoil in their country. Many of those people lived for years in the Khao Larn Center that she set up to shelter, feed and care for families with small children and unaccompanied orphans.

Her own people have similarly benefited from Her Majesty's close attention. To increase the income of the country's rural families, Her Majesty has initiated many projects, such as the Foundation for the Promotion of Supplementary Occupations and Techniques, better known as the SUPPORT Foundation. This is certainly a model for other developing countries as many are discovering to their cost that the early stages of economic development can often prompt a rush from the land to the city that the nascent urban economy is often unable to bear. If developing nations are to achieve sustainable growth, they will have to emulate Queen Sirikit's attention to the needs of the rural population.

I am by no means the first person to recognize Her Majesty's accomplishments. She has been awarded the prestigious CERES medal by the Food and Agriculture Organization of the United Nations. Tufts University has honored her with an Honorary Doctorate in Humane Letters in recognition of her work for the rural poor of Thailand. Her care for the health of those same people has won her an Honorary Fellowship from Great Britain's Royal College of Physicians.

I ask my colleagues from both sides of the aisle to join me in welcoming Queen Sirikit to the United States. I understand that Her Majesty will preside over an event at the Library of

Congress next Wednesday, October 9 during which the work and activities of the SUPPORT Foundation will also be exhibited and I look forward to seeing many of you there.

I have a resolution that I hope to be able to bring up which will join with the House in extending the welcome of Congress to Her Majesty, the Queen. We look forward to discussing that with the leaders on both sides. And I hope to be able to address that later on.

SENATE INACTION

Mr. BOND. Mr. President, I think it is time that we take a look at where we are and determine what is happening in this body. We have not completed an energy bill, a Defense authorization bill, a terrorism reinsurance bill, a homeland security bill, or a bill to provide a prescription drug benefit.

Even though we are beginning the new fiscal year today, this is not a happy occasion. We have not considered a budget on this floor. We have not completed and sent to the President a single 1 of the 13 appropriations bills. I fear that the President's pen may dry up before we send him a bill to sign or veto.

Our distinguished former colleague and leader, Senator Bob Dole, once said:

> I do believe we spend a lot of time doing very little, and that may be an understatement.

Meanwhile, there are great needs. Our economy struggles. We have not passed a terrorism risk reinsurance bill that would put our construction industry back to work. We haven't passed an energy bill that could put literally three-quarters of a million people to work in the construction area, in the development of the goods and the products, the pipelines we need to secure our energy future.

The economy is a problem. This summer, the Governor of the State of Missouri announced that Missouri's relative job loss was the highest in the Nation over the past year. There are measures pending before us that have been recommended that we have not passed. Here we are, the first day of the new fiscal year, and we have not yet begun to debate a budget that would be the framework for our appropriations bills. It was to be completed on April 15. We worked on it in the Budget Committee. It was a contentious debate. But we said at the time that the bill that was reported out of the Budget Committee was not one that could pass. Unfortunately, we were correct. It has not even been brought up.

The majority has not even brought up their own budget bill to be amended or to be debated on the floor. Even if the bill is not perfect, we should at least bring it up for debate so we can proceed to get a budget. Since 1976, when the Congressional Budget Act of 1974 first went into effect, this has never happened. This is the first time the Senate has not seen fit to consider a budget since the Ford administration.

Historically, the budget resolution has been a difficult matter to resolve. On average, it has been adopted late some 40 days. It is never pleasant. I see the distinguished former chairman of the Budget Committee on the floor. He has fought many difficult battles, but he has accomplished the purpose. And we passed a budget so we could pass appropriations bills; so we have some discipline. This one is over 5 months late and counting.

One of the key congressional responsibilities provided for in the Constitution remains unscheduled. Furthermore, as of midnight last night, there are no budget enforcement provisions, no pay-as-you-go requirements, no points of order against overspending. They are all relaxed. As of today, all budget enforcement provisions have expired. I hope nobody will take this as an invitation to break the budget with more directed spending.

On top of this, we have not completed a single appropriations bill, which was supposed to have been completed by midnight last night. We have begun the fiscal year of 2003 with a record of zero for 13—not a very good average. Only three bills have completed Senate consideration in appropriations.

We all know resolving spending matters is always difficult. There is always someone else to blame. But clearly the Senate has not completed its most primary responsibility, which is expressing the will of the public in the form of a budget. I understand in the last 8 weeks we have not completed action and had a rollcall vote to pass a major piece of legislation. We have been on the Interior appropriations bill for 4 weeks. This is week 5.

In this case, we are making no progress because the majority will not permit the Senate to cast a vote on an amendment designed to prevent forest fires from destroying forests and homes and taking human life.

I know members of the Appropriations Committee are ready to bring their bills before the Senate for consideration. The chairman, Senator BYRD, and ranking member, Senator STEVENS, reported all 13 bills out of the Appropriations Committee by the end of July.

The Senator from Maryland, Ms. MIKULSKI, and I are ready to bring our bill to the floor to fund veterans and housing and the environment and space and science and emergency management. Well, it is not there. We go into the new year without any of these bills being passed.

I don't want to be confrontational with those managing the Senate, but this is week 5 on a bill that should have taken 2 days. As someone who has spent a lot of time in my few years working with the majority and minority and with the House and the administration resolving difficult matters of disagreement, I know how difficult it is to complete spending bills. However, I fear this process is bogged down by design.

Last week, we were told we may have to vote on Saturday. But instead of voting on Saturday, we canceled votes on Friday and Monday. On the Interior bill, western Senators have an amendment to protect their forests and their citizens from fire. But the majority, apparently on behalf of certain interest groups, will not permit the Senate to vote. We should vote. That is our job. We vote up or down. We should vote, win or lose. The whole purpose of this delay, regrettably, is to avoid voting.

What is reprehensible is that the authors of the amendment to prevent devastating, deadly fires—deadly to humans, to forests, property, and wildlife—are not even given an opportunity to get a vote. If we would vote, we could get to the remaining amendment, pass this bill, and move on in the next day or two.

Some are suggesting—this I believe is outrageous—that the sponsors of the amendment should have to pull their amendment so we would not have to vote. We have only cast 227 votes this year. I can't remember any year in my history where we passed so few. But this would be a good time to pass another one. We could cast another vote and pass this bill.

The sponsors of this amendment have had people in their States die. They have had millions of acres of trees, including old-growth trees, habitat, and wildlife ruined, killed by fire, and houses burned. They have a solution on which the Senate should have the courtesy, if not the common sense, to vote. How poorly is the majority leadership willing to treat Senators from these States?

The Senators and their constituents deserve a vote, period. If Senators want to vote against it, then do so. Senator CRAIG has not had the opportunity to slip this provision into a conference report, so he is doing what the Senator is paid to do, which is to offer an amendment up or down and have a vote. Why can't we? Should the sponsors be asked to ignore their burning States and set their amendments aside or should the people preventing a vote decide that the Senate should do what we are paid to do? To me, the answer is obvious.

We have been in session for over 4 weeks. The last 4 weeks, we have cast a whopping 19 votes, many of them on noncontroversial judges. I compliment our colleagues from South Dakota for figuring out a way to protect their State from fire. But I want others to have the same opportunity. I have farmers who want farm aid. The Senator from South Dakota got his vote on farm aid. I voted for it. It was not germane to the bill, it was not relevant to the bill, but I voted for it because it is important to farmers all across the heartland of America.

Why can't the Senators whose States are on fire or threatened to be on fire have a vote? I haven't heard one good

explanation as to why Members whose States are on fire should not be entitled to a vote. I would urge the leadership to explain to the people of the western States that are on fire why they are not deserving of a vote.

The amendment is pending. Let us vote. South Dakota got the protection. Are California or New Mexico less important?

Mr. DOMENICI. Will the Senator yield?

Mr. BOND. I am happy to yield.

Mr. DOMENICI. If you think through the Craig-Domenici amendment, which was going to permit us to have a vote in reference to the thinning of forest accumulations in certain parts of the West to avoid fire, here is the logic: We won't let you vote. But do you know why they won't let us vote?

Mr. BOND. I am puzzled why we can't get a vote on this commonsense, sound forest management plan. I defer to my colleague and ask for his guidance.

Mr. DOMENICI. Two reasons: One, some of their Senators would have to vote for it because it is such a good amendment; they know some of them are yearning to vote for it so they get to vote. Secondly, if it got enough votes, they would have to filibuster it—''they'' being the other side of the aisle—because it would then be an amendment that the environmentalists who don't support it would insist that their Members on that side vote against.

It is the strangest kind of filibuster you ever saw. It is a filibuster so as to never let an amendment pass so that the majority won't have to vote on it. And if it were to pass, they would have to filibuster it. So they are clean and blaming us for the filibuster.

Mr. BOND. Mr. President, I thank my colleague from New Mexico for the informative discussion. Maybe they have the votes to defeat it. If they defeat it, then there is no problem. But I have to say, having studied this issue and having been added as a cosponsor of this amendment, as one whose hobby and avocation is forestry and having talked to Forest Service personnel in my State, to leading academic foresters from institutions in my State and across the West, this is just common sense. The foresters, the academic foresters, the professional Forest Service people, know you cannot leave the fuel that sets off catastrophic fires in the forests or you will have catastrophic fires.

In my State, we have not only oak decline and beetle infestation; we have had tornadoes. They have knocked over trees. Guess what. It was a very dry summer. These trees have dried out. A spark from lightning or any kind of manmade spark could set these off. Ours is not the biggest problem. The biggest problems are faced by our colleagues in the West. I simply want to get an up-or-down vote. I know somebody might be put in a difficult spot. They have to either vote for their constituents and the safety of forests or for the environmental groups who don't seem to understand the problems that arise in the forests of the West. I daresay none of those groups live next to the forests, which could become a raging inferno if those fuels are not removed from the forests.

I think we are going to have to make a choice. Do we want to serve our citizens and protect the environment, prevent catastrophic forest fires or do we want to take care of politically active and well-financed interest groups? I can certainly understand the free speech and the desire for people in the environmental groups to have their views and express them, but I don't believe we are obliged to skip a vote on the amendment because they oppose it. They have a right to jump up and explain their arguments and try to urge people not to vote for it. Senator CRAIG, Senator KYL, Senator DOMENICI, and I would be happy to try to discuss that with anybody. But we have discussed it. It is about time we vote. I think it should be resolved with a vote. They can move to table and vote up or down. The effort of Senator CRAIG to prevent forest fires is worth the Senate's time and I would like to hear from somebody why it should not be voted on. We have lost forests the size of New Jersey. Firefighters have died. South Dakota is protected, but Idaho, New Mexico, Montana, Missouri, and other Western States deserve to be protected as well.

I think we at least have a right to have a vote on it. I plead with those objecting to permit us to do what the people sent us to do—cast a vote.

Mr. DOMENICI. Will the Senator yield whatever time he has remaining?

Mr. BOND. Yes. How much time do I have remaining?

The PRESIDING OFFICER. Four minutes.

Mr. BOND. I yield 4 minutes to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, I want to merely comment on the issue raised by my good friend from Missouri. I think the people in the West understand we are not being dealt with fairly. The Western States have this large accumulation of debris and forests are burning down. Our amendment would permit some help to those States where we see these enormous accumulations going up in flames. We could take that out.

NEW FISCAL YEAR—2003

Mr. DOMENICI. Mr. President, Happy New Fiscal Year.

Mr. President, the new fiscal year began at midnight last night and none of the 13 regular appropriation bills has been enacted. Over the last decade, this has happened only two other times—in 1996 and last year.

Now, one could make a good argument that the failure to complete any of the regular appropriations bills last year was completely understandable given the events of last September.

But I think the failure this year to complete any appropriations bills before the beginning of this fiscal year today lies squarely at the foot of the Congress for not adopting a congressional budget resolution last spring.

There is a reason why we have a congressional budget process! And I think if ever we needed an example of why we must not let this process atrophy and die on the vine, this year is a good example of why we need this process.

For the first time in the 27-year history of the Congressional Budget and Impoundment Control Act, the U.S. Senate did not consider and did not adopt its own budget plan for this year.

To be completely accurate, we do have in place a congressional budget resolution but it is the one that I helped to have enacted in the spring of 2001. And that Fiscal Year 2002 budget resolution remains in effect until replaced with a new one, but I think we all know that the economic downturn that became clear after that resolution was adopted and the attacks of last September have made many of the numbers in that resolution outdated for guiding fiscal policy here in the Congress.

Further, let us remember that many of the Budget Enforcement Act provisions that were enacted in 1990 and extended in the negotiated 1997 Balanced Budget agreement, expired at midnight last night.

I am talking about no appropriation spending caps for this year or beyond. This will be the first time since 1987 that we have not had these spending caps to help guide our budgeting and appropriation process.

I am talking bout no 60-vote points of order for violation of some of the major points of order in the Budget Act. As I said, until replaced the FY 2002 Budget Resolution with its 10 year numbers is still the enforceable resolution in the Senate even if the numbers in it are outdated. But as of today we can not even enforce that resolution with our normal 60-vote points of order.

We do not have our normal 60-vote point of order for pay-as-you-go violations.

My colleagues will remember that the Senate has operated since the 1990's with this deficit-neutral requirement and they will also know that it was one of our most effective tools in our quest for balanced budgets. In the absence of this pay-as-you-go enforcement provision today, any major tax or entitlement spending program could be considered without addressing the fiscal impact that legislation will have on surpluses or deficits in the future.

Just for the record, in this 107th Congress alone, budgetary points of order have been raised in the Senate over 65 times. And on only 8 occasions did the matter receive sufficient votes—that is 60 or more—to waive the point of order.

I have helped draft with the Chairman of the Budget Committee, Leaders DASCHLE and LOTT, and with the support of President Bush, a simple Senate

resolution to extend these pay-go and other enforcement provisions that expired at midnight last night.

We should adopt this resolution without delay; it is the least we can do to keep some hope alive that the budget process will survive the set backs this last year.

I think, as Chairman Greenspan—maybe I should say Sir Chairman Greenspan in recognition of his knighting last week—that we need to do at least this small resolution to send a signal to the markets and the public that fiscal discipline has not been totally abandoned.

Again, today is the first day of a new year. October 1 is the first day of the new year under our budgets and it has been so for quite some time. It used to be July 1. Everybody thought it was too soon, so they moved it to October so there would be plenty of time. So it is the first day, but we don't have a budget resolution.

Today, we start a budget and start spending money—if we ever get around to it—under a budget that doesn't exist. I think it is time we do that. Seeing the majority leader on the floor, I want to ask in a forthright way—because I know he is aware of this—when does he think we might be able to take up the resolution I am going to introduce with the ranking member of the Budget Committee, the so-called pay-go resolution? I ask the leader, is that on his agenda somewhere? I would be here to help him if there is anything I could do to move the time.

Mr. DASCHLE. If the Senator will yield, I will be happy to respond.

Mr. DOMENICI. Yes.

Mr. DASCHLE. As he knows, we have attempted to bring debate on homeland security to a close now on 5 separate occasions. We failed to do that again this morning. It was my expectation we were going to take up the budget enforcement mechanism prior to the time we moved to the Iraqi resolution. That may be complicated now, in part, because I think we need to get started on the resolution on Iraq prior to the end of this week. But without any doubt, we will address the budget enforcement resolution the Senator has addressed prior to the time we depart, prior to adjournment.

I have made that commitment to the budget chair and I have said it on the floor on several occasions. I think it is essential. I have not heard all of his remarks, but I assume the Senator from New Mexico made a similar statement. So we will make that effort. I am quite confident when we do, it will be successful.

Mr. DOMENICI. That means before we recess, is that correct?

Mr. DASCHLE. The Senator is correct.

Mr. DOMENICI. It only has to be passed by the Senate, and we will have extended the pay-go provisions.

MOTION TO PROCEED—H.R. 2215

Mr. DASCHLE. Mr. President, I move to proceed to the conference report to accompany H.R. 2215, the 21st Century Department of Justice Appropriations Authorization Act.

The PRESIDING OFFICER. Is there objection?

Mr. NICKLES. Mr. President, reserving the right to object. I will ask the majority leader a question. The majority leader is wanting to move to a conference report on the Department of Justice reauthorization bill, is that correct?

Mr. DASCHLE. Correct.

Mr. NICKLES. So we will be setting aside the homeland security bill?

Mr. DASCHLE. No. We will only interrupt the ongoing consideration of homeland security. This does not displace homeland security on the calendar. The regular order would be we would revert right back to homeland security once the conference report has been disposed of, with no additional action required on the part of the Senate.

Mr. NICKLES. Mr. President, I appreciate the Senator's explanation. I know there have been some negotiations, though not as fruitful as we would like, on homeland security, but I trust the negotiations will be ongoing, and maybe we will have some success upon the conclusion of the DOJ authorization bill. I shall not object.

The PRESIDING OFFICER. The question is on agreeing to the motion to proceed.

The motion was agreed to.

Mr. DASCHLE. Mr. President, prior to the clerk reporting the conference report, I ask unanimous consent I be able to speak as in morning business for 3 minutes.

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

HOMELAND SECURITY

Mr. DASCHLE. Mr. President, I simply add to the comments I have just made to the Senator from Oklahoma, that we are going to finish the debate on homeland security, even if it is the night before the election. So I want those Senators on both sides of the aisle thinking that somehow this is going to go away to be very clear. We have voted now on cloture five times: Three times on the pending bill, the original bill, and twice on the Republican amendment—twice on the Republican amendment.

I have offered the Republican leadership the opportunity for an up-or-down vote on the Republican amendment, and I am still told that is not good enough. For the life of me, I do not know what else to do. But we will continue to have cloture votes. We will continue to stay here. To the extent we can, we will interrupt—and I use that word ''interrupt'' as opposed to ''displace''—homeland security with other pieces of business so we do not keep spinning our wheels.

If it is November 4, we will be here. If it is November 7, we will be here. I have heard there are those on the other side who believe somehow they can make this a political issue if we just drag it out and blame the Democrats. We are not going to do that. I think the record is abundantly clear who is holding this up. We will vote on it. We will vote on final passage at some point this fall. I just want to make sure my colleagues all understand that.

This is the sixth week—the sixth week—we have debated this bill, and there are probably 70 or 80 amendments pending. So you tell me when we will finish; I will tell you whenever that is we are going to be here. I yield the floor.

21ST CENTURY DEPARTMENT OF JUSTICE APPROPRIATIONS AUTHORIZATION ACT—CONFERENCE REPORT

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2215), to authorize appropriations for the Department of Justice for fiscal year 2002, and for other purposes, having met, have agreed that the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, and an amendment to the title, signed by all of the conferees on the part of both Houses.

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

(The report is printed in the House proceedings of the RECORD of September 25, 2002.)

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I thank the distinguished majority leader for moving to the Department of Justice Authorization Act. This is the first one in 21 years. I note for my friend from South Dakota and my friend from Nevada, this passed the House of Representatives 400 to 4. The conferees, Republicans and Democrats, endorsed it unanimously. It should be able to pass, I hope, easily here.

I spoke at some length yesterday about all the items that law enforcement has asked for in this bill.

I know the distinguished Senator from Louisiana is waiting to speak. I will take only a few seconds. I wish to emphasize again, this is legislation that passed 400 to 4 in the other body. It has been endorsed across the political spectrum—law enforcement, antiterrorist groups, schools, those small towns in rural America facing drug problems. They are all looking for the adoption of this conference report.

The high-tech industry is looking for the passage of the Madrid Protocol which is in the bill.

There are 20 new judge positions. Actually, we were trying to get these authorized during the last 6 years of

President Clinton's term, and they were blocked. Now with President Bush in office, I put the same 20 in to show bipartisanship. They are back in there and should be passed. President Bush can nominate the people for these positions. I cannot believe either side would hold us up.

I hope we will have a consent agreement for a limited amount of debate at some point and then go to a vote.

Mr. REID. Will the Senator yield?

Mr. LEAHY. Yes.

Mr. REID. Under the previous unanimous consent agreement that has been granted, the Senator from Louisiana has 10 minutes before we get to debate on this bill. It has been 21 years since this bill has been reauthorized, so I do not think anyone can criticize the Senator from Vermont and/or Senator HATCH for taking a little time talking about this bill. But it appears this is such important legislation that we will probably have a rollcall vote on it, I would think.

Mr. LEAHY. I hope so.

Mr. REID. I ask my friend from Vermont, does he have an idea how long he and/or Senator HATCH will take debating this conference report?

Mr. LEAHY. I cannot speak for Senator HATCH, Mr. President, but I will be happy to vote later this afternoon at 4:30 or so.

Mr. REID. It is quarter to 3 now. So within the next couple hours, it is likely we could have a vote.

Mr. LEAHY. I hope.

Mr. REID. Has the Senator asked for the yeas and nays on this yet?

Mr. LEAHY. No, but I will. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. LEAHY. Mr. President, I yield the floor and thank my good friend from Louisiana for her usual courtesy and cooperation.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. I thank the Chair. Mr. President, I thank the Senator from Vermont and the Senator from Utah for their very hard work over a long period of time on this major piece of legislation. The vote was overwhelming in the House, and it is due to the bipartisan work that has gone into crafting the reauthorization of the Justice Department. I look forward to voting for that legislation later today.

I have been contacted by many of my sheriffs and law enforcement officials and, of course, I have been particularly interested in some specific aspects of the bill particularly dealing with violence against women and violence against children and child abuse and the good work that the Department of Justice is doing to help our local counties and communities fight these terrible incidents that occur in our country.

My heart is heavy and very sad to say that just this last weekend we lost another child to child abuse in a horrific way. A little 7-year-old was stabbed to death in front of about 10 people by a deranged and very sick individual who had threatened the life of this child's mother. The 7-year-old was trying to protect his mother and was killed on the streets of New Orleans.

The Senator from Vermont knows well the great needs of the country regarding these issues. I thank him for working so hard on them.

Mr. LEAHY. Mr. President, if the Senator will yield, due to her good work on the bill, of which she is a prime sponsor, reauthorization of the Juvenile Justice and Delinquency Prevention Act is in this bill. It tracks the Leahy-Hatch-Kennedy-Landrieu bill.

We also have authorized funding for the Centers for Domestic Preparedness. I note that because it has been the persuasive persistence of my friend from Louisiana that has improved this bill so much, and I commend her.

WEST NILE VIRUS

Ms. LANDRIEU. Mr. President, I thank the Senator. While this underlying bill is important, I wish to take a moment this afternoon to urge my colleagues to take up another bill that does not have the same breadth and depth as the one that was just described. The people of Louisiana, and I might add, the people of Illinois—Senator DURBIN has been working hard on this particular issue—and many other States have been severely affected by the West Nile virus. In fact, over 17 people have died in Louisiana and over 2,400 people have been affected and infected by this very frightening disease.

If we can manage today—and I have had discussions with the leadership—we are going to hopefully pass this bill by unanimous consent, which will give grants to our counties and parishes in Louisiana to help their local officials do more effective pest eradication, whether that is through traditional spraying or larvacide techniques that are used to kill mosquitos at their various stages before they can attack human beings and carry this deadly disease.

The effects are quite frightening. People in my State are having a very tough week. We had a terrible storm that was not a hurricane but nonetheless it was a very large and intense tropical storm. So the headlines at home have been filled with storm warnings, storm preparations, and consequences of the storm management.

Now, in the gulf, we find ourselves facing yet another potential hurricane that is moving toward the shores of Louisiana. So this summer has been a very anxious time between the storms and the West Nile virus at home where a lot of the parishes in Louisiana were affected. Seventeen deaths are quite extraordinary. I think it is the largest outbreak in many years. We are really struggling with providing some help to the local communities and parishes that, in fact, do have mosquito abatement control districts and, under normal circumstances, can take care of those needs on a local level. But when something such as this breaks out, it is important for us to step up to the plate and help.

This bill will give local governments an opportunity to submit for grants to take care of their businesses and to upgrade their eradication programs. There are other parts of the Federal Government that can be helpful in educating people about how to stay safe from this virus, such as what to do, what symptoms it shows.

This bill that I hope we can take up today will provide hard dollars, not for bureaucracies, not for a new Federal agency but to get grants to Georgia, the State of the Presiding Officer, and my State, for those local jurisdictions to get their spraying up to par and to do it in an environmentally safe way.

Hopefully, the worst is behind us, but we do need to prepare in the event we have another outbreak. Getting this grant program established will help us next year if this happens again.

I urge my colleagues to consider H.R. 4793—I am not asking that it be called up at this time—which I hope we can pass by unanimous consent later on today.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

HOMELAND SECURITY

Mr. BOND. Mr. President, it is important for us to understand where we are on the homeland security bill. This is, obviously, a very important bill for the President. The President has outlined extensively his plan of organizing this agency.

The one thing he has asked is that he be given an agency that is workable. The distinguished majority leader has pointed out there have been a number of cloture votes and we have not gotten cloture, so by that he suggests that somehow this side of the aisle is the problem.

I believe it was June of this year that the majority leader promised he would not fill up the tree. For those who may be listening at home, that is a means of adding a number of amendments so that the other side cannot offer any amendments for a vote. Well, they filled up the tree to keep the President from getting an up-or-down vote on his proposal. As a result, we have opposed cloture because it would have prevented us from getting to the President's proposal.

If we get to the President's proposal—and I hope we will—the majority leader may have the votes to defeat it. But I think, since we are dealing with this subject in wartime, where we need to reorganize Government to make it flexible, to make it responsive, to make it effective in defending the homeland, we ought to give the Commander in Chief at least a vote on his proposal.

I believe my colleagues who have been working on the bipartisan bill that reflects the President's proposals have taken some 25 different amendments to accommodate the interests of Congress and various bodies. The distinguished junior Senator from Georgia and the senior Senator from Texas have worked with the Senator from Tennessee on this measure. They have gotten to the point where they have made compromises. It comes down to the point where the President believes, and most of us on this side agree, that he could not manage the Department effectively if his hands were tied. Whether my colleagues want to vote on it or not, I think it makes sense, out of common courtesy, if nothing else, to give the Commander in Chief an up-or-down vote on his proposal.

As has been pointed out, the Senate bill does not include the managerial flexibilities the President needs to run the Department. His representative, Dr. Falkenrath, stated we think the bill, as reported by the Governmental Affairs Committee, would create an extremely rigid bureaucracy. There would be a huge gap between the responsibilities of the Secretary to integrate the units as to what it says in article 102 and actually do that in practice.

What it means is we set up a new Homeland Security Department that is supposed to be fast and responsive, assimilate the information that comes in from all the varying intelligence sources, and then develop an appropriate response. Unfortunately, too many elements of the Governmental Affairs bill tie the President's hands and keep him or his Secretary of the Department from taking a responsive action to make sure the Department is responsive and effective in searching out and trying to stop direct threats to the health, safety, and, frankly, the lives of people in America.

It was surprising to me that the bill even moved backward from where this President, the previous President, the previous President, the previous President, and so forth down the line, had the ability, in national security interests, to make some of the changes in terms of promoting and rewarding exceptional employees, assigning them to the right duties and getting rid of employees who do not want to or are not able to do the service expected of them.

When we are talking about national security, it has been the long accepted practice that commanders have to be able to command their troops. They are still protected by some 65 to 68 different provisions assuring there is no discrimination and a whole other range of protections, but to give the managers the flexibility to manage the Department of Homeland Security is simply consistent with what previous Presidents have exercised for decades. The Presidents can use the power of Commander in Chief to make sure the military works. If somebody slacks off in the Army, does not show up for a job as a sentry, they do not get 30 days of pay and a year and a half of appeals. They have real problems right now, and that is because they are dealing with national security.

I believe it is time we move on with homeland security. I was delighted to know that the majority leader is committed to moving this bill prior to our adjournment. I want to go home as much as anybody else, but the very simple way to do that would be to give us an up-or-down vote on the Gramm-Miller, or Miller-Gramm, substitute, as amended, which reflects the President's views to accommodate the interests of the reasonable requests made by Members of Congress and others who wanted to see changes in it.

We can pass this bill. All we ask for is an up-or-down vote. If we have an up-or-down vote, those who favor the system that has been reported out of the Governmental Affairs Committee may win or we may win, but we certainly ought not hold up the bill simply to prevent a vote on what the President said is a critically important issue for national security.

I believe the time has come to stop filling up the trees, trying to invoke cloture to prevent a vote, trying to lock in an amendment that would undercut the President's power before he has an opportunity to have a vote on his proposal. That does not make any sense.

This body ought to show not only concern for the Commander in Chief's request but ought to respect the needs of the American people who must be assured we are doing everything in our power to move forward on homeland security with the Department that is effectively constituted and set up to carry out the responsibilities.

USE OF FORCE AGAINST IRAQ

We also have another important issue before the Senate. Before we get out of here, I hope very shortly, we will be moving toward a resolution authorizing the use of force against the threat posed by Saddam Hussein. Let's be clear about the intent. The resolution, that I trust the House will adopt and we will adopt, should send a clear message to the world community and the Iraqi regime that the demands of the United Nations Security Council must be followed. Saddam Hussein must be disarmed.

Previous administrations, both President Clinton and Vice President Gore, have outlined the dangers that Saddam Hussein has posed. President Clinton made a very forceful statement in 1998 and then on May 23 of 2000. The Vice President, Al Gore, said we must get rid of Saddam Hussein.

Regrettably, the situation has gotten worse. Without inspectors, there has been no check on the development of weapons of mass destruction. We know from defectors and other intelligence sources he is moving forward on these issues. We know the Iraqi regime possesses biological and chemical weapons. It is rebuilding the facilities to make more. According to the report we received from British Prime Minister Tony Blair, he could launch a chemical or biological attack in as little as 45 minutes after the order is given. The regime has longstanding and continuous ties to terrorist groups. We know there are terrorists operating inside of Iraq. Members of al-Qaida and the Iraq Government have been in contact for many years. This regime is seeking a nuclear weapon and the delivery capability to go with it.

Unfortunately, he has readily available other weapons of mass destruction such as biological and chemical weapons. The Iraqi dictator has answered a decade of resolutions from the United Nations with a decade of defiance. In the southern and northern fly zones over Iraq, coalition aircraft continue to be fired upon and coalition pilots continue to put their lives on the line just to enforce these resolutions.

Unfortunately, some elected officials went to Iraq this past weekend and said: We trust Saddam Hussein; we do not trust our President. They should have watched what we have seen on television, the firing on the coalition aircraft by Iraqi forces. In the last 2 weeks alone, coalition aircraft have been fired on 67 times. Saddam Hussein claims to be willing to accept inspections. He wants to work with us. However, 67 times he has tried to kill our pilots who are flying to enforce the resolutions of the United Nations Security Council.

As President Bush stated this past weekend, the Iraqi regime is led by a dangerous and brutal man. We know he is actively seeking the destructive technologies to match his hatred. We know he must be stopped. The dangers we face will only worsen from month to month and year to year. To ignore these threats is to encourage them. When they fully materialize, it may be too late to protect ourselves and our allies. By then, the Iraqi dictator will have had the means to materialize and dominate the region and each passing day could be the one in which the Iraqi regime gives anthrax or VX nerve gas or a nuclear weapon to a terrorist group.

The mantle of leadership requires this body to act. We have seen the United Nations speak loudly and carry a soft stick too long. I am pleased to be able to work with my colleagues on both sides of the aisle. I believe we made reasonable accommodations in the resolution the President has recommended. I hope we can have hearings on that resolution. We see the final words, get it passed by the House, and pass it out of this body by a very significant majority vote of both parties. That is the clearest message we can send to the United Nations, to our allies, to those on the fence, and to the malefactors of great evil who lurk in our world today.

I yield the floor.

The PRESIDING OFFICER (Ms. CANTWELL). The Senator from Georgia.

BUS SAFETY

Mr. CLELAND. Madam President, I rise today to address two timely issues.

It is with a heavy heart over the loss of two passengers on a Greyhound bus last night in California and the injury of several others that I turn the attention of the Senate to bus security. This tragedy occurred when a passenger attacked the driver of the bus. After a heroic struggle upon being stabbed in the neck, the driver lost control of the bus. That is when the bus careened off Interstate 5. The alleged attacker was subsequently arrested by the police.

While terrorism is not suspected as the cause of the attack, no one knows what would have happened had the attacker gained control of the bus. Also, this attack occurs almost exactly 1 year after the October 3, 2001, Greyhound attack in Tennessee that left 7 dead.

However, we have seen the all-too-often result of buses used to commit terror attacks in the Middle East where suicide bombers have used buses to carry out their deadly work. Historically, between 1920 and 2000, about half of the terrorist acts in the world occurred against buses or bus companies. With intercity buses serving almost 800 million passengers annually in over 4,000 communities, I believe Congress must act to protect our travelers from being subject to the same terror and safety concerns.

Last November, I introduced S. 1739 to authorize a 2-year grant program to improve the safety and security of buses. Funding could be used for safety improvements inside the terminals and on buses—for equipment such as metal detectors, database programs for sharing passenger lists, communication technology, cameras, and more. My legislation passed the Commerce Committee earlier this year without opposition, but unfortunately, it has been stalled waiting for floor action. I urge my colleagues to clear this bill for passage by the full Senate today. We owe it to the families of those who have been touched by this tragedy, and we owe it to the millions of passengers embarking on a trip or tour via bus service.

Also, the House companion legislation, H.R. 3429, has passed the House Transportation and Infrastructure Committee and is pending on the House floor. It has strong bipartisan support, including its sponsor Committee Chairmen DON YOUNG.

Congress has already expressed its approval for funding of such security measures in the 2002 supplemental appropriations bill by providing $15 million for bus security. My legislation authorizes the program at more adequate levels and provides much-needed congressional commitment for implementation of the program. Intercity bus passengers—our fellow citizens—should feel secure and safe, and Congress should not stand in the way.

Additionally, I would like to ask my colleagues to examine the issue of access to technology, which is also important to protecting the security of our people. Over 7 months ago the Commerce committee held a hearing on the so-called digital divide at our colleges and universities that serve the largest concentrations of the Nation's minority students. We heard compelling testimony that a significant technology gap exists for a majority of these students at a time when the world economy is becoming increasingly technology driven. Only one tribal college has funding for a broadband connection, and it is not yet in place. At private historically black colleges and universities, 75 percent of their servers and printers are obsolete or nearly obsolete and in need of replacement. Half of the HBCUs surveyed in a landmark study 2 years ago by the Department of Commerce did not have computers available in the location most accessible to students—their dormitories. Hispanic students are almost 20 percent less likely than non-Hispanic whites to have a home computer and almost 25 percent less likely to use the Internet at home.

Curerntly there is no Federal program that provides funds to minority-serving colleges and universities for computer hardware and software acquisition. S. 414, the NTIA Digital Technology Program Act, would provide this critically needed resource for America's under-represented and educationally disadvantaged minorities in higher education. It has been lauded as the most significant tool for addressing the infrastructure and instrumentation needs of the Nation's minority-serving institutions since the reauthorization of title III of the Higher Education Act. It is a bipartisan bill sponsored by 18 Senators from both sides of the aisle. The bill was reported unanimously by the Senate Commerce Committee in May and also enjoys bipartisan cosponsorship and support in the House of Representatives.

In the ever-expanding world of the information highway, it should be our mandate to work to ensure that no one in this country is left behind-least of all our leaders of tomorrow.

UNANIMOUS CONSENT REQUEST—S. 414

Mr. CLELAND. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 487, S. 414; that the committee-reported amendments be agreed to, the bill, as amended, be read three times and passed, and the motion to reconsider be laid upon the table without further intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. BOND. Madam President, I object on behalf of Members on this side.

The PRESIDING OFFICER. Objection is heard.

UNANIMOUS CONSENT REQUEST—S. 1739

Mr. CLELAND. Madam President, I ask unanimous consent the Senate proceed to the immediate consideration of calendar No. 544, S. 1739; that the Cleland amendment at the desk be agreed to, the bill, as amended, be read three times and passed, and the motion to reconsider be laid upon the table without further intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. BOND. Madam President, I object on behalf of Members on this side.

The PRESIDING OFFICER. Objection is heard.

Mr. CLELAND. Madam President, I yield the floor.

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

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

HIGH COST OF HEALTH INSURANCE

Mr. BOND. Madam President, there is another matter that is extremely important for small businesses in this country; that is, the high cost of health insurance.

I have, along with my colleague, Senator HUTCHINSON from Arkansas, introduced a measure to authorize association of health plans so small businesses can come together in trade associations or other multistate bodies with similar interests to purchase their health insurance with a large pool.

If you purchase as an individual or as a very small business, it is like going into the store and buying soda one can at a time. You can't get a very good price. It also costs you a lot more in administrative costs to administer that plan if you are the sole administrator. From the health insurance standpoint, you don't share the risks over a broad group of people so that you can make an actuarially sound determination of how much health insurance costs.

We have seen health insurance costs rising all across the Nation.

Early last month, I hosted my second National Conference for Women and Small Business Owners in St. Louis. And not surprisingly, some 72 percent of them said providing health insurance, which is extremely costly, was one of the most important challenges they face.

We also found another statistic that I found very amazing. We have 39 or 40 million people without health insurance in the country today. That is far too many. But did you know that 60 percent—roughly 24 million of those

people—are either employees, employers, or members of the families of people employed in small business? Some 24 million people are without health insurance today because their chief breadwinner belongs to a small business that cannot afford health insurance.

I think that is just too many. The high costs of health insurance have made it difficult for small businesses to get the health insurance coverage they need. They do not have the bargaining power. They cannot spread the administrative cost. They cannot spread the risk. Basically, they cannot get as good a deal as a large corporation or a union or the Government can get.

We are very fortunate, as Federal employees, to have access to the Federal Employees Health Benefits Program. That is because we have a great big pool and we can bargain to get the best rates and we have choices from health insurance providers. Those choices are not available to small business. So we have developed a plan, with the full support and leadership of the President, to authorize establishing association health plans. The time has come for those health plans to be set up by legislation.

On Monday of this week, we found that there has been a jump in the number of those Americans without health insurance. It is extremely timely.

Yesterday, I understand, the Secretary of Labor wrote to the majority leader and asked that we bring up and try to pass association health plans. It has already been passed by the House. It is just sitting here.

We need to pass it. I hope before we get out of here—I hope that is October 11; I am not sure from what the majority leader said whether we will make it by October 11—but before we go, I hope we have a vote on association health plans.

The Secretary of Labor has said this is the highest priority. And the Secretary of Labor would be the one who would regulate these plans to make sure they do not cherry-pick, that they are financially sound, and that they meet the requirements of the law.

The law is carefully structured to prevent picking out only healthy insured groups. You could not set up a group of fitness instructors, for example, in a health plan because that would take the lowest risk people and give them an unfair advantage over others, when health insurance is supposed to spread the risk over a broad population.

Association health plans are just one, but a very important, step we need to take in assuring that a significant number of those 24 or more million Americans who do not have health insurance get it.

This is something I have heard from small business groups, as I have listened to them in my State and across the country, in forums of all sizes. We get e-mails. We do not get letters very often; they still get held up in the radiation process, but when we do get letters, they are still talking about the high cost of health care.

Association health plans are one way we could give small business the power to deal with the high cost of health insurance. I have spoken to my colleagues about this before. This has been an item of great interest in our Small Business Committee. I hope more colleagues will look into this question of getting adequate and affordable health insurance coverage through association health plans.

The President has made a very strong and clear statement in favor of association health plans. I would hope this body could follow the leadership of the House of Representatives, which has already passed the association health plan legislation. This would be something very important we could do for small businesses and their employees and their employees' families.

Madam President, I am happy to respond to questions from my colleagues to provide them further information. I invite their attention and I hope we can get action on that measure.

Madam President, I yield the floor. Seeing no one seeking recognition, 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. BOND. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

ELECTION REFORM

Mr. BOND. Madam President, I was interested to read in today's Washington Post an editorial urging us to move forward on the election reform bill. This bill has been championed by Senator DODD, the chairman of the committee, and Senator MCCONNELL, the ranking member. I have had a role in some antifraud provisions.

The Florida elections of this year seem to have brought more attention to the need for election law reform. The conclusion of the Washington Post is that:

> At a time when voter turnout is at an all-time low, bolstering public confidence in the machinery of democracy is especially urgent.

I agree with that. That is why I worked so hard to see if we could get a bill passed that would do that. We need to make it easier to vote and tougher to cheat. Unfortunately, what we saw in Florida this year was the old truth: No matter how much appropriations in or what kind of legislation you have, if you have incompetence in local election officials, incompetence trumps everything. We know there were tremendous problems this year in an area where there were problems in 2000, even though they had new machines.

Nevertheless, we have worked on a bill that has many compromises and has a good structure for getting the kind of equipment we need to improve elections, providing additional safeguards, voting machines for those with disabilities and, in my view, the very important role of preventing dead people, nonexistent people, and dogs from voting.

Many of my colleagues don't want to hear me talk anymore about Ritzy Mekler, the dog that was registered in Missouri. Unfortunately, Ritzy joins a very distinguished group of dogs registered to vote around the country because motor voter does not have protection against phony registration.

We spent more than 7 months last year negotiating a bill. We brought it to the floor. There was some backsliding. We got it passed late this winter. It has been stalled in trying to work out the final details.

I have been discouraged because I have worked with the leaders from the other side on the bill to offer some compromises. We want to get the bill passed. I believe, along with Senator MCCONNELL, that we have proposed reasonable means of dealing with the problems they have. Unfortunately, the negotiations at the staff level have been stymied. Every time we get the wheelbarrow full of frogs, we find, as we try to wrap up the final details and get the final frogs in, some of the frogs have jumped out of the wheelbarrow.

Election reform is another bill that is long overdue for passage. I see my colleague from Kentucky in the Chamber who has been a champion in this area. I appreciate working with him and Senator DODD. I hope we can work with our colleagues on the House side, if we will just move forward and deal with some very important protections against more fraud in voting.

Since I see the manager of the bill is ready to go, I yield the floor.

ORDER OF PROCEDURE

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, I also see my friend from Kentucky. I want to go back to the bill.

Mr. MCCONNELL. I say to the Senator from Vermont, I am looking at 10 max, probably less.

Mr. LEAHY. I am wondering, I know the distinguished Senator from Kentucky can say more in less time than most people I know, and brilliantly. Could he perhaps say it in 5 minutes?

Mr. MCCONNELL. If I could beg the indulgence of the Senator from Vermont, this is a speech I have hoped to make on homeland security for some time now. We are only talking about 10 minutes. I would appreciate the opportunity to make the statement.

Mr. LEAHY. Madam President, I am trying to be helpful. I ask unanimous consent that the Senator from Kentucky be recognized for 10 minutes and then the floor revert to the senior Senator from Vermont.

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

The Senator from Kentucky.

HOMELAND SECURITY

Mr. MCCONNELL. Madam President, the homeland security bill is being held up because some labor unions want to put their special interests ahead of the collective interests of the Nation's security. Remember, these unions are not fighting against any increase in the President's authority to override collective bargaining agreements in the interest of national security. No, they actually want to roll back this authority that every President has had and has used since President Jimmy Carter.

How do union special interests affect national security? Here are just a few examples:

In 1987, a union objected to renovating border protection areas at Logan Airport—the same airport used by the 9–11 hijackers.

In 1990, a union prevented the INS from adding extra immigration inspectors in the Hawaii airport because it might affect the overtime pay of existing workers.

In 2000, a union objected to a Customs Service drug interdiction along the Florida coast because it would interfere with vacation days.

Let me say that again. In 2000, a union objected to a Customs Service drug interdiction along the Florida coast simply because it would interfere with vacation days.

So why are our colleagues on the other side advancing the labor union's agenda? Well, let's take a look at this chart. Four of the five major public sector unions who are publicly pushing for the Lieberman bill have showered over 93 percent of their campaign contributions to Democrats. The fifth contributed 87 percent.

Here are the top contributors supporting the Lieberman bill: American Federation of State, County, and Municipal Employees contributed 99 percent of their funds to Democrats; American Federation of Teachers, 99 percent; International Association of Fire Fighters, 87 percent; American Federation of Government Employees, 93 percent; and National Treasury Employees Union, 94 percent.

When it comes to the accusations of linking campaign contributions to political payoffs, my Democratic colleagues and their friends in the media continue to believe influence pedals down a one-way street. Remember the energy bill? You could hardly sit down to breakfast in the morning without reading about how Republicans were shamelessly catering to big oil and big energy interests at the expense of the environment. These accusations have blared forth from every corner of the media establishment. The New York Times—surprise, surprise—on several occasions editorialized about big money driving the energy bill, essentially viewing it as a payoff to oil companies and their friends in the administration, which include ''the biggest and dirtiest utilities.''

The Boston Globe judged a House-passed energy bill as ''little better than the one cobbled together by Enron, other utilities, and big oil for the Bush administration.''

The Fort Worth Star ominously warned of the ''propriety of allowing big contributors to shape public policy to their personal benefit.''

The Greensboro, North Carolina News and Register declared ''clearly something is wrong when big business shapes the nation's energy policy.''

This rhetoric also blared forth from my colleagues on the other side of the aisle who charged this bill was ''crafted behind closed doors,'' and that it ''looked like the Exxon-Mobil report,'' and that Exxon-Mobil, Enron, and Chevron enjoyed an excess bonanza at the expense of consumers.

Finally, the rhetoric blares out of our television sets every Wednesday night at 9 o'clock on the ''West Wing,'' a 60-minute political commercial masquerading as a television drama. On the premiere last week, the pretend president proclaimed, ''The Republicans are busy. They are trying to convince us that they care about new energy and that they are not in the vest pockets of big oil, and that is a tough sell.''

He then charged, ''This isn't the time for people whose doomsday scenario is a little less at the pump for Texaco and Shell. This isn't a time for people who say there aren't any energy alternatives just because they can't think of any. This is the time for American heroes, and we reach for the stars.''

Mr. President, this is a gift from NBC and GE to the Democratic Party, financed by millions of—you guessed it—corporate dollars. That is what the ''West Wing'' has been. I hope Senators don't dispute these corporations have a right to express political opinions. I do not believe political donations dictate public policy. In fact, I have been vigorously involved throughout my career defending the right of all these entities to contribute to the candidates of their choice and say, through issue advocacy, whatever they choose to say during the course of a year.

But as long as people are going to make that charge, they ought to do it evenly. For those who do believe contributions impact policy, then let's, in the name of basic fairness, apply the same scrutiny to unions on the homeland security bill that the New York Times, NBC, and my Democratic colleagues applied to energy companies on the energy bill. If they did, here is what they would find. The biggest public sector unions—American Federation of State, County, and Municipal Employees; the American Federation of Teachers; International Association of Fire Fighters; the American Federation of Government Employees; and the National Treasury Employees Union—give almost 9 out of every 10 cents to Democratic candidates. Their agenda to weaken the President's national security powers is being advanced by the beneficiaries of those contributions. But we are hard-pressed to find anybody or any hotly accusatory stories in the New York Times or on CNN.

Remember, Madam President, when corporate corruption called for a corporate accountability bill, unions—many of which were knee-deep in financial corruption themselves—rallied to block a very modest amendment to require better disclosure, simple disclosure on union financial reports.

So where are the editorials in the New York Times? Where are they connecting the dots and condemning the specter of influence peddling? Where are the rants from my colleagues on the other side of the aisle against the influence-peddling of big union bosses? Where is that episode of the ''West Wing''—you know, the one where the pretend president tells Josh and Sam, above the obligatory orchestral crescendo, how much he yearns for ''American heroes'' to sever the menacing hold unions have on the homeland security bill?

I could settle down in my favorite chair every Wednesday night at 9 p.m. waiting for that episode, but I am not a fool. My mother didn't raise any children as fools. I know that would be a wait in vain, for there are too many other Republican bogeymen to expose, too many conservative policies to mock with the elitist derision only Hollywood can muster, too many ways to stage easy political victories that real-life Democrats are simply unable to win in Congress because too many hard-working Americans do not believe in them.

I call on my colleagues to put aside the pet grievances of the labor unions and return to the task at hand because I just don't see how any of us can go home and explain to the families in our States we may be giving the President less power to protect them than he had before September 11.

So it continues to be my hope we will be able to get an up-or-down vote on the President's homeland security bill. It seems to me that is not asking too much. I know the Senator from Texas, and others, have spent an enormous amount of time to see to it the President's proposal at least gets an up-or-down vote in the Senate.

I yield the floor.

Mr. KYL. Mr. President, I come to the floor today in opposition to the Lieberman Homeland Department proposal and in support of the Gramm/Miller, administration-supported, bipartisan substitute. As Senator GRAMM and others have so ably demonstrated, the Lieberman proposal takes away the President's existing authority to exempt personnel in the new department from collective bargaining requirements when national security requires it. The substitute reinstates the President's authority in this area.

While I understand that those on the other side might have a different political agenda than the President of the United States on this, time has almost run out. If we don't soon get together and acknowledge the importance of passing a bill to allow Government to better deal with the threat of terrorism, Congress might adjourn without passing anything. After 6 weeks of Senate floor consideration, that would be a shame.

Under the Lieberman approach to providing labor flexibility to the President when it comes to issues of national security, the President would be better off with the agencies as they exist, coupled with his authority, from an administrative or executive point of view, to move people around within those agencies; he would be better able to achieve his goals without any legislation than by adopting the legislation that is before us or under the amendment being proposed by the Senators from Nebraska, Rhode Island, and Louisiana.

The labor issues that we must settle in this bill are extremely important, but I believe they are moving the debate far from some of the other important differences between the Lieberman homeland bill and the Republican homeland, Gramm-Miller, substitute. As the Senate continues to consider the homeland security proposal pending in Congress, I want to reemphasize the relatively few, but very important changes, that the Republican substitute makes to address border and immigration security concerns raised by the Lieberman substitute.

''Division B'' of the Lieberman bill creates the ''Immigration Affairs Directorate,'' with an undersecretary to oversee all immigration functions of the U.S. government. ''Division A'' of the Lieberman bill, among other things, creates the ''Border and Transportation Protection Directorate,'' with an undersecretary to manage all activities and policies related to border and transportation security.

Under Division B, all immigration functions, including all immigration enforcement functions—intelligence, investigations, detention, border patrol, and border inspections—are under the ''Immigration Affairs Directorate,'' informally referred to as the ''Immigration Affairs box.'' The problem with this approach is that it leaves a gaping hole in the ''Border and Transportation box.'' One of the biggest priorities of the Bush administration, and of the Congress, has been to create a more streamlined border, both along the U.S.-Mexico and U.S.-Canada border. The Lieberman bill, by refusing to move the Border Patrol and border inspections functions out of the Immigration Affairs box and into the Border and Transportation box, will only exacerbate the coordination problems that currently exist at our nation's southern and northern border. Most importantly, coordination of personnel and the sharing of security information will be compromised.

Mr. President, all of our Nation's immigration enforcement functions, including intelligence, detention, and investigations, have border components and could arguably be better placed with the undersecretary for Border Protection. At the very least, I repeat, the Border Patrol and Border Inspections functions should be included in the Border and Transportation box.

Instead, in the Lieberman proposal, a bare-bones, almost meaningless ''Border and Transportation'' box is created. It includes Customs, but maintains that Customs is its ''own distinct entity'' so that Customs can continue to operate almost independently of the Under Secretary of the Border and Transportation Directorate, Coast Guard—again as a distinct entity, divisions of the Animal and Plant Health Inspection Service, and the Federal Law Enforcement Training Center, FLETC. Without including Border Patrol and border inspections as a function of the Border Protection Directorate, this ''box'' will not effectively streamline much border activity at all. Another ironic point is that FLETC is included in the Border Protection box. FLETC trains Border Patrol agents and yet the Border Patrol is not included in the Border Protection box.

Mr. President, the Republican substitute, or Gramm-Miller substitute as it is known, in this area is a much wiser approach—it includes the Border Patrol and Border Inspections functions in the Border and Transportation Directorate. This will allow for better coordination of resources and elimination of duplicative functions at the border. Protecting our borders is one of our first lines of defense against terrorism, and we must get it right.

Another major problem with Division B, ''Immigration Affairs,'' of the Lieberman bill is its inclusion of language that would abolish the Executive Office for Immigration Review and create within the Department of Justice what amounts to an independent agency for immigration judges.

Immigration law is complicated. There is a process by which you have a decision made, a review of that decision, and eventually the final review all the way up the chain into the Department of Justice by the Attorney General of the United States. There is a body of case law built around this. There are procedures that are built around it. As far as I know, those procedures are working. I do not know of any reason, for homeland security, why we would want to change that.

It seems at the very least that the Lieberman language, which designates when and how this new Executive Office for Immigration Review operates, needs to be changed so that the checks and balances that exist today with respect to EOIR will continue to exist—the Gramm-Miller substitute maintains this check by keeping the currently-existing authority for review of EOIR decisions with the Attorney General.

Mr. President, one of the most critical functions of the reorganization of agencies that deal with our homeland security is the border function, and we must get it right. Let's work to pass the Gramm/Miller substitute, which, among the numerous other important improvements, incorporates two important border/immigration changes to the pending Lieberman homeland bill.

Mr. GRASSLEY. Mr. President, I would like to take a few minutes to speak in support of an amendment that Senator BAUCUS and I introduced which modifies the Customs provisions of the homeland security bill.

The creation of a Department to oversee homeland security is a tremendous undertaking for Congress and the White House which will face multiple challenges. This is certainly true in the context of incorporating the U.S. Customs Service into the new Department.

The U.S. Customs Service is one of the oldest agencies in the U.S. Government. Created in 1789 to enforce U.S. tariff policy, the agency's mission has continually adapted to meet the changing needs of our Nation.

Today, it is one of the most modernized agencies in the U.S. Government, responsible for managing over 23 million entries and 472 million passengers a year. It collects over $23 billion dollars in duties and fees and is responsible for seizing millions of pounds of contraband narcotics every year. The Customs Service is a vital component of our Government.

Given the importance of the agency in facilitating international trade and law enforcement, I think we have an obligation to do everything we can to enhance the effectiveness of the new Department as it moves from Treasury too Homeland Security.

That is why I, working closely with Senator Baucus, developed a series of recommendations regarding the Customs Service which we presented to the Committee on Governmental Affairs early in the process of developing this bill.

I would like to take this opportunity to thank Senators LIEBERMAN and THOMPSON for incorporating the vast majority of our recommendations into the homeland security bill. I especially appreciate the collegial and bipartisan spirit in which the recommendations were developed and adopted by the committee. I think we will have a much better product because of our joint efforts.

The additional changes we are offering to the bill will further enhance the effectiveness of the Customs Service as it moves into the Department of Homeland Security.

The ability of the Customs Service to effectively facilitate international trade while at the same time perform its law enforcement functions is in large part due to the cooperative relationship which the Customs Service has with much of the international trade community. This cooperative relationship benefits both parties and has

been developed over a long period of time. By understanding the business community and how international trade actually works, the Customs Service is much more adept at identifying anomalies in trade patterns that often point to illicit activity. I want to make sure these relationships are not lost with the transfer of the Customs Service to Homeland Security.

Part of the key in maintaining this traditional cooperative relationship is to maintain the advisory elements on which they are built. This means carrying forth such committees as the Treasury Advisory Committee on the Commercial Operations of the Customs Service, or COAC, to the new Department of Homeland Security. This is precisely what our amendment does.

I also want to make sure the international trade functions of the Customs Service continue to receive adequate resources to continue their work. A good example of this is the continued construction of the automated commercial environment, or ACE. Currently, the automated commercial system is the only comprehensive mechanism to monitor trade flows. Yet it is antiquated and subject to periodic slowdowns. We must do better.

That is why I strongly support rapid and efficient deployment of ACE, the automated commercial environment. The ACE system will be key to facilitating economic trade in the future. We must make sure than, even in these times of tight budget constraints and intense focus on homeland security, we continue to provide Customs with the funds needed to get the ACE system up and running. A well-functioning automated mechanism for monitoring trade flows will help facilitate international trade and help Customs more effectively perform its law enforcement functions.

Our amendment establishes a new account within the Customs Service called the Customs Commercial and Homeland Security Automation Account. For fiscal years 2003 through 2005, $350 million in Customs user fees would be allocated specifically to this account. Creation of this account will ensure that sufficient funding is available to complete construction of the automated commercial environment ACE after Customs moves from the Department of the Treasury to Homeland Security.

As we move forward in enhancing our border security efforts, it is important to keep in mind that a large part of homeland security is economic security. And, international trade is a critical component of our economic security. Exports alone accounted for 25 percent of U.S. economic growth from 1990–2000. Exports alone support an estimated 12 million jobs. Trade also promotes more competitive businesses—as well as more choices of goods and inputs, with lower prices. If we impede trade, we impede our own economic growth and our own well-being.

The tragedy of September 11 make it clear that the United States must be at the forefront in developing the border technologies and enforcement methodologies which will enable our economy to prosper and grow in the new global environment. We cannot afford to do any less. A nation which master the competing goals of international trade facilitation and border security will be a nation which can confidently embrace new world trading system. It will be a nation which prospers well into this new millennium. I stand ready to work with my colleagues and President Bush to make sure our Nation rises to meet this challenge.

Mr. FEINGOLD. Mr. President, I rise today to express my support for the amendment offered by the Senator from Nebraska, Mr. NELSON, and others to protect the rights of the thousands of Federal employees who will be transferred to the proposed Department of Homeland Security, and to express my opposition to the amendment offered by the Senator from Texas, Mr. GRAMM and the Administration's efforts to lessen those rights.

The employees of the 22 agencies that are slated to be reorganized into the Department of Homeland Security are on the front lines of the effort to respond to and investigate the September 11 attacks and to prevent further acts of terrorism. These dedicated men and women, who have served the American people during this uncertain time, are about to undergo a professional upheaval while at the same time being expected to maintain their high level of performance. This massive reorganization should not be used as an excuse to take from these employees the one constant that they expect would follow them to their new department: the Federal civil service protections which they all have in common, regardless of their current home agency.

The civil service system was put into place in order to end the corrupt patronage system that had permeated government hiring and advancement. The creation of a new department should not be used as an excuse to roll back these protections and plunge these workers into uncertainty regarding their professional futures.

I am concerned that the administration appears ready to use the creation of this new cabinet-level department as an opportunity to eliminate or weaken the civil service protections currently in place for the Federal employees who would be transferred to the that department. Unless it is amended by the Nelson amendment, the pending Gramm amendment would have this effect of weakening these civil service protections.

Some in the administration and some on this Senate floor have argued that the civil service system is rigid and could prevent the new Secretary from acting quickly in the face of an imminent threat. This is not the case. The existing civil service system already provides the administration with broad flexibility, while at the same time ensuring that Federal workers have a consistent framework of basic protections, including appeal rights. This flexibility is important in an issue as critical as our Nation's security, but the underlying Lieberman substitute and the Nelson amendment would provide the flexibility needed.

Supporters of stripping these protections also have argued that the new Department should be allowed to scrap the existing system because that system has some problems. The ongoing debate over civil service reforms should not be used as an excuse to allow the Department of Homeland Security to be the only Federal department with employees who are not covered by this system.

I regret that the administration has issued a veto threat against the Senate Homeland Security bill as reported by the Governmental Affairs Committee because it ensures that the approximately 170,000 federal workers slated to be transferred to the new department would retain basic civil service protections. Civil service protections level the playing field for Federal workers, ensuring that they are treated equitably. To propose to treat workers in one department, many of whom have had these protections for years, differently from their counterparts in other departments would undermine seriously the entire civil service system.

No one, including the President, has demonstrated how maintaining these basic protections could jeopardize our national security. We can protect both our country and the rights of our workers. In fact, we can better protect our country if our workers' rights are well-protected, too. The United States affords its workers some of the best labor and employment protections in the world. But a wholesale elimination of those rights under the guise of homeland security would send exactly the wrong message.

The amendment offered by the Senator from Nebraska would grant the new Secretary of Homeland Security expanded authority to create a new personnel system while still ensuring that the rights of workers are protected. This compromise will help to ensure that workers have input into the structure of any new system that is created. As a number of our colleagues have said, it would be harmful to worker morale and to worker-management relations to simply foist a new system upon these workers without their input and then expect them to accept it.

In addition to basic civil service protections, the Nelson amendment addresses the issue of collective bargaining. I support the right of workers to join a union and I am troubled that the administration appears poised to strip existing union representation and collective bargaining rights from many of these workers. I also am troubled by the implication that union membership is somehow a threat to our national security.

The Nelson amendment would allow workers who are covered by existing

collective bargaining agreements to keep those rights. It does not hamper the ability of the new Secretary or the President to remove collective bargaining rights from individual workers or newly-created agencies within the department if there is a valid national security concern. Simply being an employee of a department with the word ''security'' in its name is not sufficient cause to be stripped of collective bargaining rights.

I urge my colleagues to support the Nelson amendment and to oppose the Gramm amendment.

21ST CENTURY DEPARTMENT OF JUSTICE APPROPRIATIONS AUTHORIZATION ACT—CONFERENCE REPORT—Continued

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Madam President, I am glad we are on the Department of Justice authorization. As I said earlier, I appreciate the fact the distinguished majority leader moved to it. This is actually a very important bill. At a time when it seems so much good legislation is being stalled, it would be a shame if this was, too.

I know since January of last year Senate Democrats have tried to bridge the gap and make bipartisan progress on campaign finance reform, corporate accountability, and a real Patients' Bill of Rights, and a number of bipartisan anticrime, antidrug, antiterrorism bills. We worked with the administration after September 11 on the USA Patriot Act; we passed that in record time. We created the September 11 victims' trust fund and we enhanced border security.

We tried to work as supportive partners in the effort against terrorism. Throughout that effort in the Judiciary Committee, we rose above the bitterness and partisanship that had been exhibited by my predecessors during the last 6 years of the previous administration. We have held more hearings on more judicial nominees and held more committee votes on them and confirmed more judges in 15 months than the Republicans were willing to confirm in the last 30 months when they controlled the Senate.

I emphasize that for the 30 months prior to the change in the control of the Senate, the Republicans controlled the Senate Judiciary Committee during both the time of President Clinton and President Bush. In the 15 months we have been in control—it has been only with President Bush—we have put through twice as many judges in 15 months. We put through more judges in 15 months than they did in 30 months.

I mention this because some at the White House, who should know better, talk about the holdup on judges but do not like it when they are reminded that we have done more under President Bush than they did for both President Bush and President Clinton during a period twice as long. It is an interesting point.

I remember Adlai Stevenson once said to some of his Republican friends: If you promise to stop talking lies about us, I will stop talking the truth about you. But I find the statements and statistics continue, so I thought I would throw a little truth on the matter.

I mention this because we have tried to go more than halfway. As I said, during 15 months, we moved more judges than the Republicans did during 30 months. We have reached out in order to pass legislation from our committee—and the distinguished Presiding Officer is a valued member of that committee—and passed out piece after piece either unanimously or by a strong bipartisan majority. We passed intellectual property legislation, consumer legislation, anticrime legislation, antidrug legislation, but then mysterious Republican holds came up and stopped them.

Here are some of the bills we passed out of the committee that have been held up on the Republican side: the Leahy-Grassley FBI Reform Act; the Hatch-Leahy Drug Abuse Education Prevention and Treatment Act; the DREAM Act, championed by Senators Durbin and Hatch; a charter amendment to the Veterans of Foreign Wars, something totally without partisanship. We passed it unanimously, as the distinguished Senator from Washington State knows. We passed out a charter amendment to the Veterans of Foreign Wars, a nonpartisan request. We cannot get it through the Senate because it is being held up on the Republican side of the aisle.

We passed out a charter amendment for AMVETS, a wonderful veterans organization. The distinguished Presiding Officer and I voted for it and it was voted unanimously out of our committee. It is being held up on the Republican side of the aisle.

We passed out a charter amendment for the American Legion. Every Democrat voted for that. Every Democrat has agreed: Move that through the Senate. It is being held up on the Republican side.

Now we find there is a Republican hold on the Department of Justice Appropriations Authorization Act. This is the first one in 21 years. It passed in the House of Representatives by a vote of 400 to 4. The chief sponsor is a leading Republican Member of the House.

We strengthen our Justice Department, increase our preparedness against terrorist attacks, prevent crime and drug abuse, improve our intellectual property and antitrust laws, strengthen our judiciary, and offer our children a safe place to go after school. It is a product of years of work.

I commend Senator DASCHLE for bringing this up for a vote. Let me show my colleagues some charts. This is not a hodgepodge where one might go in and look as to whether you wear a green tie or paisley tie or drive a blue car or a black car; this is something that really affects Americans.

It was passed by the House of Representatives. If it is allowed to come to a vote, it could pass easily in this body: border security, domestic preparedness, suppression of financing terrorism treaty.

Let me mention the last part. We worked this out with the Bush administration. They said there is a difficulty in following the money used by terrorists around the world. We know how quickly President Bush and Secretary O'Neill moved after September 11 last year to freeze the assets of some of these terrorist groups, and I commend the President for that action; I praise the President for doing that. But I wish the President now would tell his own party that we have the legislative tools that President Bush has asked for to go after the money of terrorists, and it is being blocked on the Senate floor by a Republican hold.

Let's pass this. Let's do what we all know has to be done. This is not partisan—grabbing the money of terrorist organizations that are after the United States. That is not a Democratic or Republican issue. But when every single Democrat said they will vote to go after that money, it is time for the anonymous Republican who has a hold to let us go forward.

Let me show a few other items that are in the bill. We improve law enforcement. We have FBI reform and FBI agent danger pay. Some of these FBI agents are working in some of the most dangerous places, especially overseas. Sometimes their mere presence targets them for assassination. This is agent danger pay. We ought to be doing that.

The Body Armor Act is something every law enforcement agency from which I have heard wants to protect police officers from those who would attack them. I cannot understand why this is being held up on the other side. We ought to go forward with this bill. We ought to pass it. We ought to tell our law enforcement officers that we will help them.

Senator CARNAHAN's Law Enforcement Tribute Act is in this legislation. It authorizes grants to States, local governments, and Indian tribes for memorials to honor killed or disabled officers while serving as law enforcement safety officers. How can anybody oppose that without looking terribly political? Senator CARNAHAN deserves credit for this bill.

Senator FEINSTEIN and Senator SESSIONS joined in a bipartisan effort on the Body Armor Act. That should be allowed to go through.

Then we have some ways to stop crime from happening in the first place. We reached a bipartisan agreement to give the Boys and Girls Clubs the funds they need for 1,200 additional clubs across the Nation. Next to motherhood and apple pie, I cannot imagine anything that should have more support than helping the Boys and Girls Clubs of America. We have an excellent one in Burlington, VT. I know it very well. It just celebrated its 40th birthday.

I remember that Boys and Girls Club back in the days when I was State's attorney. I know those kids who went there had a place to go, had a place to learn, had a place to gather, had a place to constructively work, and were not the kids who got in trouble. They were not the ones I saw in juvenile court. They were not the ones who made our crime list. They were the ones who made the star list in our community.

I mention this because Senator HATCH and I went to the Boys and Girls Club congressional breakfast honoring the regional youth of the year. We also honored Senator THURMOND. I heard, and I know they were sincere, Republican Senator after Republican Senator come forward and say we have to authorize and expand the Boys and Girls Clubs. All right. Let's do it.

Last week, we offered to pass this bill on a voice vote to zip it through. We polled every single member of this side of the aisle. They were all in support of that Boys and Girls Club authorization, as they were the Body Armor Act and the help for law enforcement. Every single Democrat was ready to vote for it. We were willing to have it go by on a voice vote. An anonymous objection came from the Republican side.

I know in an election year some politics gets played, but not with the Boys and Girls Clubs and not with the Violence Against Women Office. We want to increase Federal focus on this tragic and recurring problem. Preventing domestic violence is not a partisan issue.

I remember going into the emergency rooms of our hospitals at 3:00 in the morning when I was in law enforcement. I saw the results of domestic violence. I saw women beaten so badly that even though we had an idea who may have beaten them, they could not even tell us through a broken jaw, swollen lips, and bloody faces. I saw that. I saw domestic violence even in a bucolic State like mine, but the amount of domestic violence is the same in every State.

It was not just those battered individuals I saw in the emergency room—at least we had hopes they would be brought back to health. We at least had hopes that medical care would return them to their ability to function—I still have nightmares sometimes of some of the others I saw, but I didn't see them in the emergency room. I saw them one floor up in the morgue.

This happens in every single State, and I never heard a police officer say: I wonder if this victim is Republican or Democrat. The police officer said: Why don't we do something to stop it?

Here is a chance to do something. Let's vote for it.

The Crime Free Rural States Grants, we have crime in our cities, but we also have crimes in our rural areas. The distinguished Presiding Officer was Governor in one of our finest States, a State that is a part of the American heartland, a State I have had the pleasure of visiting.

In fact, there were Leahys who moved out to Nebraska in the 1850s when my great-grandfather and his brothers came over from Ireland, some staying in Vermont, some staying in New York and others going to Nebraska. I know how beautiful a State it is, and I know there are both cities and rural areas. I know how hard the distinguished Presiding Officer as Governor fought against crime in both areas. He knows, as I do, that crime is a fact of life in rural areas. It is sometimes more difficult to fight because there are not all the needed resources available. It might be a small sheriff's department. The chief of police may be the whole police force.

We can help. This legislation authorizes programs that will reduce drug abuse and recidivism, mandatory, to increased funding for drug treatment in prisons, to funding for police training in South and Central Asia. These proposals are not Republican or Democrat; these are bipartisan. Most of them were in the Hatch-Leahy Drug Abuse Education, Prevention and Treatment Act.

Drug courts, drug-free prisons, reauthorizing the Juvenile Justice and Delinquency Prevention Act—one of the saddest things is going to juvenile court and seeing 12- or 13-year-old boys and girls who are already recidivists, people who have committed crimes that one would think a child that age would not even know about.

In going back through the reports, there are steps that could have been taken 2, 3, or 4 years before that might have prevented that. Now these boys and girls are people who are probably going to end up in an adult jail somewhere, lost to society and lost to themselves. We should have stopped it. That help is in here.

That is one of the reasons the House of Representatives, facing some of the same kind of partisan divisions that we face in this great body, passed it 400 to 4. I do not need to tell the distinguished Presiding Officer the need for these kinds of investments. He has had the experience both as a Governor, a Senator, and a parent. He knows what we have to do, just as I do. Let's go ahead and do it. Let's set aside the partisanship for a while and let's do something.

There are intellectual property provisions in this bill. We are in the United States seeing an enormous loss of jobs. In the last 2 years, we have had the biggest drop in jobs that I can remember, the largest number of layoffs we have seen in years. The economy is in a tailspin. The stock market has had a greater drop than at any time since the Presidency of Herbert Hoover. If anything, we should be helping American innovators and businesses, both big and small. We want these businesses to prosper. We want these businesses to be able to compete on a worldwide scale. We want these businesses to hire the people of Nebraska, Vermont, South Dakota, New York, California, Florida, Arizona, Alabama, and all our other States. So we put in the Leahy-Hatch Madrid Protocol Implementation Act.

What this does is the sort of thing that the President and all the people around him say we need, something to simplify life for businesses. We would implement a treaty to allow American businesses to have one stop for international trademark registration which they can do only to countries that sign on to the protocol.

American businesses and companies that need to protect their trademarks if they sell their goods and services in international markets, especially over the Internet, would be helped by this legislation. Every single business leader I have heard of, regardless of their political background—from chambers of commerce, to business leaders, Republicans and Democrats alike—say pass this bill.

I checked on this side of the aisle. Every single Democrat is ready to vote for it right now. It has been held up for over a year by a Republican hold. I say to some of the businesses, talk to the Members of the Republican Party. The Democrats are ready to pass it.

We have another provision in the TEACH Act, an exemption that allows educators to use the same rich material of distance learning over the Internet as in face-to-face classrooms. Let me state why that is important. In rural areas—such as Nebraska or Vermont—there may be a number of small schools that cannot each support a library and sometimes cannot afford a teacher in a specialized area such as science, history, or math. Together they can, but you have to link them. So copyright laws apply. We worked that out. This is a no-brainer. It will help the kids. It should be a no-brainer for the Senate to pass.

We reauthorize and modernize the Patent and Trademark Office and give them funds they need. When I hear the baloney that comes out of the political people in the Attorney General's office and the White House about judges, this would be the one they should want. There are 20 new judges included to be appointed by President Bush. For a little bit of history, this is more than were created during the 6-plus years that the Republican Party controlled the Senate. The Clinton administration wanted to create these judgeships. They wanted to create new Federal judicial positions, and they were blocked by the Republicans. I believed the judicial positions were needed when President Clinton was President. I thought it was wrong that the Republicans stopped us from doing that. I did not want to do the same thing to President Bush that they did to President Clinton. Two wrongs do not make a right. So it was included. These are Federal judges in States we know are Republican and will be chosen by Republican Senators—in Arizona, Alabama, Texas. We include them just the same.

Why did that not pass last week? One may wonder, finally, having blocked it

for 6 years during the Clinton administration, now they have 20 judges President Bush may appoint—one may wonder why it has not been passed by a Democratic-controlled Senate. The Democratic-controlled Senate wanted to. But I will tell you the secret: A Republican Senator held it up. That is what happened. I hope no one comes down and says, We need more judges. We have 20 judgeships included, mostly in Republican States.

There are a lot of other provisions, including the Radiation Exposure Compensation Act. A lot of western Senators want that. We get into immigration matters. I talked a lot about rural areas.

Let me talk about the rural underserved medical areas. Every Senator has rural areas in their State. My State happens to be predominantly rural. But even the States of New York, California, Texas, and Illinois have large rural areas. It is very hard sometimes to get doctors into those areas. If you have someone injured in a farming accident, there may not be a doctor. That injured person may die for want of needed medical treatment. You may have a woman in a difficult childbirth. She may die or her baby may die for want of medical care. There may be an elderly person who just needs a certain amount of preventive care to lead a happy, productive life. We have worked on the visa provisions of INS to allow doctors from outside this country to serve in rural areas: Extend their visa providing they will stay in rural areas and help where there is a need. It allows grandparents to apply for citizenship on behalf of orphaned children, grandparents who saw their grandchildren orphaned in the tragedy of last September 11. These are some items included.

This is as much a bipartisan piece of legislation as I have seen in 28 years. The people supporting this legislation are wide ranging. By golly, I just happen to have a chart. Let's see who is in favor of this: Boys and Girls Clubs of America; the Coalition for Juvenile Justice; the Fraternal Order of Police; Family Violence Prevention Fund; National Automobile Dealers Association; National Association of Counties; National Association of Police Organizations; National Coalition Against Domestic Violence; National Mental Health Association; National Network to End Domestic Violence; Presbyterian Church, Washington office; Volunteers of America; U.S. Council for International Business; National Association of Manufacturers; the International Trademark Association; American Intellectual Property Law Association; U.S. Copyright Office; the American Library Association; Association of American Universities; American Research Libraries; Intellectual Property Owners Association; American Intellectual Property Law Association; Avon Products; Nintendo; Warner Brothers; IBM—I could go on. That is about as broad a cross section supporting this as we will see in the Senate.

I am not sure what game is being played. I urge my good friends on the other side of the aisle to come forward, belly up to the bar, pay the price, pass the bill.

I ask unanimous consent to have printed in the RECORD a number of letters of support.

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

BOYS AND GIRLS CLUBS OF AMERICA,
Rockville, MD, September 27, 2002.

Senator PATRICK LEAHY,
Chairman, Senate Judiciary Committee, Washington, DC.

DEAR SENATOR LEAHY: I am writing to you today in regard to H.R. 2215, the 21st Century Department of Justice Appropriations Authorization Act. As you know, in addition to the many other critical components of the bill, H.R. 2215 authorizes continued funding to Boys & Girls Clubs of America, so that we may continue our aggressive growth efforts in disadvantaged communities throughout the country.

Today, thanks in large part to Congress, Boys & Girls Clubs of America is serving more than 3,300,000 youth in more than 3,200 Clubs. We are located in all 50 states, and now have more than 420 Clubs in public housing and 120 Clubs on Native American lands. We are located in inner-city, and rural communities throughout America playing a vital role in the development of our children.

During the past 5 years, we have grown by more than 1,000 Clubs and 1,000,000 new youth served. The Congressional funding that we have received is matched at least dollar for dollar nationally, brining true public-private partnerships to communities all over America.

Senator, we thank you for your strong support of Boys & Girls Clubs of America, and ask that you move quickly and decisively in passing the 21st Century Department of Justice Appropriations Authorization Act.

Sincerely,

MR. ROBBIE CALLAWAY,
Senior Vice President.

NATIONAL COALITION AGAINST DOMESTIC VIOLENCE; NATIONAL NETWORK TO END DOMESTIC VIOLENCE; FAMILY VIOLENCE PREVENTION FUND; NOW LEGAL DEFENSE AND EDUCATION FUND,
September 26, 2002.

DEAR SENATOR: As national organizations working to address the varied needs of victims of domestic and sexual violence and the service providers in the field, we urge you to support the Violence Against Women Office in the Department of Justice by voting in favor of the Conference Report of H.R. 2215, the 21st Century Department of Justice (DOJ) Appropriations Authorization Act.

As you know, the Violence Against Women Office (VAWO) was created in 1995 to implement the Violence Against Women Act of 1994 and to lead the national effort to stop domestic violence, sexual assault, and stalking. Because ending violence against women is an on-going struggle, it is imperative to statutorily authorize the Violence Against Women Office in order to institutionalize policy development, observe trends, raise awareness, serve as a crucial resource for the Attorney General, prosecutors, police and other community agencies, and provide technical assistance. In addition, the Office ensures federal dollars under the Violence Against Women Act of 2000, passed by Congress with overwhelming bi-partisan support, are administered in the most effective manner possible to best serve victims and end violence.

With strong bi-partisan support, both the House and the Senate have passed H.R. 2215, which would statutorily establish a strong VAWO. On behalf of all victims of domestic and sexual violence and the service providers who help them, we thank Congress for this strong statement from our federal government that violence against women will not to tolerated. As you know, it is critical that the statutory creation of the Violence Against Women Office reflect the essential components of the office. Currently, VAWO is part of the Office of Justice Programs—the grant-making body of the Department of Justice. However, VAWO cannot serve as the leader in promoting the changes needed to effectively serve victims of domestic violence, sexual assault, stalking, and trafficking if it is merely a grant-making office. VAWO needs the authority to create policy regarding violence against women and needs to have a Presidentially-appointed, Senate-confirmed Director, in order to ensure that these issues continue to have a high profile on local, state, federal and international levels.

The Conference Report of H.R. 2215 accomplishes this and creates a separate and independent Violence Against Women Office in the Department of Justice, under the general authority of the Attorney General. We urge you to lead the way for a safer nation for women and children by voting in favor of the Conference Report of H.R. 2215, the 21st Century Department of Justice (DOJ) Appropriations Authorization Act.

If you have any questions, please do not hesitate to contact us at the numbers listed below.

Sincerely,

JULEY FULCHER,
Public Policy Director, National Coalition Against Domestic Violence;

LISA MAATZ,
Vice President of Government Relations NOW Legal Defense and Education Fund;

LYNN ROSENTHAL,
Executive Director, National Network to End Domestic Violence;

KIERSTEN STEWART,
Director of Public Policy, Family Violence Prevention Fund.

BUSINESS SOFTWARE ALLIANCE,
September 30, 2002.

Hon. PATRICK LEAHY,
Chairman, Senate Judiciary Committee, Washington, DC.

DEAR CHAIRMAN LEAHY: I am writing to support Senate passage of H.R. 2215, the Department of Justice Reauthorization Act. The members of the Business Software Alliance work with a variety of Justice departments to reduce software piracy and to ensure a safe and legal online world in this heightened cybersecurity environment.

The legislation strengthens our nation's criminal justice system and increases the frequency and quality of reports to Congress. Effective criminal enforcement requires both initiatives by prosecutors and timely action by the courts. BSA is particularly supportive of funding for the enforcement of our nation's intellectual property laws in Section 101 and the related reporting requirement contained in Section 206. The robustness of our nation's tech sector depends in part upon

the strength of the laws that govern intellectual property as well as the enforcement of such laws. Until recently, there have been few criminal copyright cases brought by the Department. Simply put, there is nowhere else to turn if the federal government does not enforce our nation's intellectual property laws.

We appreciate the longstanding efforts of Congress to strengthen our nation's criminal laws and make our nation's intellectual property laws a catalyst for growth.

Sincerely,

ROBERT W. HOLLEYMAN, II,
President and CEO.

SEPTEMBER 27, 2002.

Hon. PATRICK LEAHY,
Chairman, Senate Judiciary Committee, Washington, DC.

DEAR MR. CHAIRMAN: We are writing to express our support of the inclusion of the modified versions of H.R. 1900 and H.R. 863 in the conference report on H.R. 2215, legislation to reauthorize the Department of Justice. The undersigned members of the Juvenile Justice and Delinquency Prevention Coalition appreciate your efforts to approve a reauthorization of the Juvenile Justice and Delinquency Prevention Act (JJDPA) of 1974 that retains the rehabilitative principles of our juvenile justice system.

In particular, we appreciate your efforts to preserve current law in several key areas that has been working well for more than 25 years to ensure that youth in the juvenile justice system are protected from abuse and assault by adults in adult jails. The modified version of H.R. 1900 codifies the separation protection for youth, which requires that states prevent all contact between juvenile and adult inmates, including any 'sight or sound' contact. The proposal also drops a harmful provision that would have permitted children to be placed in adult facilities with parental consent. This provision represented a radical change from current law and would have resulted in children being unnecessarily placed in adult jails.

The revised version of H.R. 1900 also includes an appropriate concentration on prevention through the restoration of the Title V Local Delinquency Prevention Grant program. In order to ensure that children stay out of trouble and on the right track, a significant investment in and emphasis on prevention, particularly primary prevention, is crucial. The Title V program is an effective model of community collaboration in which community stakeholders—including locally elected officials, law enforcement, school officials, public recreation, private nonprofit organizations, and youth workers—come together to develop a plan for juvenile delinquency prevention. Working in more than 1,000 communities nationwide, Title V is currently the only federal program providing delinquency prevention funding to communities through a flexible, local prevention block grant approach to help communities reduce juvenile delinquency and related problems and enable young people to transition successfully into adulthood.

Finally, we are pleased that H.R. 863, legislation to authorize the Juvenile Accountability Block Grant (JAIBG), has also been included in the conference report. Never authorized, the JAIBG was created in the FY98 Commerce Justice State Appropriations bill to provide states and units of local government with funds to develop programs to promote greater accountability in the juvenile justice system. Under H.R. 863, the program purpose areas are expanded significantly to provide additional services and treatment for troubled youth. By supporting these additional purposes, JAIBG will provide needed resources to proven strategies for rehabilitating adjudicated youth and families as well as reducing juvenile re-offense rates.

We appreciate your continued efforts on behalf of children and youth and look forward to final approval of H.R. 2215.

Sincerely,

American Academy of Child and Adolescent Psychiatry; American Civil Liberties Union, Washington National Office; American Probation and Parole Association; American Psychological Association; Bazelon Center for Mental Health Law; Child Welfare League of America; Children & Adults with Attention-Deficit/Hyperactivity Disorder (CHADD); Children's Defense Fund; Coalition for Juvenile Justice; Education Fund to Stop Gun Violence; Justice Policy Institute; National Association for the Advancement of Colored People (NAACP); National Association of Counties; National Association of Criminal Defense Lawyers; National Education Association; National Mental Health Association; National Network for Youth; National Recreation and Park Association; Presbyterian Church (USA), Washington Office; Volunteers of America; Women of Reform Judaism; Youth Law Center.

Mr. LEAHY. Mr. President, we don't have one of the leaders on the floor at the present time. I was going to ask that we proceed to a vote. But I am not going to do that until the other side is represented here. But I know everyone on this side is ready to vote.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, while the distinguished committee chairman is on the floor, Senator LEAHY, I would like to ask him a couple of questions.

Mr. LEAHY. Sure.

Mr. REID. We are now on this conference report. It is my understanding that it passed the House 400 to 4. We moved to this a couple of hours ago. Does the Senator know of any opposition to this matter on either side of the aisle?

Mr. LEAHY. Mr. President, I tell my distinguished friend, the senior Senator from Nevada, that I checked. I know his office also checked on our side of the aisle. Everybody is in favor. We were told that the Democratic side of the aisle wanted to let it go through in wrap-up last week. I am told there is a lot of legislation in here sponsored by distinguished members of the Republican Party who support it. But the hold has been a continuing hold on the Republican side. I can't understand why. This is as close to a motherhood bill as I have seen here in years.

Mr. REID. I say to my friend, the chairman of the committee, that it would seem to me that at an appropriate time we should move for a vote. We want to make sure everyone has an opportunity to speak. There is certainly ample opportunity to do that. But I hope before the day ends we can pass this very important piece of legislation. I know there are things in here which are important to the people of Nevada and to the rest of the country. I think the committee should be commended for passing this, moving it to the floor, and getting to conference.

Getting anything out of conference under the present atmosphere is a remarkable feat. Senator LEAHY is to be admired and commended for doing this. I hope that before the day is out we can pass this important piece of legislation.

Mr. LEAHY. Mr. President, I thank my friend from Nevada. The committee of conference went across the political spectrum. Every conferee—Republican and Democrat—signed that conference report. They passed it 400 to 4 in the House. I am amazed that we are still even on the floor. I have been advised by the Republican side that a Republican Senator wants to come over and speak. Otherwise, I would have said let us go to a vote now. Obviously, I don't want to cut off any Senator who wishes to speak. But I tell my friend from Nevada that, as far as this Senator is concerned, I am perfectly willing to go to a vote anytime we want. It is now 4:30. I can't imagine why we need to wait beyond 5 o'clock.

Again, just before the Senator from Nevada came to the floor I read a list.

Mr. REID. I was listening.

Mr. LEAHY. I am sure he was. I read a list of all those who support it. This is probably as broad a spectrum—National Association of Manufacturers to the Boys and Girls Clubs of America. It sure encompasses a lot.

We have a charter change for the Veterans of Foreign Wars in here; a charter change for AMVETS; a charter change for the American Legion. All of those organizations support it.

As chairman of the Judiciary Committee, I pushed that through.

This is something that the AMVETS and Veterans of Foreign Wars discussed and asked for, this charter change. They all support it. All the Republicans and Democrats on the committee support it. We ought to pass it.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. 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. LEAHY. Mr. President, I want to make sure that it is clearly stated and make sure it is clear in the RECORD. The charter changes for the American Legion, the charter changes for AMVETS, the charter changes for Veterans of Foreign Wars are in a separate bill that has the Republican hold on it. However, there is no opposition from members of the Judiciary Committee. I

am told there is no Democrat who opposes those charter changes. I am told that every Democrat in the Senate is perfectly willing to pass the charter changes for the American Legion, for the AMVETS, and for the Veterans of Foreign Wars, and as soon as the Republican hold is lifted on the charter changes for the Veterans of Foreign Wars, the American Legion, and AMVETS, we can pass it.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The Senator from Arizona.

Mr. KYL. Mr. President, I will speak to the legislation that has been placed before us this afternoon, the Department of Justice reauthorization bill or, as it is officially titled, the 21st Century Department of Justice Appropriations Authorization Act.

I begin by putting this in the context of what I would call priorities. We are now less than 2 weeks, probably, from closing the session of this Congress, and there is a great deal of unfinished business to which we need to attend.

As a matter of fact, we are bringing this legislation up—I should say the majority leader has brought this legislation up—deferring, for our consideration, the bill that is currently on the floor, the homeland defense reorganization bill that the President asked us to deal with about 3 months ago. That bill has now been on the floor of the Senate for at least a month, and we still have not even voted on the President's proposal.

This DOJ, or Department of Justice, reauthorization bill has a lot of important provisions in it. I am going to get to those in a moment. But in terms of priorities, it seems to me the reauthorization of a Department which has not been reauthorized for more than two decades, and clearly is going to continue to operate—that is, the Department of Justice—is a little bit lower priority, at this point in this legislative session, than voting on the President's homeland reorganization legislation. It is a lower priority than adopting a resolution dealing with the Senate's position with respect to the authorization of the President to utilize force in any action he may decide to take against Iraq. And it is less of a priority than having the Senate act upon the Defense appropriations and authorization bill.

It is clear, because the majority was not able to pass out a budget this year—the first time since the creation of the Budget Act, which I think was in 1974—that we do not have a budget. That has been one of the reasons we do not have any appropriations bills done. I am not aware of any bill that has come from the House to the Senate and been voted on by both bodies and sent to the President. I might be wrong, but I do not recall any. I think we have only acted on three or four.

It is common knowledge that in order to fund the Government beyond October 1, it is going to require the adoption of what we call continuing resolutions or CRs. We have already adopted one, and we are going to have to adopt another and then another one after that. These continuing resolutions will authorize Government to continue to be funded at some level; last year's level plus some increment of inflation, I suppose.

Because we didn't pass a budget and because we haven't passed the appropriations bills, we don't have all of the other specific programmatic funding that would ordinarily be included in these appropriations bills, including new programs. That is not good.

We can get by with these continuing resolutions for a matter of weeks and perhaps a few months if we have to. Where we can't get along without an appropriations bill is for the Department of Defense and the conduct of the war. Things have changed so dramatically since last year when an appropriations bill was passed for the Department of Defense that all recognize—this is not a partisan issue; I think everybody recognizes—we are going to have to pass a Defense authorization bill and a Defense appropriations bill for the next fiscal year. We are going to have to do that as a matter separate and apart from the continuing resolutions we will adopt.

Those are the first three things we have to do before we complete our work. In one way or another they all deal with national security, which, obviously, is the first thing about which we have to be concerned. And in a time of war, I know it is very much on the minds of all Members.

Again, a Defense authorization and appropriations bill to actually provide the programs and the funding for our military forces for this next year; an authorization that this body would approve the use of some kind of force for the President, should he deem it necessary in taking action against Iraq; and completion of our work on development of the Department of Homeland Security so that the President would know how he can organize the Government to best deal with the threat to the homeland—those should be our top three priorities.

We don't yet have the Defense bill. It is ready but it hasn't been brought to the floor. The homeland security bill has been pending for 4 weeks perhaps. We still didn't even have a vote on the President's proposal for a Department of Homeland Security. The majority leader keeps filing cloture which is defeated because people are not ready to finish that bill until we have a chance to vote on the President's proposal. That is only fair. He ought to have some say in how his Department is going to be reorganized. Perhaps his idea won't prevail, but it will, if we can ever get it to a vote. He is at least entitled to a vote.

Instead of granting that, we have left that national security debate, and we are now on the question of whether we should reauthorize the Department of Justice.

What is an authorization? Ordinarily an authorization for a program tells you what you can do from year to year in this Department of Government. It is important in an organization such as the Department of Defense, where we have had such a dramatic change in requirements since last year with the war on terror.

As I said, it has been now more than two decades since the Department of Justice has had a reauthorization. All we have done in those two decades is each year appropriate money for the various programs we have passed for funding of the Department. That has worked fine. It could work, obviously, again.

One could argue that because of the war on terror, there are a lot of new things that need to be done in the Department of Justice—new authorities granted, new capabilities, new funding, and that it might justify a new authorization act. I could abide by that rationale, if we had before us a reauthorization that embodied those kinds of new programs. But that is not what we have. This is the same old, warmed over stuff that we have had for the last couple of decades.

If we want to fight the war on terror and we want to take our precious time to reauthorize the Department of Justice with that in mind, we would write an entirely different bill than this.

One example, just off the top of my head: We had testimony in the Intelligence Committee last week that there is a great deal of confusion about the FISA Act, the forward intelligence surveillance law under which our law enforcement officials have the ability to collect intelligence on people who are thought to be foreign agents or working on behalf of foreign governments or engaged in terrorist activities internationally. It is a little bit easier to collect intelligence on people like that than it is under our normal criminal justice system where a crime has been committed or is being committed and the FBI is investigating that crime.

As part of the USA Patriot Act last year, we made changes to the FISA law to make it more effective in the new era of the war on terror. We found out something. This came about in a variety of different ways, but it has all come together here. This FISA law has one aspect that needs to be fixed. Senator SCHUMER and I have a proposal to fix it, but we haven't been able to get it on to the floor. As a matter of fact, I had anticipated including it in the intelligence reauthorization. We will have the conference on that tomorrow evening. It is almost to the floor.

But I was told by Chairman GRAHAM that a member on the majority side

was going to object to the inclusion of the Schumer-Kyl provision and, therefore, would I please not include it in that bill. I said, of course, I would be happy to because we want to get the intelligence authorization passed. But at some point we have to make this change in FISA. I will describe what the change is.

It should have been in here but it is not. If we are talking about priorities, I would much rather get that done than have to wade through all of this. We have gone two decades without this. But we need to make some of these changes for law enforcement.

The evidence before the Intelligence Committee was that the FBI thought, with respect to Zacarias Moussaoui, thought to be the 20th hijacker, that he had some connection to international terrorism. He was a foreign person, not a U.S. citizen, and had engaged in flight training up in Minneapolis under conditions deemed to be suspicious by the FBI there. We all heard about the memorandum or letter from agent Rowley from the Minneapolis office complaining about the fact that the FBI had not seen fit to apply for a FISA warrant to look into Zacarias Moussaoui's computer to see what was there.

We all know that after the fact, after September 11, this was done, and certain things were found, and so on, which we don't discuss here.

The fact is, a lot of people criticized the FBI for misunderstanding or misapplying the law and not seeking a FISA warrant on Moussaoui. The testimony we had before the committee was that there was a dispute within the FBI about what they had to prove, and there was some suggestion that maybe he might have been connected in some way with a group of Chechens, but nobody could connect him to a foreign power or an international terrorist organization. Those are the two requirements for FISA to apply.

Had the change that Senator SCHUMER and I advocate been in effect, it is clear that we could have gotten a warrant against Moussaoui because it would simply add the phrase ''or foreign person,'' which would mean that if you had probable cause to believe that someone is involved in a terrorist kind of enterprise, but you don't necessarily know what country he is working for and you can't necessarily connect him to a particular terrorist organization, you think maybe he is just a terrorist, and with this warrant you might find out exactly who it is he is connected to, but you don't really have that information at this point, you could go ahead and seek the warrant to tap his telephone or look in his computer, search his house, whatever the case may be.

It is a very straightforward approach. Agent Rowley, who testified before the Intelligence Committee or the Judiciary Committee—we had a combined hearing—said she thought that would have been a very good thing and strongly supported it.

It has the support of the Department of Justice and the FBI. We have had several different witnesses from those organizations testify both before the Judiciary Committee and the Intelligence Committee, both of which I sit on. They have all indicated this would be a very helpful change in the law, so that with respect to a guy like Moussaoui, if you didn't have the evidence that he was connected to a particular terrorist organization, or that he was working for a particular foreign power, you could still get a warrant to investigate exactly what he was up to if you could demonstrate to the judge you thought he was up to something, that he was a foreign person, and that the kind of activity that he appeared to be looking at was a terrorist kind of activity.

I cannot imagine anybody who would oppose that, but I understand maybe there is somebody who would. We need to vote on that before we leave here in a way that the House can also approve it, so that we can actually improve our ability to fight international terrorism.

You would think those kinds of changes would be in this reauthorization act. It is not in here. Not only that, but one of the authors is alleged to be one of the people who would object to what Senator SCHUMER and I are trying to do. We need to get to the bottom of these things. I want to find out. If anybody objects to the Schumer-Kyl amendment, come to the Senate floor and tell us so we can find out who is behind the objection, get it on the floor, get it approved and enacted into law and signed by the President. Our law enforcement officials want it. It is important to fight the war on terror, to get after the terrorists so we can investigate them before rather than after they commit crimes against us. That is the kind of priority we ought to be engaged in here.

Instead, what does this bill have in it? Well, it is about 240 pages long. It has a lot of provisions. For example, it authorizes $75,000 for an exchange program with Thailand for prosecutors. That is probably a nice thing. I don't know of any reason why that isn't a good thing to do. But $75,000, as you know, is kind of decimal dust around here. We would ordinarily be focused on somewhat larger issues. Here is a bigger one: $5 million for a DEA training site in south and central Asia. Probably a good idea, although I don't know.

One thing that we have been asked by the administration—especially at this time of war—not to do is to impose any more reporting requirements on our agencies that are involved in the war on terror. I am trying to count the number of reports and commissions contained in the bill. There are too many to count so far. I am trying to get an accurate count. Suffice it to say there are numerous reports—report after report—that we are asking the Justice Department to prepare and send up to us on a whole variety of issues.

Oversight is very important, and we need to engage in oversight of the Department of Justice. But there is a balance between causing them to have to spend so much time preparing reports that they literally cannot do the job we ask them to do. I am not sure how some of these reports, anyway, will advance the ball with respect to justice.

The bill speaks of the 21st Century Department of Justice Appropriations Act, but it contains a lot more than just appropriations. It seems to me that we ought to be pretty well focused on the mission. If the FBI, for example, is going to literally change its focus from, first and foremost, being an investigator of crimes that have been committed so they can be prosecuted in court, to an agency—and remember it is part of the Department of Justice—which has now its first and foremost focus of preventing terrorism by conducting investigations that will potentially lead to uncovering the possibility of terrorists in the United States who would perform these horrible acts against us, if that is the new mandate—and certainly Robert Mueller, Director of the FBI, has been very forthright about the need for change in the FBI and the need to create this new priority in the FBI, and I commend him, and Attorney General John Ashcroft has supported the same kind of reformation of the Department of Justice and the FBI—then why is that kind of priority not reflected in this document? It is kind of the same old thing, rather than a new 21st century mission with terrorism at the core.

We need to find resources to fight terrorism. A lot in this bill has nothing to do with terror. That is not to say there is not a great deal the Department needs to do that doesn't relate to terrorism, and we all understand and appreciate that. One would think there would at least be something here that represents the case for looking forward into the 21st century, rather than just looking back for the last couple of decades and trying to pull together different things that we would like for the Department of Justice to do for us.

Let me get back to the issue of reports. Do we need to require the Attorney General to submit to the Committees on the Judiciary and Appropriations of both the House and the Senate a report identifying and describing every grant and cooperative agreement that was made for which additional or supplemental funds were provided in the immediately preceding year? I suppose somebody should put that information together. I wonder whether we need to mandate it in this authorization bill. Here is another report identifying and reviewing every office of justice program grant, cooperative agreement, or programmatic contract. I suppose some auditor needs to have that on the books, but is it necessary to send a report to the committees of the House and the Senate? Do we need to

require that the Attorney General submit, within 6 months of enactment, a report to the chairman and ranking member of the House and Senate Committees on the Judiciary, detailing the distribution and allocation of appropriated funds, attorneys, and pre-attorney workloads for each office of the U.S. attorney, except those at the justice management division? That is an internal matter that is important to the proper functioning and operation of the Department of Justice offices of U.S. attorney, but there is an office of U.S. attorney that is supposed to keep track of those things.

It doesn't seem to me that this rises to the level of what we are including within the reauthorization. Do we need to require the Attorney General to conduct a study of offenders with mental illness who are released from prison or jail to determine how many such offenders qualify for Medicaid, SSI, or SSDI, and other Government aid? Do we need that? Should that be included in this 21st Century Department of Justice Appropriations Authorization Act? At least, if it is, does it rise to the level of priority greater than giving the President the authority to take action to deal with Iraq, giving the President a vote on his idea for reorganizing a Department of Homeland Security and providing the Senate's approval of funding so our military can do what we ask it to do? Which of those ought to come first?

We have now taken these other items and put them over here so we can deal with this Department of Justice reauthorization—an action that doesn't need to be done at all. We haven't had a reauthorization of the Department of Justice for over 20 years and yet it has functioned very well.

There is more. I will cite one more. The bill provides the inspector general discretion to investigate allegations of criminal wrongdoing or administrative misconduct by an employee of the Department of Justice—authority which already exists—and allows the inspector general to refer such allegations to the office of professional responsibility or the internal affairs office of the appropriate component of the Department of Justice.

It seems to me that a lot of what is in the legislation is questioning the Department of Justice rather than supporting it. It is asking it to do a lot of things that will take time and money and divert resources from the job that is first and foremost on the minds of Americans. I will let that point go for the moment.

It is not that this is a bad bill. That is not my point. My point is that this is an old bill that was written for another time and which isn't really necessary today—certainly not to take the time of the Senate away from those other items that I mentioned. We should not be taking the time to debate this.

Now, I was just notified a couple hours ago that this bill was going to be brought to the floor. The problem with dealing with a bill such as this in this context is that there is naturally a tendency to hurry up and rush to get it over with because we have more important things to do. I suspect that is what you are going to hear from perhaps the chairman and ranking member of the Judiciary Committee or others—''If these other things are so important, then hurry up and pass this bill.''

That is a nice technique: find a time when we really ought to be doing something else, insert this into the agenda and argue that we better hurry and get it over with so we can get back to these more important items. If it is so all-fired important to do, then it is important enough to be done right. I will give you one example of a part of it that wasn't done right.

(Mr. KOHL assumed the chair.)

Mr. KYL. Mr. President, we have a strict rule around here that a conference report, which is what this is—and for those who are not aware, that means the Senate has passed a bill, the House has passed a bill, representatives of the two bodies have gotten together and agreed on a compromise, a conference report. They held a conference and they agreed. The bill goes to the House and the Senate, and we are supposed to act on the conference report. That is our process.

The idea is that the conference committee is supposed to iron out differences between the House and the Senate. That is what happens in a conference committee. What you do not do is bring up new issues in a conference committee. That is verboten. That is not right. If it was not in the House or the Senate bill, then it is not germane to the conference. Every now and then, people look the other way and forget about the rules and say: There is a group who wants another provision; granted it was not in the Senate bill and it was not in the House bill, but we are getting a lot of pressure to get it done, so we are going to stick it in the conference report. There is such a provision in this conference report.

I do not know if it is a good or bad provision. I have heard arguments both ways. I have gotten a lot of pressure from the group who wants it. They are good people. They are friends of mine. I would like to support them. I do not know whether they are right or wrong on the provision, and I will describe it in a moment.

The fact is, when it whizzed through the Judiciary Committee, I thought I would have an opportunity to come to the floor and hear a debate about it and perhaps be involved in that debate and ask questions, understand it, and maybe even offer an amendment or two, and then either pass it or not pass it or vote for it or vote against it.

I am not sure what I would do, but when it comes in the form of a conference report, as you know, it is unamendable. Whatever is in here, you take it or you leave it. You either take everything or the whole bill goes down. This bill may not have a whole lot that is important or good in it, but I do not know that it has a whole lot of bad provisions in it. There are at least some good provisions in the conference report. I want to make that point, and I will speak to them. There are a couple items I like in this bill.

I am not arguing this bill should not be adopted. The problem is, when the House and Senate conferees take something out of left field and stick it in the bill when it was neither in the Senate bill nor in the House bill, it comes back in a form we cannot even amend.

That is what happened with this arbitration issue. I am not sure exactly what it is called—the motor vehicle franchise dispute resolution process bill. This is a bill that is supported by a lot of local auto dealers. As I said, at least the auto dealers in Arizona are, for the most part, good folks, as far as I am concerned. They have a complaint against the motor companies whose cars they sell having to do with the contracts, the franchise agreements they sign when they become a dealer for these cars.

What they complain about is the fact that when they sign the contract, it pretty well binds them to a process of arbitrating disputes in a certain way so that if they and their parent company have a dispute, the contract says, you resolve that dispute by arbitration. In that way, the parties do not have to go to court.

Arbitration is actually a good thing, not a bad thing. I would think you would want to keep the parties from having to go to court. And if both parties, the franchisee and the franchiser, agree they will resolve their disputes through arbitration, through the American Arbitration Association, rather than going to court, one would think that is a good thing. These dealers believe it is a bad thing. They said they signed bad contracts and were under pressure by the franchisers, the big auto companies, that had bargaining power leverage over them, basically, to say: You either sign the contract the way we have presented it to you or you cannot be our franchisee. I do not know whether that is right or not, but that is their argument.

They say the Federal Government has to intervene and, in effect, create an opportunity for the voiding of those provisions of those contracts so they can literally take these disputes into court and fight it out with their lawyers in court.

They were in my office a week or so ago wanting to talk to me about this. I will honestly tell you, I had no idea this provision was coming up then. I thought: Why are you guys coming in here? It turned out there was a mixup and I could not meet with them.

I spoke with one of their representatives last Friday. I said: I am sorry you all were in and you thought we had a meeting, but I really did not think this issue was coming up. Little did I know.

They probably knew something I did not know. I guess they might have known this was coming to the floor and I did not realize that was the situation. I perhaps should have.

The problem now is that we debate this in a scenario in which there can be no amendments. The conference report, under our rules, cannot be amended. The only way to amend it is to send it back and have the conference committee revisit it, and that is a motion that very rarely is accepted. I am not even sure I would be for doing that.

This is the kind of thing that should not be done in this type of bill. It was done by a very few people. I am on the Judiciary Committee, as is the Presiding Officer. I did not know it was put in there. I did not have anything to do with it. I was not asked, and yet we are members of the Judiciary Committee and this is supposed to be our product.

Again, I do not know whether this is a good idea or a bad idea. I would have liked to have heard debate on it, perhaps an opportunity for it to be amended, but that will not be possible. That is another problem with the conference report as it has come to us.

What I am talking about is the motor vehicle franchise dispute resolution process bill. That is not the only example of items that were added to the conference report and which had never been passed by the House of Representatives or by the Senate. Let me give some examples.

In title I, subtitle A, there is something called the Law Enforcement Tribute Act. This section authorizes grants for the construction of memorials to honor the men and women in the United States who were killed or disabled while serving as law enforcement or public safety officers. Is there anything wrong with that? Absolutely not. I presume there is nothing wrong with it. I suppose if the grants for construction got out of hand from a monetary standpoint we might have some objection. We obviously want to use some prudence in what kind of money is appropriated for that purpose.

I do not know anything about that issue. I am on the Judiciary Committee and that was never considered. It did not come through the Senate. It did not come through the House. But it is in the conference report. It was put in in the conference.

There is a section 11002, disclosure of grand jury matters relating to money laundering offenses. This would add two sections relating to money laundering to the list of banking law violations where a prosecutor can disclose grand jury information to a State financial or a Federal financial institution or regulatory agency.

We have had a lot of complaints in the war on terror about the disclosure of grand jury testimony. Here national security is involved. There are some who still say that we should not release grand jury testimony on a very classified basis to other law enforcement or intelligence agencies, such as the CIA, so that it can do its work better to protect us from terrorists; that when information is presented to a grand jury, it is as if it is sacred and nobody else can know about it. We cannot even use it for protection against terrorism. But this bill, without having passed through the House or Senate, includes a section that would let grand jury information be disclosed to either a State financial or a Federal financial institution or regulatory agency.

That may well be a good thing if you are trying to go after people who launder money. That may well be a good section. I just do not know. Again, being a member of the Judiciary Committee and a Member of the Senate does not provide enough protection for us really to have had the opportunity to debate or amend this provision.

There is a section called grant program for State and local domestic preparedness support. This would seem to be a good purpose, expanding the uses of grant funds and changes the name from the Office of State and Local Domestic Preparedness Support to the Office of Domestic Preparedness. It does not seem to me there would be anything wrong with that. It did not pass the Senate. It did not pass the House.

There is a provision, section 11004, U.S. Sentencing Commission Act access to NCIC terminal. This is a big deal. It would allow the Attorney General to exchange NCIC information with the U.S. Sentencing Commission. The reason, I guess, is the Sentencing Commission has stated it is necessary for it to help complete a study that it wants to do on recidivism rates that they have been charged—by who else?—by Congress to complete. They are currently working with the FBI, and they support this.

There is another section dealing with danger pay for FBI agents, and this could conceivably fall into the category of a response to the war on terror, although I do not know.

It is the kind of thing one might expect to see in the bill even though it was not in the Senate-passed or House-passed bill. It would be interesting to find out whether or not the granting of the danger pay allowance is a response to the war on terror. That might well be an appropriate one of those rare exceptions where even though the House and Senate bills did not have this in it, it might be a good thing to include in the conference report, but one would hope there would be some description and discussion of that so we would all appreciate the reason for doing it.

There is a section on Police Corps. It provides for increases in the tuition allotments for Police Corps officers; scholarship reimbursement from $10,000 to $13,333 a year; reauthorizes the program for 4 more years. It increases the stipend for training from $250 to $400 a week and eliminates the $10,000 direct payment to participating police agencies requirement—or opportunity, I should say.

Again, that is what one ordinarily would have seen come before the committee and the Senate, but it did not pass this body. Section 11007, radiation exposure compensation technical amendments; section 11008, Federal Judiciary Protection Act of 2002—I have pages of these—persons authorized to serve search warrants; a study on reentry, mental illness and public safety; technical amendments to the Omnibus Crime Control Act; debt collection improvement; use of annuity brokerage instruction settlements.

There is a provision which I would certainly support, section 11014, reauthorization of a State criminal alien assistance program. There are those who oppose this. I favor it. For those who oppose it, maybe they would want to offer an amendment reducing the amount of it.

Frankly, I would love to offer an amendment increasing the amount because the amount that is authorized is about one-third what is necessary to reimburse the States for the housing of criminal illegal aliens who are the responsibility of the Federal Government but whom the States undertake to house in their prisons.

I am denied the opportunity to offer an amendment to increase the funding under this very good program because it comes to us in the conference report upon which we did not act.

I will not go through all of these, but there are INS processing fees; U.S. Parole Commission extension; the waiver of foreign country residence requirement with respect to international medical graduates; pretrial disclosure of expert testimony relating to a defendant's mental condition; Multiparty/Multiform Trial Jurisdiction Act of 2002; direct shipment of wine, there is a provision on that; Webster Commission Implementation Report. There is a very large provision in effect authorizing the establishment of a police force within the FBI to provide protection for FBI buildings and personnel in various areas. There is a report on information management technology; a GAO report on crime statistics. There is a big grant program—well, not big. It authorizes $30 million for the Attorney General to make grants to States for various reasons. There is a new motor vehicle franchise—excuse me, that is the one I mentioned before. There is a new holding court in a certain State. I will not mention the State, but just one State though.

The point is that this bill includes numerous provisions which did not pass the House, did not pass the Senate, which we have no opportunity therefore to seek to amend, and which are presented to us in a take-it-or-leave-it form in the conference report. It is not the right way for us to do business, again, in the last 10 days or so of our session.

I will not say anything more about the bill itself because I do not want one to get the impression that reauthorizing the Department of Justice is not

a good thing; it is—that many of the provisions I read to you are not good provisions. Some of them I know are good provisions because I know what they are. Others I presume are good, though I do not necessarily know that. But I would like to at least offer one amendment to one of them, and I know I will not be given that opportunity.

It is not what we should be doing in the context of the debate we are having in these last 10 days, which is, How do we enhance the national security of the United States of America?

I go back to the three things we should be doing right now. We should be completing our work on the Homeland Security Department. At a minimum, the President should be granted an opportunity for Senators to vote on his proposal. Why have we not been allowed to do that? Why, right after the debate on that very issue, right after another cloture motion on that failed, do we in effect call a timeout on the Homeland Security Department legislation and go to this bill instead? That is more important, and that should take precedence. So should the Defense authorization and appropriations bills.

Presumably, we are going to leave time to debate a resolution with respect to granting the President the authority he needs to take action in Iraq.

I see my good friend and colleague on both the Judiciary and Intelligence Committees, the Senator from California, is in the Chamber and appears ready to speak. I will yield the floor to her in about 1 minute.

It has always been my great pleasure first to chair and now to be the ranking Republican on the Judiciary Committee's Subcommittee on Terrorism and Technology, a committee that has worked over the years, whether under my chairmanship or Senator FEINSTEIN's chairmanship, on the kinds of legislation I was speaking of earlier, the very things we need to do to help our law enforcement agencies have the power to do the job we want them to do.

I am very proud to say that legislation we worked on together as a result of hearings we held together was finally passed as part of the USA Patriot Act, and the work that that subcommittee has done over the years has really paved the way for a lot of what we now know was important to do but until, unfortunately, after September 11 people were not willing to focus on in order to get done.

I conclude by saying it is a matter of priorities. We ought to be focused right now on first things first, and that is our national security, and that means first and foremost passing legislation such as the Schumer-Kyl amendment to FISA, getting our Homeland Security Department legislation concluded, getting our Defense authorization and appropriations bills concluded, and paving the way for action on a resolution of force with respect to Iraq.

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

Mrs. FEINSTEIN. Mr. President, I appreciate the words of my distinguished colleague and friend from Arizona. I must say I differ with him on this bill because I am very much in support of this bill. In particular, I commend both Senators LEAHY and HATCH for bringing this first Department of Justice authorization report to the Senate floor in 20 years. I very much hope the Senate is going to adopt the report.

Before I go into saying what this bill does with respect to Federal judgeships, I want to comment that this bill does deal with homeland security, particularly border security. This bill specifically authorizes more than $4 billion for the administration and enforcement of laws relating to immigration, naturalization, and alien registration. More than $3.2 billion of this amount will be allotted to the National Border Patrol. That is something for which both Senator KYL and I have worked on our subcommittee for a substantial period of time, and I am very pleased to see this authorization. It deals with domestic preparedness.

For example, the Conference Report authorizes funding for the Centers for Domestic Preparedness in Alabama, Texas, New Mexico, Louisiana, Nevada, Vermont, and Pennsylvania. It adds additional uses for grants for the Office of Domestic Preparedness to support State and local law enforcement agencies. This bill also has FBI reform. It includes provisions from the Leahy-Grassley FBI Reform Act to codify the authority of the Department of Justice inspector general to investigate allegations of misconduct by FBI employees.

The conference report provides special danger pay allowances to FBI agents in hazardous duty locations outside of the United States, something we should very much want to speed through at this time.

It has the Law Enforcement Tribute Act. It has the Feinstein-Sessions-Carnahan-Durbin, James Guelff and Chris McCurley Body Armor Act, which imposes criminal penalties on individuals who use body armor in the commission of crimes of violence or drug trafficking crimes. This bill specifically originated as a product of the work of Lee Guelff, whose brother, James Guelff, was a police officer at San Francisco's northern station. Officer Guelff responded to a sniper incident at the corner of Franklin and Pine Streets and encountered an individual completely clad in Kevlar—Kevlar helmet, Kevlar vest, Kevlar pants, the whole thing—with about 1,100 rounds of ammunition. Officer Guelff only had his police revolver, which he emptied to no effect against his Kevlar protected assailant, who shot the officer in the head and killed him. It took 150 police officers to equal the firepower of this one man with semiautomatic weapons clad in Kevlar standing in the intersection.

This is a very important bill. We have worked for 6 years. To Lee Guelff, congratulations.

This bill authorizes a separate and independent Violence Against Women Office within the Department of Justice similar to S. 570 introduced by Senator BIDEN with 22 cosponsors. It is a very important step for those who would like to see this separate office set up.

The bill has crime-free rural States grants. It creates and authorizes $30 million for the crime-free rural States program to make grants to rural States to help local communities prevent and reduce crime, violence, and substance abuse.

For many of us, this bill is important because it restores a vital program, the SCAAP program, that the President cut out. SCAAP is an acronym for the State Criminal Alien Assistance Program. Under law, the Federal Government is responsible for the borders. If we do not protect the borders, people come to our country illegally. Some commit crimes, they are convicted, they do time in jails, but the local jurisdictions pay for that time in jail in State prison and in jails. SCAAP is the only program that reimburses the States for their cost of incarcerating illegal aliens. It is a very important program. Senator KYL and the people of Arizona support it. I support it. I believe every member of the Judiciary Committee supports it. I believe the Presiding Officer supports it. That authorization is in this bill.

Regarding drug abuse, this bill includes several provisions from the Hatch-Leahy-Biden-Feinstein Drug Abuse Education Prevention and Treatment Act that will move Federal antidrug policy toward a more balanced approach that includes added attention to prevention and treatment. The provisions in this bill, for example, authorize funding for drug courts. We know drug courts work in prevention of narcotic use. The bill authorizes $172 million over the next 3 fiscal years to support State and local adult and juvenile drug courts. These courts provide treatment as an alternative to jail for nonviolent offenders who stay off drugs. The statistics of recidivism show this approach works.

There are provisions with respect to drug-free prisons. The bill authorizes the use of Federal funds for jail-based substance abuse programs, for reentry programs, for DEA, and police training. It authorizes funding for the drug enforcement agency police training in South and Central Asia to reduce the supply of drugs entering the United States.

The bill has a myriad of proposals with respect to protecting intellectual property: The Madrid Protocol, distance learning, Patent and Trademark Office authorization and modernization, and enhanced enforcement of intellectual property laws.

Most importantly, this bill authorizes a number of new judgeships. It authorizes five new permanent judgeships in the southern district of California at

San Diego, as well as two in the western district of Texas. The western district of North Carolina receives one. It converts four temporary judgeships to permanent judgeships: One in the central district of Illinois, the northern district of New York, the eastern district of Virginia. And it creates seven new temporary judgeships, one in each of the northern districts of Alabama, Arizona, central district of California, southern district of Florida, district of New Mexico, western district of North Carolina, eastern district of Texas. It extends the temporary judgeship in the northern district of Ohio for 5 years.

I have heard Members of this body implore the Judiciary Committee about the need for additional judgeships. The Southern District court in San Diego, for example, has the heaviest caseload in the nation. This court has operated in a state of emergency since September, 2000. The Southern District handles complex litigation as well as major drug cases that emanate from the closeness of San Diego to the Mexican border. The district is relying on temporary and senior judges. The bench has been close to real catastrophe. This bill finally brings relief.

This bill improves civil justice; has motor vehicle franchise fairness; the Radiation Exposure Compensation Act; and the Antitrust Technical Corrections Act. There are a number of things in this bill to improve immigration procedures: The J–1 visa program, the H–1B visas, help to children, and more.

I conclude by noting that this bill is not unrelated to our present place in time. It is not unrelated to the need to protect our borders, to seeing that our nation has adequate border security, to seeing that FBI agents have hazardous duty pay, and to seeing that our visa program is improved. The bill provides authorization for the payment to State and local jurisdictions for the incarceration of illegal immigrants and for the addition of additional judgeships. It is a very important bill.

Again, I particularly thank the Chairman and the Ranking Member. Without them, this bill would not be on the floor today. It is a very important bill. I urge an ''aye'' vote.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

TRIBUTE TO JO-ANNE COE

Mr. DASCHLE. Mr. President, last week we regrettably learned of the passing of Jo-Anne Coe. She served the Senate and Senator Dole for many years. She was an admirable public servant.

From 1985 to 1987, during the 99th Congress, she became the Senate's first woman to serve as Secretary of the Senate. Our condolences and prayers go out to her daughter Kathryn Coombs, her niece Kindra, her nephew Kevin, and of course to our former colleague. Senator Bob Dole not only had an ally, a friend, a staff person, he had someone who was his presence on the floor on so many occasions. We regret her loss, not only the loss of an employee, not only the loss of an important public servant, but the loss of a friend.

ORDER OF BUSINESS

Mr. DASCHLE. Mr. President, there will be no further rollcall votes today. I yield the floor.

21ST CENTURY DEPARTMENT OF JUSTICE APPROPRIATIONS AUTHORIZATION ACT—CONFERENCE REPORT—Continued

CLOTURE MOTION

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

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

The senior assistant bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the conference report to accompany H.R. 2215, the 21 Century Department of Justice Appropriations Authorization Act.

Harry Reid, Jeff Bingaman, Jean Carnahan, Hillary Clinton, Thomas Carper, Richard Durbin, Paul Sarbanes, Daniel Inouye, Bill Nelson of Florida, Jack Reed, Patrick Leahy, Benjamin Nelson of Nebraska, John Edwards, Tim Johnson, Joseph Lieberman, Byron Dorgan, Tom Daschle.

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

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

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

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

Mrs. HUTCHISON. Mr. President, I want to speak briefly on the reauthorization conference report that is before the Senate today. There are many parts of this legislation I want to talk about. One part that is very important to me is the new judgeships that would be created in the border areas of our country, including two new district judgeships in the western district of Texas, and one temporary judgeship in the eastern district of Texas.

The conference report contains language that Senator FEINSTEIN and I put forward because of the judicial emergencies that we find in our States. Largely in the border regions, we have had an onslaught of caseload that has made it very difficult for our judges to not even stay even but just to try to handle the most important cases. So we have been trying to add some judgeships, both in California and in Texas, to relieve some of this emergency.

The judgeships in the western and eastern districts of Texas have been declared ''judicial emergencies'' by the nonpartisan Judicial Conference of the United States. The creation of new judgeships will certainly bring much needed relief.

Of all the courts in the country that are desperate for judges, the United States-Mexico border courts have the most critical need. According to the statistics from last year, the western district of Texas handles the most criminal cases in the country; last year, 4,434.

Currently, the western district of Texas is facing a criminal caseload of 1,987 pending cases; that is 2,758 defendants. In El Paso, 884 cases are pending overall—more than any other region in the district. Each day, more cases are added, overwhelming an already overburdened western district.

As our war against terrorism is advancing, as well as our war against drugs, it is even more crucial we have highly qualified judges and law enforcement officials in charge of our justice system.

Mr. President, I really appreciate the fact that we do have a cloture motion on this conference report. I hope very much we will be able to pass this legislation and create these courts. Hopefully, they will be able to be up and running sometime next year and try to bring justice. Justice delayed is justice denied in many instances. We would like to clear out the backlog and let people face trials and either serve their sentences or, if they are acquitted, of course, allow them to go free. Right now, they are incarcerated, and it is creating not only a burden on the court system but on the prison system. Many of our county prisons and State prisons are overloaded and trying to help with the backlog, but it is very hard for these counties to justify the costs when they do not get full reimbursement.

So we would appreciate passing this bill so we could get these courts. I hope the Senate will act expeditiously on this bill.

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

The PRESIDING OFFICER (Mr. DAYTON). The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. SESSIONS. 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. SESSIONS. Mr. President, I wish to speak a few minutes on the Department of Justice conference report that is before the Senate.

The Department of Justice is one of the great Departments of our Government. It is one of the oldest, one of the

original Departments. I served in that Department for 15 years. It was the greatest honor for me. I believe it has worked, and I believe, all in all, this bill is a healthy bill. I am pleased to support it.

It came out of the Judiciary Committee on which I serve, and we talked about many of the issues. Hopefully, when the dust settles, the bill we pass will strengthen justice in America. I am pleased with that.

There is one provision that came out of this conference committee, however, with which I am not pleased. It was not in the Senate bill; it was not in the House bill. It was placed in the conference report without having been passed by either body, which is against the tradition of the Senate and the House. This should not be done. It is normally not done.

That provision deals with automobile dealers and arbitration clauses they have with automobile manufacturers. The truth is, most automobile dealers today are pretty sizable entities. They have lawyers. They negotiate these contracts when they have an agreement with a big company. It requires arbitration apparently in most of these contracts. They reject it. They want to alter this right of contract and eliminate it. I objected to it in committee.

I believe the question of binding arbitration is one that requires a good deal of thought. I believe pretty strongly that if we are going to change arbitration law in America to exempt people from binding arbitration, I am not sure the first place we should start is between automobile dealers and automobile manufacturers. That seems to me to be an odd place to start. There was not a lot of thought put into it. There are disputes and arguments between the dealers and the manufacturers, and the dealers believe they will have a better chance in court, if they can try the case at home, in a lawsuit, probably throwing some claims in that lawsuit. They want to do it that way.

Apparently, most of our colleagues agreed; an overwhelming number of people supported the amendment. It is now included in the bill.

I say that because I earlier introduced an arbitration bill that focuses on improving arbitration across the board. It was a broad bill and had a lot of positive changes in it. I will be introducing today another, even more comprehensive, bill to deal with arbitration. I will not go into all the details of it, but I call this bill the Arbitration Fairness Act of 2002, and it will continue the changes we offered in the 106th Congress when I introduced the consumer and employee arbitration bill of rights.

This will be a broader procedure. It will deal with the question of Federal arbitration. Congress enacted the Federal Arbitration Act in 1925. It has served us well for three-quarters of a century.

Under the act, if parties agree to a contract affecting interstate commerce that contains a clause requiring arbitration, the clause will be enforceable in court. That is the fundamental issue with which we have been dealing.

My State has had a lot of debate about arbitration. It is healthy to look at what we did 75 years ago. We found there are legitimate complaints about arbitration. Our act, a bill of rights of protections for people who are involved in arbitration, I think will take us a step in the right direction.

It will maintain cost-benefits of arbitration. Many times it is quite cost-effective to arbitrate, but there are instances in which arbitration costs more and is more of a headache than perhaps going to small claims court or other courts.

There have been some concerns that the arbitrators under these agreements are not independent and the corporation or the larger entity has too much power in selecting who might arbitrate.

The bill provides the following rights:

No. 1: Notice. Under the bill, an arbitration clause, if it is to be enforceable, would have to have a heading in large, bold print that states whether arbitration is binding or optional and identify a source that the parties may contact for more information and state that a consumer could opt out and go to small claims court.

In other words, when you have an arbitration, you have to pay the arbitrators. Both parties have to go. Many States have effective small claims courts where you file a $25 fee and an independent judge will hear the case. Sometimes that is better. This would allow an opt-out for a person who is involved in an arbitration matter if they choose and if they qualify for the small claims court. That probably is healthy.

It would eliminate a lot of the complaints we have heard about over a small item, say a television or sofa or refrigerator, that could cost more to arbitrate than the merchandise is worth. This would at least give that option, so a party could opt out if it chose.

No. 2: The independent selection of arbitrators. The bill would grant all parties the right to have potential arbitrators disclose relevant information concerning their business ties and employment. All parties to the arbitration would have an equal voice in selecting a neutral arbitrator.

This ensures that the large company that sold a consumer product will not select the arbitrator itself because the consumer with a grievance will have the right to nominate potential arbitrators, too. As a result, the final arbitrator selected will have to have the explicit approval of both parties to the dispute. This means the arbitrator will be a neutral party with no allegiance to either party. There are some instances when that has not been the case.

We deal with choice of law. We make clear that parties can be represented by counsel at their own expense. It guarantees that all parties will have a fair hearing in a forum that is reasonably convenient to the consumer or employee to prevent a large company, for example, from requiring a consumer or an employee or small business owner to travel across the country to arbitrate a claim.

The bill grants to all parties the right to conduct discovery and present evidence; to have cross-examination; that there should be a tape recording or a stenographer to make a record of the hearing, and that there would be a timely resolution. That is important.

One of the reasons we choose arbitration is for timely resolution. There have been complaints that these have not been timely and in fact have been just as long, in some instances longer, as going to court.

Under the bill, the defendant must file an answer within 30 days of the filing of a complaint. The arbitrator has 90 days to hold a hearing and must render a decision within 30 days after the hearing. That would be the maximum time that would be allowed. It would require a written decision. As to expenses, it grants all parties the right to have an arbitrator provide for reimbursement of arbitration fees in the interest of justice; the reduction, deferral, or waiver of arbitration fees in cases of extreme hardship; and also the small claims opt-out.

This is a Department of Justice bill that I believe has some good things in it. It has 20 new Federal judges, pretty much selected on a need all across America. Some States are really in crisis, such as California and they need some additional district judges. We need several in Alabama. It has that in there.

It has a body armor bill that Senator FEINSTEIN and I worked on that says if you deal with such a violent criminal who is involved in a serious crime, who wears body armor while they are committing that crime, then the judge is authorized to give a more substantial penalty where that occurs and make it a separate offense for wearing body armor during the commission of a felony.

We had an instance in my State, and Senator FEINSTEIN in California, in which a criminal actually wore body armor and killed a law enforcement officer, thereby gaining an advantage in weaponry by being so protected.

There are some other provisions in the bill that are good. We strengthen the Coverdell Act that deals with forensic laboratories. In my view, as a prosecutor for many years, perhaps the greatest single bottleneck in justice today is a delay that so often occurs in obtaining scientific analysis of evidence. A prosecutor cannot go forward with a case involving cocaine, white powder, until some chemist reports that it is actually cocaine. Most prosecutors probably will not take it to a grand jury until they have that chemical report.

If there are fingerprints, an analysis is needed. If there is a weapon involved, the ballistics need to be examined. If there are DNA issues, DNA is needed. If there has been a rape, the DNA analysis and blood samples are needed. Those are procedures that are being delayed.

In my State, we saw delays of as much as a year or more in actually receiving the scientific analysis. On a routine basis, that is happening around America. It is important we assist in that. The bill we named after former Senator Paul Coverdell—who was such a wonderful Member of this body, a bill he worked on before his death—would help strengthen that.

I believe we are moving in the right direction, and I would like to see the Federal Government take a stronger lead in encouraging the States to move forward on forensic capabilities.

We spend huge amounts of money on prisons. We spend huge amounts of money on probation officers. We spend huge amounts of money on sheriffs' deputies, police officers, prosecutors, judges, and juries, but we are spending only a pittance on getting our scientific evidence produced in an honest and effective way. As a result, justice is being delayed. And justice delayed is justice denied.

Recently, in Alabama, we had probably the most horrendous crime ever. A man killed six members of one family. The newspaper reported he was out on bail pending trial. The prosecutor said they were waiting on the chemical analysis of the drugs he had been arrested with. Had that come in promptly, had he been indicted, gone to trial, and been in jail, six people would probably be alive today.

That is occurring around America today. Make no mistake about it, it is something we need to do to improve. It is primarily a State function, but this Government does a lot to encourage and help States do better, and we really ought to step it up in this area.

I yield the floor.

Mr. GRAHAM. Mr. President, I commend Senator LEAHY and Senator HATCH for their hard work on the Department of Justice authorization bill. This bill will strengthen our Department of Justice and increase our preparedness against terrorist attacks, prevent crime, and improve our intellectual property and antitrust laws.

However, I am disappointed that the ecstasy provisions I sponsored in the Senate version were removed in the conference committee. These provisions would have directed the National Institute on Drug Abuse, NIDA, to continue researching and evaluating the effects of ecstasy on an individual's health and authorized money to the High Intensity Drug Trafficking Areas, HIDTA, program for combating ecstasy use.

I am concerned that ecstasy has become the ''feel good'' drug of choice among many of our young people and drug pushers are marketing it as a ''friendly'' and ''safe'' drug to mostly teenagers and young adults. But we know this is not true.

Just last week a new study conducted by researchers at John Hopkins University found that a single use of ecstasy could seriously harm the brain and put users at risk of damage that mimics Parkinson's disease.

I ask unanimous consent that the following article from Reuters titled, ''Ecstasy's Brain Drain Possibly Wider Than Thought,'' be printed in the CONGRESSIONAL RECORD following my statement.

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

(See exhibit 1.)

Mr. GRAHAM. Mr. President, several recent studies have also revealed an alarming increase in the availability and abuse of ecstasy across the United States.

According to the Partnership for Drug Free America's 2001 National Survey, more teens in America have now experimented with Ecstasy than cocaine, crack or heroin. Approximately 2.8 million teenagers in America, roughly one of every 11 teens in the Nation, have now tried ecstasy.

Even the Armed Services have been impacted by this dangerous drug. In July 2002, 82 marines and soldiers at Camp Lejeune, NC, were convicted in a military court for either using or distributing ecstasy.

Despite the abundant evidence to the contrary, young people have been lulled into believing that ecstasy and other designer drugs are safe ways to get high without risking addiction or physical harm.

As legislators, we have a responsibility to stop the proliferation of this potentially life threatening drug. I remain firmly committed to working on legislation to combat this dangerous drug and I appreciate my colleagues' willingness to work with me to pass this legislation next year.

EXHIBIT 1

ECSTASY'S BRAIN DRAIN POSSIBLY WIDER THAN THOUGHT

(By Amy Norton)

NEW YORK (Reuters Health).—The club drug Ecstasy may damage a broader range of brain cells than most research has suggested, according to a new study in monkeys.

Researchers at Johns Hopkins University found that one round of the drug, designed to simulate what many Ecstasy users take in a night, was toxic to dopamine-producing cells in the brain. Dopamine is a brain chemical that helps regulate mental and emotional functions, as well as movement. This is the first time Ecstasy has been shown to have such dopamine effects in primates.

Previous studies in animals and humans had shown the drug to selectively affect brain cells that carry out the work of serotonin, a chemical involved in mood, memory and other vital functions. Both serotonin-cell loss and memory problems have been found in regular users of Ecstasy, also known as MDMA.

Similarly, monkeys and baboons in the new study showed damage to the serotonin system. But the dopamine effects, which were even more substantial, were ''totally unexpected,'' lead author Dr. George A. Ricaurte told Reuters Health.

He and his colleagues at the Baltimore, Maryland university report the findings in the September 27th issue of Science.

According to the researchers, these findings are particularly concerning because dopamine is vital to movement, and a loss of dopamine brain cells is known to be involved in Parkinson's disease (news-web sites) and the related movement disorder parkinsonism.

Of course, whether the primate findings extend to humans at all is unknown, Ricaurte pointed out.

''Clearly,'' he said, ''most MDMA users have not developed parkinsonism.''

Still, the researcher added, if the drug does have dopamine effects in humans, this raises the possibility that with age and its accompanying, natural dopamine decline, Ecstasy users could face a heightened risk of parkinsonism.

Before this study, only mice had been shown to have dopamine effects after Ecstasy exposure, making mice ''an enigma'' in the field, Ricaurte said. His team's working hypothesis, he explained, is that the pattern of MDMA exposure in this primate study is behind the dopamine damage.

The animals were given three does of the drug at 3-hour intervals, in an amount and time frame designed to simulate what often goes on at ''raves''—all-night dance parties where Ecstasy use is pervasive.

It may be that taking multiple does in a night, known as ''stacking,'' is required for dopamine damage to occur, according to Ricaurte, but there's no evidence of that yet.

And whether any dopamine-cell loss would be lasting in humans is also unknown. In this study, primates showed ''profound'' dopamine-cell loss 2 to 8 weeks after Ecstasy exposure, according to the researchers.

''We were struck by the severity of the dopaminergic injury, ''Ricaurte said.

To begin to see whether such injury occurs in humans, his team plans to take brain scans of former Ecstasy users to look for signs of dopamine depletion.

In a statement released in response to the study, Dr. Glen R. Hanson, acting director of the US National Institute on Drug Abuse, said the findings ''are cause for concern and should serve as warning to those thinking about using Ecstasy.''

Earlier this month, US health officials reported that the number of Americans using Ecstasy went up 25% between 2000 and 2001.

Mr. KOHL. Mr. President, I rise today in strong support of the Department of Justice reauthorization bill. The reauthorization of the Department of Justice and all of its component parts is long overdue. In particular, this bill is important because it reauthorizes the Incentive Grants for Local Delinquency Prevention Program, Title V, which is the cornerstone of our national juvenile crime prevention strategy. Senator LEAHY deserves special mention for recognizing the importance of juvenile justice policy and waging a successful fight to reauthorize many important programs.

Effective prevention programs are critical to any juvenile crime strategy, and title V is one of the programs that deserve our support. Let me tell you why. It relies on local communities, who know their needs better than the Federal Government, to identify solutions tailored to local problems. Communities qualify for funds only if they

establish local boards to design long-term strategies for combating juvenile crime, and if they match Federal funds with a 50-percent local contribution.

And, title V works. Participating communities, from 49 States, believe in this program so much that, according to the GAO, they've matched Federal money almost dollar-for-dollar, far more than the 50-percent match this program requires. In addition, studies confirm that many of these programs have reduced crime in cities across the Nation. A program that can motivate communities both to cooperate in improving safety and to collect the resources to do so is one that really works.

I would also like to commend the conferees for including in the final bill important provisions from S. 1165, the Biden-Kohl-Reed-Landrieu-Daschle Juvenile Crime Prevention and Control Act. Senator BIDEN has always been a leader on juvenile crime control issues and it has been a pleasure to work with him. This bill understands the importance of federal assistance to our communities in the area of juvenile crime control and delinquency prevention programs.

Finally, on a different issues, I am pleased that the bill makes several needed technical corrections to the Nation's antitrust laws. It will also eliminate unnecessary and unused antitrust review authority placed in the Nuclear Regulatory Commission, and will therefore further our goal to consolidate antitrust oversight.

Again, I applaud the Senate's consideration and passage of this important legislation.

Mrs. CARNAHAN. Mr. President, I rise today to express my support for passage of the 21st Century Department of Justice Appropriations Authorization Act, H.R. 2215. I applaud Chairman LEAHY, who along with his staff, has put in long hours to complete this bill. It is my hope that the conference report, which has passed the House by a vote of 400–4, will pass the Senate today.

I am pleased that H.R. 2215 includes the Law Enforcement Tribute Act, a bill I introduced. The Law Enforcement Tribute Act authorizes $3 million in grant funding to States, localities, and Indian tribes to provide for permanent tributes to the police officers and firefighters who have been injured or killed in the line of duty. I have been contacted by numerous law enforcement and public safety organizations that have voiced their support for the bill, including the National Association of Police Organizations, the International Association of Fire Fighters, the Missouri Fraternal Order of Police, and the Missouri Police Chiefs Association. These organizations believe, as I do, that it is appropriate for our national Government to help local communities pay tribute to those who have made the ultimate sacrifice.

H.R. 2215 also authorizes language for many programs of critical importance to our nation's security. It authorizes funds to enhance border security and increase domestic preparedness. The bill includes important provisions to strengthen law enforcement, such as FBI reform, and better witness protection. H.R. 2215 improves state and local forensic science capabilities, and implements appropriate sentencing enhancements when defendants use body armor in crimes of violence or drug trafficking crimes.

H.R. 2215 establishes a permanent, separate, and independent Violence Against Women Office within the Justice Department, similar to S. 570, which I cosponsored. It also authorizes $30 million for the Crime-Free Rural States program to make grants to rural States to help local communities prevent and reduce crime, violence, and substance abuse. H.R. 2215 reauthorizes the Juvenile Justice and Delinquency Prevention Act, and preserves the core protections that ensure juvenile delinquents are dealt with firmly but fairly.

Support for these law enforcement programs comes at an important time. Crime rates, which had fallen to record lows during the 1990's, have begun to creep up, and our Federal, State, and local law enforcement agencies have had new and important responsibilities placed on them following the September 11 attacks. So, I am extremely pleased that we are expressing our support and providing resources that will make a real difference in increasing the personal security of all Americans.

Mr. KENNEDY. Mr. President, I strongly support this bipartisan legislation. The fact that it is now before the Senate for a final vote is primarily due to the skill, patience, and determination of our colleagues on the Senate and House Judiciary Committees, especially Chairman LEAHY, Senator HATCH, Chairman SENSENBRENNER, and Congressman CONYERS, and I commend them for their leadership. They have guided our Senate-House conference with a steady hand and have kept the process moving, even when the prospect of the bill's passage appeared in doubt. As a result, we are about to complete action on a genuinely comprehensive authorization bill for the Department of Justice—something Congress has not managed to enact since 1979.

The need for this legislation is urgent. The terrorist attacks of September 11 made clear that we must strengthen the ability of our justice system to deal with the threat of terrorism. Since September 11, Congress has enacted laws giving law enforcement and intelligence officials enhanced powers to investigate and prosecute terrorism, improving the security of our borders, and strengthening our defenses against bioterrorism.

On May 14, President Bush signed the Enhanced Border Security and Visa Entry Reform Act. The Department of Justice Authorization Act builds on that bipartisan legislation by authorizing over $4 billion for the administration and enforcement of our immigration laws—$3.2 billion of which will be allotted to the Border Patrol. The act authorizes funding for the Drug Enforcement Administration to conduct police training in South and Central Asia, and improves our implementation of the International Convention for the Suppression of Financing Terrorism. These will be important tools in our effort to win the war on terrorism and protect the country for the future.

Here at home, the Department of Justice Authorization Act achieves many important goals: It implements needed reforms of the Federal Bureau of Investigation, including a long-overdue plan to improve the Bureau's outdated computer system. It also provides special danger pay to F.B.I. agents who perform hazardous duties outside the United States.

The bill closes a number of loopholes in our criminal code, and increases the protection of witnesses who report criminal activity. It increases sentences for defendants who use body armor during the commission of violent crimes. It reauthorizes the State assistance program to help States deal more effectively with the problem of criminal aliens. It authorizes funding for the Boys and Girls Clubs of America, including the creation of 1,200 new clubs across the Nation to improve the lives of at-risk youth. It reauthorizes the Juvenile Justice and Delinquency Prevention Act, while preserving the core protections to see that juvenile delinquents are treated fairly and humanely.

It authorizes a number of important drug treatment and prevention programs, including programs to reduce drug dependency among prisoners and to support State and local drug courts. These cost-effective programs will reduce the demand for drugs in America, which President Bush has called ''the most effective way to reduce the supply of drugs in America.''

I am also pleased that this legislation contains a provision to extend H–1B visa status for persons with pending labor certification applications. Unfortunately, this application process now takes years to complete, and is undermining the ability of American companies to keep qualified workers.

The Department of Justice Authorization Act also reauthorizes the Police Corps, a program that I have strongly supported since its creation in 1994, to improve the quality of police training, develop strong community-police partnerships, and produce officers who will take future positions of leadership and responsibility in law enforcement.

The Department of Justice Authorization Act is an impressive bipartisan achievement that will strengthen our justice system and our defenses against terrorism. I commend all the conferees for their effective work.

The House of Representatives overwhelmingly adopted this legislation last week by a vote of 400 to 4, and I urge the Senate to support it now.

Mr. BIDEN. Mr. President, I rise in support of the conference report on H.R. 2215.

With approval of this conference report, we are one step closer to authorizing the operations of the Justice Department for the first time since 1979. I commend the conferees, and particularly the Chairman of the Judiciary Committee Senator LEAHY, for the work they have done on this measure. It will improve the operations of the Department, and in so doing it will strengthen our efforts against terrorism, help protect our borders, and prevent crime and drug abuse.

I would like to highlight a few of the provisions of the conference report that I think are particularly important, beginning with the establishment of the Violence Against Women Office. Today is the first day of Domestic Violence Awareness Month, and it is a fitting tribute to this special month that H.R. 2215 provides this Senate with an opportunity to make our voices heard loud and clear on the importance of continuing the fight against domestic violence, sexual assault and stalking.

A key tool in that fight is the permanent and independent Violence Against Women Office, a proposal I first introduced in the Senate in March, 2001, and now established in the Conference Report. This provision means that the Office will be removed from its current location inside the Office of Justice Programs, and become its own free-standing entity. The bill also sets out the jurisdiction of the Office and the extensive duties and functions of the Director. It also requires that the Director be nominated by the President, confirmed by the Senate and report directly to the Attorney General.

With this bill, the Violence Against Women Office is set out in black and white. Its leadership and agenda cannot be pushed to the sidelines nor marginalized as one of many offices in a large bureau. Instead, this law gives the Violence Against Women Office the foundation and roots it deserves. It will be its own, separate and distinct office within the Department of Justice with a Director who answers only to the Attorney General. This statutory authority is long overdue.

Since we passed my Violence Against Women Act in 1994, the Office has been charged with disbursing billions of dollars to states, localities, tribal governments and private organizations to improve the investigation and prosecution of crimes of domestic violence, sexual assault and stalking; to train prosecutors, law enforcement and judges on the unique aspects of cases involving violence against women; and to offer needed services to victims and their families.

The Violence Against Women Office also handles and coordinates the Department of Justice's legal and policy issues regarding violence against women, everything from enforcing protection orders across State lines to issuing annual reports on stalking. The Office also works with other Federal agencies, such as the Department of Housing and Urban Development, and the Immigration and Naturalization Service about Federal policies, programs, statutes, and regulations that impact violence against women.

It is a tall order for the Violence Against Women Office, and to carry out these critical mandates, we must ensure that the Office has the sufficient visibility, prestige and authority. An independent office will provide just that platform. An independent office will be insulated from any attempts to undo the great work it has historically accomplished. A director nominated by the President and confirmed by the Senate will have the credibility and the bully pulpit to travel this country and get local people to the table. Let me be clear, to meet its mandate, the Violence Against Women Office should not, must not, and cannot be buried within a grant-making bureaucracy.

Since the Violence Against Women Act passed in 1994, we have changed the way folks think about domestic violence and sexual assault. We have hauled these matters out from the closet, and called them their proper names, ''crimes'', crimes that warrant investigation and prosecution with crime victims who desperately need our help. Across the country there are signs that the law is working. Statistics released by the Justice Department last month indicate that rape and sexual assault crimes dropped 8 percent from 2000 to 2001. The New York City Police Department is beginning to use digital cameras to capture the injuries of domestic violence which has drastically improved the way these cases are prosecuted. One of the first trials for cyberstalking is underway in Chicago.

In my home State of Delaware, the Violence Against Women Act and the leadership of the Office have made an enormous impact. Just last week, the STOP grant program, one of several grant programs in the Violence Against Women Act, awarded $85,000 to the Sexual Assault Network of Delaware so that it can formalize community responses to sexual assault crimes and victims. Since 1995, Delaware has received more than 30 grants totaling almost $8.5 million dollars, all of it designated to combat violence against women.

But sadly, we are not done.

The National Violence Against Women Survey reports that nearly 25 percent of women sometime in their lives has been raped or physically assaulted by an intimate partner.

One out of 5 adolescent girls in America becomes victims of physical or sexual abuse in a dating relationship according to a report issued by the Journal of American Medicine.

We still need Domestic Violence Awareness Month this October. And we need the leadership of an independent and separate Violence Against Women Office. I want to thank the Senate conferees, Senators LEAHY, HATCH and KENNEDY, who worked long and hard to get an ensure that the Violence Against Women Office Act was included in the compromise Conference Report, and I thank Senators DEWINE, LEVIN, SPECTER, CARNAHAN, HUTCHISON, MILLER, COLLINS and CARPER who originally joined me when I first introduced a bill for an independent office in March, 2001. And finally, in this first week of Domestic Violence Awareness Month, it is right to give thanks for the tireless efforts of advocates and service providers who support the women and children victimized by domestic violence and sexual assault.

The next point I would like to highlight is that the Conference Report reauthorizes the Juvenile Justice and Delinquency Prevention Act of 1974. Congress has tried for over six years to get this job done and as the former Chairman of the Judiciary Committee and the current Chairman of the Subcommittee on Crime and Drugs I am extremely gratified we were able to renew the juvenile justice law here.

Last year, Senators KOHL and REED and I introduced S. 1165, the Juvenile Crime Prevention and Control Act. That bill reauthorized the 1974 Act, authorized the Juvenile Accountability Incentive Block Grant for the first time, and proposed to close the gun show loophole. S. 1165 contained provisions similar to H.R. 1900 and H.R. 863, and provisions complimentary to Senator LEAHY's S. 1174. Major provisions of H.R. 1900, H.R. 863, S. 1165 and S. 1174 are included in this Conference Report today. Provisions from S. 1165 included in the Conference Report will ensure that youth in the juvenile justice system are protected from abuse and assault by adults in adult jails. The Conference Report ensures we will remain focused on preventing juvenile crime before it occurs: it reauthorizes Title V, the Justice Department's juvenile crime prevention grant program. Title V resources have been critical in Delaware to sponsor programs to reduce school violence, provide transition counseling to students returning to their local school from alternative school placement, reduce suspensions, expulsions, truancy, and teen pregnancy, and provide services to the children of incarcerated adult offenders. I compliment Senator KOHL for his steadfast devotion to Title V and for ensuring it is continued through this Conference Report.

The Conference Report adopts provisions of S. 1165 that authorize the Juvenile Accountability Incentive Block Grant. This program was created in the 1998 Commerce Justice State appropriations bill but has never been authorized. It provides resources to States and units of local government so programs can be developed to promote greater accountability in the juvenile justice system. The Conference Report also expands the purposes to which JAIBG funds can be put, for the first time, resources are provided to support proven strategies for rehabilitating adjudicated youth and families

as well as for reducing juvenile re-offense rates. In years past, my state has used JAIBG funds to establish a Serious Juvenile Offender program through the Delaware Division of Youth Rehabilitative Services, which provides an immediate secure placement of violent youth offenders who have violated the terms of their probation. Delaware has also used these funds to expand diversionary programs such as Teen Court and Drug Court, thus reducing the time between arrest and disposition of juvenile offenders, and to add psycho-forensic evaluators in the Delaware Office of the Public Defender to identify and address mental illness as a cause for delinquent conduct. I compliment the conferees for including provisions drawn from S. 1165 and H.R. 863 in this Report.

I would also like to highlight the provisions in the Conference Report that are designed to strengthen Boys and Girls Clubs of America. Provisions here will allow for the establishment of 1,200 additional Clubs across the Nation. This will bring the number of Clubs to nearly 4,000, serving nearly 6 million young people across America.

Finally, this Conference Report also incorporates much of S. 304, the Drug Abuse Education Prevention and Treatment Act, a bill which Senators HATCH, LEAHY and I introduced together. While I am disappointed that many of the bill's drug treatment provisions were dropped in conference, I promise to fight for those provisions again in the next Congress.

I want to draw attention to three of the important provisions from S. 304 that were included in the conference report to address addiction among those in the criminal justice system and make sure that we are doing all we can to keep them from reoffending. Specifically, the conference report reauthorizes two key programs created in the 1994 Biden Crime Law to deal with drug addicts in the criminal justice system, prison-based drug treatment and the drug court program, and includes my ''Offender Reentry and Community Safety Act of 2001,'' which creates demonstration programs to oversee the reintegration of high-risk, high-need offenders into society upon release.

Let me address prison-based drug treatment first. Providing prison-based treatment is not ''soft''; it is smart crime prevention policy as the Key and Crest programs in my home state of Delaware have shown. If we do not treat addicted offenders before they are released, they will return to our streets with the same addiction problem that got them in trouble in the first place, and they are likely to re-offend. This is not my opinion; it is fact. More than 80 percent of inmates with five or more prior convictions have been habitual drug users, compared to approximately 40 percent of first-time offenders. Prison-based treatment programs are a good investment and an important crime prevention initiative.

And so are drug courts. The Federal Government has funded drug courts since 1994 as a cost-effective, innovative way to deal with non-violent offenders who need drug treatment. Rather than just churning people through the revolving door of the criminal justice system, drug courts help these folks get their acts together so they won't be back. When they graduate from drug court programs they are clean and sober and more prepared to participate in society. In order to graduate, they are required to finish high school or obtain a GED, hold down a job, and keep up with financial obligations, including drug-court fees and child-support payments.

Drug courts have been proven effective at keeping offenders with little previous treatment history in treatment, providing closer supervision than other community programs to which the offenders could be assigned, reducing crime and being cost-effective.

Just as treating addicted offenders when they are in the criminal justice system is smart crime policy, so is making sure that high-risk, high-need offenders get reintegrated into society upon release. These individuals have served their prison sentences, but they pose the greatest risk of re-offending because they lack the education, job skills, stable family or living arrangements, and the substance abuse treatment and other mental and medical health services they need to successfully re-integrate into society. The demonstration reentry programs created in this conference report will help supervise high-risk people when they are released from jail and make sure they get the services and other support that they need so they won't go back to a life of crime and can be productive members of our society.

Once again, I thank the conferees, Senators LEAHY, HATCH and KENNEDY and their staff, including Bruce Cohen, Beryl Howell, Ed Pagano, Tim Lynch, Steve Dettelbach, Makan Delrahim, Leah Belaire, Wan Kim, Melody Barnes and Robin Toone, for their unfailing support for these provisions, and for their hard work in bringing the Conference Report to the floor.

VIOLENCE AGAINST WOMEN OFFICE

Mr. LEAHY. As you stated earlier, the pending Justice reauthorization conference report establishes an independent Violence Against Women Office, and isn't it true that this Office will be an autonomous and separate office within the Department of Justice and no longer underneath the jurisdiction of the Office of Justice Programs?

Mr. BIDEN. That is absolutely correct. Rather than be one of many offices subsumed in a larger bureau or office, the Violence Against Women Officer will now be its own, separate and distinct entity within the Department of Justice. This provision means that the Office will be removed from its current location in the Office of Justice Programs, and become its own free-standing entity. This is a non-negotiable and unambiguous provision of the act. What this means is that the leadership and the agenda of the Office cannot be pushed to the sidelines or marginalized. You and I both know that ending violence against women is too important of an issue to be relegated to a back office.

Mr. LEAHY. I couldn't agree with you more, Senator. I am particularly pleased that the Violence Against Women Office will now be led by a Director nominated by the President and confirmed by the Senate. How will this provision affect our nation's fight to end domestic violence and sexual assault?

Mr. BIDEN. A director who is nominated by the President and confirmed by the Senate will have the stature, credibility and authority necessary to spearhead the efforts to end violence against women. In practical terms, a director within this sort of clout will attract the attention of key Congressional leaders, will be able to travel the country and bring state leaders to the table for local initiatives, and will be able to command the nation's bully pulpit on these issues. Another key provision in the statute creating the Violence Against Women Office is the explicit instruction that the Director report directly to the Attorney General. Would the Senator agree?

Mr. LEAHY. Yes, the statute is unequivocal. The director shall report directly to the Attorney General—do not pass go, do not get out of jail free. The law is clear that the director is not to report to various deputies or assistants, but rather straight to the Attorney General. That kind of unfettered access to the Attorney General will ensure that issues of violence against women remain in the forefront, and part of the decision-making and policy-development done by those at the highest levels of government, isn't that so?

Mr. BIDEN: That is right. As the former Director of the Violence Against Women Office said: ''There is a world of difference between full participation in the highest levels of decision-making and being buried in a satellite grant office in the Department.'' When the director is out of the leadership circle and placed in a satellite office, the Violence Against Women Office's involvement in activities decrease; for example, it is no longer involved in educating U.S. Attorneys about their role in local communities' efforts to stop violence or it is no longer involved in deciding whether to bring or appeal specific cases. The new Violence Against Women Office Act will be ensure that the Director has the access he or she needs to fully participate—the fight to end violence against women deserves no less.

I thank the Senator for his efforts as our Judiciary Committee Chairman and as a conferee to the Justice Reauthorization Act in moving this important act forward.

Mr. ENZI. Mr. President, I rise in support of the Conference Report for

the U.S. Department of Justice Reauthorization. We are debating legislation that overwhelmingly passed the House last Thursday on a vote of 400–4. It is my hope that it will pass the Senate with an equally strong majority.

I am speaking in support of legislation included in the conference report that protects the rights of motor vehicle dealers, many of which are small businesses, under State law. The provision is identical in substance to Senators HATCH and FEINGOLD's bill, S. 1140, which has bipartisan support of 64 cosponsors. I ask my colleagues to pass this legislation and restore desperately needed rights to small businesses throughout the nation.

S. 1140 is necessary to restore fairness for automobile dealers by preserving their state rights in dispute resolution with manufacturers under motor vehicle dealer contracts. All 50 States, including Wyoming, have enacted laws to regulate the relationship between motor vehicle dealers and manufacturers and curb unfair manufacturer practices. These laws are necessary to protect auto dealers since they must sign contracts with the much larger manufacturers to sell the product. A Supreme Court decision, however, allows manufacturers to skirt these State laws by including mandatory binding arbitration in their dealer contracts.

Congress never intended to strip the State's role in regulating the motor vehicle dealer franchise relationship, but because of the Supreme Court interpretation, states cannot prohibit manufacturers from forcing dealers to waive their state rights and forums. Dealers must sign ''take-it-or-leave it contracts'' drafted by the manufacturer to stay in business, and are vulnerable to manufacturer abuses of power. Since States cannot remedy this problem, Federal legislation is necessary to restore dealers' rights.

Specifically, the legislation included in the conference report States that whenever a motor vehicle franchise contract provides for the use of arbitration to resolve a contractual controversy, arbitration may be used to settle the controversy only if both parties consent in writing after the controversy arises. It also requires the arbitrator to provide the parties with a written explanation of the factual and legal basis for the award.

The arbitration language in the conference report before us is supported by Wyoming automobile and truck dealers and dealers throughout the country because it would merely restore State law. It is consistent with Wyoming law, which does not allow a manufacturer to force a dealer to prospectively waive rights and remedies under State law. I urge my colleagues to pass this legislation and protect our States' interest in regulating the auto dealer/manufacturer relationship.

The PRESIDING OFFICER. The Senator from Nevada.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

UNANIMOUS CONSENT REQUEST—H.R. 4069

Mr. REID. Mr. President, I ask unanimous consent that the Finance Committee be discharged from further consideration of H.R. 4069 and the Senate now proceed to its consideration, that it be read the third time and passed, and the motion to reconsider be laid upon the table, all with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. SESSIONS. I object. There are individuals on this side who have an objection. I object.

The PRESIDING OFFICER. The objection is heard.

Mr. REID. Mr. President, I appreciate the courtesy of the Senator from Alabama waiting.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business with Senators allowed to speak therein for up to 5 minutes each.

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

IMPOSING BUDGET ENFORCEMENT RULES

Mr. DASCHLE. Mr. President, yesterday marked the end of the fiscal year, and, absent action by the Senate, it will also mark the end of a fiscal discipline system that has served this country very well for more than a decade.

Earlier this year, we had a chance to pass a budget blueprint for 2003. It was jointly co-sponsored by Senators CONRAD and DOMENICI, the chair and ranking member of the Senate Budget Committee. It received 59 votes. one vote short of passage. It would have done exactly what everyone in this chamber knows we should do. It would have extended the pay-as-you-go rules and the other points of order that have helped enforce at least some measure of fiscal discipline around here since 1990.

When we voted in the spring, many Republicans voted ''no,'' citing the total amount for 2003 discretionary spending. That issue has been removed from the current effort to extend the budget enforcement rules, and there is no longer any plausible reason to oppose a simple extension of the points of order.

Prior to the time President George H.W. Bush signed the budget act into law in 1990, there were no procedural barriers to the most irresponsible fiscal propositions. Spending proposals could be offered without any consideration for offsetting their budgetary affects. Tax cuts could be implemented without the slightest thought for their long-term consequences. Enormous fiscal damage could be inflicted with a simple majority vote.

The 1990 Budget Act ended the bad old days, and it did so with overwhelming bipartisan support. It has subsequently been extended each time it expired whether the Senate was in Democratic or Republican hands.

It should be extended here today.

I think we all know that the budgetary trend of the last year has been profoundly negative. For many years, the two parties have disagreed vehemently about the most fundamental aspects of our country's spending and tax policies—and we will continue to disagree. But the times when we were able to restore fiscal balance, like we did in the 1990s, were the times when both parties agreed to retain basic discipline at the procedural level. We very much need to agree to that right now.

Democrats will continue to press for adoption of the Conrad-Domenici budget enforcement resolution as soon as possible, and we urge all Senators to support it.

CHALLENGES TO CONCURRENT RECEIPT OF BENEFITS FOR DISABLED VETERANS

Mr. REID. Mr. President, I have worked hard to make sure all the brave men and women who have served in our Armed Forces are treated fairly.

Many military retirees, like so many other Americans, have relocated to fast-growing Nevada because of its high quality of life. And Nevada is also home to some of the country's finest military installations.

Regardless of where our loyal veterans and service members live, they all deserve our gratitude, respect, and fair treatment.

For several years I have introduced and championed legislation that would end the unfair policy of denying America's disabled veterans retirement benefits they have earned through years of service and sacrifice.

Changing the current law that requires disabled retirees to forfeit a dollar of their earned retired pay for each dollar they receive in veterans' disability compensation is simply the right thing to do.

I am therefore extremely troubled that the Bush administration opposes a

provision in the Senate Defense authorization bill allowing so-called concurrent receipt of retirement pay and disability pay by disabled military retirees.

Some officials have been quoted in recent newspaper articles as stating that retired pay and disability pay are ''two pays for the same event'' and that receiving both would be ''double-dipping'' not permitted other retirees. These statements are simply not true.

Career military retired veterans are the only group of Federal retirees required to waive their retirement pay in order to receive VA disability. Other Federal retirees get both disability and retirement pay.

This antiquated law that denies our veterans concurrent receipt in effect implies wrongly and unfairly that disabled military retirees neither need nor deserve the full compensation they earned for their 20 or more years served in uniform.

Military retirement pay and disability compensation are earned for entirely different purposes and therefore a disabled veteran should be allowed to receive both. Current law ignores the distinction between these two benefits.

Military retired pay is earned compensation for the extraordinary demands and sacrifices inherent in a military career. It is a reward promised for serving two decades or more under conditions that most Americans find intolerable.

Veterans' disability compensation, on the other hand, is recompense for pain, suffering, and lost future earning power caused by a service-connected illness or injury. Few retirees can afford to live on their retired pay alone, and a severe disability only makes the problem worse by limiting or denying any postservice working life. A retiree shouldn't have to forfeit part or all of his or her earned retired pay as a result of having suffered a service-connected disability.

Likewise, the administration's assertion that if concurrent receipt passes ''1.2 million veterans could qualify'' for extra payments is simply not credible. The Department of Defense and Department of Veterans Affairs previously informed Congress that about 550,000 disabled retirees would qualify if the Senate concurrent receipt plan were approved. But the new administration speculation that an additional 700,000 might apply for and be granted disability ratings is an unfounded exaggeration.

The administration's argument that funding benefits for America's disabled veterans would hurt current military personnel is also misleading. Congress is not cutting funding for those who are now serving our country in order to provide benefits for those from previous generations who served loyally and made tremendous sacrifices. Congress will appropriate the money to pay for it.

Enacting my concurrent receipt legislation will not cause service members to live in substandard quarters, as some Defense leaders try to claim in a misguided attempt to turn one generation of patriots against others.

Moreover, at a time when our Nation is calling upon our Armed Forces to defend democracy and freedom, we must be careful not to send the wrong signal to those now in uniform. All who have selected to make their career in the U.S. military now face an additional unknown risk in our fight against terrorism. If they are injured, they would be forced to forego their earned retired pay in order to receive their VA disability compensation. In effect, they would be paying for their own disability benefits from their retirement checks unless my legislation is enacted.

We must send a signal to these brave men and women that the American people and Government take care of those who make sacrifices for our Nation. We have a unique opportunity this year to redress the unfair practice of requiring disabled military retirees to fund their own disability compensation. It is time for us to show our appreciation to these men and women.

Finally the assertion that the veterans who would benefit from concurrent receipt are already doing well financially is ridiculous. NBC News recently aired three news stories documenting the dire situation that veterans are facing today. The Pentagon has acknowledged that its studies of retiree income included very few seriously disabled retirees.

On July 8, 2002, I sent a letter to the President urging him to support the inclusion of a concurrent receipt provision in the final Defense Authorization Act. Our veterans have heard enough excuses. Now it is time for them to receive the benefits they earned.

TRIBUTE TO COMMANDER DAVID G. MANERO, U.S. NAVY

Mr. LOTT. Mr. President, I wish to take this opportunity to recognize an outstanding Naval Officer, Commander Dave Manero, for the tremendous work he has done as a member of my staff during the second session of the 107th Congress. It is my privilege to recognize his many career accomplishments and to commend him for the superb service he has provided the Navy, the great State of Mississippi, and our Nation.

Commander Manero is the son of Carmen and Rosemary Manero of Highland Park, NJ. He earned his commission through NROTC at the University of Pennsylvania where he graduated in 1988 with a Bachelor of Science in Electrical Engineering. He received his Wings of Gold from Helicopter Training Squadron Eight at NAS Whiting Field, FL. on July 7, 1989.

Following flight school, Commander Manero reported to Helicopter Anti-Submarine Squadron Light, HSL, 41 where he received training in the SH–60B Seahawk with a follow-on tour at the HSL–45 'Wolfpack.' While assigned to the Wolfpack, he deployed in USS *Paul F. Foster*, DD–964, as Detachment One Operations Officer in support of Operation Desert Storm. During the Gulf War, he worked in close coordination with British Lynx helicopters in the destruction of six hostile surface combatants. He subsequently cruised as Detachment Three Maintenance Officer embarked in USS *Jarrett*, FFG–33, in support of Operation Southern Watch. He was presented with the 1991 Naval Helicopter Association national ''Aircrew of the Year'' and the 1993 Wolfpack ''Officer of the Year'' awards.

Commander Manero's next assignment included selection for the Navy's Advanced Education Program where he attended a two-year Masters Program at Harvard University. He graduated in 1995 with a Master of Public Policy specializing in International Affairs and Security. After graduate school, Commander Manero was assigned as Flag Lieutenant, Commander Carrier Group ONE located in San Diego, CA. He deployed to the South Pacific embarked in USS *Blue Ridge*, LCC–19, and Arabian Gulf in USS *Carl Vinson*, CVN–70, as a member of the fly-away Joint Forces Air Component Commander's staff.

Commander Manero returned again to the East Coast where he attended the U.S. Naval Test Pilot School and graduated in December 1997 with Class 112. In January 1998, he reported in to the Naval Rotary Wing Aircraft Test Squadron in Patuxent River, MD where he served as a Test Pilot and as the Sea-Control Department Head. A Member of the Society of Experimental Test Pilots, he has accumulated over 2800 flight hours in over 30 different aircraft types.

In May 1999, Commander Manero reported to the HSL–43 'BattleCats' where he served as Training Officer, Detachment Officer-in-Charge and Squadron Maintenance Officer. Prior to his detachment from his department head tour, he was selected for Commander and was nominated for the prestigious 'John Paul Jones Inspirational Leadership' award. Dave is currently assigned as a Legislative Fellow on my staff and has made tremendous contributions towards shaping our Navy's future through the DD(X), Littoral Combat Ship, LHD, and LHR programs. He also was instrumental in securing over $108 million in Military Construction funding for Mississippi. I offer my sincere congratulations for Dave's recent selection to command. He will depart my staff in December to take command of a squadron in mid-2004.

Throughout his most distinguished career, Dave has served the United States Navy and our Nation with pride and excellence. His awards include the Air Medal, two Strike Flight, the Navy Commendation Medal, five, two with Combat Valor distinction, the Navy Achievement Medal, the Combat Action Ribbon, and numerous other campaign and unit distinctions.

Commander Dave Manero has been an integral member of my staff and has contributed greatly to the best-trained, best-equipped, and best-prepared naval force in the history of the world. Dave's superb leadership, integrity, and limitless energy have had a profound impact on my entire staff and will continue to positively impact the United States Navy and our Nation. On behalf of my colleagues on both sides of the aisle, I wish Dave, his wife Justina, and their children Michael and Elizabeth ''Fair Winds and Following Seas'' and the best of luck in their bright future.

TRIBUTE TO LIEUTENANT COLONEL JAMES B. HECKER, U.S. AIR FORCE

Mr. LOTT. Mr. President, I would like to take this opportunity to recognize and say farewell to an outstanding Air Force officer, Lieutenant Colonel Jim ''Scorch'' Hecker, upon his departure from my staff. Lieutenant Colonel Hecker was selected as an Air Force Fellow to work in my office during the Second Session of the 107th Congress due to his professional reputation and superior knowledge of Defense issues, the United States Air Force requirements process, and the military presence in my home State. He has been a valued team member and it is a privilege for me to recognize his many outstanding achievements and the superior service he has provided the United States Senate, the Air Force, and our Nation.

Lieutenant Colonel Hecker, the son of Rick Hecker and Cindy Walker, was a graduate of the Air Force Academy where he was commissioned as a Second Lieutenant. Since then, Lieutenant Colonel Hecker has spent the majority of his career patrolling the world's skies as an Air Force fighter pilot. Following flight training, he began his service flying the F–15C ''Eagle'' in the 8th Fighter Squadron, 49th Tactical Fighter Wing at Holloman AFB, NM. When the F–15C's left Holloman AFB, so did Lieutenant Colonel Hecker. He was reassigned to the 390th Fighter Squadron, 366th Wing, Mountain Home AFB, ID. During this tour, Lieutenant Colonel Hecker was instrumental in bedding down the F–15C aircraft in the first Composite Wing in the Air Force. After this tour, Lieutenant Colonel Hecker attended the Air Force Weapons School at Nellis AFB, NV with a follow-on tour at the 44th Fighter Squadron, 18th Air Base, Okinawa, Japan. As the squadron Weapons Officer, Lieutenant Colonel Hecker was the lead pilot responsible for preparing the squadron to go to war. During this tour, Lieutenant Colonel Hecker deployed in support of Operations SOUTHERN WATCH where he led combat missions patrolling the skies over Iraq enforcing the no-fly zone. In July 1998, Lieutenant Colonel Hecker was handpicked to return as an instructor at the Air Force Weapons School where he deployed in support of Operation ALLIED FORCE. Lieutenant Colonel Hecker led 10 combat missions and was the focal point in the Combined Air Operations Center C5 Strategy Cell for resolving air-to-air issues. In 2000, Lieutenant Colonel Hecker left the cockpit to serve on the staff of the Secretary of the Air Force in Washington, DC as an Air Force Senate Liaison Officer and then was selected to serve as a Military Legislative Fellow during the 2nd session of the 107th Congress.

Lieutenant Colonel Hecker quickly became a valued member of my staff sharing his proven operational experience and insightful knowledge on a number of Department of Defense issues, including defense health care, operational beddown of C–17 and C–130J aircraft, various weapons systems, military construction, university research programs, and economic development projects. Specifically, Jim was instrumental in helping the Air Force gain Congressional support for the F/A–22 aircraft and solve the weather radar problem with the WC–130J aircraft at Keesler AFB. He helped me articulate a successful case for adding funding for additional maintenance training simulators and military construction projects that will help ensure the successful beddown in Jackson, MS of the first ever C–17 aircraft assigned to the National Guard. He successfully negotiated with Northrop Grumman Corporation to move the production of the Global Hawk's wing as well as full assembly of the Fire Scout to Mississippi. Lieutenant Colonel Hecker's coordination with the staffs of the Senate Armed Services Committee and the Senate Appropriations Defense Subcommittee led to over $108 million in military construction funding for Mississippi's military bases.

Lieutenant Colonel Hecker is married to the former Terrie Lee Draney of Colorado Springs, CO. They have two children, 7 year-old son Jaden and 5 year-old son Colton. The Congress and the country applaud the selfless commitment his entire family has made to the Nation in supporting his military career. Among Lieutenant Colonel Hecker's many awards and decorations are the Meritorious Service Medal with two oak leaf clusters, Air Medal with oak leaf cluster, and Air Force Achievement Medal along with numerous other campaign and unit distinctions.

Lieutenant Colonel Hecker will return to the Air Force at Langley AFB, VA where he will once again control the skies in the F–15C. I have appreciated greatly Lieutenant Colonel Hecker's contributions to my team and I will miss him. On behalf of my colleagues on both sides of the aisle, I wish Lieutenant Colonel Hecker and his family ''Good Hunting and Godspeed.''

HOLLADAY JOHNSTON RICHARDSON

Mr. HELMS. Mr. President, our friend and distinguished colleague, STROM THURMOND, has a lost a dear member of his Senate Family. Holly Richardson's courageous battle with breast cancer ended early Monday morning. I do not use the word courageous lightly; if there ever was a courageous cancer patient, it was Holly Richardson. She fought until the end and never gave up.

Holly was one of the most delightful people I have ever met. She was STROM THURMOND's right, hand lady for almost 25 years and she meant so much to the entire Thurmond family. Holly's strong faith helped her immeasurably and while we all mourn her passing, we know where she is.

Her obituary in this morning's Columbia, SC, newspaper, *The State*, poignantly describes this remarkable lady, as does the article about her in today's Charlotte Observer. I ask unanimous consent that they be printed in the RECORD.

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

[From the State, Columbia, SC, Oct. 1, 2002]

HOLLY JOHNSTON RICHARDSON—LONGTIME THURMOND CONFIDANTE

(By Lauren Markoe)

WASHINGTON.—Holly Johnston Richardson—confidante, gatekeeper and personal adviser to U.S. Sen. Strom Thurmond since 1978—died Monday of breast cancer.

''Early this morning, I lost one of my closest friends and staff members,'' Thurmond said in a statement issued by his office. ''She was a member of my extended family in every sense of the word.''

The Summerville native was 48. Since 1979, Richardson functioned as Thurmond's master scheduler, making sure he was in the right place at the appointed time. Her supersized Rolodex included the numbers for scores of average South Carolinians and several heads of state, and she could get most of them on the phone in seconds.

But generations of staffers say it was her Southern charm, impeccable manners and love for Thurmond that made her one of the most important people in his life.

''I've seen the senator cry twice. When his daughter died and today, when Holly died,'' said Mark Goodin, a former press secretary and adviser to Thurmond. ''She was always there for him. I don't think anybody ever thought she would go before he did.''

Thurmond's daughter Nancy Moore Thurmond died in a car crash in 1993. The oldest living and longest-serving senator, he will turn 100 on Dec. 5.

Chris Kelley Cimko, Thurmond's press secretary from 1993 to 1997, said Richardson went well beyond her office duties in her service to Thurmond, particularly before he began living at Walter Reed Army Medical Center last year.

''When she was cooking Sunday night, she would make a double batch of whatever it was and make sure it was in his refrigerator,'' said Cimko.

''Like all trusted staff members, Holly Richardson had my ear,'' Thurmond's statement continued. ''What she probably never knew fully is that she had my heart.''

Richardson met the Thurmond family after joining his 1978 re-election campaign, just

after her graduation from Converse College in Spartanburg. She drove a camper, nicknamed ''Strom Trek,'' over 10,000 miles in 10 weeks, recalled Nancy Thurmond, the senator's now-estranged wife.

Her first job in Thurmond's office was to answer phones, greet visitors and help out with constituents' problems. She also oversaw the office's intern and page programs, which gave high school and college students opportunities to learn the workings of a congressional office.

Generations of interns, staffers and members of Congress recall her courtesy and work ethic.

''Holly Richardson was one of the most personable and efficient people I've ever known,'' said N.C. Sen. Jesse Helms. ''She was unfailingly pleasant and devoted to Strom Thurmond—a feeling that was mutual.''

''She treated everyone the same way, with dignity and respect,'' said Cimko.

She is survived by her husband, Phil, and two children, Emmett, 12, and Anne 9, and her parents, Joanne and Coy Johnston of Summerville.

Richardson, an active member of St. Paul's Episcopal Church in Alexandria, Va., her adopted hometown, had a strong faith that supported here and others. She was also an active member of the Junior League.

''When we lost our daughter, Holly's vigilant faith helped to sustain all of us,'' Nancy Thurmond said.

But as devoted as she was to the Thurmond's her own family still came first, said Nancy Thurmond. She and staffers said they marveled at Richardson's ability to balance her family life and her work on Capitol Hill.

She was diagnosed with breast cancer less than a year ago, and rebounded after rounds of chemotherapy. But the disease spread, and she had to stop working several months ago.

A memorial service will be held at 11 a.m. Saturday at Trinity Episcopal Cathedral in Columbia.

[From the Charlotte Observer, Oct. 1, 2002]

THURMOND STAFFER DIES OF CANCER AT 47

(By Charles Hurt)

WASHINGTON.—Holladay Richardson, one of Sen. Strom Thurmond's top aides for nearly a quarter century, died Monday morning after a year-long, fight against breast cancer. She was 47 and the mother of two children.

''Words cannot begin to express my deepest sadness and pain with the loss of Holly,'' Thurmond wrote in a statement.

In a statement made part of the Senate's public record, South Carolina's senior senator said many aides over the years had his ear, but that only Richardson ''had my heart.'' He called her his ''unofficial third daughter.''

Richardson's most recent post was scheduler, the person who sets up Thurmond's calendar.

She first worked for him in South Carolina on his 1978 Senate campaign. Since 1979, she has shared Thurmond's Washington office, where she has seen eight chiefs of staff come and go.

Nationally syndicated political columnist Armstrong Williams recalled Richardson's importance from his days on Thurmond's staff more than 20 years ago.

''I can't remember the senator without Holly,'' he said. ''I knew she had cancer, but this is terrible. She was always there.''

As Thurmond's health faded in recent years, Richardson and other top staffers assumed greater roles in the office of American history's oldest and longest-serving senator.

''Holly protected him, would finish sentences for him and knew what he was thinking,'' Williams said. ''She was everything that anybody would ever want in a daughter. She was like a child protecting her parent.''

In May, Richardson and her family walked in the National Race for the Cure in Washington.

She described to a reporter for Roll Call at the time how she and her family had coped with her diseases by helping people less fortunate, such as a bed-ridden neighbor for whom they cooked.

''You go through a few minutes of self pity before you realize that you can either sit here and feel sorry for yourself or you can put it aside and move on,'' she was quoted as saying. ''That's how my family has gotten through this, by focusing on others who are in bad situations. Extending a hand to others, that's what life is all about.''

Richardson is survived by her husband, Phil, their children Anne, 9, and Emmett, 12, and her parents, Joanne and Coy Johnston of Summerville, S.C.

TRIBUTE TO CONGRESSWOMAN PATSY T. MINK

Mr. INOUYE. Mr. President, on Saturday, September 28, 2002, Hawaii lost a beloved and extraordinary daughter, PATSY TAKEMOTO MINK, who represented Hawaii in the U.S. House of Representatives for 24 years. I extend to her husband, John, and daughter, Wendy, my sincerest condolences.

The passing of Congresswoman MINK is a great loss for our Nation and our State, and it is a personal loss for me. She was an honorable colleague and a dear friend throughout our political careers.

I was privileged to work with PATSY in 1956, when we were both members of the Hawaii Territorial House of Representatives. She was the first Asian-American woman elected to the Hawaii Legislature. In the 1960s, we both gave speeches at Democratic National Conventions. She was Chairwoman of the Honolulu City Council. In 1964, she joined me as a member of Hawaii's Congressional Delegation when she became the first Asian-American woman elected to the U.S. House of Representatives. For 24 years, she was an integral part of the Hawaii Delegation. I appreciated her honesty, I respected her thoughts, and I admired her resolve.

Throughout her public service, PATSY concerned herself with making our country a better place for all people. She will be remembered for her powerful and passionate voice as she championed causes for women, children, the elderly, and the needy. For those who were vulnerable or mistreated, she was their able and loyal defender.

Born Patsy Takemoto in a plantation community in Paia, Maui, on December 6, 1927, PATSY had the intelligence and work ethic to succeed in any profession. However, medical school eluded her and the legal community did not embrace her after she received her law degree from the University of Chicago in 1951. The reason she was rejected by medical schools and legal circles? Her race and her gender.

Rather than accept defeat, the strong-willed PATSY set out to eliminate the societal barriers of the day, and ran for office in the U.S. House of Representatives, which at that time was comprised of mostly white and mostly males members. She won the election and went on to pave the way for new generations of women to more fully enjoy their rights as citizens of a great nation.

PATSY co-authored and spearheaded the difficult passage of Title IX of the Education Amendments of 1972, which prohibits discrimination in educational opportunities based on gender at institutions receiving federal funds. It opened academic opportunities for women, and revolutionized the world of sports. Since the passage of this landmark legislation, participation by girls in high school athletics nationwide has increased nearly tenfold, and college participation has grown almost five times. College scholarships awarded to women in 2002 were worth $180 million. Title IX serves as the foundation of the careers of today's top professional U.S. female athletes. The U.S. women soccer team's 1999 World Cup triumph, U.S. women's domination of Olympic sports, and the birth of the women's professional National Basketball Association are rooted in Title IX.

To fully appreciate the significance of Title IX, compare women's sports in 1972 to today as reported by the Honolulu Advertiser. In 1972, the only woman with an athletic scholarship at the University of Hawaii was a drum majorette. Of UH's $1 million athletic budget, $5,000 was given to women's club sports. Today, UH spends $4 million annually on 11 women's teams.

PATSY's reputation as a relentless and formidable lawmaker extends beyond the passage of Title IX. She advocated for civil rights, peace, education, health care, and the environment with equal eloquence and effectiveness.

I last spoke with my friend, PATSY, in August at a fund-raising event in Hawaii. She mingled and talked with constituents with her trademark vim and vigor. Her deep love for her constituents and her nation was evident. She was focused on the future and continuing her service to the people of Hawaii.

PATSY answered the call to public service to the end, and her work immeasurably improved America's landscape for the under-represented and down-trodden for whom she had so much compassion. As my colleagues and I continue our work, we will long be able to look to Mrs. PATSY MINK's life of service for inspiration and hope.

REFLECTING ON THE ANNIVERSARY OF SEPTEMBER 11

Mr. ENSIGN. Mr. President, one year ago, this Nation stood united. Together we mourned, prayed, and hoped. We hugged our loved ones a little bit longer and a little bit tighter. Our hearts wept for the thousands of families who unexpectedly and unbelievingly lost a husband or wife, a

mother or father, a son or daughter at the hands of evil.

It's hard to believe that an entire year has passed since that surreal day. While we have observed holidays, celebrated milestones, and continued with life, there are still daily reminders of the horrific events of one year ago. Flags still fly more frequently than before, security precautions still cause delay, and our hearts still weigh heavy when we think about the dreams that were cut short that tragic day.

As we remember September 11, I encourage you to make today a day of introspection and compassion.

Remember where you were last year when you heard the news. Remember the footage you watched in disbelief. Remember the pain you felt in your heart. Take those images with you throughout the day. Make it a point to leave work on time, have dinner with your family, talk to each other about what today means, and hug your loved ones a little bit longer and a little bit tighter.

On your own or as a family, consider doing something for your community in honor of the victims of 9/11. It can be donating blood, making a financial contribution to a needy cause, or giving your time and energy to a worthwhile organization.

I hope that we can all make today a positive and meaningful opportunity to unite our communities in helping others and honoring the victims of 9/11. Together we will send a strong message to the world that Americans remain united. Time will not steal our memory of the victims and attacks of September 11.

AMENDMENT TO HOMELAND SECURITY ACT OF 2002

Mr. SPECTER. Mr. President, I ask unanimous consent to have printed in the RECORD the text of an amendment regarding the Homeland Security bill.

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

SPECTER AMENDMENT 2 TO LIEBERMAN SUBSTITUTE

Insert on page 59, line 21, of the Lieberman Amendment No. 4471, a new section (c) entitled ''HOMELAND SECURITY ASSESSMENT CENTER.'' After inserting the title, insert attached text with designated edits (revising sections, subsections, paragraphs and subparagraphs accordingly).

(c) HOMELAND SECURITY ASSESSMENT.—

(1) ESTABLISHMENT.—There is established in the Department the Homeland Security Assessment Center.

(2) HEAD.—The Under Secretary of Homeland Security for Intelligence shall be the head of the Center.

(3) RESPONSIBILITIES.—The responsibilities of the Center shall be as follows:

(A) To assist the Directorate of Intelligence in discharging the responsibilities under subsection (b) of this section.

(B) To provide intelligence and information analysis and support to other elements of the Department.

(C) To perform such other duties as the Secretary shall provide.

(4) STAFF.—

(A) IN GENERAL.—The Secretary shall provide the Center with a staff of analysts having appropriate expertise and experience to assist the Center in discharging the responsibilities under this section.

(B) PRIVATE SECTOR ANALYSTS.—Analysts under this subsection may include analysts from the private sector.

(C) SECURITY CLEARANCES.—Analysts under this subsection shall possess security clearances appropriate for their work under this section.

(5) COOPERATION WITHIN DEPARTMENT.—The Secretary shall ensure that the Center cooperates closely with other officials of the Department having responsibility for infrastructure protection in order to provide the Secretary with a complete and comprehensive understanding of threats to homeland security and the actual or potential vulnerabilities of the United States in light of such threats.

(6) SUPPORT.—

(A) IN GENERAL.—The following elements of the Federal government shall provide personnel and resource support to the Center:

(i) Other elements of the Department designated by the Secretary for that purpose.

(ii) The Federal Bureau of Investigation.

(iii) Other elements of the intelligence community, as that term is defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(iv) Such other elements of the Federal Government as the President considers appropriate.

(B) MEMORANDA OF UNDERSTANDING.—The Secretary may enter into one or more memoranda of understanding with the head of an element referred to in paragraph (1) regarding the provision of support to the Center under that paragraph.

(7) DETAIL OF PERSONNEL.—

(A) IN GENERAL.—In order to assist the Center in discharging the responsibilities under subsection (c), personnel of the agencies referred to in paragraph (2) may be detailed to the Department for the performance of analytic functions and related duties.

(B) COVERED AGENCIES.—The agencies referred to in this paragraph are as follows:

(i) The Department of State.

(ii) The Central Intelligence Agency.

(iii) The Federal Bureau of Investigation.

(iv) The National Security Agency.

(v) The National Imagery and Mapping Agency.

(6) The Defense Intelligence Agency.

(7) Other elements of the intelligence community, as defined in this section.

(8) Any other agency of the Federal Government that the Secretary considers appropriate.

(C) COOPERATIVE AGREEMENTS.—Personnel shall be detailed under this subsection pursuant to cooperative agreement entered into for that purpose by the Secretary and the head of the agency concerned.

(D) BASIS.—The detail of personnel under this subsection may be on a reimbursable or non-reimbursable basis.

(8) STUDY OF PLACEMENT WITHIN INTELLIGENCE COMMUNITY.—Not later than 90 days after the effective date of this Act, the President shall submit to the Committee on Governmental Affairs and the Select Committee on Intelligence of the Senate and the Committee on Government Reform and the Permanent Select Committee on Intelligence of the House of Representatives a report assessing the advisability of the following:

(A) Placing the elements of the Center concerned with the analysis of foreign intelligence information within the intelligence community under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(B) Placing such elements within the National Foreign Intelligence Program for budgetary purposes.

LOCAL LAW ENFORCEMENT ACT OF 2001

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

I would like to describe a terrible crime that occurred September 14, 2001 in Alexandria, VA. A truck driver of Afghani descent was attacked in a parking lot just days after the terrorist attacks of September 11. The assailant, Michael Wayne Johnson, 49, pulled alongside the victim, asked if he was from Afghanistan, then jumped out of his truck and punched the victim. During the attack Mr. Johnson yelled ''I'm going to kill you!''

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

THE NEED FOR BROADBAND DEPLOYMENT IN RURAL AMERICA

Mr. JOHNSON. Mr. President, as I have on many occasions, I want to speak to the very important issue of broadband deployment, especially in rural States like my home State of South Dakota. I want to ensure new technology is utilized in ways that will help link rural communities to new and exciting opportunities available via the Internet. New technology will be critical to bringing new jobs, educational opportunities, and health care to South Dakota communities.

As the Senate considers the various proposals on how best to encourage the deployment of broadband, I want to make absolutely certain that any legislation we pass takes into account the extraordinary challenges we face in rural America to deploy advanced telecommunications services at an affordable cost to consumers. On this point, I must acknowledge and comment on the terrific effort put forth by so many of our rural independent and cooperative telecommunications providers in South Dakota. These companies have taken very seriously their commitment to serving rural communities, and now it's our turn in Congress to do our part towards this effort.

Not only will broadband deployment assist rural communities in developing new opportunities, I believe increased broadband deployment will help jumpstart our lagging economy. A recent study by an economist with the Brookings Institution concluded that adding more broadband connections could boost the economy by $500 billion per year. To support this finding, computer and technology companies like

Microsoft, Cisco, Hewlett Packard, Dell, Intel, Corning, Motorola, and NCR have weighed in, saying it is critically important for the United States to adopt a national broadband policy that encourages investment in new broadband infrastructure, applications, and services.

Broadband deployment should be a national priority in the 21st century. In order to be competitive, educate our workforce, and increase productivity, the United States must have universal broadband. Millions of Americans in rural areas and inner cities are impeded in accessing the full range of services available from the Internet because they do not have access to broadband service. We should strive to connect all Americans to the Internet through broadband technology. I will work with my colleagues to find a way to accomplish this goal in a fair manner that supports broadband deployment throughout all of our Nation.

ADDITIONAL STATEMENTS

HISPANIC HERITAGE MONTH

• Mr. SARBANES. Mr. President, every year the Congress designates the September 15—October 15 period as Hispanic Heritage Month, but even as we do so we know that the contributions Hispanic Americans make to our national life are much greater than the modest tribute we pay them. Of all the varied cultures and traditions that are woven together into the distinctive fabric of American life, Hispanic Americans have some of the most distinctive, vigorous, and sustained culture and traditions.

In recent years the Hispanic American population in the United States has grown very rapidly. According to the 2000 census it stands at 35 million, which represents an increase of 58 percent in the previous decade alone. Projections show that by mid-century Hispanic Americans will make up 24 percent of the population; put another way, just about one in every four Americans will be of Hispanic-American origin. We have see this trend very clearly in my own State of Maryland, where the Hispanic American population has grown more than 82 percent since 1990, and now makes up more than 4 percent of the population statewide. But numbers and percentages, while impressive, only hint at the vigor and the variety of the Hispanic contribution to Maryland's culture and economy.

Just as the U.S. population is diverse, so is the Hispanic American community itself. There have long been established Puerto Rican and Dominican communities in New York City, Central American communities in the Washington metropolitan area, Cuban Americans in Florida, Mexican Americans in California and the Southwest; but Hispanics from many different countries now live in cities and towns and villages in every corner of the Nation, and they bring to the communities in which they settle the rich cultures of the nations from which they have come. They are moving forward to take their place in community and political institutions at every level. They are changing the face of America, and changing the way we see America. As Hispanic Americans participate increasingly in every aspect of our national life grows, they bring a new dimension to ethnic diversity; with their presence they challenge the old, corrosive assumptions that divided the world into black and white.

We must see to it that Hispanic Americans, like all others Americans, have access to all the opportunities that make our society stronger, opportunities for education, employment, health care and housing. We must also see that language barriers do not create unnecessary and unproductive impediments to participation. Sensitivity to cultural differences is important in our schools and clinics, our financial institutions, government offices and courts; appropriate bilingual materials can often solve problems of communication. Hispanic Americans have given much to our national life, and with adequate opportunities they will give much more.

Succeeding generations of immigrants have come to this country in search of a better life. They have worked hard, often against the most difficult odds, to make a place for themselves and their families, and to realize fully the promise this Nation offers. Diversity has always been the hallmark of the Republic; the attacks of September 11 a year ago have brought home to us, perhaps more so than ever in the past, that in the diversity of our people lies one of our greatest strengths. Hispanic Americans are now helping to write an important new chapter in our history, and I am pleased and proud to offer this tribute to Hispanic Heritage Month, which recognized and celebrates their accomplishments.•

HONORING FRED ABRAHAM

• Mr. DEWINE. Mr. President, I rise today to congratulate and honor an outstanding Ohioan, Fred Abraham, on his upcoming retirement. Fred is retiring from Ducks Unlimited, DU, where he has become widely recognized as the expert on wetlands restoration and protection. During his time at Ducks Unlimited, he has been an incredibly valuable resource to my staff and to me. We have relied on him for accurate information and clear advice on countless occasions.

Fred has dedicated more than three decades of his life to the preservation and restoration of wetlands. Through his work at Ducks Unlimited, Fred has advocated on behalf of wetlands across the country, working on projects in Ohio, Indiana, Michigan and California. Today, thanks to Fred's tireless efforts, America's wetlands are in great shape and have ample resources.

Fred was born in Canton, OH, and served time in the Air Force during the Korean War. He then returned to Ohio, where he worked in the steel mills and began a career marketing baked goods. His passion for conservation grew as he started organizing sportsmen's clubs throughout Ohio to voice their concerns on wildlife and conservation issues. Fred was one of the early advocates of fostering industrial responsibility as acid-mine runoff and other pollutants threatened wildlife and their habitat.

He developed such a talent for conservation advocacy that he was recruited by the Ohio Division of Wildlife and took a position as a District Supervisor. While there, he helped resolve many of the challenging habitat and conservation issues facing Ohio in the 1970s and 1980s, and solidified his status as a leader on wetland and wildlife issues.

Fred then went on to work for one of the most influential conservation organizations in the country, Ducks Unlimited. At DU, he built strong coalitions and made countless friends, advocating on behalf of sportsmen at the national level. After 16 years at DU, where he engaged in fundraising and grassroots advocacy, Fred came to Washington as DU's Director of Conservation Policy.

Fred was the force behind some of the most important conservation legislation that has been signed into law. His accomplishments on behalf of the North American Wetlands Conservation Act, the Wetlands Reserve Program, and the National Wildlife Refuge System Improvement Act have had a profound effect on wetlands, waterfowl, and wildlife across the country. Under his leadership and advocacy, the North American Wetlands Conservation Fund has increased dramatically, rising to $43,500,000 in 2002.

I first met Fred several years ago on a trip to the Ottawa National Wildlife Refuge and Metzger March in Northwest Ohio. I immediately could sense his passion for wetlands and his motivation to preserve these areas for us now and for generations in the future. There is no question that Fred Abraham is ''the Man'' when it comes to wetlands. Both in Washington and around the country, he is widely recognized as the foremost advocate on wetland restoration.

Everyone who has had the opportunity to work with Fred is proud to call him a friend. We admire his energy, enthusiasm, and commitment to the conservation cause. I am sure that he will spend his retirement enjoying some of the wetlands areas he has helped preserve, and I am confident that we will still hear his voice on many conservation issues. I ask my colleagues in the Senate to join me in congratulating Fred Abraham on his retirement and wish him the best of luck in the future.•

A TRIBUTE TO MR. RALPH PAIGE

• Mr. MILLER. Mr. President, it is a pleasure for me to recognize Ralph Paige, executive director of the Southern Federation of Cooperatives/Land Assistance Fund, or LAF, as the recipient for the National Cooperative Month Economic Freedom Award.

For the past 14 years, under Mr. Paige's direction, the Federation/LAF has aided the underserved communities in the great State of Georgia, and the rural South, by creating credit unions, farmer-owned cooperatives, and new sources of affordable housing for low-income people. He has also been a leading advocate for fair treatment and land retention for African-Americans and other minority farmers. The Federation/LAF has created more than 70 cooperative member groups with a membership of more than 20,000 families across 10 Southern States, 200 units of affordable housing, and 19 credit unions with more than 10,000 members.

Under Mr. Paige's leadership, the Federation/LAF has been a frontrunner in not just developing new rural businesses and cooperatives but also provides the training and resources necessary so that they may continue to thrive. The Federation/LAF continues to also advance forestry cooperatives, providing special landowner training programs to advance their development.

Mr. Paige has given selflessly of his time to promote and enhance cooperative business. He serves on the boards of the National Cooperative Business Association, Nationwide Insurance, and the Cooperative Development Foundation. He has served as an appointee to several USDA advisory committees, including the 21st Century Production Agriculture Commission, the Agriculture Policy Advisory Committee for Trade, and the National Agricultural Research, Extension, Education and Economics Advisory Board.

Mr. Paige is a past member of the boards for the Georgia Advisory Board on Small and Minority Business, Cooperative Business International, and Cooperative Works, which is a national network of cooperative development centers.

His achievements have been noted by national and international organizations. The Congressional Black Caucus recognized Mr. Paige's contributions to rural communities with the 2001 George Collins Rural Agriculture Advocacy Award. He is also an entrant into the George Washington Carver Public Service Hall of Fame, and has received the Georgia Distinguished Cooperator Award from the Georgia Cooperative Council. Under Mr. Paige's direction, the Federation/LAF received the Humanitarian Award from the Martin Luther King, Jr. Center for Non-violent Social Change and an award from the United Nations for ''significant contributions of adequate shelter to the poorer segments of the community.''

Ralph Paige epitomizes cooperation. Since 1967, the Federation/LAF has worked on behalf of some of the most disadvantaged citizens of our Nation to enable them to do two of the things most basic to economic freedom: own land and operate businesses. For these reasons, it is my honor to recognize Ralph for his work to advance cooperatives and serve disadvantaged communities. I congratulate you on receiving the 2002 Cooperative Month Economic Freedom Award.•

IN MEMORY OF HOLLY J. RICHARDSON

• Mr. HOLLINGS. Mr. President, this week my colleague, the senior Senator from South Carolina, had a great loss on his staff with the passing of Mrs. Holly J. Richardson, after a battle with cancer. She was Senator THURMOND's executive assistant and personal secretary, having worked for him for half of his career in this body.

But Holly also was a part of the entire Senate family from South Carolina, being as kind and accommodating to my office in the many dealings that we have together as she was to Senator THURMOND. She was the most efficient, conscientious person you'll ever want to meet, always doing her job with the gracious attitude of the fine southern lady she was. We will miss her.

We extend our deepest sympathies to her husband, Phil, and to her children, Anne and Emmett.•

TRIBUTE TO ANNIE REINHARDT LORITTS

• Mr. SESSIONS. Mr. President, today I pay tribute to an outstanding citizen of the great State of Alabama, Mrs. Annie Loritts. Mrs. Loritts will celebrate her 100th birthday on December 15, 2002.

Over the past 100 years Mrs. Loritts has displayed a dedication to her family, her friends, her students, and her community. As a young woman in Lincolnton, North Carolina, in the 1920's, she pursued a teaching certificate from the Livingstone Normal Teachers School and taught under the supervision of her father, for a year. She then married Emory Loritts and went on to become very active in her community. Mrs. Loritts was involved with the Arts Council of Lincoln County, the Lincoln County Library, and the Seniors Center. However, Mrs. Loritts still had a desire to work with the young people of Lincoln County and returned to college to earn her Bachelor of Science and Masters of Science. She went on to teach in Lincoln County Schools for the next fifty years and was instrumental in shaping the minds and lives of thousands of American citizens.

Mrs. Loritts, who now resides in Huntsville, AL, is an example of the dedicated professionals that teach our young people every day. Her commitment to improving the lives of children and producing solid citizens should serve as an example to each of us. I applaud her tireless efforts on the behalf of others and would like to take this opportunity to thank her for all that she has contributed to her community and the impact she has made on the lives of others.

I ask my colleagues to join me today in recognizing Mrs. Annie Loritts for her outstanding achievements and in wishing her a happy upcoming birthday.•

TRIBUTE TO TECHNICAL SERGEANT CAESAR KELLUM

• Mr. SESSIONS. Mr. President, it has come to my attention that Technical Sergeant Caesar Kellum has been recognized as one of 12 Outstanding Airmen of the Year by the United States Air Force. Technical Sergeant Kellum is the noncommissioned officer in charge of the Airspace Division, Southeast Air Defense Sector, SEADS, Florida Air National Guard FLANG, Tyndall AFB, FL.

Caesar has excelled as a member of the United States Air Force. For example, he maintained a 100 percent academic average on all written evaluations; unprecedented in his unit's history. Out of 36 weapons directors, he is the only one to earn an ''exceptionally qualified'' rating on back-to-back evaluations. Additionally, he is a key member of an evaluation team to assess operations control center's readiness to help detect and identify 800,000 aircraft annually.

In addition to his excellent work with the U.S. Air Force, TSgt Kellum has exhibited a great deal of involvement within the local community. He orchestrated the sector's participation in the American Cancer Society's Annual Relay for Life event and served as team captain for the Millennium Cure Walkers. He raised $5,061,56 for the American Cancer Society, exceeding the goal by 237 percent. As a result of his performance, he was awarded the highly coveted ''Team Spirit'' award, which is extended to the team with the best overall effort and attitude.

Caesar Kellum was raised in Athens, AL and, after graduating from West Limestone High School in Salem, AL, enlisted in the United States Air Force in August of 1990. Since arriving at Tyndall AFB, FL, Technical Sergeant Kellum has completed all the requirements and received his associate of science degree in Instructor of Technology from the Community College of the Air Force. Currently, he is in his junior year at the American Military University working on a bachelor of science degree in Management.

SGT Kellum's military decorations include the Air Force Commendation Medal with two oak leaf clusters, Air Force Achievement Medal, Combat Readiness Medal, Air Force Outstanding Unit Award, Organizational Excellence Award, Humanitarian Service Medal, National Defense Ribbon, Good Conduct Medal, and the Air Force Professional Military Education Graduate Ribbon.

TSgt Caesar Kellum deserves the thanks and praise of the nation that he continues to faithfully serve. I know the Members of the Senate will join me in wishing him and his wife Tiffiney Ann, also in the USAF, all the best in the years ahead. Well done, TSgt Kellum. You have made Alabama and America Proud.

I had the pleasure recently to visit with Caesar and Tiffney. They are the very model of a couple that have given their lives to excellence in public service. I was inspired just talking to them.●

50TH ANNIVERSARY OF DANIEL J. EDELMAN, INC.

● Mr. DURBIN. Mr. President, I am pleased today to congratulate Daniel J. Edelman, Inc., as it commemorates its 50th anniversary. Public relations firms look to Edelman as a company to follow, and I commend their work.

Since its founding in Chicago in 1952 by Daniel J. Edelman, the agency that bears his name has consistently been identified for its leadership in public relations. Edelman has received several awards, including the Golden World Award from the International Public Relations Association and the Sword of Excellence Award from the Institute of Public Relations in London.

Mr. Edelman is widely regarded in public relations circles as a leader and innovator in the development of public relations practices, standards and ethics in the United States and internationally. He has generously given his time to the Public Relations Society of America and to students seeking public relations careers. Mr. Edelman believes that public relations should be practiced in a professional manner with commitment to the highest standards. Edelman Public Relations has contributed significant time to local, national and international philanthropic causes and organizations.

I know my fellow Senators will join me in congratulating Edelman on its 50th Anniversary. I applaud this company for its dedication and extend my best wishes for the future.●

CONGRATULATIONS TO WKDZ RADIO

● Mr. BUNNING. Mr. President, I rise today to congratulate and honor the men and women at WKDZ FM radio in Cadiz, KY on winning the most prestigious nationwide award broadcasting has to offer. WKDZ was recently awarded a Marconi Radio Award by the National Association of Broadcasters, recognizing it as the ''Small Market Station of the Year.'' WKDZ is the only Kentucky station to ever receive a Marconi Award as Small Market Station of the Year.

WKDZ did not win this award based solely on their ability to play good music or put interesting personalities on the air. Criteria used by the Marconi judges included ratings, community awards and recognition, events sponsored by the station, continuing community service broadcasts, and staff involvement in the community.

Over the years, WKDZ has raised thousands upon thousands of dollars for the community. The station raised more than $150,000 during the Relay for Life, $82,000 on the Rotary Radio Auction, surpassing their goal of $75,000 and helped gather 4,000 cans for the community Thanksgiving Food Bank. WKDZ has furthermore sponsored such local events as the Community Easter Egg Hunt, Halloween Safety Night and the Trigg County Country Ham Festival.

WKDZ is a shining example of how a private-owned business can on one hand be a profitable contributor to the local economy and on the other be an active and influential participant in the community. I applaud WKDZ's efforts and congratulate them on this noteworthy honor.●

IN RECOGNITION OF MARYGROVE COLLEGE'S 75TH ANNIVERSARY

● Mr. LEVIN. Mr. President, I would like to extend my congratulations to Marygrove College in Detroit on the celebration of its 75th anniversary.

For the last three-quarters of a century, Marygrove College has offered a strong liberal arts education to students from a wide-variety of backgrounds. Marygrove was originally founded in 1846 as St. Mary Academy in Monroe, MI, by the Sister, Servants of the Immaculate Heart of Mary. The school was originally designed to teach young women and girls. The gates of Marygrove College opened in September 1927 to welcome 287 students through its doors. Today, 6,000 students crisscross its metropolitan Detroit campus to take advantage of a quality and diverse education.

The college offers associate's, bachelor's, and master's degrees in 54 areas of study. The courses range from arts, music, and social work to radiology and science. Taking into account the fact that the average undergraduate student is 33 years old and the average graduate student is 36, Marygrove offers a special opportunity for students to advance their education within a schedule built around their established lives. Without an educational opportunity like Marygrove's, many people might choose not to pursue their education because they believe they are too busy or too entrenched in their ''normal'' lives.

Marygrove's importance to Detroit is enhanced by its contributions to the arts community. The school enriches Detroit's cultural scene through its extensive art, dance, and music programs. The school regularly sponsors exhibits in its beautiful art gallery as well as frequent recitals and concerts for the public. Two years ago, Marygrove became the home of Detroit's 80-year-old Institute of Music and Dance.

Along with the celebrations for its 75-year anniversary, Marygrove will open its newly-renovated 400-seat theater in November. In addition to a more dancer-friendly surface, the theater will contain a new multipurpose room for rehearsals and dance classes. The facility will have new acoustical systems, new house and theatrical lighting, better dressing room facilities, and better lines of sight from the balcony seats. The reopening of this theater, once used by the native Michigander, Madonna, will provide a new chance for developing and pursuing performing arts opportunities in Detroit.

I am sure that my Senate colleagues join me in congratulating the staff, teachers, and students of Marygrove College on its 75 years of educational accomplishments. Best of luck to Marygrove on the next 75.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the PRESIDING OFFICER laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 3018. A bill to amend title XVIII of the Social Security Act.

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–9137. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Triticonazole; Pesticide Tolerance'' (FRL7200–6) received on September 25, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9138. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Sucrose Octanoate Esters; Exemption from the Requirement of a Tolerance'' (FRL7199–1) received on September 25, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9139. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Spinosad; Pesticide Tolerance''

(FRL7199–5) received on September 25, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9140. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Pyraclostrobin; Pesticide Tolerance'' (FRL7200–7) received on September 25, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9141. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Pseudozyma Flocculosa Strain PF–A22 UL; Exemption from the Requirement of a Tolerance'' (FRL7198–8) received on September 25, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9142. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Lambda-cyhalothrin; Pesticide Tolerance'' (FRL7200–1) received on September 25, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9143. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Glyphosate; Pesticide Tolerances'' (FRL7200–2) received on September 25, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9144. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Fenamidone; Pesticide Tolerance'' (FRL7196–8) received on September 25, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9145. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Dimethomorph; Pesticide Tolerance'' (FRL7199–2) received on September 25, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9146. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Clopyralid; Pesticide Tolerance'' (FRL7198–4) received on September 25, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9147. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Cyfluthrin; Pesticide Tolerance'' (FRL7199–8) received on September 25, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9148. A communication from the Army Federal Register Liaison Officer, Office of the Assistant Secretary for Installations and Environment, transmitting, pursuant to law, the report of a rule entitled ''Environmental Analysis of Army Actions'' (RINA702–AA34) received on September 23, 2002; to the Committee on Armed Services.

EC–9149. A communication from the Under Secretary of Defense, Personnel and Readiness, transmitting, the report of a retirement; to the Committee on Armed Services.

EC–9150. A communication from the Under Secretary of Defense, Personnel and Readiness, transmitting, pursuant to law, a report on family subsistence supplement allowance for the period May 1, 2001 through February 1, 2002; to the Committee on Armed Services.

EC–9151. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Economic Exclusive Zone Off Alaska; Closure for the Shallow-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska'' received on September 23, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9152. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Closure of Pollock Fishery in Statistical Area 630 in Gulf of Alaska'' received on September 23, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9153. A communication from the Senior Regulations Analyst, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Procedures for Compensation of Air Carriers'' ((RIN2105–AD06)(2002–0002)) received on September 25, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9154. A communication from the Secretary of Transportation, transmitting, pursuant to law, the annual report of the Maritime Administration (MARAD) for Fiscal Year 2001; to the Committee on Commerce, Science, and Transportation.

EC–9155. A communication from the Supervisory Personnel Management Specialist, Department of the Army, transmitting, pursuant to law, the report of a vacancy and the designation of acting officer for the position of Assistant Secretary of the Army, Civil Works, received on August 15, 2002; to the Committee on Environment and Public Works.

EC–9156. A communication from the Supervisory Personnel Management Specialist, Department of the Army, transmitting, pursuant to law, the report of the designation of acting officer for the position of Assistant Secretary of the Army, Civil Works, received on August 15, 2002; to the Committee on Environment and Public Works.

EC–9157. A communication from the Supervisory Personnel Management Specialist, Department of the Army, transmitting, pursuant to law, the report of the discontinuation of service in acting role for the position of Assistant Secretary of the Army, Civil Works, received on August 15, 2002; to the Committee on Environment and Public Works.

EC–9158. A communication from the Director, Office of Congressional Affairs, Office of Nuclear Reactor Regulation, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Industry Codes and Standards; Amended Requirements'' (RIN3150–AG61) received on September 25, 2002; to the Committee on Environment and Public Works.

EC–9159. A communication from the General Counsel, United States Access Board, transmitting, pursuant to law, the report of a rule entitled ''Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities; Recreation Facilities'' (RIN3014–AA16) received on September 20, 2002; to the Committee on Environment and Public Works.

EC–9160. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled ''Solicitation of Applications for Lead-Based Paint Program Grants; Notice of Availability of Funds''; to the Committee on Environment and Public Works.

EC–9161. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Amendment to the Effluent Limitations Guidelines and Standards for the Bleached Papergrade Kraft and Soda Subcategory of the Pulp, Paper, and Paperboard Point Source Category: Final Rules; OMB Approvals Under the Paperwork Reduction Act: Technical Amendment'' (FRL7379–4) received on September 17, 2002; to the Committee on Environment and Public Works.

EC–9162. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Guidelines Establishing Test Procedures for the Analysis of Pollutants under the Clean Water Act; National Primary Drinking Water Regulations; and National Secondary Drinking Water Regulations; Methods Update'' (FRL7379–6) received on September 17, 2002; to the Committee on Environment and Public Works.

EC–9163. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revision to the Arizona State Implementation Plan, Arizona Department of Environmental Quality'' (FRL7380–9) received on September 17, 2002; to the Committee on Environment and Public Works.

EC–9164. 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 State Implementation Plans; Louisiana: Motor Vehicle Inspection and Maintenance Program'' (FRL7382–7) received on September 25, 2002; to the Committee on Environment and Public Works.

EC–9165. 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; (SIP); Louisiana: Substitute Contingency Measures'' (FRL7382–6) received on September 25, 2002; to the Committee on Environment and Public Works.

EC–9166. 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 for Kentucky; Vehicle Emissions Control Programs'' (FRL7381–2) received on September 25, 2002; to the Committee on Environment and Public Works.

EC–9167. 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; Louisiana; Control of Emissions of Nitrogen Oxides in the Baton Rouge Ozone Nonattainment Area'' (FRL7384–5) received on September 25, 2002; to the Committee on Environment and Public Works.

EC–9168. 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; Georgia Transportation Conformity State Implementation Plan Memorandum of Agreement for the Atlanta Metropolitan Area'' () received on September 25, 2002; to the Committee on Environment and Public Works.

EC–9169. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval of Revisions to the Louisiana Department of Environmental Quality

Title 33 Environmental Quality Part III; Air Chapter 5, Permit Procedures, 504; Nonattainment New Source Review Procedures'' (FRL7384–7) received on September 25, 2002; to the Committee on Environment and Public Works.

EC–9170. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval of Section 112(1) Authority for Hazardous Air Pollutants; Delegation of Section 111 and Section 112 Standards; State of New Hampshire'' (FRL7378–4) received on September 25, 2002; to the Committee on Environment and Public Works.

EC–9171. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Correction of Implementation Plans; California'' (FRL7376–2) received on September 25, 2002; to the Committee on Environment and Public Works.

EC–9172. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Hawaii; Final Approval of State Underground Storage Tank Program'' (FRL7381–6) received on September 25, 2002; to the Committee on Environment and Public Works.

EC–9173. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production'' (FRL7382–4) received on September 25, 2002; to the Committee on Environment and Public Works.

EC–9174. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''OMB Approvals under the Paperwork Reduction Act; Technical Amendment'' (FRL7381–4) received on September 25, 2002; to the Committee on Environment and Public Works.

EC–9175. 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'' (FRL7186–9) received on September 25, 2002; to the Committee on Environment and Public Works.

EC–9176. 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 State Implementation Plans (SIP); Louisiana; Emissions Reduction Credits Banking in Nonattainment Areas'' (FRL7384–6) received on September 25, 2002; to the Committee on Environment and Public Works.

EC–9177. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, a report entitled ''Oil Pollution Act (OPA) Removal Project Plan''; to the Committee on Environment and Public Works.

EC–9178. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Control of Emissions from Nonroad Large Spark-ignition Engines, and Recreational Engines (Marine and Land-based)'' (FRL7380–2) received on September 17, 2002; to the Committee on Environment and Public Works.

EC–9179. A communication from the Secretary of Commerce, transmitting, pursuant to law, the fourth annual report addressing the challenges of international bribery and fair competition for 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–9180. A communication from the Director, Financial Crimes Enforcement Network, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Amendment to the Bank Secrecy Act Regulations—Requirement that Casinos and Card Clubs Report Suspicious Transactions'' (RIN1506–AA22) received on September 19, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–9181. A communication from the Director, Financial Crimes Enforcement Network, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Amendments to the Bank Secrecy Act—Joint Rule on (1) Prohibition on United States Correspondent Accounts with Foreign Shell Banks and (2) Recordkeeping Requirements and Termination of Correspondent Accounts for Foreign Banks'' (RIN1505–AA87) received on September 19, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–9182. A communication from the Director, Financial Crimes Enforcement Network, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Special Information Sharing Procedures to Deter Money Laundering and Terrorist Activity'' (RIN1506–AA27) received on September 19, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–9183. A communication from the Assistant General Counsel for Regulatory Law, Office of Environment, Safety and Health, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''Guidelines for Physician Panel Determinations on Worker Request for Assistance in Filing for State Workers' Compensation Benefits'' (RIN1901–AA90) received on August 27, 2002; to the Committee on Energy and Natural Resources.

EC–9184. A communication from the Acting Director of Human Resources Management, Department of Energy, transmitting, pursuant to law, the report of a vacancy and a nomination for the position of Deputy Secretary, Office of the Secretary of Energy, received on September 10, 2002; to the Committee on Energy and Natural Resources.

EC–9185. A communication from the Acting Director of Human Resources Management, Department of Energy, transmitting, pursuant to law, the report of a nomination and a nomination confirmed for the position of Director, Office of Economic Impact and Diversity, received on September 10, 2002; to the Committee on Energy and Natural Resources.

EC–9186. A communication from the Acting Director of Human Resources Management, Department of Energy, transmitting, pursuant to law, the report of a nomination and a nomination confirmed for the position of Assistant Secretary for Environment, Safety and Health, received on September 10, 2002; to the Committee on Energy and Natural Resources.

EC–9187. A communication from the Acting Director of Human Resources Management, Department of Energy, transmitting, pursuant to law, the report of a nomination and a nomination confirmed for the position of Administrator, Energy Information Administration, received on September 10, 2002; to the Committee on Energy and Natural Resources.

EC–9188. A communication from the Acting Director of Human Resources Management, Department of Energy, transmitting, pursuant to law, the report of a nomination and a nomination confirmed for the position of Director, Office of Science, received on September 10, 2002; to the Committee on Energy and Natural Resources.

EC–9189. A communication from the Acting Director of Human Resources Management, Department of Energy, transmitting, pursuant to law, the report of a nomination and a nomination confirmed for the position of Assistant Secretary for Fossil Energy, received on September 10, 2002; to the Committee on Energy and Natural Resources.

EC–9190. A communication from the Acting Director of Human Resources Management, Department of Energy, transmitting, pursuant to law, the report of a nomination and a nomination confirmed for the position of Assistant Secretary for International Affairs, received on September 10, 2002; to the Committee on Energy and Natural Resources.

EC–9191. A communication from the Acting Director of Human Resources Management, Department of Energy, transmitting, pursuant to law, the report of a nomination and a nomination confirmed for the position of Deputy Administrator for Defense Programs, received on September 10, 2002; to the Committee on Energy and Natural Resources.

EC–9192. A communication from the Acting Director of Human Resources Management, Department of Energy, transmitting, pursuant to law, the report of a vacancy and the designation of acting officer for the position of Under Secretary for Nuclear Security, received on September 10, 2002; to the Committee on Armed Services.

EC–9193. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Applicable Federal Rates—December 2001'' (Rev. Rul. 2001–58) received on September 23, 2002; to the Committee on Finance.

EC–9194. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Bureau of Labor Statistics Price Indexes for Department Stores—September 2001'' (Rev. Rul. 2001–54) received on September 23, 2002; to the Committee on Finance.

EC–9195. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Applicable Federal Rates—October 2002'' (Rev. Rul. 2002–61) received on September 23, 2002; to the Committee on Finance.

EC–9196. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Standard Mileage Rates—2003'' (Rev. Proc. 2002–61) received on September 21, 2002; to the Committee on Finance.

EC–9197. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Obligations of State and Political Subdivisions'' (RIN1545–AY71) received on September 20, 2002; to the Committee on Finance.

EC–9198. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Section 45D and Other Federal Tax Benefits'' (Notice 2002–64) received on September 20, 2002; to the Committee on Finance.

EC–9199. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Fringe Benefits Aircraft Valuation Formula'' (Rev. Rul. 2002–56) received on

September 17, 2002; to the Committee on Finance.

EC–9200. A communication from the Commissioner of Social Security, transmitting, pursuant to law, the Annual Report of Continuing Disability Reviews for Fiscal Year 2001; to the Committee on Finance.

EC–9201. A communication from the Chief of the Regulations Branch, Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Extension of Import Restrictions Imposed on Archaeological Material From Mali'' (RIN1515–AD16) received on September 17, 2002; to the Committee on Finance.

EC–9202. A communication from the Executive Resources Coordinator, Department of the Treasury, transmitting, pursuant to law, the report of a nomination for the position of Assistant Secretary, Tax Policy, received on September 23, 2002; to the Committee on Finance.

EC–9203. A communication from the Executive Resources Coordinator, Department of the Treasury, transmitting, pursuant to law, the report of a vacancy for the position of Member, IRS Oversight Board, received on September 23, 2002; to the Committee on Finance.

EC–9204. A communication from the Executive Resources Coordinator, Department of the Treasury, transmitting, pursuant to law, the report of a vacancy, the designation of acting officer, and a nomination for the position of Assistant Secretary, Financial Institutions, received on September 23, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–9205. A communication from the Investment Manager, Treasury Division, Army and Air Force Exchange Service, transmitting, pursuant to law, the Retirement Annuity Plan for Employees of the Army and Air Force Exchange Service, the Supplemental Deferred Compensation Plan for Members of the Executive Management Program of the Army and Air Force Exchange Service, and the Retirement Savings Plan and Trust for Employees of the Army and Air Force Exchange Service dated 2002; to the Committee on Governmental Affairs.

EC–9206. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed manufacturing license agreement with the United Kingdom; to the Committee on Foreign Relations.

EC–9207. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of the texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC–9208. A communication from the Acting General Counsel, National Endowment for the Arts, transmitting, pursuant to law, the report of the discontinuation of service in acting role for the position of Chairman, received on September 3, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–9209. A communication from the Chief Financial Officer, Department of Education, transmitting, pursuant to law, the Annual Report on Grants Streamlining for the period beginning May 2001 through May 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–9210. A communication from the Director of Communications and Legislative Affairs, Equal Employment Opportunity Commission, transmitting, pursuant to law, the Annual Report on the Federal Work Force for Fiscal Year 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–9211. A communication from the Regulations Coordinator, Indian Health Service, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Indian Child Protection and Family Violence Prevention Act Minimum Standards of Character'' (RIN0917–AA02) received on September 23, 2002; to the Committee on Indian Affairs.

EC–9212. A communication from the Secretary of Labor, transmitting , pursuant to law, the certification that during calendar year 2001 the Department substantially complied with the requirement in section 212(n)(1) of the INA relating to the Department's certification of employers' LCAs within seven days of their filing; to the Committee on the Judiciary.

EC–9213. A communication from the Program Manager, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Transfer and Possession of Machineguns'' (ATF Rul. 2002–5) received on September 12, 2002; to the Committee on the Judiciary.

EC–9214. A communication from the Program Manager, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Indoor Storage of Explosives in Business Premises Directly Adjacent to a Residence or Dwelling'' (ATF Rul. 2002–4) received on September 12, 2002; to the Committee on the Judiciary.

EC–9215. A communication from the Program Manager, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Indoor Storage of Explosives in a Residence or Dwelling'' (ATF Rul. 2002–3) received on September 12, 2002; to the Committee on the Judiciary.

EC–9216. A communication from the Director of the Regulations and Forms Service Division, Immigration and Naturalization Service, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Requiring Certification of All Service Approved Schools for Enrollment in the Student and Exchange Visitor Information System (SEVIS)'' (RIN115–AG71) received on September 25, 2002; to the Committee on the Judiciary.

EC–9217. A communication from the Staff Director of the Commission on Civil Rights, transmitting, pursuant to law, the list of state advisory committees recently recharted by the Commission; to the Committee on the Judiciary.

EC–9218. A communication from the Chair of the Sentencing Commission, transmitting, pursuant to law, the Commission's Annual Report for Fiscal Year 2001; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KERRY, from the Committee on Small Business and Entrepreneurship, with amendments:

S. 1994: A bill to establish a priority preference among certain small business concerns for purposes of Federal contracts, and for other purposes. (Rept. No. 107–294).

By Mr. JEFFORDS, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 2664: A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to establish a program to provide assistance to enhance the ability of first responders to respond to incidents of terrorism, including incidents involving weapons of mass destruction, and for other purposes. (Rept. No. 107–295).

By Mr. KENNEDY, from the Committee on Health, Education, Labor, and Pensions, with an amendment in the nature of a substitute:

S. 2980: A bill to revise and extend the Birth Defects Prevention Act of 1998.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LEVIN for the Committee on Armed Services.

Charles S. Abell, of Virginia, to be Deputy Under Secretary of Defense for Personnel and Readiness.

Charles E. Erdmann, of Colorado, to be a Judge of the United States Court of Appeals for the Armed Forces for the term of fifteen years to expire on the date prescribed by law.

By Mr. INHOFE for the Committee on Armed Services.

Thomas Forrest Hall, of Oklahoma, to be an Assistant Secretary of Defense.

By Mr. LEVIN for the Committee on Armed Services.

Air Force nomination of Lt. Gen. Charles F. Wald.

Air Force nomination of Lt. Gen. Thomas B. Goslin, Jr.

Air Force nomination of Brig. Gen. George W. Keefe.

Air Force nomination of Brigadier General Joseph P. Stein.

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

Army nomination of Lt. Gen. John B. Sylvester.

Army nomination of Lt. Gen. Edward G. Anderson III.

Army nomination beginning Brigadier General Dorian T. Anderson and ending Brigadier General Walter Wojdakowski, which nominations were received by the Senate and appeared in the Congressional Record on June 4, 2002.

Army nominations beginning Brig. Gen. Paul E. Mock and ending Col. Bruce A. Casella, which nominations were received by the Senate and appeared in the Congressional Record on September 18, 2002.

Army nominations beginning Brigadier General Harry B. Burchstead, Jr. and ending Colonel Mark E. Zirkelbach, which nominations were received by the Senate and appeared in the Congressional Record on July 25, 2002.

Army nomination of Col. Clarence M. Agena.

Marine Corps nomination of Gen. James L. Jones, Jr.

Marine Corps nomination of Lt. Gen. Michael W. Hagee.

Marine Corps nomination of Maj. Gen. Michael A. Hough.

By Mr. NELSON for the Committee on Armed Services.

Navy nomination of Adm. James O. Ellis.

By Mr. LEVIN for the Committee on Armed Services.

Navy nomination of Rear Adm. General L. Hoewing.

Mr. LEVIN. Mr. President, for the Committee on Armed Services I report favorably the following nomination lists which were printed in the RECORD 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 nomination of Maurice L. McDougald.

Army nominations beginning John R. Hinson and ending Joseph M. Scaturo, which nominations were received by the Senate and appeared in the Congressional Record on September 17, 2002.

Army nominations beginning Cathi A. Kiger and ending Timothy R. Warrick which nominations were received by the Senate and appeared in the Congressional Record on September 17, 2002.

Army nominations beginning Jay F. Daley and ending Donna S. Woodby, which nominations were received by the Senate and appeared in the Congressional Record on September 17, 2002.

Army nominations beginning Paul M. Amalfitano and ending James S. Hoggard, which nominations were received by the Senate and appeared in the Congressional Record on September 17, 2002.

Army nomination of Stephen M. Bloomer.

Army nomination of Theodore A. Mickevicius.

Army nomination of Hugo E. Salazar.

Marine Corps nomination of David A. Suggs.

Marine Corps nomination of Chandler P. Seagraves.

Navy nomination of Arthur R. Stiffel IV.

Navy nomination of Jeffrey Ball.

Navy nominations beginning Enein Y H Aboul and ending Kimberly A Zuzelski, which nominations were received by the Senate and appeared in the Congressional Record on September 17, 2002.

Navy nominations beginning Christopher H Berkers and ending Richard L Zimmermann, which nominations were received by the Senate and appeared in the Congressional Record on September 17, 2002.

Navy nominations beginning David R Brown and ending George B Younger, which nominations were received by the Senate and appeared in the Congressional Record on September 17, 2002.

Army nominations beginning Jeffrey W * Abbott and ending X122, which nominations were received by the Senate and appeared in the Congressional Record on September 18, 2002.

Marine Corps nomination of Brent A. Harrison.

Navy nomination of Edward T. Moldenhauer.

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

S. 3018. A bill to amend title XVIII of the Social Security Act to enhance beneficiary access to quality health care services under the medicare program, and for other purposes; read the first time.

By Mr. McCAIN:

S. 3019. A bill to authorize the Secretary of the Interior to conduct a special resource study of sites associated with the life of Cesar Estrada Chavez and the farm labor movement; to the Committee on Energy and Natural Resources.

By Mr. ENZI:

S. 3020. A bill to direct the Secretary of Veterans Affairs to establish a national cemetery for veterans in the Cheyenne, Wyoming, metropolitan area; to the Committee on Veterans' Affairs.

By Mr. VOINOVICH (for himself, Mr. DEWINE, Mr. LEVIN, and Ms. STABENOW):

S. 3021. A bill to establish in the State of Ohio a wildlife refuge complex comprised of land designated as national wildlife refuges, and for other purposes; to the Committee on Environment and Public Works.

By Mr. ROBERTS:

S. 3022. A bill to amend the Food Security Act of 1985 to suspend the requirement that rental payments under the conservation reserve program be reduced by reason of harvesting or grazing conducted in response to a drought or other emergency; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SARBANES (for himself, Mr. WARNER, and Ms. MIKULSKI):

S. 3023. A bill to require the Secretary of Agriculture to establish a program to expand and strengthen cooperative efforts to restore and protect forests in the Chesapeake Bay watershed, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SARBANES (for himself and Ms. MIKULSKI):

S. 3024. A bill to designate Catoctin Mountain Park in the State of Maryland as the ''Catoctin Mountain National Recreation Area'', and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SARBANES (for himself, Mr. WARNER, and Ms. MIKULSKI):

S. 3025. A bill to reauthorize and improve the Chesapeake Bay Environmental Restoration and Protection Program; to the Committee on Environment and Public Works.

By Mr. SESSIONS:

S. 3026. A bill to amend chapter 1 of title 9, United States Code, to provide for greater fairness in the arbitration process; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 710

At the request of Mr. KENNEDY, the names of the Senator from New York (Mrs. CLINTON) and the Senator from Delaware (Mr. BIDEN) were added as cosponsors of S. 710, a bill to require coverage for colorectal cancer screenings.

S. 1226

At the request of Mr. CAMPBELL, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 1226, a bill to require the display of the POW/MIA flag at the World War II memorial, the Korean War Veterans Memorial, and the Vietnam Veterans Memorial.

S. 1394

At the request of Mr. ENSIGN, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 1394, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

S. 1655

At the request of Mr. BIDEN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1655, a bill to amend title 18, United States Code, to prohibit certain interstate conduct relating to exotic animals.

S. 1739

At the request of Mr. CLELAND, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 1739, a bill to authorize grants to improve security on over-the-road buses.

S. 2219

At the request of Mr. EDWARDS, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 2219, a bill to provide for compassionate payments with regard to individuals who contracted the human immunodeficiency virus due to provision of a contaminated blood transfusion, and for other purposes.

S. 2480

At the request of Mr. LEAHY, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 2480, a bill to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from state laws prohibiting the carrying of concealed handguns.

S. 2566

At the request of Mr. KENNEDY, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 2566, a bill to improve early learning opportunities and promote school preparedness, and for other purposes.

S. 2613

At the request of Mr. LIEBERMAN, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 2613, a bill to amend section 507 of the Omnibus Parks and Public Lands Management Act of 1996 to authorize additional appropriations for historically black colleges and universities, to decrease the cost-sharing requirement relating to the additional appropriations, and for other purposes.

S. 2672

At the request of Mr. BINGAMAN, the names of the Senator from New Mexico (Mr. DOMENICI) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. 2672, a bill to provide opportunities for collaborative restoration projects on National Forest System and other public domain lands, and for other purposes.

S. 2821

At the request of Mr. FRIST, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2821, a bill to establish grants to provide health services for improved nutrition, increased physical activity, obesity prevention, and for other purposes.

S. 2892

At the request of Mr. KENNEDY, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 2892, a bill to provide economic security for America's workers.

S. 2903

At the request of Mr. JOHNSON, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 2903, a bill to amend title 38, United States Code, to provide for a guaranteed adequate level of funding for veterans health care.

S. 2922

At the request of Ms. LANDRIEU, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of

S. 2922, a bill to facilitate the deployment of wireless telecommunications networks in order to further the availability of the Emergency Alert System, and for other purposes.

S. 2949

At the request of Mr. HOLLINGS, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 2949, a bill to provide for enhanced aviation security, and for other purposes.

S. 2965

At the request of Mr. KENNEDY, the name of the Senator from Montana (Mr. BAUCUS) was withdrawn as a cosponsor of S. 2965, a bill to amend the Public Health Service Act to improve the quality of care for cancer, and for other purposes.

S. 3009

At the request of Mr. WELLSTONE, the names of the Senator from Maryland (Ms. MIKULSKI) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. 3009, a bill to provide economic security for America's workers.

S. CON. RES. 11

At the request of Mrs. FEINSTEIN, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. Con. Res. 11, A concurrent resolution expressing the sense of Congress to fully use the powers of the Federal Government to enhance the science base required to more fully develop the field of health promotion and disease prevention, and to explore how strategies can be developed to integrate lifestyle improvement programs into national policy, our health care system, schools, workplaces, families and communities.

S. CON. RES. 94

At the request of Mr. WYDEN, the names of the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Utah (Mr. HATCH) were added as cosponsors of S. Con. Res. 94, A concurrent resolution expressing the sense of Congress that public awareness and education about the importance of health care coverage is of the utmost priority and that a National Importance of Health Care Coverage Month should be established to promote that awareness and education.

S. CON. RES. 138

At the request of Mr. REID, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S.Con.Res. 138, A concurrent resolution expressing the sense of Congress that the Secretary of Health And Human Services should conduct or support research on certain tests to screen for ovarian cancer, and Federal health care programs and group and individual health plans should cover the tests if demonstrated to be effective, and for other purposes.

S. CON. RES. 142

At the request of Mr. SMITH of Oregon, the names of the Senator from Ohio (Mr. DEWINE) and the Senator from Montana (Mr. BAUCUS) were added as cosponsors of S. Con. Res. 142, A concurrent resolution expressing support for the goals and ideas of a day of tribute to all firefighters who have died in the line of duty and recognizing the important mission of the Fallen Firefighters Foundation in assisting family members to overcome the loss of their fallen heroes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

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

S. 3018. A bill to amend title XVIII of the Social Security Act to enhance beneficiary access to quality health care services under the medicare program, and for other purposes; read the first time.

Mr. BAUCUS. Mr. President, I rise today, along with Senator GRASSLEY, to introduce the ''Beneficiary Access to Care and Medicare Equity Act.'' This legislation is critical to ensuring access to quality, affordable health care for the 40 million Medicare beneficiaries nationwide.

Medicare is one of America's great success stories. Since its inception 36 years ago, Medicare has provided millions of elderly and disabled Americans with insurance coverage they would not have otherwise had. When Medicare was enacted, about half of America's elderly lacked health insurance. Now nearly all are covered by Medicare.

Over the past three decades, Medicare has undergone significant changes, including changes in the way that health care providers are reimbursed. In response to rising Medicare expenditures, Congress has responded with complex cost-containment mechanisms: diagnosis related groups, or DRGs, for hospital inpatient services in the early 1980s, a fee schedule for physicians' services in 1989. And in 1997, Congress passed the Balanced Budget Act, which mandated prospective payment systems for hospital outpatient departments, home health agencies, and skilled nursing facilities. Gradually, Medicare has changed from a cost-based system to one of prospective, flat-rate payment.

The significant changes in payment policy have resulted in a few bumps along the way, particularly those enacted as part of the Balanced Budget Act of 1997. The BBA was a well-intended attempt to get our Nation's fiscal house in order and extend the life of the Medicare trust fund. And in that regard, the goal of the legislation was achieved. Solvency of the Part A Trust Fund was extended by almost 30 years. But in some instances, the BBA cuts went too far.

In such cases, these cuts threatened to reduce Medicare and Medicaid beneficiaries' access to quality medical care and services. Congress responded by passing the Balanced Budget Refinement Act, BBRA, of 1999 and the Beneficiary Improvement and Protection Act, BIPA, of 2000. I was proud to play a role in both of these bills, including help for rural areas, which were disproportionately affected by the BBA.

Despite the policies and payment changes enacted as part of BBRA and BIPA, we still find that in some cases more improvements and adjustments are needed. And that is why Senator GRASSLEY and I are introducing this bill today.

So what does this bill do? Most importantly, this bill would restore payments to physicians, which were cut in 2002 by about five percent. Under the Medicare fee schedule, payment for physician services depends on several factors, including the growth in medical inflation, performance of the American economy, and changes in law and regulation.

Also central to the calculation of payments are estimates by the Centers for Medicare and Medicaid Services, or CMS, which was formerly known as the Health Care Financing Administration, of the numbers of Medicare beneficiaries in traditional fee-for-service Medicare. Largely because of significant estimation errors and a weakened economy, physicians under Medicare experienced an average payment reduction of five percent in 2002. If Congress does not act to fix the system, further large cuts are forecast for the coming years. And the potential consequences of inaction are serious.

According to a 30-State survey by the Medicare Rights Center, Medicare beneficiaries in 15 states and the District of Columbia are already having trouble finding a physician who accepts new Medicare patients. And researchers from the Center for Studying Health System Change have found that the percentage of Medicare beneficiaries who reported delaying or not getting necessary physician care rose from 9.1 percent in 1997 to 11 percent in 2001. The study also showed that of the near-elderly, patients between 50 and 64, 18.4 percent experienced difficulty in seeing a physician in 2001, up from 15.2 percent in 1997.

This bill would provide positive payment updates to the physician fee schedule over the next three years, representing a dramatic turnaround in Medicare physician payments. It would also modify the formula that is used to increase payments each year, the so-called SGR, which most physicians have learned to view with uncertainty and distrust.

While this proposal on physician updates represents progress, I acknowledge that it is imperfect, producing large reductions in Medicare physician payments in 2006 and beyond. I am committed to working with my colleagues in the Congress and the Administration to find a more reasonable solution.

Aside from physician payments, this legislation addresses a number of other important Medicare reimbursement issues, many of which are set to take effect today, October 1. The bill will

completely eliminate the 15 percent cut in home health payments. It will forestall large cuts to indirect medical education, so critical to the well-being of our nation's teaching hospitals. And the bill will continue additional payments to nursing homes to help them hire more staff to care for patients.

It should come as no surprise that another priority of mine, and Senator GRASSLEY's, is ensuring that rural areas are treated on par with their urban counterparts. I represent a state with a population density of about six people per square mile where patients and providers are often separated by vast distances. The current Medicare payment structure does not adequately account for the unique circumstances and challenges of providing medical care in such areas, where economies of scale often make systems like prospective payment unworkable.

That's why I was proud to help write the Sole Community Hospital law in the early 1980s and the Critical Access Hospital, CAH, program in 1997. Based on the Montana Medical Assistance Facility program, or MAF, the CAH concept has been a lifeline for over 600 rural communities nationwide, allowing hospitals that might have otherwise closed to stay open. This bill makes a number of important changes to the CAH program, including a provision allowing greater flexibility in the use of acute care and swing beds, as well as reauthorization of the Rural Hospital Flexibility Grant Program, which assists facilities in making the switch to CAH status.

Aside from Critical Access Hospitals, this legislation makes a number of other important changes to bring Medicare equity to rural America. By making the Medicare Incentive Payment Program, MIPP, automatic, physicians can more easily receive their 10 percent bonus for practicing in health professional shortage areas. And by setting a floor for the physician work component of Medicare's geographic cost index, payments to rural physicians will be raised.

This bill also puts rural and urban areas on a more level playing field with respect to non-CAH hospital payments. It equalizes the base payment rate for all PPS hospitals, eliminating the differential in the so-called ''standardized amount,'' which systematically pays rural areas less than large urban ones. And it makes Disproportionate Share Hospital, DSH, payments more equitable by allowing rural facilities to receive increased payments for treating indigent patients.

Many of these provisions are based on the work and recommendations of the Medicare Payment Advisory Commission, MedPAC, in their report on rural Medicare policy. That report included telling statistics, and reinforced what I hear from my constituents on a regular basis: Medicare payment policy disadvantages rural areas and changes are needed. For example, in 1999, overall Medicare margins for rural hospitals with 50 beds or less were negative 5.4 percent, worse than any other category of hospital. And total margins for these hospitals are also the lowest, at 1.7 percent in 1999, compared to 3.6 percent for all hospitals. Clearly Congress has work to do to ensure greater geographic equity in Medicare payment, and this bill makes great strides to that end.

In addition to many reimbursement changes, this legislation contains important relief for providers struggling with Medicare's regulatory framework. Many of these regulatory relief provisions were contained in legislation I wrote with Senators KERRY, MURKOWSKI and GRASSLEY last year. Among other things, these provisions will: ensure that CMS answers questions posed by health care providers in a timely manner; give additional appeals rights to providers, so that they receive fair treatment for honest billing mistakes; and ensure that CMS demands on providers to return overpayments are reasonable and do not force small providers to declare bankruptcy.

In addition to Medicare provisions, this legislation addresses many critical issues related to Medicaid and the State Children's Health Insurance Program. The bill provides $5 billion in fiscal relief to states struggling with tight Medicaid budgets and nearly $3 billion to help safety net hospitals continue to provide critical health care services to low-income Americans. The bill also ensures the continued success of the S–CHIP program by giving States more time to spend their S–CHIP allotments and ensuring that as many children as possible are covered.

The bill provides immediate, temporary fiscal relief to states in two ways: by giving states a temporary increase in their Medicaid match rate, or FMAP; and by increasing funding for the Social Services Block Grant. Taken together, these two approaches will help alleviate the pressure on states to cut programs that serve low income families, children, seniors and the disabled.

The State fiscal relief provision recognizes that States are in the midst of their worst fiscal crisis since the early 1990s. States have cut their budgets across many programs, from education to health care to other social programs. And because Medicaid is one of the largest parts of state budgets, Medicaid continues to be a prime target for spending cuts.

According to a recent report from the Kaiser Commission on Medicaid and the Uninsured, 45 states took action to reduce their Medicaid spending growth in fiscal year 2002, and 41 states are planning further reductions in fiscal year 2003. In my own State of Montana, Medicaid beneficiaries have been asked to pay a larger share of the costs of their coverage, and provider reimbursement rates have been cut.

These program cuts have come about at the same time that Medicaid rolls are increasing due to the recession. As more people lose their jobs and health insurance—just yesterday, we learned that in 2001 another 1.4 million people joined the ranks of the uninsured, many become eligible for Medicaid. At the same time, States are forced to cut back on this vital safety net program when people need it most. This is a vicious cycle that we must help end. If we don't, the ultimate result of all this is an increase in the uninsured. Just as we saw in the early 1990s.

The financial crisis facing State Medicaid programs is also felt by the facilities that provide care to Medicaid beneficiaries and low-income insured populations. To ensure that hospitals serving our most vulnerable populations can continue providing their vital services, this bill eliminates the scheduled reduction in federal Medicaid funding for hospitals that serve a disproportionate share of Medicaid beneficiaries and low-income, uninsured patients. Without the restoration of these DSH funds, safety net hospitals would lose nearly $3 billion in federal Medicaid funding over the next three years. States with smaller DSH programs will also benefit through this legislation, as it provides them with greater resources to serve their low-income patients.

This bill also seeks to continue the unqualified success of the S–CHIP program by ensuring that S–CHIP funds are used to cover as many children as possible, as efficiently and effectively as possible. By giving states an additional year to spend funds that would otherwise be returned to the Federal Treasury and renewing the ongoing system to allocate unspent S–CHIP funds equitably among the States, the legislation will help sustain the significant progress S–CHIP has made in reducing the ranks of uninsured children. In addition, the new caseload stabilization pool will provide additional funds to states expected to have insufficient federal funds over the next few years, reducing the chance that children will be dropped from the rolls.

This bill would also make important improvements to the Medicaid and S–CHIP waiver process. Medicaid and S–CHIP waivers have become an increasingly powerful way for the Secretary of Health and Human Services to make changes to crucial health programs without having to consult with, or seek legislative change from, the Congress.

The General Accounting Office recently identified serious problems with the current waiver approval process, including a lack of accountability in several areas. I am pleased to have worked with Senator GRASSLEY to develop legislation that would address the key GAO recommendations and begin to restore integrity to the waiver process. More specifically, this bill would require that the waiver process be more transparent and require public notification when major changes are in store.

Our bill would also prohibit approval of future waivers that would take dollars set aside for children's health and

use them instead on childless adults. Where Congress has set limits on the use of federal dollars, waivers should not be used as a back door way to get around those limits.

Without question, the Medicaid and S–CHIP programs are vital components of America's health care safety net, and both programs are critical to the well-being of thousands in my State. The Billings Gazette reported yesterday that about 14,000 of the 18,000 newly-insured Montanans since 1999 were additions to Montana's Medicaid and S–CHIP programs.

But despite the critical role these programs play, I am not convinced that we know enough about our nation's health care safety net. Based on legislation I introduced last congress with Senator GRASSLEY, the bill we are introducing today would change that, by establishing the Safety Net Organizations and Patient Advisory Commission. SNOPAC would be an independent and nonpartisan commission charged with the authority to oversee all aspects of America's health care safety net, including Medicaid and S–CHIP. Based on an Institute of Medicine report, SNOPAC will include health care experts from the disparate parts of our safety net system, reporting to Congress on recommendations to maintain our intact, but endangered, health care safety net.

Some will argue that Congress has more pressing Medicare priorities to address than restoring payments to health care providers. They argue will that before action on a bill concerning Medicare payment policy, Congress should debate and enact a solid prescription Medicare drug benefit.

I agree wholeheartedly with the need for a good drug benefit. I have worked for years to enact one, and I think that the lack of a drug benefit is the greatest deficiency in the Medicare program today. Almost 40 percent of seniors currently lack drug coverage. And for those who have it, it is often unreliable and unaffordable.

I did my utmost to pass a drug benefit this year, and I will continue my efforts until one is signed into law. But I will not support a benefit that is unworkable for Montana. And I will not support reviving a prescription drug debate that threatens passage of the important bill Senator GRASSLEY and I are introducing today.

The United States Senate debated Medicare prescription coverage in July. We had four votes on four different proposals to establish a drug benefit under Medicare. But all of those votes failed. None came close to getting the required 60 votes for passage in the Senate.

Voting again on a prescription drug bill that has not changed materially from the proposals we voted on in July is not the way to pass a drug benefit. In fact, it's a prescription for legislative impasse—on prescription drugs and on provider reimbursement issues.

For those reasons, I urge my colleagues to support this legislation, with the recognition that there are other pressing issues facing the Medicare program besides provider payments, but with the acknowledgment that maintaining access to health care services is also an important goal.

As Calvin Coolidge once said, ''We cannot do everything at once . . . but we can do something at once.'' Today is October 1, and large Medicare, Medicaid and S–CHIP payment reductions and changes will go into effect. Congress should act as soon as possible to address these issues, to get something done, and to ensure access to care for our seniors, our children, and our disabled population. This bill is necessary, timely and should be considered with expedition. I urge Congress and the President to act swiftly on this comprehensive legislation and enact it into law.

Mr. GRASSLEY. Mr. President, I am joining Chairman BAUCUS today to introduce the Beneficiary Access to Care and Medicare Equity Act of 2002.

This legislation arrives at an important time for Medicare beneficiaries and the providers that care for them: October 1. Many provisions of the Medicare law that ensure adequate payment for providers, and in turn, beneficiary access to care, expire today. I urge the Senate to consider this legislation with all speed, as soon as possible.

Our bill addresses pressing needs. The clock is running out on Medicare payments to doctors, who are scheduled for yet another reduction in their fees for a second straight year, absent Congressional action. Skilled Nursing Facilities also face a major reduction in payment today. In other areas facing imminent payment cuts, such as home health and hospital services, our bill injects financial support that will stabilize these essential services our seniors rely on. The legislation also provides billions in aid to State governments, many of them facing steep budget deficits, so they can meet the needs of citizens who rely on the Medicaid and Children's Health Insurance Programs.

In addition to ensuring continued access to quality care for Medicare beneficiaries, our bipartisan Beneficiary Access to Care and Medicare Equity Act makes long overdue improvements to health care in rural America. Our bill invests in States like Iowa, my home State, where small providers that practice efficient medicine are hurt by complex payment formulas that favor high-cost care in big cities.

The formulas also don't recognize special costs faced by smaller, more isolated physicians, hospitals and clinics. It obviously doesn't make sense to penalize States like Iowa who do more with less. That's why I'm so committed to fixing these formulas. The proposal I've put together with Senator BAUCUS would provide a tremendous infusion of cash to hard-pressed health care providers across Iowa and to other rural States. It takes money to ensure access to care for Iowans, and this will help make the federal government part of the solution instead of part of the problem.

Together, Senator BAUCUS and I have introduced our bill under Rule 14, which means the bill will be placed directly on the calendar two days from now, rather than referred to our own Committee, the Finance Committee. We agreed to take this extraordinary step because the Senate is basically tied up in knots right now. Well, our message is that Medicare fairness is too urgent to let this bill be a victim of gridlock. Our action today gives Senate Majority Leader DASCHLE the ability to call the bill up as early as Thursday. In short, there's no time to waste.

By Mr. MCCAIN:

S. 3019. A bill to authorize the Secretary of the Interior to conduct a special resource study of sites associated with the life of Cesar Estrada Chavez and the farm labor movement; to the Committee on Energy and Natural Resources.

Mr. MCCAIN. Mr. President, I am introducing legislation today to authorize the Secretary of the Interior to conduct a special resource study of sites associated with the life of Cesar Estrada Chavez. Chavez is one of the most revered public servants in our history for his leadership in helping organize migrant farm workers, and for providing inspiration to the most oppressed in our society. It is important that we cherish his struggle and do what we can to preserve certain sites located in Arizona, California and other states that are significant to his life.

My fellow Arizonan, Cesar Chavez was born in Yuma. He was the son of migrant farm workers, and an exemplary American hero. He no doubt loved qualities of life associated with his family's heritage, but he will be remembered for the sincerity of his American patriotism. He fought to help Americans transcend distinctions of experience, and share equality in the rights and responsibilities of freedom. He made America a bigger and better Nation.

While Chavez and his family migrated across the southwest looking for farm work, he evolved into a defender of worker's rights. He founded the National Farm Workers Association in 1962, which later became the United Farm Workers of America. Essentially, he gave a voice to those that had no voice. In his words: ''We cannot seek achievement for ourselves and forget about progress and prosperity for our community . . . our ambitions must be broad enough to include the aspirations and needs of others, for their sakes and for our own.''

This legislation, almost identical to the House bill, H.R. 2966, introduced by Congresswoman HILDA SOLIS, D–CA, in September 2001, would specifically authorize the Secretary of the Interior to determine whether any of the sites

meet the criteria for being listed on the National Register of Historic Landmarks. The study would be conducted within three years. The goal of this legislation is to establish a foundation for a future bill that will designate land for these sites to become Historic Landmarks.

Cesar Chavez was a humble man of deep conviction who understood what it meant to serve and sacrifice for others. He was a true American hero that embodied the values of justice and freedom this nation holds dear. Honoring the places of his life will enable his legacy to inspire and serve as an example for our future leaders.

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. 3018

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''César Estrada Chávez Study Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) on March 31, 1927, César Estrada Chávez was born on a small farm near Yuma, Arizona;

(2) at age 10, Chávez and his family became migrant farm workers after they lost their farm in the Great Depression;

(3) throughout his youth and into adulthood, Chávez migrated across the Southwest, laboring in fields and vineyards;

(4) during this period, Chávez was exposed to the hardships and injustices of farm worker life;

(5) in 1952, Chávez's life as an organizer and public servant began when he left the fields and joined the Community Service Organization, a community-based self-help organization;

(6) while with the Community Service Organization, Chávez conducted—

(A) voter registration drives; and

(B) campaigns against racial and economic discrimination;

(7) during the late 1950's and early 1960's, Chávez served as the national director of the Community Service Organization;

(8) in 1962, Chávez founded the National Farm Workers Association, an organization that—

(A) was the first successful farm workers union in the United States; and

(B) became known as the ''United Farm Workers of America'';

(9) from 1962 to 1993, as leader of United Farm Workers of America, Chávez achieved for tens of thousands of farm workers—

(A) dignity and respect;

(B) fair wages;

(C) medical coverage;

(D) pension benefits;

(E) humane living conditions; and

(F) other rights and protections;

(10) the leadership and humanitarianism of César Chávez continue to influence and inspire millions of citizens of the United States to seek social justice and civil rights for the poor and disenfranchised; and

(11) the life of César Chávez and his family provides an outstanding opportunity to illustrate and interpret the history of agricultural labor in the western United States.

SEC. 3. RESOURCE STUDY.

(a) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Secretary of the Interior (referred to in this section as the ''Secretary'') shall complete a resource study of sites in the State of Arizona, the State of California, and other States that are significant to the life of César E. Chávez and the farm labor movement in the western United States to determine—

(1) appropriate methods for preserving and interpreting the sites; and

(2) whether any of the sites meets the criteria for listing on the National Register of Historic Places or designation as a national historic landmark under—

(A) the Act of August 21, 1935 (16 U.S.C. 461 et seq.); and

(B) the National Historic Preservation Act (16 U.S.C. 470 et seq.).

(b) REQUIREMENTS.—In conducting the study under subsection (a), the Secretary shall—

(1) consider the criteria for the study of areas for potential inclusion in the National Park System under section 8(b)(2) of Public Law 91–383 (16 U.S.C. 1a–5(b)(2)); and

(2) consult with—

(A) the César E. Chávez Foundation;

(B) the United Farm Workers Union;

(C) State and local historical associations and societies; and

(D) the State Historic Preservation Officers of the State of Arizona, the State of California, and any other State in which a site described in subsection (a) is located.

(c) REPORT.—On completion of the study under subsection (a), the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on—

(1) the findings of the study; and

(2) any recommendations of the Secretary.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this Act.

By Mr. ENZI:

S. 3020. A bill to direct the Secretary of Veterans Affairs to establish a national cemetery for veterans in the Cheyenne, Wyoming, metropolitan area, to the Committee on Veterans' Affairs

Mr. ENZI. Mr. President, I rise today with great honor and pride to introduce a bill that would direct the Secretary of Veterans Affairs to establish a national cemetery for veterans in Cheyenne, WY.

As our Nation's veterans have proven time and time again, whenever the fear of war has knocked on America's door, we have had the strength to open it. This year has been no different. Since last September, we have witnessed the beginning of a new kind of war, a war on terrorism, and we have been confronted by the most evil of leaders who seek to destroy our love of country and freedom. Yet, our Nation's military men and women and our veterans have once again responded to the call of duty to protect everything we hold dear. They remind us that our faith in God, our belief and trust in our communities, and our strength as a Nation can and will endure through these extraordinary times.

This is why I am introducing a bill to honor those who have given so much in defense of our great country. The price of freedom is not free, and many of our Nation's veterans have paid the ultimate price. Millions have been laid to rest in our Nation's national cemeteries, and millions more will follow. These veterans deserve to be placed next to those veterans with whom they so courageously engaged in battle throughout the years.

All veterans deserve the opportunity to be buried in a veterans cemetery regardless of their place of residency. Fortunately, the Department of Veterans Affairs recognizes the importance of providing burial sites for our Nation's veterans next to their comrades and near their families. As such, they have established a goal to increase the percentage of veterans served by a national or State veterans cemetery within 75 miles of their residence to 88 percent by 2006. I commend the VA's efforts and believe my bill will help the department reach that goal.

There are currently more than 53,000 veterans in Wyoming. They live in every town, big and small, and they must often travel hundreds of miles for health care and other veteran benefits. The largest and most concentrated group of veterans in Wyoming live near Wyoming's only military base, F.E. Warren Air Force Base in Cheyenne. Unfortunately, this veteran population must travel either 110 miles to the national cemetery in Colorado or 235 miles to the national cemetery in Maxwell, NE. It is worse for the veteran population living in other areas of the State. There are no national cemeteries in Montana, Idaho or Utah, which leaves veterans in the northwest with few options.

Regardless of a veteran's place of residency in Wyoming, most are forced to select the Wyoming State Cemetery as their place of burial because it is the only state or national cemetery in the entire state. Although it is located in Wyoming's second-largest city of Casper, Wyoming's State cemetery does not adequately meet the needs of veterans in a State that spans more than 97,000 square miles. It is, on average, 150 miles from any other incorporated city, and is more than 175 miles from the most concentrated veteran population in Cheyenne. While I commend the Wyoming State Cemetery for its exceptional service and careful maintenance, this is an extraordinary distance for friends and family to travel to visit their deceased loved ones.

As such, I am introducing legislation today to create a National Veterans Cemetery in Cheyenne, WY because every veteran deserves to be buried near their families and with the honor that comes with being laid to rest in a national veterans cemetery.

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. 3020

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

SECTION 1. ESTABLISHMENT OF NATIONAL CEMETERY IN CHEYENNE, WYOMING, METROPOLITAN AREA.

(a) IN GENERAL.—The Secretary of Veterans Affairs shall establish, in accordance with chapter 24 of title 38, United States Code, a national cemetery in the Cheyenne, Wyoming, metropolitan area to serve the needs of veterans and their families.

(b) CONSULTATION IN SELECTION OF SITE.—Before selecting the site for the national cemetery established under subsection (a), the Secretary shall consult with—

(1) appropriate officials of the State of Wyoming and local officials of the Cheyenne metropolitan area; and

(2) appropriate officials of the United States, including the Administrator of General Services, with respect to land belonging to the United States in that area that would be suitable to establish the national cemetery under subsection (a).

(c) AUTHORITY TO ACCEPT DONATION OF PARCEL OF LAND.—(1) The Secretary may accept on behalf of the United States the gift of an appropriate parcel of real property. The Secretary shall have administrative jurisdiction over such parcel of real property, and shall use such parcel to establish the national cemetery under subsection (a).

(2) For purposes of Federal income, estate, and gift taxes, the real property accepted under paragraph (1) shall be considered as a gift to the United States.

(d) REPORT.—As soon as practicable after the date of enactment of this Act, the Secretary shall submit to Congress a report on the establishment of the national cemetery under subsection (a). The report shall set forth a schedule for the establishment of the national cemetery and an estimate of costs associated with the establishment of the national cemetery.

By Mr. SARBANES (for himself, Mr. WARNER, and Ms. MIKULSKI):

S. 3023. A bill to require the Secretary of Agriculture to establish a program to expand and strengthen cooperative efforts to restore and protect forests in the Chesapeake Bay watershed, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. SARBANES. Mr. President, today I am introducing legislation to continue and enhance the USDA Forest Service's role in the restoration of the Chesapeake Bay watershed. Joining me in sponsoring this legislation are my colleagues, Senators WARNER and MIKULSKI.

Forest loss and fragmentation are occurring rapidly in the Chesapeake Bay region and are among the most important issues facing the Bay and forest management today. According to the National Resources Inventory, the States closest to the Bay lost 350,000 acres of forest between 1987–1997 or almost 100 acres per day. More and more rural areas are being converted to suburban developments resulting in smaller contiguous forest tracts. These trends are leading to a regional forest land base that is more vulnerable to conversion, less likely to be economically viable in the future, and is losing its capacity to protect watershed health and other ecological benefits, such as controlling storm water runoff, erosion and air pollution, all critical to the Bay clean-up effort.

Since 1990, the USDA Forest Service has been an important part of the Chesapeake Bay Program. Administered through the Northeastern Area, State and Private Forestry, this program has worked closely with Federal, State and local partners in the six-state Chesapeake Bay region to demonstrate how forest protection, restoration and stewardship activities, can contribute to achieving the Bay restoration goals. Over the past 12 years, it has provided modest levels of technical and financial assistance, averaging approximately $300,000 year, to develop collaborative watershed projects that address watershed forest conservation, restoration and stewardship. With the signing of the Chesapeake 2000 Agreement, the role of the USDA Forest Service has become more important than ever. Among other provisions, this Agreement requires the signatories to conserve existing forests along all streams and shoreline; promote the expansion and connection of contiguous forests; assess the Bay's forest lands; and provide technical and financial assistance to local governments to plan for or revise plans, ordinances and subdivision regulations to provide for the conservation and sustainable use of the forest and agricultural lands. To address these goals, the USDA Forest Service must have additional resources and authority, and that is what my amendment seeks to provide.

This legislation codifies the roles and responsibilities of the USDA Forest Service to the Bay restoration effort. It strengthens existing coordination, technical assistance, forest resource assessment and planning efforts. It authorizes a small grants program to support local agencies, watershed associations and citizen groups in conducting on-the-ground conservation projects. It also establishes a regional applied forestry research and training program to enhance urban, suburban and rural forests in the watershed. Finally it authorizes $3.5 million for each of fiscal years 2004 through 2010, a modest increase in view of the six-state, 64,000 square mile watershed. I urge my colleagues to join me in supporting this legislation.

By Mr. SARBANES (for himself, Mr. WARNER, and Ms. MIKULSKI):

S. 3025. A bill to reauthorize and improve the Chesapeake Bay Environmental Restoration and Protection Program; to the Committee on Environment and Public Works.

Mr. SARBANES. Mr. President, today I am introducing legislation, together with Senators WARNER and MIKULSKI, to reauthorize and enhance the Chesapeake Bay Environmental Protection and Restoration Program. This program, which was first established in Section 510 of the Water Resources Development Act of 1996, Public Law 104–303, authorizes the U.S. Army Corps of Engineers to provide design and construction assistance to State and local authorities in the environmental restoration of the Chesapeake Bay.

In 1994, when I first introduced the legislation to create this program, I spoke about the need for this assistance and the unique capabilities the Army Corps of Engineers brings to the Chesapeake Bay restoration effort. I want to underscore some of those arguments today and the vital importance of continuing and enhancing this program.

The Army Corps of Engineers has been an integral part of the Chesapeake Bay Program for many years. In 1984 the Corps completed one of the most comprehensive investigations of the entire Chesapeake Bay basin, a landmark report which identified many of the serious problems facing the Bay. The Corps played a vital role in the development of the Bay Program's state-of-the-art computer model and has undertaken a variety of major projects in the 6-state Chesapeake Bay watershed including the Poplar Island beneficial use of dredged material project, oyster reef restoration, and removal of blockages to fish passage. The agency is currently conducting investigations on sedimentation, shoreline erosion, and environmental problems in specific watersheds that we hope will result in additional projects to restore the Bay. And I am delighted that the Environment and Public Works Committee has just approved our new Study Resolution directing the Corps to integrate these existing and future work efforts into a coordinated, comprehensive master plan.

But while these projects and studies continue and the master plan is being developed, it is vital that environmental restoration efforts be sustained and expanded. Two years ago, the States in the Chesapeake Bay watershed and the Federal Government conducted an extensive evaluation of cleanup progress since the 1980s and determined that, despite important advances, efforts must be redoubled to restore the integrity of the Chesapeake Bay ecosystem. A new Chesapeake 2000 agreement was signed to serve as a blueprint for the restoration effort over the next decade. To meet the goals established in the new agreement, it is estimated that the local, State and Federal Governments must invest more than $8.5 billion over the course of the next ten years. Nutrient and sediment loads must be significantly reduced, oyster populations must be increased, Submerged Aquatic Vegetation and wetlands must be protected and restored, and remaining blockages to fish passage must be removed, among other actions. As the lead Federal agency in water resource management, the Corps has an essential role to play in this effort.

Since the Chesapeake Bay Environmental Restoration and Protection Program was first established and funding was appropriated, requests from State and local governments for

assistance under the program has grown dramatically. The design-construct nature of this program, which enables the Corps to streamline its process of undertaking on-the-ground environmental restoration projects, is particularly appealing to State and local governments. To date, the Corps of Engineers has constructed or approved $9.3 million in projects under the Chesapeake Bay Environmental Restoration and Protection Program including oyster restoration projects in Virginia, shoreline protection and wetland/sewage treatment projects at Smith Island in Maryland and the upgrade of the Scranton Wastewater Treatment Plant in Pennsylvania to reduce the amount of nutrients delivered to the Chesapeake Bay. These projects have nearly exhausted the current $10 million authorization.

The legislation which I am introducing increases the authorization for this program from $10 million to $30 million. Consistent will all other environmental restoration authorities of the Corps of Engineers, it enables States and local governments to provide all or any portion of the 25 percent non-Federal share required in the form of in-kind services. It also establishes a new small-grants program for local governments and nonprofit organizations to carry out small-scale restoration and protection projects in the Chesapeake Bay watershed. The program would be administered by the National Fish and Wildlife Foundation which has extensive experience and expertise in managing these kinds of grants for other Federal agencies. Ten percent of the funds appropriated each year under this program would be set-aside for these grants.

In view of the great need and the many requests for assistance from the Bay area states, this legislation is clearly warranted and I urge my colleagues to join me in supporting this measure. I ask unanimous consent that the text of legislation be printed in the RECORD.

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

S. 3025

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

SECTION 1. CHESAPEAKE BAY ENVIRONMENTAL RESTORATION AND PROTECTION PROGRAM.

Section 510 of the Water Resources Development Act of 1996 (110 Stat. 3759) is amended—

(1) in subsection (d)(2), by adding at the end the following:

''(C) IN-KIND SERVICES.—A non-Federal interest may provide all or any portion of the non-Federal share referred to in paragraph (1) in the form of in-kind services.'';

(2) by striking subsection (i);

(3) by redesignating subsection (h) as subsection (i);

(4) by inserting after subsection (g) the following:

''(h) SMALL WATERSHED GRANTS.—

''(1) IN GENERAL.—The Secretary shall establish a program, to be administered by the National Fish and Wildlife Foundation, to provide small watershed grants for technical and financial assistance to local governments and nonprofit organizations in the Chesapeake Bay region.

''(2) USE OF FUNDS.—A local government or nonprofit organization that receives a grant under paragraph (1) shall use funds from the grant only for implementation of cooperative tributary basin strategies that address the establishment, restoration, protection, or enhancement of habitat associated with the Chesapeake Bay ecosystem.''; and

(5) by inserting after subsection (i) (as redesignated by paragraph (3)) the following:

''(j) FUNDING.—

''(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $30,000,000.

''(2) ANNUAL GRANT EXPENDITURE.—Of the amount made available under paragraph (1) to carry out this section for a fiscal year, not more than 10 percent may be used to carry out subsection (h) for the fiscal year.''.

By Mr. SESSIONS:

S. 3026. A bill to amend chapter 1 of title 9, United States Code, to provide for greater fairness in the arbitration process; to the Committee on the Judiciary.

Mr. SESSION. Mr. President, I rise to send to the desk a bill entitled, ''The Arbitration Fairness Act of 2002.'' This bill continues the legislative process that I started in the 106th Congress with the introduction of the Consumer and Employee Arbitration Bill of Rights. The purpose of these bills is to improve the Federal Arbitration Act so that it will remain as a cost-effective means of resolving disputes, but will do so in a fair way. The Arbitration Fairness Act will provide procedural protections to everyone who enters into a contract that contains an arbitration clause. This bill would ensure that consumers, employees, and small businesses that enter into contracts covered by the Federal Arbitration Act will have their disputes resolved in accordance with due process of law, and in a speedy and cost effective manner.

Congress enacted the Federal Arbitration Act in 1925. It has served us as well for three-quarters of a century. Under the Act, if the parties agree to a contract affecting interstate commerce that contains a clause requiring arbitration, the clause will be enforceable in court. In short, the Federal Arbitration Act allows parties to a contract to agree not to take their disputes to court, but to resolve any dispute arising from that contract before a neutral decision-maker, generally selected by a non-profit arbitration organization, such as the American Arbitration Association or the National Arbitration Forum. The parties can generally present evidence and be represented by counsel. And the decision-makers will apply the relevant State law in resolving the dispute. Arbitration is generally quicker and less expensive than going to court.

In recent years, there have been some cases where the arbitration process has not worked well, but thousands of disputes have been fairly and effectively settled by arbitrators. Such a system is even more important because of skyrocketing legal costs where attorneys require large contingent fees. Accordingly, I have opposed piecemeal legislative changes to the act. Instead, I believe that the Senate should approach the Federal Arbitration Act in a comprehensive manner.

The approach of reforming arbitration, rather than abandoning the arbitration process provides several benefits. Arbitration is one of the most cost-effective means of resolving a dispute. Unlike businesses, consumers and employees generally cannot afford a team of lawyers to represent them. And their claims are often not being enough so that a lawyer would take the case on a 25 percent or even a 50 percent contingent fee. In an article in the Columbia Human Rights Law Review, Lewis Maltby, Director, National Task Force on Civil Liberties in the Workplace of the American Civil Liberties Union and a Director of the American Arbitration Association—not die-hard conservative entities—explains how court litigation is too expensive for most employees:

''Even if the client has clearly been wronged and is virtually certain to prevail in court, the attorney will be forced to turn down the case unless there are substantial damages. A survey of plaintiff employment lawyers found that a prospective plaintiff needed to have a minimum of $60,000 in provable damages-not including pain and suffering or other intangible damages-before an attorney would take the case.

Even this, however, does not exhaust the financial obstacles an employee must overcome to secure representation. In light of their risk of losing such cases, many plaintiffs' attorneys require a prospective client to pay a retainer, typically about $3,000. Others require clients to pay out-of-pocket expenses of the case as they are incurred. Expenses in employment discrimination cases can be substantial. Donohue and Siegelman found that expenses in Title VII cases are at least $10,000 and can reach as high as $25,000. Finally, some plaintiffs' attorneys now require a consultation fee, generally $200–$300, just to discuss their situation with a potential client.

''The result of these formidable hurdles in that most people with claims against their employer are unable to obtain counsel, and thus never receive justice. Paul Tobias, founder of the National Employment Lawyer's Association, has testified that ninety-five percent of those who seek help from the private bar with an employment matter do not obtain counsel. Howard's survey of plaintiffs' lawyers produced the same result. A Detroit firm reported that only one of eighty-seven employees who came to them seeking representation was accepted as a client.''

Lewis L. Maltby, Private Justice: Employment Arbitration and Civil Rights, 30 Col. Hum. R.L. Rev. 29, 57–58 (1998).

Without arbitration, the consumer or employee is faced with having to pay a lawyer's hourly rate, which may amount to several thousand dollars to litigate a claim in court, for a broken television that cost $700 new. If this is what consumers and employees are left with, many will have no choice but to drop their claim. This is not right. It is not fair. Thus, Professor Stephen Ware of the Cumberland Law School, states in a recent paper published by the CATO Institution that ''current [arbitration] law is better for all consumers [than an exemption from the FAA] except those few who are especially likely to have large liability claims . . .'' Stephen J. Ware, Arbitration under Assault, CATO Policy Analysis No. 433 p. 10 (2002).

Thus, while some have argued that the Congress should enact exemptions from the FAA for different classes of contracts from automobile franchise contracts to employment contracts, such exemptions would not help the overwhelming majority of the people who could not afford a lawyer to litigate in court. This is where arbitration can give the consumer or employee a cost-effective forum to assert their claim. Thus, before we make exceptions to the FAA for some of the most well to do corporations in our society, I think it is our duty to consider how we can improve the system for those less financially able.

Can we improve the arbitration system? Yes, but we must take a balanced approach. In this approach we should protect the sanctity of legal contracts. In any contract, the parties agree to all the terms and clauses included in the contract document. This includes the arbitration clause. This is basic contract law, and the basic principle upon which the FAA has been supported for 75 years.

But this is not always the case. In certain situations, consumers, employees, or businesses have not been treated fairly. That is what the Arbitration Fairness Act is designed to correct.

The bill will maintain the cost benefits of binding arbitration, but will grant several specific ''due process'' rights to all parties to an arbitration. The bill is based on the consumer and employee due process protocols of the American Arbitration Association that have broad support. The bill provides the following rights: 1. Notice. Under the bill an arbitration clause, to be enforceable, would have to have a heading in large, bold print, would have to state whether arbitration is binding or optional, identify a source that the parties may contact for more information, and state that a consumer could opt out to small claims court.

This will ensure, for example, that consumers who receive credit card notices in the mail will not miss an arbitration clause because it is printed in fine print. Further, it will give all parties means to obtain more information on how to resolve any disputes. Finally, the clause would explain that if a party's claims could otherwise be brought in small claims court, he is free to do so. Small claims court, unlike regular trial court, provides another inexpensive and quick means of dispute resolution.

2. Independent selection of arbitrators. The bill will grant all parties the right to have potential arbitrators disclose relevant information concerning their business ties and employment. All parties to the arbitration will have an equal voice in selecting a neutral arbitrator. This ensures that the large company who sold a consumer a product will not select the arbitrator itself, because the consumer with a grievance will have the right to nominate potential arbitrators too. As a result, the final arbitrator selected will have to have the explicit approval of both parties to the dispute. This means the arbitrator will be a neutral party with no allegiance to either party.

3. Choice of law. The bill grants the non-drafting party, usually the consumer or the employee, the right to have the arbitrator governed by the substantive law that would apply under conflicts of laws principles applicable in the forum in which the non-drafting party resided at the time the contract was entered into. This means that the substantive contract law that would apply in a court where the consumer, employee, or business resides at the time of making the contract will apply in the arbitration. Thus, in a dispute arising from the purchase of a product by an Alabama consumer from an Illinois company, a court would have to determine whether Alabama or Illinois law applied by looking to the language of the contract and to the place the contract was entered into. The bill ensures that an arbitrator will use the same conflict of laws principles that a court would in determining whether Alabama or Illinois law will govern the arbitration proceedings.

4. Representation. The bill grants all parties the right to be represented by counsel at their own expense. Thus, if the claim involves complicated legal issues, the consumer, employee, or small business is free to have his lawyer represent him in the arbitration. Such representation should be substantially less expensive than a trial in court because of the more abbreviated and expedited process of arbitration.

5. Hearing. The bill grants all parties the right to a fair hearing in a forum that is reasonably convenient to the consumer or employee. This would prevent a large company from requiring a consumer, employee, or small business owner to travel across the country to arbitrate his claim and to expend more in travel costs than his claim may be worth.

6. Evidence. The bill grants all parties the right to conduct discovery and to present evidence. This ensures that the arbitrator will have all the facts before him prior to making a decision.

7. Cross examination. The bill grants all parties the right to cross-examine witnesses presented by the other party at the hearing. This allows a party to test the statements of the other party's witnesses and be sure that the evidence before the arbitrator is correct.

8. Record. The bill grants all parties the right to hire a stenographer or tape record the hearing to produce a record. This right is key to proving later that the arbitration proceeding was fair.

9. Timely resolution. The bill grants all parties the right to have an arbitration proceeding to be completed promptly so that they do not have to wait for a year or more to have their claim resolved. Under the bill a defendant must file an answer within 30 days of the filing of the complaint. The arbitrator has 90 days after the answer to hold a hearing. The arbitrator must render a final decision within 30 days after the hearing. Extensions are available in extraordinary circumstances.

10. Written decision. The bill grants all parties the right to a written decision by the arbitrator explaining the resolution of the case and his reasons therefor. If the consumer or employee takes a claim to arbitration, he deserves to have an explanation of why he won or lost.

11. Expenses. The bill grants all parties the right to have an arbitrator provide for reimbursement of arbitration fees in the interests of justice and the reduction, deferral, or waiver of arbitration fees in cases of extreme hardship. It does little good to take a claim to arbitration if the consumer or employee cannot even afford the arbitration fee. This provision ensures that the arbitrator can waive or reduce the fee or make the company reimburse the consumer or employee for a fee if the interests of justice so require.

12. Small claims opt out. The bill grants all parties the right to opt out of arbitration into small claims court if that court has jurisdiction over the claim and the claim does not exceed $50,000.

The bill also provides an effective mechanism for parties to enforce these rights. At any time, if a consumer or employee believes that the other party violated his rights, he may ask and the arbitrator may award a penalty up to the amount of the claim plus attorneys fees. For example, if the defendant party fails to provides discovery to a plaintiff party, the plaintiff can make a motion for fees. The amount of fee award is limited, as it is in court, to the amount of cost incurred by the employee in trying to obtain the information from the company. This principle is taken from Federal Rule of Civil Procedure 37. After the decision, if the losing party believes that the rights granted to him by the Act have been violated, he may file a petition with the Federal district court. If the court finds by clear and convincing evidence that his rights were violated, it may order a new arbitrator appointed. Thus, if a consumer, employee, or small business has an arbitrator that is unfair and this causes him to lose the case,

the plaintiff can obtain another arbitrator.

This bill is an important step to creating a constructive dialog on arbitration reform. This bill will ensure that those who can least afford to go to court can go to a less expensive arbitrator and be treated fairly. It will ensure that every arbitration carried out under the Federal Arbitration Act is completed fairly, promptly, and economically. I look forward to working with my colleagues in the Senate to ensure that consumers, employees, and small business who agree in a contract to arbitrate their claims will be afforded due process of law.

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. 3026

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Arbitration Fairness Act of 2002''.

SEC. 2. ELECTION OF ARBITRATION.

(a) FAIR DISCLOSURE.—In order to be binding on the parties, a contract containing an arbitration clause shall—

(1) have a printed heading in bold, capital letters entitled ''ARBITRATION CLAUSE'', which heading shall be printed in letters not smaller than ½ inch in height;

(2) explicitly state whether participation within the arbitration program is mandatory or optional;

(3) identify a source that a consumer or employee can contact for additional information on costs and fees and on all forms and procedures necessary for effective participation in the arbitration program; and

(4) provide notice that all parties retain the right to resolve a dispute in a small claims court, if such dispute falls within the jurisdiction of that court and the claim is for less than or equal to $50,000 in total damages.

(b) PROCEDURAL RIGHTS.—If a contract provides for the use of arbitration to resolve a dispute arising out of or relating to the contract, each party to the contract shall be afforded the following rights, in addition to any rights provided by the contract:

(1) COMPETENCE AND NEUTRALITY OF ARBITRATOR AND ADMINISTRATIVE PROCESS.—

(A) IN GENERAL.—Each party to the dispute (referred to in this section as a ''party'') shall be entitled to a competent, neutral arbitrator and an independent, neutral administration of the dispute.

(B) ARBITRATOR.—Each party shall have an equal voice in the selection of the arbitrator, who—

(i) shall comply with the Code of Ethics for Arbitrators in Commercial Disputes of the American Arbitration Association and the State bar association of which the arbitrator is a member;

(ii) shall have no personal or financial interest in the results of the proceedings in which the arbitrator is appointed and shall have no relation to the underlying dispute or to the parties or their counsel that may create an appearance of bias; and

(iii) prior to accepting appointment, shall disclose all information that might be relevant to neutrality, including service as an arbitrator or mediator in any past or pending case involving any of the parties or their representatives, or that may prevent a prompt hearing.

(C) ADMINISTRATION.—The arbitration shall be administered by an independent, neutral alternative dispute resolution organization to ensure fairness and neutrality and prevent ex parte communication between parties and the arbitrator. The arbitrator shall have reasonable discretion to conduct the proceeding in consideration of the specific type of industry involved.

(2) APPLICABLE LAW.—In resolving a dispute, the arbitrator—

(A) shall be governed by the same substantive law that would apply under conflict of laws principles applicable in a court of the forum in which the party that is not drafter of the contract resided at the time the contract was entered into; and

(B) shall be empowered to grant whatever relief would be available in court under law or equity.

(3) REPRESENTATION.—Each party shall have the right to be represented by an attorney, or other representative as permitted by State law, at their own expense.

(4) HEARING.—

(A) IN GENERAL.—Each party shall be entitled to a fair arbitration hearing (referred to in this section as a ''hearing'') with adequate notice and an opportunity to be heard.

(B) ELECTRONIC OR TELEPHONIC MEANS.—Subject to subparagraph (C), in order to reduce cost, the arbitrator may hold a hearing by electronic or telephonic means or by a submission of documents.

(C) FACE-TO-FACE MEETING.—Each party shall have the right to require a face-to-face hearing, which hearing shall be held at a location that is reasonably convenient for the party who did not draft the contract unless in the interest of fairness the arbitrator determines otherwise, in which case the arbitrator shall use the process described in section 1391 of title 28, United States Code, to determine the venue for the hearing.

(5) EVIDENCE.—With respect to any hearing—

(A) each party shall have the right to present evidence at the hearing and, for this purpose, each party shall grant access to all information reasonably relevant to the dispute to the other parties, subject to any applicable privilege or other limitation on discovery under applicable State law;

(B) consistent with the expedited nature of arbitration, relevant and necessary prehearing depositions shall be available to each party at the direction of the arbitrator; and

(C) the arbitrator shall—

(i) make reasonable efforts to maintain the privacy of the hearing to the extent permitted by applicable State law; and

(ii) consider appropriate claims of privilege and confidentiality in addressing evidentiary issues.

(6) CROSS EXAMINATION.—Each party shall have the right to cross examine witnesses presented by the other parties at a hearing.

(7) RECORD OF PROCEEDING.—Any party seeking a stenographic record of a hearing shall make arrangements directly with a stenographer and shall notify the other parties of these arrangements not less than 3 days in advance of the hearing. The requesting party or parties shall pay the costs of obtaining the record. If the transcript is agreed by the parties, or determined by the arbitrator to be the official record of the proceeding, it shall be provided to the arbitrator and made available to the other parties for inspection, at a date, time, and place determined by the arbitrator.

(8) TIMELY RESOLUTION.—Upon submission of a complaint by the claimant, the respondent shall have 30 days to file an answer. Thereafter, the arbitrator shall direct each party to file documents and to provide evidence in a timely manner so that the hearing may be held not later than 90 days after the filing of the answer. In extraordinary circumstances, including multiparty, multidistrict, or complex litigation, the arbitrator may grant a limited extension of these time limits to a party, or the parties may agree to an extension. The arbitrator shall notify each party of its decision not later than 30 days after the hearing.

(9) WRITTEN DECISION.—The arbitrator shall provide each party with a written explanation of the factual and legal basis for the decision. This written decision shall describe the application of an identified contract term, statute, or legal precedent. The decision of the arbitrator shall be final and binding, subject only to the review provisions in subsection (d).

(10) EXPENSES.—The arbitrator or independent arbitration administration organization, as applicable, shall have the authority to—

(A) provide for reimbursement of arbitration fees to the claimant, in whole or in part, as part of the remedy in accordance with applicable law or in the interests of justice; and

(B) waive, defer, or reduce any fee or charge due from the claimant in the event of extreme hardship.

(11) SMALL CLAIMS OPT OUT.—

(A) IN GENERAL.—Each party shall have the right to opt out of binding arbitration and into the small claims court for the forum, if such court has jurisdiction over the claim. For purposes of this paragraph, no court with jurisdiction to hear claims in excess of $50,000 shall be considered to be a small claims court.

(B) EXCEPTION.—Where a complaint in small claims court is subsequently amended to exceed the lesser of the jurisdictional amount or a claim for $50,000 in total damages, the small claims court exemption of this paragraph shall not apply and the parties are required to arbitrate.

(c) DENIAL OF RIGHTS.—

(1) DENIAL OF RIGHTS BY PARTY MISCONDUCT.—

(A) IN GENERAL.—At any time during an arbitration proceeding, any party may file a motion with the arbitrator asserting that the other party has deprived the movant of 1 or more rights granted by this section and seeking relief.

(B) AWARD BY ARBITRATOR.—If the arbitrator determines that the movant has been deprived of a right granted by this section by the other party, the arbitrator shall award the movant a monetary amount, which shall not exceed the reasonable expenses incurred by the movant in filing the motion, including attorneys' fees, unless the arbitrator finds that—

(i) the motion was filed without the movant's first making a good faith effort to obtain discovery or the realization of another right granted by this section;

(ii) the opposing party's nondisclosure, failure to respond, response, or objection was substantially justified; or

(iii) the circumstances otherwise make an award of expenses unjust.

(2) DENIAL OF RIGHTS BY ARBITRATOR.—A losing party in an arbitration may file a petition in the district court of the United States in the forum in which the party that did not draft the contract resided at the time the contract was entered into to assert that the arbitrator violated 1 or more of the rights granted to the party by this section and to seek relief. In order to grant the petition, the court must find clear and convincing evidence that 1 or more actions or omissions of the arbitrator resulted in a deprivation of a right of the petitioner under

this section that was not harmless. If such a finding is made, the court shall order a rehearing before a new arbitrator selected in the same manner as the original arbitrator as the exclusive judicial remedy provided by this section.

(d) EFFECTIVE DATE.—This section shall apply to any contract entered into after the date that is 6 months after the date of enactment of this Act.

SEC. 3. LIMITATION ON CLAIMS.

Except as otherwise expressly provided in this Act, nothing in this Act may be construed to be the basis for any claim in law or equity.

AMENDMENTS SUBMITTED & PROPOSED

SA 4847. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table.

SA 4848. Mr. HOLLINGS (for himself, Mr. MCCAIN, Mr. REID, Mr. JEFFORDS, Mr. CARPER, and Mr. TORRICELLI) submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4849. Mr. INOUYE submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 4847. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4438 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Homeland Security and Combating Terrorism Act of 2002''.

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

(a) DIVISIONS.—This Act is organized into 5 divisions as follows:

(1) Division A—National Homeland Security and Combating Terrorism.

(2) Division B—Immigration Reform, Accountability, and Security Enhancement Act of 2002.

(3) Division C—Federal Workforce Improvement.

(4) Division D—E-Government Act of 2002.

(5) Division E—Flight and Cabin Security on Passenger Aircraft.

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

Sec. 1. Short title.
Sec. 2. Organization of Act into divisions; table of contents.

DIVISION A—NATIONAL HOMELAND SECURITY AND COMBATING TERRORISM

Sec. 100. Definitions.

TITLE I—DEPARTMENT OF HOMELAND SECURITY

Subtitle A—Establishment of the Department of Homeland Security

Sec. 101. Establishment of the Department of Homeland Security.
Sec. 102. Secretary of Homeland Security.
Sec. 103. Deputy Secretary of Homeland Security.
Sec. 104. Under Secretary for Management.
Sec. 105. Assistant Secretaries.
Sec. 106. Inspector General.
Sec. 107. Chief Financial Officer.
Sec. 108. Chief Information Officer.
Sec. 109. General Counsel.
Sec. 110. Civil Rights Officer.
Sec. 111. Privacy Officer.
Sec. 112. Chief Human Capital Officer.
Sec. 113. Office of International Affairs.
Sec. 114. Executive Schedule positions.

Subtitle B—Establishment of Directorates and Offices

Sec. 131. Directorate of Border and Transportation Protection.
Sec. 132. Directorate of Intelligence.
Sec. 133. Directorate of Critical Infrastructure Protection.
Sec. 134. Directorate of Emergency Preparedness and Response.
Sec. 135. Directorate of Science and Technology.
Sec. 136. Directorate of Immigration Affairs.
Sec. 137. Office for State and Local Government Coordination.
Sec. 138. United States Secret Service.
Sec. 139. Border Coordination Working Group.
Sec. 140. Office for National Capital Region Coordination.
Sec. 141. Executive Schedule positions.
Sec. 142. Preserving Coast Guard mission performance.

Subtitle C—National Emergency Preparedness Enhancement

Sec. 151. Short title.
Sec. 152. Preparedness information and education.
Sec. 153. Pilot program.
Sec. 154. Designation of National Emergency Preparedness Week.

Subtitle D—Miscellaneous Provisions

Sec. 161. National Bio-Weapons Defense Analysis Center.
Sec. 162. Review of food safety.
Sec. 163. Exchange of employees between agencies and State or local governments.
Sec. 164. Whistleblower protection for Federal employees who are airport security screeners.
Sec. 165. Whistleblower protection for certain airport employees.
Sec. 166. Bioterrorism preparedness and response division.
Sec. 167. Coordination with the Department of Health and Human Services under the Public Health Service Act.
Sec. 168. Rail security enhancements.
Sec. 169. Grants for firefighting personnel.
Sec. 170. Review of transportation security enhancements.
Sec. 171. Interoperability of information systems.
Sec. 172. Extension of customs user fees.
Sec. 173. Conforming amendments regarding laws administered by the Secretary of Veterans Affairs.
Sec. 174. Prohibition on contracts with corporate expatriates.
Sec. 175. Transfer of certain agricultural inspection functions of the Department of Agriculture.
Sec. 176. Coordination of information and information technology.

Subtitle E—Transition Provisions

Sec. 181. Definitions.
Sec. 182. Transfer of agencies.
Sec. 183. Transitional authorities.
Sec. 184. Incidental transfers and transfer of related functions.
Sec. 185. Implementation progress reports and legislative recommendations.
Sec. 186. Transfer and allocation.
Sec. 187. Savings provisions.
Sec. 188. Transition plan.
Sec. 189. Use of appropriated funds.

Subtitle F—Administrative Provisions

Sec. 191. Reorganizations and delegations.
Sec. 192. Reporting requirements.
Sec. 193. Environmental protection, safety, and health requirements.
Sec. 194. Labor standards.
Sec. 195. Procurement of temporary and intermittent services.
Sec. 196. Preserving non-homeland security mission performance.
Sec. 197. Future Years Homeland Security Program.
Sec. 198. Protection of voluntarily furnished confidential information.
Sec. 199. Establishment of human resources management system.
Sec. 199A. Labor-management relations.
Sec. 199B. Authorization of appropriations.

TITLE II—LAW ENFORCEMENT POWERS OF INSPECTOR GENERAL AGENTS

Sec. 201. Law enforcement powers of Inspector General agents.

TITLE III—FEDERAL EMERGENCY PROCUREMENT FLEXIBILITY

Subtitle A—Temporary Flexibility for Certain Procurements

Sec. 301. Definition.
Sec. 302. Procurements for defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack.
Sec. 303. Increased simplified acquisition threshold for procurements in support of humanitarian or peacekeeping operations or contingency operations.
Sec. 304. Increased micro-purchase threshold for certain procurements.
Sec. 305. Application of certain commercial items authorities to certain procurements.
Sec. 306. Use of streamlined procedures.
Sec. 307. Review and report by Comptroller General.

Subtitle B—Other Matters

Sec. 311. Identification of new entrants into the Federal marketplace.

TITLE IV—NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES

Sec. 401. Establishment of Commission.
Sec. 402. Purposes.
Sec. 403. Composition of the Commission.
Sec. 404. Functions of the Commission.
Sec. 405. Powers of the Commission.
Sec. 406. Staff of the Commission.
Sec. 407. Compensation and travel expenses.
Sec. 408. Security clearances for Commission members and staff.
Sec. 409. Reports of the Commission; termination.
Sec. 410. Authorization of appropriations.

TITLE V—EFFECTIVE DATE

Sec. 501. Effective date.

DIVISION B—IMMIGRATION REFORM, ACCOUNTABILITY, AND SECURITY ENHANCEMENT ACT OF 2002

TITLE X—SHORT TITLE AND DEFINITIONS

Sec. 1001. Short title.
Sec. 1002. Definitions.

TITLE XI—DIRECTORATE OF IMMIGRATION AFFAIRS
Subtitle A—Organization
Sec. 1101. Abolition of INS.
Sec. 1102. Establishment of Directorate of Immigration Affairs.
Sec. 1103. Under Secretary of Homeland Security for Immigration Affairs.
Sec. 1104. Bureau of Immigration Services.
Sec. 1105. Bureau of Enforcement and Border Affairs.
Sec. 1106. Office of the Ombudsman within the Directorate.
Sec. 1107. Office of Immigration Statistics within the Directorate.
Sec. 1108. Clerical amendments.
Subtitle B—Transition Provisions
Sec. 1111. Transfer of functions.
Sec. 1112. Transfer of personnel and other resources.
Sec. 1113. Determinations with respect to functions and resources.
Sec. 1114. Delegation and reservation of functions.
Sec. 1115. Allocation of personnel and other resources.
Sec. 1116. Savings provisions.
Sec. 1117. Interim service of the Commissioner of Immigration and Naturalization.
Sec. 1118. Executive Office for Immigration review authorities not affected.
Sec. 1119. Other authorities not affected.
Sec. 1120. Transition funding.
Subtitle C—Miscellaneous Provisions
Sec. 1121. Funding adjudication and naturalization services.
Sec. 1122. Application of Internet-based technologies.
Sec. 1123. Alternatives to detention of asylum seekers.
Subtitle D—Effective Date
Sec. 1131. Effective date.
TITLE XII—UNACCOMPANIED ALIEN CHILD PROTECTION
Sec. 1201. Short title.
Sec. 1202. Definitions.
Subtitle A—Structural Changes
Sec. 1211. Responsibilities of the Office of Refugee Resettlement with respect to unaccompanied alien children.
Sec. 1212. Establishment of Interagency Task Force on Unaccompanied Alien Children.
Sec. 1213. Transition provisions.
Sec. 1214. Effective date.
Subtitle B—Custody, Release, Family Reunification, and Detention
Sec. 1221. Procedures when encountering unaccompanied alien children.
Sec. 1222. Family reunification for unaccompanied alien children with relatives in the United States.
Sec. 1223. Appropriate conditions for detention of unaccompanied alien children.
Sec. 1224. Repatriated unaccompanied alien children.
Sec. 1225. Establishing the age of an unaccompanied alien child.
Sec. 1226. Effective date.
Subtitle C—Access by Unaccompanied Alien Children to Guardians Ad Litem and Counsel
Sec. 1231. Right of unaccompanied alien children to guardians ad litem.
Sec. 1232. Right of unaccompanied alien children to counsel.
Sec. 1233. Effective date; applicability.
Subtitle D—Strengthening Policies for Permanent Protection of Alien Children
Sec. 1241. Special immigrant juvenile visa.
Sec. 1242. Training for officials and certain private parties who come into contact with unaccompanied alien children.
Sec. 1243. Effective date.
Subtitle E—Children Refugee and Asylum Seekers
Sec. 1251. Guidelines for children's asylum claims.
Sec. 1252. Unaccompanied refugee children.
Subtitle F—Authorization of Appropriations
Sec. 1261. Authorization of appropriations.
TITLE XIII—AGENCY FOR IMMIGRATION HEARINGS AND APPEALS
Subtitle A—Structure and Function
Sec. 1301. Establishment.
Sec. 1302. Director of the agency.
Sec. 1303. Board of Immigration Appeals.
Sec. 1304. Chief Immigration Judge.
Sec. 1305. Chief Administrative Hearing Officer.
Sec. 1306. Removal of judges.
Sec. 1307. Authorization of appropriations.
Subtitle B—Transfer of Functions and Savings Provisions
Sec. 1311. Transition provisions.
Subtitle C—Effective Date
Sec. 1321. Effective date.
DIVISION C—FEDERAL WORKFORCE IMPROVEMENT
TITLE XXI—CHIEF HUMAN CAPITAL OFFICERS
Sec. 2101. Short title.
Sec. 2102. Agency Chief Human Capital Officers.
Sec. 2103. Chief Human Capital Officers Council.
Sec. 2104. Strategic human capital management.
Sec. 2105. Effective date.
TITLE XXII—REFORMS RELATING TO FEDERAL HUMAN CAPITAL MANAGEMENT
Sec. 2201. Inclusion of agency human capital strategic planning in performance plans and program performance reports.
Sec. 2202. Reform of the competitive service hiring process.
Sec. 2203. Permanent extension, revision, and expansion of authorities for use of voluntary separation incentive pay and voluntary early retirement.
Sec. 2204. Student volunteer transit subsidy.
TITLE XXIII—REFORMS RELATING TO THE SENIOR EXECUTIVE SERVICE
Sec. 2301. Repeal of recertification requirements of senior executives.
Sec. 2302. Adjustment of limitation on total annual compensation.
TITLE XXIV—ACADEMIC TRAINING
Sec. 2401. Academic training.
Sec. 2402. Modifications to National Security Education Program.
Sec. 2403. Compensatory time off for travel.
DIVISION D—E-GOVERNMENT ACT OF 2002
TITLE XXX—SHORT TITLE; FINDINGS AND PURPOSES
Sec. 3001. Short title.
Sec. 3002. Findings and purposes.
TITLE XXXI—OFFICE OF MANAGEMENT AND BUDGET ELECTRONIC GOVERNMENT SERVICES
Sec. 3101. Management and promotion of electronic Government services.
Sec. 3102. Conforming amendments.
TITLE XXXII—FEDERAL MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES
Sec. 3201. Definitions.
Sec. 3202. Federal agency responsibilities.
Sec. 3203. Compatibility of executive agency methods for use and acceptance of electronic signatures.
Sec. 3204. Federal Internet portal.
Sec. 3205. Federal courts.
Sec. 3206. Regulatory agencies.
Sec. 3207. Accessibility, usability, and preservation of Government information.
Sec. 3208. Privacy provisions.
Sec. 3209. Federal information technology workforce development.
Sec. 3210. Common protocols for geographic information systems.
Sec. 3211. Share-in-savings program improvements.
Sec. 3212. Integrated reporting study and pilot projects.
Sec. 3213. Community technology centers.
Sec. 3214. Enhancing crisis management through advanced information technology.
Sec. 3215. Disparities in access to the Internet.
Sec. 3216. Notification of obsolete or counterproductive provisions.
TITLE XXXIII—GOVERNMENT INFORMATION SECURITY
Sec. 3301. Information security.
TITLE XXXIV—AUTHORIZATION OF APPROPRIATIONS AND EFFECTIVE DATES
Sec. 3401. Authorization of appropriations.
Sec. 3402. Effective dates.
DIVISION E—FLIGHT AND CABIN SECURITY ON PASSENGER AIRCRAFT
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DIVISION A—NATIONAL HOMELAND SECURITY AND COMBATING TERRORISM

SEC. 100. DEFINITIONS.

Unless the context clearly indicates otherwise, the following shall apply for purposes of this division:

(1) AGENCY.—Except for purposes of subtitle E of title I, the term ''agency''—

(A) means—

(i) an Executive agency as defined under section 105 of title 5, United States Code;

(ii) a military department as defined under section 102 of title 5, United States Code;

(iii) the United States Postal Service; and

(B) does not include the General Accounting Office.

(2) ASSETS.—The term ''assets'' includes contracts, facilities, property, records, unobligated or unexpended balances of appropriations, and other funds or resources (other than personnel).

(3) DEPARTMENT.—The term ''Department'' means the Department of Homeland Security established under title I.

(4) ENTERPRISE ARCHITECTURE.—The term ''enterprise architecture''—

(A) means—

(i) a strategic information asset base, which defines the mission;

(ii) the information necessary to perform the mission;

(iii) the technologies necessary to perform the mission; and

(iv) the transitional processes for implementing new technologies in response to changing mission needs; and

(B) includes—

(i) a baseline architecture;

(ii) a target architecture; and

(iii) a sequencing plan.

(5) FEDERAL TERRORISM PREVENTION AND RESPONSE AGENCY.—The term ''Federal terrorism prevention and response agency'' means any Federal department or agency

charged with responsibilities for carrying out a homeland security strategy.

(6) FUNCTIONS.—The term ''functions'' includes authorities, powers, rights, privileges, immunities, programs, projects, activities, duties, responsibilities, and obligations.

(7) HOMELAND.—The term ''homeland'' means the United States, in a geographic sense.

(8) LOCAL GOVERNMENT.—The term ''local government'' has the meaning given under section 102(6) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93–288).

(9) PERSONNEL.—The term ''personnel'' means officers and employees.

(10) RISK ANALYSIS AND RISK MANAGEMENT.—The term ''risk analysis and risk management'' means the assessment, analysis, management, mitigation, and communication of homeland security threats, vulnerabilities, criticalities, and risks.

(11) SECRETARY.—The term ''Secretary'' means the Secretary of Homeland Security.

(12) UNITED STATES.—The term ''United States'', when used in a geographic sense, means any State (within the meaning of section 102(4) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93–288)), any possession of the United States, and any waters within the jurisdiction of the United States.

TITLE I—DEPARTMENT OF HOMELAND SECURITY

Subtitle A—Establishment of the Department of Homeland Security

SEC. 101. ESTABLISHMENT OF THE DEPARTMENT OF HOMELAND SECURITY.

(a) IN GENERAL.—There is established the Department of National Homeland Security.

(b) EXECUTIVE DEPARTMENT.—Section 101 of title 5, United States Code, is amended by adding at the end the following:

''The Department of Homeland Security.''.

(c) MISSION OF DEPARTMENT.—

(1) HOMELAND SECURITY.—The mission of the Department is to—

(A) promote homeland security, particularly with regard to terrorism;

(B) prevent terrorist attacks or other homeland threats within the United States;

(C) reduce the vulnerability of the United States to terrorism, natural disasters, and other homeland threats; and

(D) minimize the damage, and assist in the recovery, from terrorist attacks or other natural or man-made crises that occur within the United States.

(2) OTHER MISSIONS.—The Department shall be responsible for carrying out the other functions, and promoting the other missions, of entities transferred to the Department as provided by law.

(d) SEAL.—The Secretary shall procure a proper seal, with such suitable inscriptions and devices as the President shall approve. This seal, to be known as the official seal of the Department of Homeland Security, shall be kept and used to verify official documents, under such rules and regulations as the Secretary may prescribe. Judicial notice shall be taken of the seal.

SEC. 102. SECRETARY OF HOMELAND SECURITY.

(a) IN GENERAL.—The Secretary of Homeland Security shall be the head of the Department. The Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The responsibilities of the Secretary shall be the following:

(1) To develop policies, goals, objectives, priorities, and plans for the United States for the promotion of homeland security, particularly with regard to terrorism.

(2) To administer, carry out, and promote the other established missions of the entities transferred to the Department.

(3) To develop a comprehensive strategy for combating terrorism and the homeland security response.

(4) To make budget recommendations relating to a homeland security strategy, border and transportation security, infrastructure protection, emergency preparedness and response, science and technology promotion related to homeland security, and Federal support for State and local activities.

(5) To plan, coordinate, and integrate those Federal Government activities relating to border and transportation security, critical infrastructure protection, all-hazards emergency preparedness, response, recovery, and mitigation.

(6) To serve as a national focal point to analyze all information available to the United States related to threats of terrorism and other homeland threats.

(7) To establish and manage a comprehensive risk analysis and risk management program that directs and coordinates the supporting risk analysis and risk management activities of the Directorates and ensures coordination with entities outside the Department engaged in such activities.

(8) To identify and promote key scientific and technological advances that will enhance homeland security.

(9) To include, as appropriate, State and local governments and other entities in the full range of activities undertaken by the Department to promote homeland security, including—

(A) providing State and local government personnel, agencies, and authorities, with appropriate intelligence information, including warnings, regarding threats posed by terrorism in a timely and secure manner;

(B) facilitating efforts by State and local law enforcement and other officials to assist in the collection and dissemination of intelligence information and to provide information to the Department, and other agencies, in a timely and secure manner;

(C) coordinating with State, regional, and local government personnel, agencies, and authorities and, as appropriate, with the private sector, other entities, and the public, to ensure adequate planning, team work, coordination, information sharing, equipment, training, and exercise activities;

(D) consulting State and local governments, and other entities as appropriate, in developing a homeland security strategy; and

(E) systematically identifying and removing obstacles to developing effective partnerships between the Department, other agencies, and State, regional, and local government personnel, agencies, and authorities, the private sector, other entities, and the public to secure the homeland.

(10)(A) To consult and coordinate with the Secretary of Defense and the governors of the several States regarding integration of the United States military, including the National Guard, into all aspects of a homeland security strategy and its implementation, including detection, prevention, protection, response, and recovery.

(B) To consult and coordinate with the Secretary of Defense and make recommendations concerning organizational structure, equipment, and positioning of military assets determined critical to executing a homeland security strategy.

(C) To consult and coordinate with the Secretary of Defense regarding the training of personnel to respond to terrorist attacks involving chemical or biological agents.

(11) To seek to ensure effective day-to-day coordination of homeland security operations, and establish effective mechanisms for such coordination, among the elements constituting the Department and with other involved and affected Federal, State, and local departments and agencies.

(12) To administer the Homeland Security Advisory System, exercising primary responsibility for public threat advisories, and (in coordination with other agencies) providing specific warning information to State and local government personnel, agencies and authorities, the private sector, other entities, and the public, and advice about appropriate protective actions and countermeasures.

(13) To conduct exercise and training programs for employees of the Department and other involved agencies, and establish effective command and control procedures for the full range of potential contingencies regarding United States homeland security, including contingencies that require the substantial support of military assets.

(14) To annually review, update, and amend the Federal response plan for homeland security and emergency preparedness with regard to terrorism and other manmade and natural disasters.

(15) To direct the acquisition and management of all of the information resources of the Department, including communications resources.

(16) To endeavor to make the information technology systems of the Department, including communications systems, effective, efficient, secure, and appropriately interoperable.

(17) In furtherance of paragraph (16), to oversee and ensure the development and implementation of an enterprise architecture for Department-wide information technology, with timetables for implementation.

(18) As the Secretary considers necessary, to oversee and ensure the development and implementation of updated versions of the enterprise architecture under paragraph (17).

(19) To report to Congress on the development and implementation of the enterprise architecture under paragraph (17) in—

(A) each implementation progress report required under section 185; and

(B) each biennial report required under section 192(b).

(c) VISA ISSUANCE BY THE SECRETARY.—

(1) DEFINITION.—In this subsection, the term ''consular officer'' has the meaning given that term under section 101(a)(9) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(9)).

(2) IN GENERAL.—Notwithstanding section 104(a) of the Immigration and Nationality Act (8 U.S.C. 1104(a)) or any other provision of law, and except as provided under paragraph (3), the Secretary—

(A) shall be vested exclusively with all authorities to issue regulations with respect to, administer, and enforce the provisions of such Act, and of all other immigration and nationality laws, relating to the functions of consular officers of the United States in connection with the granting or refusal of visas, which authorities shall be exercised through the Secretary of State, except that the Secretary shall not have authority to alter or reverse the decision of a consular officer to refuse a visa to an alien; and

(B)(i) may delegate in whole or part the authority under subparagraph (A) to the Secretary of State; and

(ii) shall have authority to confer or impose upon any officer or employee of the United States, with the consent of the head of the executive agency under whose jurisdiction such officer or employee is serving, any of the functions specified in subparagraph (A).

(3) AUTHORITY OF THE SECRETARY OF STATE.—

(A) IN GENERAL.—The Secretary of State may direct a consular officer to refuse a visa

to an alien if the Secretary of State considers such refusal necessary or advisable in the foreign policy or security interests of the United States.

(B) STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed as affecting the authorities of the Secretary of State under the following provisions of law:

(i) Section 101(a)(15)(A) of the Immigration and Nationality Act (8 U.S.C. 1101(15)(A)).

(ii) Section 212(a)(3)(B)(i)(IV)(bb) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)(IV)(bb)).

(iii) Section 212(a)(3)(B)(i)(VI) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)(VI)).

(iv) Section 212(a)(3)(B)(vi)(II) of the Immigration and Nationality Act (8 U.S.C. 1182 (a)(3)(B)(vi)(II)).

(v) Section 212(a)(3)(C) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(C)).

(vi) Section 212(a)(10)(C) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(C)).

(vii) Section 212(f) of the Immigration and Nationality Act (8 U.S.C. 1182(f)).

(viii) Section 219(a) of the Immigration and Nationality Act (8 U.S.C. 1189(a)).

(ix) Section 237(a)(4)(C) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)(C)).

(x) Section 104 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (22 U.S.C. 6034).

(xi) Section 616 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1999 (Public Law 105–277).

(xii) Section 103(f) of the Chemical Weapons Convention Implementation Act of 1998 (112 Stat. 2681–865).

(xiii) Section 801 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2002 and 2001 (113 Stat. 1501A–468).

(xiv) Section 568 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107–115).

(xv) Section 51 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2723).

(xvi) Section 204(d)(2) of the Immigration and Nationality Act (8 U.S.C. 1154) (as it will take effect upon the entry into force of the Convention on Protection of Children and Cooperation in Respect to Inter-Country Adoption).

(4) CONSULAR OFFICERS AND CHIEFS OF MISSIONS.—Nothing in this subsection may be construed to alter or affect—

(A) the employment status of consular officers as employees of the Department of State; or

(B) the authority of a chief of mission under section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927).

(5) ASSIGNMENT OF HOMELAND SECURITY EMPLOYEES TO DIPLOMATIC AND CONSULAR POSTS.—

(A) IN GENERAL.—The Secretary is authorized to assign employees of the Department to diplomatic and consular posts abroad to perform the following functions:

(i) Provide expert advice to consular officers regarding specific security threats relating to the adjudication of individual visa applications or classes of applications.

(ii) Review any such applications, either on the initiative of the employee of the Department or upon request by a consular officer or other person charged with adjudicating such applications.

(iii) Conduct investigations with respect to matters under the jurisdiction of the Secretary.

(B) PERMANENT ASSIGNMENT; PARTICIPATION IN TERRORIST LOOKOUT COMMITTEE.—When appropriate, employees of the Department assigned to perform functions described in subparagraph (A) may be assigned permanently to overseas diplomatic or consular posts with country-specific or regional responsibility. If the Secretary so directs, any such employee, when present at an overseas post, shall participate in the terrorist lookout committee established under section 304 of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1733).

(C) TRAINING AND HIRING.—

(i) IN GENERAL.—The Secretary shall ensure that any employees of the Department assigned to perform functions described under subparagraph (A) and, as appropriate, consular officers, shall be provided all necessary training to enable them to carry out such functions, including training in foreign languages, in conditions in the particular country where each employee is assigned, and in other appropriate areas of study.

(ii) FOREIGN LANGUAGE PROFICIENCY.—Before assigning employees of the Department to perform the functions described under subparagraph (A), the Secretary shall promulgate regulations establishing foreign language proficiency requirements for employees of the Department performing the functions described under subparagraph (A) and providing that preference shall be given to individuals who meet such requirements in hiring employees for the performance of such functions.

(iii) USE OF CENTER.—The Secretary is authorized to use the National Foreign Affairs Training Center, on a reimbursable basis, to obtain the training described in clause (i).

(6) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary and the Secretary of State shall submit to Congress—

(A) a report on the implementation of this subsection; and

(B) any legislative proposals necessary to further the objectives of this subsection.

(7) EFFECTIVE DATE.—This subsection shall take effect on the earlier of—

(A) the date on which the President publishes notice in the Federal Register that the President has submitted a report to Congress setting forth a memorandum of understanding between the Secretary and the Secretary of State governing the implementation of this section; or

(B) the date occurring 1 year after the date of enactment of this Act.

(d) MEMBERSHIP ON THE NATIONAL SECURITY COUNCIL.—Section 101(a) of the National Security Act of 1947 (50 U.S.C. 402(a)) is amended in the fourth sentence by striking paragraphs (5), (6), and (7) and inserting the following:

''(5) the Secretary of Homeland Security; and

''(6) each Secretary or Under Secretary of such other executive department, or of a military department, as the President shall designate.''.

SEC. 103. DEPUTY SECRETARY OF HOMELAND SECURITY.

(a) IN GENERAL.—There shall be in the Department a Deputy Secretary of Homeland Security, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Deputy Secretary of Homeland Security shall—

(1) assist the Secretary in the administration and operations of the Department;

(2) perform such responsibilities as the Secretary shall prescribe; and

(3) act as the Secretary during the absence or disability of the Secretary or in the event of a vacancy in the office of the Secretary.

SEC. 104. UNDER SECRETARY FOR MANAGEMENT.

(a) IN GENERAL.—There shall be in the Department an Under Secretary for Management, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Under Secretary for Management shall report to the Secretary, who may assign to the Under Secretary such functions related to the management and administration of the Department as the Secretary may prescribe, including—

(1) the budget, appropriations, expenditures of funds, accounting, and finance;

(2) procurement;

(3) human resources and personnel;

(4) information technology and communications systems;

(5) facilities, property, equipment, and other material resources;

(6) security for personnel, information technology and communications systems, facilities, property, equipment, and other material resources; and

(7) identification and tracking of performance measures relating to the responsibilities of the Department.

SEC. 105. ASSISTANT SECRETARIES.

(a) IN GENERAL.—There shall be in the Department not more than 5 Assistant Secretaries (not including the 2 Assistant Secretaries appointed under division B), each of whom shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—

(1) IN GENERAL.—Whenever the President submits the name of an individual to the Senate for confirmation as an Assistant Secretary under this section, the President shall describe the general responsibilities that such appointee will exercise upon taking office.

(2) ASSIGNMENT.—Subject to paragraph (1), the Secretary shall assign to each Assistant Secretary such functions as the Secretary considers appropriate.

SEC. 106. INSPECTOR GENERAL.

(a) IN GENERAL.—There shall be in the Department an Inspector General. The Inspector General and the Office of Inspector General shall be subject to the Inspector General Act of 1978 (5 U.S.C. App.).

(b) ESTABLISHMENT.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1), by inserting ''Homeland Security,'' after ''Health and Human Services,''; and

(2) in paragraph (2), by inserting ''Homeland Security,'' after ''Health and Human Services,''.

(c) REVIEW OF THE DEPARTMENT OF HOMELAND SECURITY.—The Inspector General shall designate 1 official who shall—

(1) review information and receive complaints alleging abuses of civil rights and civil liberties by employees and officials of the Department;

(2) publicize, through the Internet, radio, television, and newspaper advertisements—

(A) information on the responsibilities and functions of the official; and

(B) instructions on how to contact the official; and

(3) on a semi-annual basis, submit to Congress, for referral to the appropriate committee or committees, a report—

(A) describing the implementation of this subsection;

(B) detailing any civil rights abuses under paragraph (1); and

(C) accounting for the expenditure of funds to carry out this subsection.

(d) ADDITIONAL PROVISIONS WITH RESPECT TO THE INSPECTOR GENERAL OF THE DEPARTMENT OF HOMELAND SECURITY.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by redesignating section 8I as section 8J; and

(2) by inserting after section 8H the following:

SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF HOMELAND SECURITY

''SEC. 8I. (a)(1) Notwithstanding the last 2 sentences of section 3(a), the Inspector General of the Department of Homeland Security (in this section referred to as the ''Inspector General'') shall be under the authority, direction, and control of the Secretary of Homeland Security (in this section referred to as the ''Secretary'') with respect to audits or investigations, or the issuance of subpoenas, which require access to sensitive information concerning—

''(A) intelligence or counterintelligence matters;

''(B) ongoing criminal investigations or proceedings;

''(C) undercover operations;

''(D) the identity of confidential sources, including protected witnesses;

''(E) other matters the disclosure of which would constitute a serious threat to the protection of any person or property authorized protection by—

''(i) section 3056 of title 18, United States Code;

''(ii) section 202 of title 3, United States Code; or

''(iii) any provision of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note); or

''(F) other matters the disclosure of which would constitute a serious threat to national security.

''(2) With respect to the information described under paragraph (1), the Secretary may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to—

''(A) prevent the disclosure of any information described under paragraph (1);

''(B) preserve the national security; or

''(C) prevent significant impairment to the national interests of the United States.

''(3) If the Secretary exercises any power under paragraph (1) or (2), the Secretary shall notify the Inspector General in writing (appropriately classified, if necessary) within 7 calendar days stating the reasons for such exercise. Within 30 days after receipt of any such notice, the Inspector General shall transmit a copy of such notice, together with such comments concerning the exercise of such power as the Inspector General considers appropriate, to—

''(A) the President of the Senate;

''(B) the Speaker of the House of Representatives;

''(C) the Committee on Governmental Affairs of the Senate;

''(D) the Committee on Government Reform of the House of Representatives; and

''(E) other appropriate committees or subcommittees of Congress.

''(b)(1) In carrying out the duties and responsibilities under this Act, the Inspector General shall have oversight responsibility for the internal investigations and audits performed by any other office performing internal investigatory or audit functions in any subdivision of the Department of Homeland Security.

''(2) The head of each other office described under paragraph (1) shall promptly report to the Inspector General the significant activities being carried out by such office.

''(3) Notwithstanding paragraphs (1) and (2), the Inspector General may initiate, conduct, and supervise such audits and investigations in the Department (including in any subdivision referred to in paragraph (1)) as the Inspector General considers appropriate.

''(4) If the Inspector General initiates an audit or investigation under paragraph (3) concerning a subdivision referred to in paragraph (1), the Inspector General may provide the head of the other office performing internal investigatory or audit functions in the subdivision with written notice that the Inspector General has initiated such an audit or investigation. If the Inspector General issues such a notice, no other audit or investigation shall be initiated into the matter under audit or investigation by the Inspector General, and any other audit or investigation of such matter shall cease.

''(c) Any report required to be transmitted by the Secretary to the appropriate committees or subcommittees of Congress under section 5(d) shall also be transmitted, within the 7-day period specified under that subsection, to—

''(1) the President of the Senate;

''(2) the Speaker of the House of Representatives;

''(3) the Committee on Governmental Affairs of the Senate; and

''(4) the Committee on Government Reform of the House of Representatives.''.

(e) TECHNICAL AND CONFORMING AMENDMENTS.—The Inspector General Act of 1978 (5 U.S.C. appendix) is amended—

(1) in section 4(b), by striking ''8F'' each place it appears and inserting ''8G''; and

(2) in section 8J (as redesignated by subsection (c)(1)), by striking ''or 8H'' and inserting '', 8H, or 8I''.''

SEC. 107. CHIEF FINANCIAL OFFICER.

(a) IN GENERAL.—There shall be in the Department a Chief Financial Officer, who shall be appointed or designated in the manner prescribed under section 901(a)(1) of title 31, United States Code.

(b) ESTABLISHMENT.—Section 901(b)(1) of title 31, United States Code, is amended—

(1) by redesignating subparagraphs (G) through (P) as subparagraphs (H) through (Q), respectively; and

(2) by inserting after subparagraph (F) the following:

''(G) The Department of Homeland Security.''.

SEC. 108. CHIEF INFORMATION OFFICER.

(a) IN GENERAL.—There shall be in the Department a Chief Information Officer, who shall be designated in the manner prescribed under section 3506(a)(2)(A) of title 44, United States Code.

(b) RESPONSIBILITIES.—The Chief Information Officer shall assist the Secretary with Department-wide information resources management and perform those duties prescribed by law for chief information officers of agencies.

SEC. 109. GENERAL COUNSEL.

(a) IN GENERAL.—There shall be in the Department a General Counsel, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The General Counsel shall—

(1) serve as the chief legal officer of the Department;

(2) provide legal assistance to the Secretary concerning the programs and policies of the Department; and

(3) advise and assist the Secretary in carrying out the responsibilities under section 102(b).

SEC. 110. CIVIL RIGHTS OFFICER.

(a) IN GENERAL.—There shall be in the Department a Civil Rights Officer, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Civil Rights Officer shall be responsible for—

(1) ensuring compliance with all civil rights and related laws and regulations applicable to Department employees and participants in Department programs;

(2) coordinating administration of all civil rights and related laws and regulations within the Department for Department employees and participants in Department programs;

(3) assisting the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that civil rights considerations are appropriately incorporated and implemented in Department programs and activities;

(4) overseeing compliance with statutory and constitutional requirements related to the civil rights of individuals affected by the programs and activities of the Department; and

(5) notifying the Inspector General of any matter that, in the opinion of the Civil Rights Officer, warrants further investigation.

SEC. 111. PRIVACY OFFICER.

(a) IN GENERAL.—There shall be in the Department a Privacy Officer, who shall be appointed by the Secretary.

(b) RESPONSIBILITIES.—The Privacy Officer shall—

(1) oversee compliance with section 552a of title 5, United States Code (commonly referred to as the Privacy Act of 1974) and all other applicable laws relating to the privacy of personal information;

(2) assist the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that—

(A) privacy considerations and safeguards are appropriately incorporated and implemented in Department programs and activities; and

(B) any information received by the Department is used or disclosed in a manner that minimizes the risk of harm to individuals from the inappropriate disclosure or use of such materials;

(3) assist Department personnel with the preparation of privacy impact assessments when required by law or considered appropriate by the Secretary; and

(4) notify the Inspector General of any matter that, in the opinion of the Privacy Officer, warrants further investigation.

SEC. 112. CHIEF HUMAN CAPITAL OFFICER.

(a) IN GENERAL.—The Secretary shall appoint or designate a Chief Human Capital Officer, who shall—

(1) advise and assist the Secretary and other officers of the Department in ensuring that the workforce of the Department has the necessary skills and training, and that the recruitment and retention policies of the Department allow the Department to attract and retain a highly qualified workforce, in accordance with all applicable laws and requirements, to enable the Department to achieve its missions;

(2) oversee the implementation of the laws, rules and regulations of the President and the Office of Personnel Management governing the civil service within the Department; and

(3) advise and assist the Secretary in planning and reporting under the Government Performance and Results Act of 1993 (including the amendments made by that Act), with respect to the human capital resources and needs of the Department for achieving the plans and goals of the Department.

(b) RESPONSIBILITIES.—The responsibilities of the Chief Human Capital Officer shall include—

(1) setting the workforce development strategy of the Department;

(2) assessing workforce characteristics and future needs based on the mission and strategic plan of the Department;

(3) aligning the human resources policies and programs of the Department with organization mission, strategic goals, and performance outcomes;

(4) developing and advocating a culture of continuous learning to attract and retain employees with superior abilities;

(5) identifying best practices and benchmarking studies;

(6) applying methods for measuring intellectual capital and identifying links of that capital to organizational performance and growth; and

(7) providing employee training and professional development.

SEC. 113. OFFICE OF INTERNATIONAL AFFAIRS.

(a) ESTABLISHMENT.—There is established within the Office of the Secretary, an Office of International Affairs. The Office shall be headed by a Director who shall be appointed by the Secretary.

(b) RESPONSIBILITIES OF THE DIRECTOR.—The Director shall have the following responsibilities:

(1) To promote information and education exchange with foreign nations in order to promote sharing of best practices and technologies relating to homeland security. Such information exchange shall include—

(A) joint research and development on countermeasures;

(B) joint training exercises of first responders; and

(C) exchange of expertise on terrorism prevention, response, and crisis management.

(2) To identify areas for homeland security information and training exchange.

(3) To plan and undertake international conferences, exchange programs, and training activities.

(4) To manage activities under this section and other international activities within the Department in consultation with the Department of State and other relevant Federal officials.

(5) To initially concentrate on fostering cooperation with countries that are already highly focused on homeland security issues and that have demonstrated the capability for fruitful cooperation with the United States in the area of counterterrorism.

SEC. 114. EXECUTIVE SCHEDULE POSITIONS.

(a) EXECUTIVE SCHEDULE LEVEL I POSITION.—Section 5312 of title 5, United States Code, is amended by adding at the end the following:

''Secretary of Homeland Security.''.

(b) EXECUTIVE SCHEDULE LEVEL II POSITION.—Section 5313 of title 5, United States Code, is amended by adding at the end the following:

''Deputy Secretary of Homeland Security.''.

(c) EXECUTIVE SCHEDULE LEVEL III POSITION.—Section 5314 of title 5, United States Code, is amended by adding at the end the following:

''Under Secretary for Management, Department of Homeland Security.''.

(d) EXECUTIVE SCHEDULE LEVEL IV POSITIONS.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

''Assistant Secretaries of Homeland Security (5).

''Inspector General, Department of Homeland Security.

''Chief Financial Officer, Department of Homeland Security.

''Chief Information Officer, Department of Homeland Security.

''General Counsel, Department of Homeland Security.''.

Subtitle B—Establishment of Directorates and Offices

SEC. 131. DIRECTORATE OF BORDER AND TRANSPORTATION PROTECTION.

(a) ESTABLISHMENT.—

(1) DIRECTORATE.—There is established within the Department the Directorate of Border and Transportation Protection.

(2) UNDER SECRETARY.—There shall be an Under Secretary for Border and Transportation, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Directorate of Border and Transportation Protection shall be responsible for the following:

(1) Securing the borders, territorial waters, ports, terminals, waterways and air, land (including rail), and sea transportation systems of the United States, including coordinating governmental activities at ports of entry.

(2) Receiving and providing relevant intelligence on threats of terrorism and other homeland threats.

(3) Administering, carrying out, and promoting other established missions of the entities transferred to the Directorate.

(4) Using intelligence from the Directorate of Intelligence and other Federal intelligence organizations under section 132(a)(1)(B) to establish inspection priorities to identify products and other goods imported from suspect locations recognized by the intelligence community as having terrorist activities, unusual human health or agriculture disease outbreaks, or harboring terrorists.

(5) Providing agency-specific training for agents and analysts within the Department, other agencies, and State and local agencies and international entities that have established partnerships with the Federal Law Enforcement Training Center.

(6) Assisting and supporting the Secretary, in coordination with other Directorates and entities outside the Department, in conducting appropriate risk analysis and risk management activities consistent with the mission and functions of the Directorate.

(7) Consistent with section 175, conducting agricultural import and entry inspection functions transferred under section 175.

(8) Performing such other duties as assigned by the Secretary.

(c) TRANSFER OF AUTHORITIES, FUNCTIONS, PERSONNEL, AND ASSETS TO THE DEPARTMENT.—Except as provided under subsection (d), the authorities, functions, personnel, and assets of the following entities are transferred to the Department:

(1) The United States Customs Service, which shall be maintained as a distinct entity within the Department.

(2) The Transportation Security Administration of the Department of Transportation.

(3) The Federal Law Enforcement Training Center of the Department of the Treasury.

(d) EXERCISE OF CUSTOMS REVENUE AUTHORITY.—

(1) IN GENERAL.—

(A) AUTHORITIES NOT TRANSFERRED.—Notwithstanding subsection (c), authority that was vested in the Secretary of the Treasury by law to issue regulations related to customs revenue functions before the effective date of this section under the provisions of law set forth under paragraph (2) shall not be transferred to the Secretary by reason of this Act. The Secretary of the Treasury, with the concurrence of the Secretary, shall exercise this authority. The Commissioner of Customs is authorized to engage in activities to develop and support the issuance of the regulations described in this paragraph. The Secretary shall be responsible for the implementation and enforcement of regulations issued under this section.

(B) REPORT.—Not later than 60 days after the date of enactment of this Act, the Secretary of the Treasury shall submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives of proposed conforming amendments to the statutes set forth under paragraph (2) in order to determine the appropriate allocation of legal authorities described under this subsection. The Secretary of the Treasury shall also identify those authorities vested in the Secretary of the Treasury that are exercised by the Commissioner of Customs on or before the effective date of this section.

(C) LIABILITY.—Neither the Secretary of the Treasury nor the Department of the Treasury shall be liable for or named in any legal action concerning the implementation and enforcement of regulations issued under this paragraph on or after the date on which the United States Customs Service is transferred under this division.

(2) APPLICABLE LAWS.—The provisions of law referred to under paragraph (1) are those sections of the following statutes that relate to customs revenue functions:

(A) The Tariff Act of 1930 (19 U.S.C. 1304 et seq.).

(B) Section 249 of the Revised Statutes of the United States (19 U.S.C. 3).

(C) Section 2 of the Act of March 4, 1923 (19 U.S.C. 6).

(D) Section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c).

(E) Section 251 of the Revised Statutes of the United States (19 U.S.C. 66).

(F) Section 1 of the Act of June 26, 1930 (19 U.S.C. 68).

(G) The Foreign Trade Zones Act (19 U.S.C. 81a et seq.).

(H) Section 1 of the Act of March 2, 1911 (19 U.S.C. 198).

(I) The Trade Act of 1974 (19 U.S.C. 2101 et seq.).

(J) The Trade Agreements Act of 1979 (19 U.S.C. 2502 et seq.).

(K) The North American Free Trade Agreement Implementation Act (19 U.S.C. 3301 et seq.).

(L) The Uruguay Round Agreements Act (19 U.S.C. 3501 et seq.).

(M) The Caribbean Basin Economic Recovery Act (19 U.S.C. 2701 et seq.).

(N) The Andean Trade Preference Act (19 U.S.C. 3201 et seq.).

(O) The African Growth and Opportunity Act (19 U.S.C. 3701 et seq.).

(P) Any other provision of law vesting customs revenue functions in the Secretary of the Treasury.

(3) DEFINITION OF CUSTOMS REVENUE FUNCTIONS.—In this subsection, the term ''customs revenue functions'' means—

(A) assessing, collecting, and refunding duties (including any special duties), excise taxes, fees, and any liquidated damages or penalties due on imported merchandise, including classifying and valuing merchandise and the procedures for ''entry'' as that term is defined in the United States Customs laws;

(B) administering section 337 of the Tariff Act of 1930 and provisions relating to import quotas and the marking of imported merchandise, and providing Customs Recordations for copyrights, patents, and trademarks;

(C) collecting accurate import data for compilation of international trade statistics; and

(D) administering reciprocal trade agreements and trade preference legislation.

(e) CONTINUATION OF CERTAIN FUNCTIONS OF THE CUSTOMS SERVICE.—

(1) IN GENERAL.—

(A) PRESERVATION OF CUSTOMS FUNDS.—Notwithstanding any other provision of this Act, no funds available to the United States Customs Service or collected under paragraphs (1) through (8) of section 13031(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a)(1) through

(8)) may be transferred for use by any other agency or office in the Department.

(B) CUSTOMS AUTOMATION.—Section 13031(f) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)) is amended—

(i) in paragraph (1), by striking subparagraph (B) and inserting the following:

''(B) amounts deposited into the Customs Commercial and Homeland Security Automation Account under paragraph (5).'';

(ii) in paragraph (4), by striking ''(other than the excess fees determined by the Secretary under paragraph (5))''; and

(iii) by striking paragraph (5) and inserting the following:

''(5)(A) There is created within the general fund of the Treasury a separate account that shall be known as the 'Customs Commercial and Homeland Security Automation Account'. In each of fiscal years 2003, 2004, and 2005 there shall be deposited into the Account from fees collected under subsection (a)(9)(A), $350,000,000.

''(B) There is authorized to be appropriated from the Customs Commercial and Homeland Security Automation Account for each of fiscal years 2003 through 2005 such amounts as are available in that Account for the development, establishment, and implementation of the Automated Commercial Environment computer system for the processing of merchandise that is entered or released and for other purposes related to the functions of the Department of Homeland Security. Amounts appropriated pursuant to this subparagraph are authorized to remain available until expended.

''(C) In adjusting the fee imposed by subsection (a)(9)(A) for fiscal year 2006, the Secretary of the Treasury shall reduce the amount estimated to be collected in fiscal year 2006 by the amount by which total fees deposited to the Customs Commercial and Homeland Security Automation Account during fiscal years 2003, 2004, and 2005 exceed total appropriations from that Account.''.

(2) ADVISORY COMMITTEE ON COMMERCIAL OPERATIONS OF THE UNITED STATES CUSTOMS SERVICE.—Section 9503(c) of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203; 19 U.S.C. 2071 note) is amended—

(A) in paragraph (1), by inserting ''in consultation with the Secretary of Homeland Security'' after ''Secretary of the Treasury'';

(B) in paragraph (2)(A), by inserting ''in consultation with the Secretary of Homeland Security'' after ''Secretary of the Treasury'';

(C) in paragraph (3)(A), by inserting ''and the Secretary of Homeland Security'' after ''Secretary of the Treasury''; and

(D) in paragraph (4)—

(i) by inserting ''and the Under Secretary of Homeland Security for Border and Transportation'' after ''for Enforcement''; and

(ii) by inserting ''jointly'' after ''shall preside''.

(3) CONFORMING AMENDMENT.—Section 311(b) of the Customs Border Security Act of 2002 (Public Law 107–210) is amended by striking paragraph (2).

SEC. 132. DIRECTORATE OF INTELLIGENCE.

(a) ESTABLISHMENT.—

(1) DIRECTORATE.—

(A) IN GENERAL.—There is established a Directorate of Intelligence which shall serve as a national-level focal point for information available to the United States Government relating to the plans, intentions, and capabilities of terrorists and terrorist organizations for the purpose of supporting the mission of the Department.

(B) SUPPORT TO DIRECTORATE.—The Directorate of Intelligence shall communicate, coordinate, and cooperate with—

(i) the Federal Bureau of Investigation;

(ii) the intelligence community, as defined under section 3 of the National Security Act of 1947 (50 U.S.C. 401a), including the Office of the Director of Central Intelligence, the National Intelligence Council, the Central Intelligence Agency, the National Security Agency, the Defense Intelligence Agency, the National Imagery and Mapping Agency, the National Reconnaissance Office, and the Bureau of Intelligence and Research of the Department of State; and

(iii) other agencies or entities, including those within the Department, as determined by the Secretary.

(C) INFORMATION ON INTERNATIONAL TERRORISM.—

(i) DEFINITIONS.—In this subparagraph, the terms ''foreign intelligence'' and ''counterintelligence'' shall have the meaning given those terms in section 3 of the National Security Act of 1947 (50 U.S.C. 401a).

(ii) PROVISION OF INFORMATION TO COUNTERTERRORIST CENTER.—In order to ensure that the Secretary is provided with appropriate analytical products, assessments, and warnings relating to threats of terrorism against the United States and other threats to homeland security, the Director of Central Intelligence (as head of the intelligence community with respect to foreign intelligence and counterintelligence), the Attorney General, and the heads of other agencies of the Federal Government shall ensure that all intelligence and other information relating to international terrorism is provided to the Director of Central Intelligence's Counterterrorist Center.

(iii) ANALYSIS OF INFORMATION.—The Director of Central Intelligence shall ensure the analysis by the Counterterrorist Center of all intelligence and other information provided the Counterterrorist Center under clause (ii).

(iv) ANALYSIS OF FOREIGN INTELLIGENCE.—The Counterterrorist Center shall have primary responsibility for the analysis of foreign intelligence relating to international terrorism.

(2) UNDER SECRETARY.—There shall be an Under Secretary for Intelligence who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Directorate of Intelligence shall be responsible for the following:

(1)(A) Receiving and analyzing law enforcement and other information from agencies of the United States Government, State and local government agencies (including law enforcement agencies), and private sector entities, and fusing such information and analysis with analytical products, assessments, and warnings concerning foreign intelligence from the Director of Central Intelligence's Counterterrorist Center in order to—

(i) identify and assess the nature and scope of threats to the homeland; and

(ii) detect and identify threats of terrorism against the United States and other threats to homeland security.

(B) Nothing in this paragraph shall be construed to prohibit the Directorate from conducting supplemental analysis of foreign intelligence relating to threats of terrorism against the United States and other threats to homeland security.

(2) Ensuring timely and efficient access by the Directorate to—

(A) information from agencies described under subsection (a)(1)(B), State and local governments, local law enforcement and intelligence agencies, private sector entities; and

(B) open source information.

(3) Representing the Department in procedures to establish requirements and priorities in the collection of national intelligence for purposes of the provision to the executive branch under section 103 of the National Security Act of 1947 (50 U.S.C. 403–3) of national intelligence relating to foreign terrorist threats to the homeland.

(4) Consulting with the Attorney General or the designees of the Attorney General, and other officials of the United States Government to establish overall collection priorities and strategies for information, including law enforcement information, relating to domestic threats, such as terrorism, to the homeland.

(5) Disseminating information to the Directorate of Critical Infrastructure Protection, the agencies described under subsection (a)(1)(B), State and local governments, local law enforcement and intelligence agencies, and private sector entities to assist in the deterrence, prevention, preemption, and response to threats of terrorism against the United States and other threats to homeland security.

(6) Establishing and utilizing, in conjunction with the Chief Information Officer of the Department and the appropriate officers of the agencies described under subsection (a)(1)(B), a secure communications and information technology infrastructure, and advanced analytical tools, to carry out the mission of the Directorate.

(7) Developing, in conjunction with the Chief Information Officer of the Department and appropriate officers of the agencies described under subsection (a)(1)(B), appropriate software, hardware, and other information technology, and security and formatting protocols, to ensure that Federal Government databases and information technology systems containing information relevant to terrorist threats, and other threats against the United States, are—

(A) compatible with the secure communications and information technology infrastructure referred to under paragraph (6); and

(B) comply with Federal laws concerning privacy and the prevention of unauthorized disclosure.

(8) Ensuring, in conjunction with the Director of Central Intelligence and the Attorney General, that all material received by the Department is protected against unauthorized disclosure and is utilized by the Department only in the course and for the purpose of fulfillment of official duties, and is transmitted, retained, handled, and disseminated consistent with—

(A) the authority of the Director of Central Intelligence to protect intelligence sources and methods from unauthorized disclosure under the National Security Act of 1947 (50 U.S.C. 401 et seq.) and related procedures; or

(B) as appropriate, similar authorities of the Attorney General concerning sensitive law enforcement information, and the privacy interests of United States persons as defined under section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).

(9) Providing, through the Secretary, to the appropriate law enforcement or intelligence agency, information and analysis relating to threats.

(10) Coordinating, or where appropriate providing, training and other support as necessary to providers of information to the Department, or consumers of information from the Department, to allow such providers or consumers to identify and share intelligence information revealed in their ordinary duties or utilize information received from the Department, including training and support under section 908 of the USA PATRIOT Act of 2001 (Public Law 107–56).

(11) Reviewing, analyzing, and making recommendations through the Secretary for improvements in the policies and procedures governing the sharing of law enforcement, intelligence, and other information relating to threats of terrorism against the United

States and other threats to homeland security within the United States Government and between the United States Government and State and local governments, local law enforcement and intelligence agencies, and private sector entities.

(12) Assisting and supporting the Secretary, in coordination with other Directorates and entities outside the Department, in conducting appropriate risk analysis and risk management activities consistent with the mission and functions of the Directorate.

(13) Performing other related and appropriate duties as assigned by the Secretary.

(c) ACCESS TO INFORMATION.—

(1) IN GENERAL.—Unless otherwise directed by the President, the Secretary shall have access to, and United States Government agencies shall provide, all reports, assessments, analytical information, and information, including unevaluated intelligence, relating to the plans, intentions, capabilities, and activities of terrorists and terrorist organizations, and to other areas of responsibility as described in this division, that may be collected, possessed, or prepared, by any other United States Government agency.

(2) ADDITIONAL INFORMATION.—As the President may further provide, the Secretary shall receive additional information requested by the Secretary from the agencies described under subsection (a)(1)(B).

(3) OBTAINING INFORMATION.—All information shall be provided to the Secretary consistent with the requirements of subsection (b)(8), unless otherwise determined by the President.

(4) COOPERATIVE ARRANGEMENTS.—The Secretary may enter into cooperative arrangements with agencies described under subsection (a)(1)(B) to share material on a regular or routine basis, including arrangements involving broad categories of material, and regardless of whether the Secretary has entered into any such cooperative arrangement, all agencies described under subsection (a)(1)(B) shall promptly provide information under this subsection.

(d) AUTHORIZATION TO SHARE LAW ENFORCEMENT INFORMATION.—The Secretary shall be deemed to be a Federal law enforcement, intelligence, protective, national defense, or national security official for purposes of information sharing provisions of—

(1) section 203(d) of the USA PATRIOT Act of 2001 (Public Law 107–56);

(2) section 2517(6) of title 18, United States Code; and

(3) rule 6(e)(3)(C) of the Federal Rules of Criminal Procedure.

(e) ADDITIONAL RISK ANALYSIS AND RISK MANAGEMENT RESPONSIBILITIES.—The Under Secretary for Intelligence shall, in coordination with the Office of Risk Analysis and Assessment in the Directorate of Science and Technology, be responsible for—

(1) developing analysis concerning the means and methods terrorists might employ to exploit vulnerabilities in the homeland security infrastructure;

(2) supporting experiments, tests, and inspections to identify weaknesses in homeland defenses;

(3) developing countersurveillance techniques to prevent attacks;

(4) conducting risk assessments to determine the risk posed by specific kinds of terrorist attacks, the probability of successful attacks, and the feasibility of specific countermeasures.

(f) MANAGEMENT AND STAFFING.—

(1) IN GENERAL.—The Directorate of Intelligence shall be staffed, in part, by analysts as requested by the Secretary and assigned by the agencies described under subsection (a)(1)(B). The analysts shall be assigned by reimbursable detail for periods as determined necessary by the Secretary in conjunction with the head of the assigning agency. No such detail may be undertaken without the consent of the assigning agency.

(2) EMPLOYEES ASSIGNED WITHIN DEPARTMENT.—The Secretary may assign employees of the Department by reimbursable detail to the Directorate.

(3) SERVICE AS FACTOR FOR SELECTION.—The President, or the designee of the President, shall prescribe regulations to provide that service described under paragraph (1) or (2), or service by employees within the Directorate, shall be considered a positive factor for selection to positions of greater authority within all agencies described under subsection (a)(1)(B).

(4) PERSONNEL SECURITY STANDARDS.—The employment of personnel in the Directorate shall be in accordance with such personnel security standards for access to classified information and intelligence as the Secretary, in conjunction with the Director of Central Intelligence, shall establish for this subsection.

(5) PERFORMANCE EVALUATION.—The Secretary shall evaluate the performance of all personnel detailed to the Directorate, or delegate such responsibility to the Under Secretary for Intelligence.

(g) INTELLIGENCE COMMUNITY.—Those portions of the Directorate of Intelligence under subsection (b)(1), and the intelligence-related components of agencies transferred by this division to the Department, including the United States Coast Guard, shall be—

(1) considered to be part of the United States intelligence community within the meaning of section 3 of the National Security Act of 1947 (50 U.S.C. 401a); and

(2) for budgetary purposes, within the National Foreign Intelligence Program.

SEC. 133. DIRECTORATE OF CRITICAL INFRASTRUCTURE PROTECTION.

(a) ESTABLISHMENT.—

(1) DIRECTORATE.—There is established within the Department the Directorate of Critical Infrastructure Protection.

(2) UNDER SECRETARY.—There shall be an Under Secretary for Critical Infrastructure Protection, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Directorate of Critical Infrastructure Protection shall be responsible for the following:

(1) Receiving relevant intelligence from the Directorate of Intelligence, law enforcement information, and other information in order to comprehensively assess the vulnerabilities of the key resources and critical infrastructures in the United States.

(2) Integrating relevant information, intelligence analysis, and vulnerability assessments (whether such information, analyses, or assessments are provided by the Department or others) to identify priorities and support protective measures by the Department, by other agencies, by State and local government personnel, agencies, and authorities, by the private sector, and by other entities, to protect the key resources and critical infrastructures in the United States.

(3) As part of a homeland security strategy, developing a comprehensive national plan for securing the key resources and critical infrastructure in the United States.

(4) Assisting and supporting the Secretary, in coordination with other Directorates and entities outside the Department, in conducting appropriate risk analysis and risk management activities consistent with the mission and functions of the Directorate. This shall include, in coordination with the Office of Risk Analysis and Assessment in the Directorate of Science and Technology, establishing procedures, mechanisms, or units for the purpose of utilizing intelligence to identify vulnerabilities and protective measures in—

(A) public health infrastructure;

(B) food and water storage, production and distribution;

(C) commerce systems, including banking and finance;

(D) energy systems, including electric power and oil and gas production and storage;

(E) transportation systems, including pipelines;

(F) information and communication systems;

(G) continuity of government services; and

(H) other systems or facilities the destruction or disruption of which could cause substantial harm to health, safety, property, or the environment.

(5) Enhancing the sharing of information regarding cyber security and physical security of the United States, developing appropriate security standards, tracking vulnerabilities, proposing improved risk management policies, and delineating the roles of various Government agencies in preventing, defending, and recovering from attacks.

(6) Acting as the Critical Information Technology, Assurance, and Security Officer of the Department and assuming the responsibilities carried out by the Critical Infrastructure Assurance Office and the National Infrastructure Protection Center before the effective date of this division.

(7) Coordinating the activities of the Information Sharing and Analysis Centers to share information, between the public and private sectors, on threats, vulnerabilities, individual incidents, and privacy issues regarding homeland security.

(8) Working closely with the Department of State on cyber security issues with respect to international bodies and coordinating with appropriate agencies in helping to establish cyber security policy, standards, and enforcement mechanisms.

(9) Establishing the necessary organizational structure within the Directorate to provide leadership and focus on both cyber security and physical security, and ensuring the maintenance of a nucleus of cyber security and physical security experts within the United States Government.

(10) Performing such other duties as assigned by the Secretary.

In this subsection, the term ''key resources'' includes National Park Service sites identified by the Secretary of the Interior that are so universally recognized as symbols of the United States and so heavily visited by the American and international public that such sites would likely be identified as targets of terrorist attacks, including the Statue of Liberty, Independence Hall and the Liberty Bell, the Arch in St. Louis, Missouri, Mt. Rushmore, and memorials and monuments in Washington, D.C.

(c) TRANSFER OF AUTHORITIES, FUNCTIONS, PERSONNEL, AND ASSETS TO THE DEPARTMENT.—The authorities, functions, personnel, and assets of the following entities are transferred to the Department:

(1) The Critical Infrastructure Assurance Office of the Department of Commerce.

(2) The National Infrastructure Protection Center of the Federal Bureau of Investigation (other than the Computer Investigations and Operations Section).

(3) The National Communications System of the Department of Defense.

(4) The Computer Security Division of the National Institute of Standards and Technology of the Department of Commerce.

(5) The National Infrastructure Simulation and Analysis Center of the Department of Energy.

(6) The Federal Computer Incident Response Center of the General Services Administration.

(7) The Energy Security and Assurance Program of the Department of Energy.

(8) The Federal Protective Service of the General Services Administration.

SEC. 134. DIRECTORATE OF EMERGENCY PREPAREDNESS AND RESPONSE.

(a) ESTABLISHMENT.—

(1) DIRECTORATE.—There is established within the Department the Directorate of Emergency Preparedness and Response.

(2) UNDER SECRETARY.—There shall be an Under Secretary for Emergency Preparedness and Response, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Directorate of Emergency Preparedness and Response shall be responsible for the following:

(1) Carrying out all emergency preparedness and response activities carried out by the Federal Emergency Management Agency before the effective date of this division.

(2) Assuming the responsibilities carried out by the National Domestic Preparedness Office before the effective date of this division.

(3) Organizing and training local entities to respond to emergencies and providing State and local authorities with equipment for detection, protection, and decontamination in an emergency involving weapons of mass destruction.

(4) Overseeing Federal, State, and local emergency preparedness training and exercise programs in keeping with intelligence estimates and coordinating Federal assistance for any emergency, including emergencies caused by natural disasters, manmade accidents, human or agricultural health emergencies, or terrorist attacks.

(5) Creating a National Crisis Action Center to act as the focal point for—

(A) monitoring emergencies;

(B) notifying affected agencies and State and local governments; and

(C) coordinating Federal support for State and local governments and the private sector in crises.

(6) Managing and updating the Federal response plan to ensure the appropriate integration of operational activities of the Department of Defense, the National Guard, and other agencies, to respond to acts of terrorism and other disasters.

(7) Coordinating activities among private sector entities, including entities within the medical community, and animal health and plant disease communities, with respect to recovery, consequence management, and planning for continuity of services.

(8) Developing and managing a single response system for national incidents in coordination with all appropriate agencies.

(9) Coordinating with other agencies necessary to carry out the functions of the Office of Emergency Preparedness.

(10) Collaborating with, and transferring funds to, the Centers for Disease Control and Prevention or other agencies for administration of the Strategic National Stockpile transferred under subsection (c)(5).

(11) Collaborating with the Under Secretary for Science and Technology, Secretary of Agriculture, and the Director of the Centers for Disease Control and Prevention in establishing and updating the list of potential threat agents or toxins relating to the functions described in subsection (c)(6)(B).

(12) Developing a plan to address the interface of medical informatics and the medical response to terrorism that address—

(A) standards for interoperability;

(B) real-time data collection;

(C) ease of use for health care providers;

(D) epidemiological surveillance of disease outbreaks in human health and agriculture;

(E) integration of telemedicine networks and standards;

(F) patient confidentiality; and

(G) other topics pertinent to the mission of the Department.

(13) Activate and coordinate the operations of the National Disaster Medical System as defined under section 102 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107–188).

(14) Assisting and supporting the Secretary, in coordination with other Directorates and entities outside the Department, in conducting appropriate risk analysis and risk management activities consistent with the mission and functions of the Directorate.

(15) Performing such other duties as assigned by the Secretary.

(c) TRANSFER OF AUTHORITIES, FUNCTIONS, PERSONNEL, AND ASSETS TO THE DEPARTMENT.—The authorities, functions, personnel, and assets of the following entities are transferred to the Department:

(1) The Federal Emergency Management Agency, the 10 regional offices of which shall be maintained and strengthened by the Department, which shall be maintained as a distinct entity within the Department.

(2) The National Office of Domestic Preparedness of the Federal Bureau of Investigation of the Department of Justice.

(3) The Office of Domestic Preparedness of the Department of Justice.

(4) The Office of Emergency Preparedness within the Office of the Assistant Secretary for Public Health Emergency Preparedness of the Department of Health and Human Services, including—

(A) the Noble Training Center;

(B) the Metropolitan Medical Response System;

(C) the Department of Health and Human Services component of the National Disaster Medical System;

(D) the Disaster Medical Assistance Teams, the Veterinary Medical Assistance Teams, and the Disaster Mortuary Operational Response Teams;

(E) the special events response; and

(F) the citizen preparedness programs.

(5) The Strategic National Stockpile of the Department of Health and Human Services including all functions and assets under sections 121 and 127 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107–188).

(6)(A) Except as provided in subparagraph (B)—

(i) the functions of the Select Agent Registration Program of the Department of Health and Human Services, including all functions of the Secretary of Health and Human Services under title II of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107–188); and

(ii) the functions of the Department of Agriculture under the Agricultural Bioterrorism Protection Act of 2002 (7 U.S.C. 8401 et seq.).

(B)(i) The Secretary shall collaborate with the Secretary of Health and Human Services in determining the biological agents and toxins that shall be listed as ''select agents'' in Appendix A of part 72 of title 42, Code of Federal Regulations, pursuant to section 351A of the Public Health Service Act (42 U.S.C. 262a).

(ii) The Secretary shall collaborate with the Secretary of Agriculture in determining the biological agents and toxins that shall be included on the list of biological agents and toxins required under section 212(a) of the Agricultural Bioterrorism Protection Act of 2002 (7 U.S.C. 8401).

(C) In promulgating regulations pursuant to the functions described in subparagraph (A), the Secretary shall act in collaboration with the Secretary of Health and Human Services and the Secretary of Agriculture.

(d) APPOINTMENT AS UNDER SECRETARY AND DIRECTOR.—

(1) IN GENERAL.—An individual may serve as both the Under Secretary for Emergency Preparedness and Response and the Director of the Federal Emergency Management Agency if appointed by the President, by and with the advice and consent of the Senate, to each office.

(2) PAY.—Nothing in paragraph (1) shall be construed to authorize an individual appointed to both positions to receive pay at a rate of pay in excess of the rate of pay payable for the position to which the higher rate of pay applies.

(e) REPORT.—Not later than 1 year after the date of enactment of this Act, the Under Secretary for Emergency Preparedness and Response shall submit a report to Congress on the status of a national medical informatics system and an agricultural disease surveillance system, and the capacity of such systems to meet the goals under subsection (b)(12) in responding to a terrorist attack.

SEC. 135. DIRECTORATE OF SCIENCE AND TECHNOLOGY.

(a) PURPOSE.—The purpose of this section is to establish a Directorate of Science and Technology that will support the mission of the Department and the directorates of the Department by—

(1) establishing, funding, managing, and supporting research, development, demonstration, testing, and evaluation activities to meet national homeland security needs and objectives;

(2) setting national research and development goals and priorities pursuant to the mission of the Department, and developing strategies and policies in furtherance of such goals and priorities;

(3) coordinating and collaborating with other Federal departments and agencies, and State, local, academic, and private sector entities, to advance the research and development agenda of the Department;

(4) advising the Secretary on all scientific and technical matters relevant to homeland security; and

(5) facilitating the transfer and deployment of technologies that will serve to enhance homeland security goals.

(b) DEFINITIONS.—In this section:

(1) COUNCIL.—The term ''Council'' means the Homeland Security Science and Technology Council established under this section.

(2) FUND.—The term ''Fund'' means the Acceleration Fund for Research and Development of Homeland Security Technologies established under this section.

(3) HOMELAND SECURITY RESEARCH AND DEVELOPMENT.—The term ''homeland security research and development'' means research and development applicable to the detection of, prevention of, protection against, response to, and recovery from homeland security threats, particularly acts of terrorism.

(4) OSTP.—The term ''OSTP'' means the Office of Science and Technology Policy.

(5) SARPA.—The term ''SARPA'' means the Security Advanced Research Projects Agency established under this section.

(6) TECHNOLOGY ROADMAP.—The term ''technology roadmap'' means a plan or framework in which goals, priorities, and milestones for desired future technological capabilities and functions are established, and research and development alternatives

or means for achieving those goals, priorities, and milestones are identified and analyzed in order to guide decisions on resource allocation and investments.

(7) UNDER SECRETARY.—The term ''Under Secretary'' means the Under Secretary for Science and Technology.

(c) DIRECTORATE OF SCIENCE AND TECHNOLOGY.—

(1) ESTABLISHMENT.—There is established a Directorate of Science and Technology within the Department.

(2) UNDER SECRETARY.—There shall be an Under Secretary for Science and Technology, who shall be appointed by the President, by and with the advice and consent of the Senate. The principal responsibility of the Under Secretary shall be to effectively and efficiently carry out the purposes of the Directorate of Science and Technology under subsection (a). In addition, the Under Secretary shall undertake the following activities in furtherance of such purposes:

(A) Coordinating with the OSTP and other appropriate entities in developing and executing the research and development agenda of the Department.

(B) Developing a technology roadmap that shall be updated biannually for achieving technological goals relevant to homeland security needs.

(C) Instituting mechanisms to promote, facilitate, and expedite the transfer and deployment of technologies relevant to homeland security needs, including dual-use capabilities.

(D) Assisting the Secretary and the Director of OSTP to ensure that science and technology priorities are clearly reflected and considered in a homeland security Strategy.

(E) Establishing mechanisms for the sharing and dissemination of key homeland security research and technology developments and opportunities with appropriate Federal, State, local, and private sector entities.

(F) Establishing, in coordination with the Under Secretary for Critical Infrastructure Protection and the Under Secretary for Emergency Preparedness and Response and relevant programs under their direction, a National Emergency Technology Guard, comprised of teams of volunteers with expertise in relevant areas of science and technology, to assist local communities in responding to and recovering from emergency contingencies requiring specialized scientific and technical capabilities. In carrying out this responsibility, the Under Secretary shall establish and manage a database of National Emergency Technology Guard volunteers, and prescribe procedures for organizing, certifying, mobilizing, and deploying National Emergency Technology Guard teams.

(G) Chairing the Working Group established under section 108 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107–188).

(H) Assisting the Secretary in developing a homeland security strategy for Countermeasure Research described under subsection (k).

(I) Assisting the Secretary and acting on behalf of the Secretary in contracting with, commissioning, or establishing federally funded research and development centers determined useful and appropriate by the Secretary for the purpose of providing the Department with independent analysis and support.

(J) Assisting the Secretary and acting on behalf of the Secretary in entering into joint sponsorship agreements with the Department of Energy regarding the use of the national laboratories or sites.

(K) Assisting and supporting the Secretary, in coordination with other Directorates and entities outside the Department, in conducting appropriate risk analysis and risk management activities consistent with the mission and functions of the Directorate.

(L) Carrying out other appropriate activities as directed by the Secretary.

(3) RESEARCH AND DEVELOPMENT-RELATED AUTHORITIES.—The Secretary shall exercise the following authorities relating to the research, development, testing, and evaluation activities of the Directorate of Science and Technology:

(A) With respect to research and development expenditures under this section, the authority (subject to the same limitations and conditions) as the Secretary of Defense may exercise under section 2371 of title 10, United States Code (except for subsections (b) and (f)), for a period of 5 years beginning on the date of enactment of this Act. Competitive, merit-based selection procedures shall be used for the selection of projects and participants for transactions entered into under the authority of this paragraph. The annual report required under subsection (h) of such section, as applied to the Secretary by this subparagraph, shall—

(i) be submitted to the President of the Senate, the Speaker of the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, the Committee on Appropriations of the Senate, and the Committee on Appropriations of the House of Representatives; and

(ii) report on other transactions entered into under subparagraph (B).

(B) Authority to carry out prototype projects in accordance with the requirements and conditions provided for carrying out prototype projects under section 845 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160), for a period of 5 years beginning on the date of enactment of this Act. In applying the authorities of such section 845, subsection (c) of that section shall apply with respect to prototype projects under this paragraph, and the Secretary shall perform the functions of the Secretary of Defense under subsection (d) of that section. Competitive, merit-based selection procedures shall be used for the selection of projects and participants for transactions entered into under the authority of this paragraph.

(C) In hiring personnel to assist in research, development, testing, and evaluation activities within the Directorate of Science and Technology, the authority to exercise the personnel hiring and management authorities described in section 1101 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (5 U.S.C. 3104 note; Public Law 105–261), with the stipulation that the Secretary shall exercise such authority for a period of 7 years commencing on the date of enactment of this Act, that a maximum of 100 persons may be hired under such authority, and that the term of appointment for employees under subsection (c)(1) of that section may not exceed 5 years before the granting of any extensions under subsection (c)(2) of that section.

(D) With respect to such research, development, testing, and evaluation responsibilities under this section (except as provided in subparagraph (E)) as the Secretary may elect to carry out through agencies other than the Department (under agreements with their respective heads), the Secretary may transfer funds to such heads. Of the funds authorized to be appropriated under subsection (d)(4) for the Fund, not less than 10 percent of such funds for each fiscal year through 2005 shall be authorized only for the Under Secretary, through joint agreement with the Commandant of the Coast Guard, to carry out research and development of improved ports, waterways, and coastal security surveillance and perimeter protection capabilities for the purpose of minimizing the possibility that Coast Guard cutters, aircraft, helicopters, and personnel will be diverted from non-homeland security missions to the ports, waterways, and coastal security mission.

(E) The Secretary may carry out human health biodefense-related biological, biomedical, and infectious disease research and development (including vaccine research and development) in collaboration with the Secretary of Health and Human Services. Research supported by funding appropriated to the National Institutes of Health for bioterrorism research and related facilities development shall be conducted through the National Institutes of Health under joint strategic prioritization agreements between the Secretary and the Secretary of Health and Human Services. The Secretary shall have the authority to establish general research priorities, which shall be embodied in the joint strategic prioritization agreements with the Secretary of Health and Human Services. The specific scientific research agenda to implement agreements under this subparagraph shall be developed by the Secretary of Health and Human Services, who shall consult the Secretary to ensure that the agreements conform with homeland security priorities. All research programs established under those agreements shall be managed and awarded by the Director of the National Institutes of Health consistent with those agreements. The Secretary may transfer funds to the Department of Health and Human Services in connection with those agreements.

(d) ACCELERATION FUND.—

(1) ESTABLISHMENT.—There is established an Acceleration Fund to support research and development of technologies relevant to homeland security.

(2) FUNCTION.—The Fund shall be used to stimulate and support research and development projects selected by SARPA under subsection (f), and to facilitate the rapid transfer of research and technology derived from such projects.

(3) RECIPIENTS.—Fund monies may be made available through grants, contracts, cooperative agreements, and other transactions under subsection (c)(3) (A) and (B) to—

(A) public sector entities, including Federal, State, or local entities;

(B) private sector entities, including corporations, partnerships, or individuals; and

(C) other nongovernmental entities, including universities, federally funded research and development centers, and other academic or research institutions.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $200,000,000 for the Fund for fiscal year 2003, and such sums as are necessary in subsequent fiscal years.

(e) SCIENCE AND TECHNOLOGY COUNCIL.—

(1) ESTABLISHMENT.—There is established the Homeland Security Science and Technology Council within the Directorate of Science and Technology. The Under Secretary shall chair the Council and have the authority to convene meetings. At the discretion of the Under Secretary and the Director of OSTP, the Council may be constituted as a subcommittee of the National Science and Technology Council.

(2) COMPOSITION.—The Council shall be composed of the following:

(A) Senior research and development officials representing agencies engaged in research and development relevant to homeland security and combating terrorism needs. Each representative shall be appointed by the head of the representative's

respective agency with the advice and consent of the Under Secretary.

(B) The Director of SARPA and other appropriate officials within the Department.

(C) The Director of the OSTP and other senior officials of the Executive Office of the President as designated by the President.

(3) RESPONSIBILITIES.—The Council shall—

(A) provide the Under Secretary with recommendations on priorities and strategies, including those related to funding and portfolio management, for homeland security research and development;

(B) facilitate effective coordination and communication among agencies, other entities of the Federal Government, and entities in the private sector and academia, with respect to the conduct of research and development related to homeland security;

(C) recommend specific technology areas for which the Fund and other research and development resources shall be used, among other things, to rapidly transition homeland security research and development into deployed technology and reduce identified homeland security vulnerabilities;

(D) assist and advise the Under Secretary in developing the technology roadmap referred to under subsection (c)(2)(B); and

(E) perform other appropriate activities as directed by the Under Secretary.

(4) ADVISORY PANEL.—The Under Secretary may establish an advisory panel consisting of representatives from industry, academia, and other non-Federal entities to advise and support the Council.

(5) WORKING GROUPS.—At the discretion of the Under Secretary, the Council may establish working groups in specific homeland security areas consisting of individuals with relevant expertise in each articulated area. Working groups established for bioterrorism and public health-related research shall be fully coordinated with the Working Group established under section 108 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107–188).

(f) SECURITY ADVANCED RESEARCH PROJECTS AGENCY.—

(1) ESTABLISHMENT.—There is established the Security Advanced Research Projects Agency within the Directorate of Science and Technology.

(2) RESPONSIBILITIES.—SARPA shall—

(A) undertake and stimulate basic and applied research and development, leverage existing research and development, and accelerate the transition and deployment of technologies that will serve to enhance homeland defense;

(B) identify, fund, develop, and transition high-risk, high-payoff homeland security research and development opportunities that—

(i) may lie outside the purview or capabilities of the existing Federal agencies; and

(ii) emphasize revolutionary rather than evolutionary or incremental advances;

(C) provide selected projects with single or multiyear funding, and require such projects to provide interim progress reports, no less often than annually;

(D) administer the Acceleration Fund to carry out the purposes of this paragraph;

(E) advise the Secretary and Under Secretary on funding priorities under subsection (c)(3)(E); and

(F) perform other appropriate activities as directed by the Under Secretary.

(g) OFFICE OF RISK ANALYSIS AND ASSESSMENT.—

(1) ESTABLISHMENT.—There is established an Office of Risk Analysis and Assessment within the Directorate of Science and Technology.

(2) FUNCTIONS.—The Office of Risk Analysis and Assessment shall assist the Secretary, the Under Secretary, and other Directorates with respect to their risk analysis and risk management activities by providing scientific or technical support for such activities. Such support shall include, as appropriate—

(A) identification and characterization of homeland security threats;

(B) evaluation and delineation of the risk of these threats;

(C) pinpointing of vulnerabilities or linked vulnerabilities to these threats;

(D) determination of criticality of possible threats;

(E) analysis of possible technologies, research, and protocols to mitigate or eliminate threats, vulnerabilities, and criticalities;

(F) evaluation of the effectiveness of various forms of risk communication; and

(G) other appropriate activities as directed by the Secretary.

(3) METHODS.—In performing the activities described under paragraph (2), the Office of Risk Analysis and Assessment may support or conduct, or commission from federally funded research and development centers or other entities, work involving modeling, statistical analyses, field tests and exercises (including red teaming), testbed development, development of standards and metrics.

(h) OFFICE FOR TECHNOLOGY EVALUATION AND TRANSITION.—

(1) ESTABLISHMENT.—There is established an Office for Technology Evaluation and Transition within the Directorate of Science and Technology.

(2) FUNCTION.—The Office for Technology Evaluation and Transition shall, with respect to technologies relevant to homeland security needs—

(A) serve as the principal, national point-of-contact and clearinghouse for receiving and processing proposals or inquiries regarding such technologies;

(B) identify and evaluate promising new technologies;

(C) undertake testing and evaluation of, and assist in transitioning, such technologies into deployable, fielded systems;

(D) consult with and advise agencies regarding the development, acquisition, and deployment of such technologies;

(E) coordinate with SARPA to accelerate the transition of technologies developed by SARPA and ensure transition paths for such technologies; and

(F) perform other appropriate activities as directed by the Under Secretary.

(3) TECHNICAL SUPPORT WORKING GROUP.—The functions described under this subsection may be carried out through, or in coordination with, or through an entity established by the Secretary and modeled after, the Technical Support Working Group (organized under the April, 1982, National Security Decision Directive Numbered 30) that provides an interagency forum to coordinate research and development of technologies for combating terrorism.

(i) OFFICE OF LABORATORY RESEARCH.—

(1) ESTABLISHMENT.—There is established an Office of Laboratory Research within the Directorate of Science and Technology.

(2) RESEARCH AND DEVELOPMENT FUNCTIONS TRANSFERRED.—There shall be transferred to the Department, to be administered by the Under Secretary, the functions, personnel, assets, and liabilities of the following programs and activities:

(A) Within the Department of Energy (but not including programs and activities relating to the strategic nuclear defense posture of the United States) the following:

(i) The chemical and biological national security and supporting programs and activities supporting domestic response of the nonproliferation and verification research and development program.

(ii) The nuclear smuggling programs and activities, and other programs and activities directly related to homeland security, within the proliferation detection program of the nonproliferation and verification research and development program, except that the programs and activities described in this clause may be designated by the President either for transfer to the Department or for joint operation by the Secretary and the Secretary of Energy.

(iii) The nuclear assessment program and activities of the assessment, detection, and cooperation program of the international materials protection and cooperation program.

(iv) The Environmental Measurements Laboratory.

(B) Within the Department of Defense, the National Bio-Weapons Defense Analysis Center established under section 161.

(3) RESPONSIBILITIES.—The Office of Laboratory Research shall—

(A) supervise the activities of the entities transferred under this subsection;

(B) administer the disbursement and undertake oversight of research and development funds transferred from the Department to other agencies outside of the Department, including funds transferred to the Department of Health and Human Services consistent with subsection (c)(3)(E);

(C) establish and direct new research and development facilities as the Secretary determines appropriate;

(D) include a science advisor to the Under Secretary on research priorities related to biological and chemical weapons, with supporting scientific staff, who shall advise on and support research priorities with respect to—

(i) research on countermeasures for biological weapons, including research on the development of drugs, devices, and biologics; and

(ii) research on biological and chemical threat agents; and

(E) other appropriate activities as directed by the Under Secretary.

(j) OFFICE FOR NATIONAL LABORATORIES.—

(1) ESTABLISHMENT.—There is established within the Directorate of Science and Technology an Office for National Laboratories, which shall be responsible for the coordination and utilization of the Department of Energy national laboratories and sites in a manner to create a networked laboratory system for the purpose of supporting the missions of the Department.

(2) JOINT SPONSORSHIP ARRANGEMENTS.—

(A) NATIONAL LABORATORIES.—The Department may be a joint sponsor, under a multiple agency sponsorship arrangement with the Department of Energy, of 1 or more Department of Energy national laboratories in the performance of work on behalf of the Department.

(B) DEPARTMENT OF ENERGY SITE.—The Department may be a joint sponsor of Department of Energy sites in the performance of work as if such sites were federally funded research and development centers and the work were performed under a multiple agency sponsorship arrangement with the Department.

(C) PRIMARY SPONSOR.—The Department of Energy shall be the primary sponsor under a multiple agency sponsorship arrangement entered into under subparagraph (A) or (B).

(D) CONDITIONS.—A joint sponsorship arrangement under this subsection shall—

(i) provide for the direct funding and management by the Department of the work being carried out on behalf of the Department; and

(ii) include procedures for addressing the coordination of resources and tasks to minimize conflicts between work undertaken on behalf of either Department.

(E) LEAD AGENT AND FEDERAL ACQUISITION REGULATION.—

(i) LEAD AGENT.—The Secretary of Energy shall act as the lead agent in coordinating the formation and performance of a joint sponsorship agreement between the Department and a Department of Energy national laboratory or site for work on homeland security.

(ii) COMPLIANCE WITH FEDERAL ACQUISITION REGULATION.—Any work performed by a national laboratory or site under this section shall comply with the policy on the use of federally funded research and development centers under section 35.017 of the Federal Acquisition Regulation.

(F) FUNDING.—The Department shall provide funds for work at the Department of Energy national laboratories or sites, as the case may be, under this section under the same terms and conditions as apply to the primary sponsor of such national laboratory under section 303(b)(1)(C) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253 (b)(1)(C)) or of such site to the extent such section applies to such site as a federally funded research and development center by reason of subparagraph (B).

(3) OTHER ARRANGEMENTS.—The Office for National Laboratories may enter into other arrangements with Department of Energy national laboratories or sites to carry out work to support the missions of the Department under applicable law, except that the Department of Energy may not charge or apply administrative fees for work on behalf of the Department.

(4) TECHNOLOGY TRANSFER.—The Office for National Laboratories may exercise the authorities in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a) to permit the Director of a Department of Energy national laboratory to enter into cooperative research and development agreements, or to negotiate licensing agreements, pertaining to work supported by the Department at the Department of Energy national laboratory.

(5) ASSISTANCE IN ESTABLISHING DEPARTMENT.—At the request of the Under Secretary, the Department of Energy shall provide for the temporary appointment or assignment of employees of Department of Energy national laboratories or sites to the Department for purposes of assisting in the establishment or organization of the technical programs of the Department through an agreement that includes provisions for minimizing conflicts between work assignments of such personnel.

(k) STRATEGY FOR COUNTERMEASURE RESEARCH.—

(1) IN GENERAL.—The Secretary, acting through the Under Secretary for Science and Technology, shall develop a comprehensive, long-term strategy and plan for engaging non-Federal entities, particularly including private, for-profit entities, in the research, development, and production of homeland security countermeasures for biological, chemical, and radiological weapons.

(2) TIMEFRAME.—The strategy and plan under this subsection, together with recommendations for the enactment of supporting or enabling legislation, shall be submitted to the Congress within 270 days after the date of enactment of this Act.

(3) COORDINATION.—In developing the strategy and plan under this subsection, the Secretary shall consult with—

(A) other agencies with expertise in research, development, and production of countermeasures;

(B) private, for-profit entities and entrepreneurs with appropriate expertise and technology regarding countermeasures;

(C) investors that fund such entities;

(D) nonprofit research universities and institutions;

(E) public health and other interested private sector and government entities; and

(F) governments allied with the United States in the war on terrorism.

(4) PURPOSE.—The strategy and plan under this subsection shall evaluate proposals to assure that—

(A) research on countermeasures by non-Federal entities leads to the expeditious development and production of countermeasures that may be procured and deployed in the homeland security interests of the United States;

(B) capital is available to fund the expenses associated with such research, development, and production, including Government grants and contracts and appropriate capital formation tax incentives that apply to non-Federal entities with and without tax liability;

(C) the terms for procurement of such countermeasures are defined in advance so that such entities may accurately and reliably assess the potential countermeasures market and the potential rate of return;

(D) appropriate intellectual property, risk protection, and Government approval standards are applicable to such countermeasures;

(E) Government-funded research is conducted and prioritized so that such research complements, and does not unnecessarily duplicate, research by non-Federal entities and that such Government-funded research is made available, transferred, and licensed on commercially reasonable terms to such entities for development; and

(F) universities and research institutions play a vital role as partners in research and development and technology transfer, with appropriate progress benchmarks for such activities, with for-profit entities.

(5) REPORTING.—The Secretary shall report periodically to the Congress on the status of non-Federal entity countermeasure research, development, and production, and submit additional recommendations for legislation as needed.

(l) CLASSIFICATION OF RESEARCH.—

(1) IN GENERAL.—To the greatest extent practicable, research conducted or supported by the Department shall be unclassified.

(2) CLASSIFICATION AND REVIEW.—The Under Secretary shall—

(A)(i) decide whether classification is appropriate before the award of a research grant, contract, cooperative agreement, or other transaction by the Department; and

(ii) if the decision under clause (i) is one of classification, control the research results through standard classification procedures; and

(B) periodically review all classified research grants, contracts, cooperative agreements, and other transactions issued by the Department to determine whether classification is still necessary.

(3) RESTRICTIONS.—No restrictions shall be placed upon the conduct or reporting of federally funded fundamental research that has not received national security classification, except as provided under applicable provisions of law.

(m) OFFICE OF SCIENCE AND TECHNOLOGY POLICY.—The National Science and Technology Policy, Organization, and Priorities Act is amended in section 204(b)(1) (42 U.S.C. 6613(b)(1)), by inserting ''homeland security,'' after ''national security,''.

SEC. 136. DIRECTORATE OF IMMIGRATION AFFAIRS.

The Directorate of Immigration Affairs shall be established and shall carry out all functions of that Directorate in accordance with division B of this Act.

SEC. 137. OFFICE FOR STATE AND LOCAL GOVERNMENT COORDINATION.

(a) ESTABLISHMENT.—There is established within the Office of the Secretary the Office for State and Local Government Coordination, to be headed by a director, which shall oversee and coordinate departmental programs for and relationships with State and local governments.

(b) RESPONSIBILITIES.—The Office established under subsection (a) shall—

(1) coordinate the activities of the Department relating to State and local government;

(2) assess, and advocate for, the resources needed by State and local government to implement the national strategy for combating terrorism;

(3) provide State and local government with regular information, research, and technical support to assist local efforts at securing the homeland;

(4) develop a process for receiving meaningful input from State and local government to assist the development of homeland security activities; and

(5) prepare an annual report, that contains—

(A) a description of the State and local priorities in each of the 50 States based on discovered needs of first responder organizations, including law enforcement agencies, fire and rescue agencies, medical providers, emergency service providers, and relief agencies;

(B) a needs assessment that identifies homeland security functions in which the Federal role is duplicative of the State or local role, and recommendations to decrease or eliminate inefficiencies between the Federal Government and State and local entities;

(C) recommendations to Congress regarding the creation, expansion, or elimination of any program to assist State and local entities to carry out their respective functions under the Department; and

(D) proposals to increase the coordination of Department priorities within each State and between the States.

(c) HOMELAND SECURITY LIAISON OFFICERS.—

(1) DESIGNATION.—The Secretary shall designate in each State and the District of Columbia not less than 1 employee of the Department to serve as the Homeland Security Liaison Officer in that State or District.

(2) DUTIES.—Each Homeland Security Liaison Officer designated under paragraph (1) shall—

(A) provide State and local government officials with regular information, research, and technical support to assist local efforts at securing the homeland;

(B) provide coordination between the Department and State and local first responders, including—

(i) law enforcement agencies;

(ii) fire and rescue agencies;

(iii) medical providers;

(iv) emergency service providers; and

(v) relief agencies;

(C) notify the Department of the State and local areas requiring additional information, training, resources, and security;

(D) provide training, information, and education regarding homeland security for State and local entities;

(E) identify homeland security functions in which the Federal role is duplicative of the State or local role, and recommend ways to decrease or eliminate inefficiencies;

(F) assist State and local entities in priority setting based on discovered needs of first responder organizations, including law

enforcement agencies, fire and rescue agencies, medical providers, emergency service providers, and relief agencies;

(G) assist the Department to identify and implement State and local homeland security objectives in an efficient and productive manner;

(H) serve as a liaison to the Department in representing State and local priorities and concerns regarding homeland security;

(I) consult with State and local government officials, including emergency managers, to coordinate efforts and avoid duplication; and

(J) coordinate with Homeland Security Liaison Officers in neighboring States to—

(i) address shared vulnerabilities; and

(ii) identify opportunities to achieve efficiencies through interstate activities .

(d) FEDERAL INTERAGENCY COMMITTEE ON FIRST RESPONDERS AND STATE, LOCAL, AND CROSS-JURISDICTIONAL ISSUES.—

(1) IN GENERAL.—There is established an Interagency Committee on First Responders and State, Local, and Cross-jurisdictional Issues (in this section referred to as the ''Interagency Committee'', that shall—

(A) ensure coordination, with respect to homeland security functions, among the Federal agencies involved with—

(i) State, local, and regional governments;

(ii) State, local, and community-based law enforcement;

(iii) fire and rescue operations; and

(iv) medical and emergency relief services;

(B) identify community-based law enforcement, fire and rescue, and medical and emergency relief services needs;

(C) recommend new or expanded grant programs to improve community-based law enforcement, fire and rescue, and medical and emergency relief services;

(D) identify ways to streamline the process through which Federal agencies support community-based law enforcement, fire and rescue, and medical and emergency relief services; and

(E) assist in priority setting based on discovered needs.

(2) MEMBERSHIP.—The Interagency Committee shall be composed of—

(A) a representative of the Office for State and Local Government Coordination;

(B) a representative of the Health Resources and Services Administration of the Department of Health and Human Services;

(C) a representative of the Centers for Disease Control and Prevention of the Department of Health and Human Services;

(D) a representative of the Federal Emergency Management Agency of the Department;

(E) a representative of the United States Coast Guard of the Department;

(F) a representative of the Department of Defense;

(G) a representative of the Office of Domestic Preparedness of the Department;

(H) a representative of the Directorate of Immigration Affairs of the Department;

(I) a representative of the Transportation Security Agency of the Department;

(J) a representative of the Federal Bureau of Investigation of the Department of Justice; and

(K) representatives of any other Federal agency identified by the President as having a significant role in the purposes of the Interagency Committee.

(3) ADMINISTRATION.—The Department shall provide administrative support to the Interagency Committee and the Advisory Council, which shall include—

(A) scheduling meetings;

(B) preparing agenda;

(C) maintaining minutes and records;

(D) producing reports; and

(E) reimbursing Advisory Council members.

(4) LEADERSHIP.—The members of the Interagency Committee shall select annually a chairperson.

(5) MEETINGS.—The Interagency Committee shall meet—

(A) at the call of the Secretary; or

(B) not less frequently than once every 3 months.

(e) ADVISORY COUNCIL FOR THE INTERAGENCY COMMITTEE.—

(1) ESTABLISHMENT.—There is established an Advisory Council for the Interagency Committee (in this section referred to as the ''Advisory Council'').

(2) MEMBERSHIP.—

(A) IN GENERAL.—The Advisory Council shall be composed of not more than 13 members, selected by the Interagency Committee.

(B) DUTIES.—The Advisory Council shall—

(i) develop a plan to disseminate information on first response best practices;

(ii) identify and educate the Secretary on the latest technological advances in the field of first response;

(iii) identify probable emerging threats to first responders;

(iv) identify needed improvements to first response techniques and training;

(v) identify efficient means of communication and coordination between first responders and Federal, State, and local officials;

(vi) identify areas in which the Department can assist first responders; and

(vii) evaluate the adequacy and timeliness of resources being made available to local first responders.

(C) REPRESENTATION.—The Interagency Committee shall ensure that the membership of the Advisory Council represents—

(i) the law enforcement community;

(ii) fire and rescue organizations;

(iii) medical and emergency relief services; and

(iv) both urban and rural communities.

(3) CHAIRPERSON.—The Advisory Council shall select annually a chairperson from among its members.

(4) COMPENSATION OF MEMBERS.—The members of the Advisory Council shall serve without compensation, but shall be eligible for reimbursement of necessary expenses connected with their service to the Advisory Council.

(5) MEETINGS.—The Advisory Council shall meet with the Interagency Committee not less frequently than once every 3 months.

SEC. 138. UNITED STATES SECRET SERVICE.

There are transferred to the Department the authorities, functions, personnel, and assets of the United States Secret Service, which shall be maintained as a distinct entity within the Department.

SEC. 139. BORDER COORDINATION WORKING GROUP.

(a) DEFINITIONS.—In this section:

(1) BORDER SECURITY FUNCTIONS.—The term ''border security functions'' means the securing of the borders, territorial waters, ports, terminals, waterways, and air, land, and sea transportation systems of the United States.

(2) RELEVANT AGENCIES.—The term ''relevant agencies'' means any department or agency of the United States that the President determines to be relevant to performing border security functions.

(b) ESTABLISHMENT.—The Secretary shall establish a border security working group (in this section referred to as the ''Working Group''), composed of the Secretary or the designee of the Secretary, the Under Secretary for Border and Transportation Protection, and the Under Secretary for Immigration Affairs.

(c) FUNCTIONS.—The Working Group shall meet not less frequently than once every 3 months and shall—

(1) with respect to border security functions, develop coordinated budget requests, allocations of appropriations, staffing requirements, communication, use of equipment, transportation, facilities, and other infrastructure;

(2) coordinate joint and cross-training programs for personnel performing border security functions;

(3) monitor, evaluate and make improvements in the coverage and geographic distribution of border security programs and personnel;

(4) develop and implement policies and technologies to ensure the speedy, orderly, and efficient flow of lawful traffic, travel and commerce, and enhanced scrutiny for high-risk traffic, travel, and commerce; and

(5) identify systemic problems in coordination encountered by border security agencies and programs and propose administrative, regulatory, or statutory changes to mitigate such problems.

(d) RELEVANT AGENCIES.—The Secretary shall consult representatives of relevant agencies with respect to deliberations under subsection (c), and may include representatives of such agencies in Working Group deliberations, as appropriate.

SEC. 140. OFFICE FOR NATIONAL CAPITAL REGION COORDINATION.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established within the Office of the Secretary the Office of National Capital Region Coordination, to oversee and coordinate Federal programs for and relationships with State, local, and regional authorities in the National Capital Region, as defined under section 2674(f)(2) of title 10, United States Code.

(2) DIRECTOR.—The Office established under paragraph (1) shall be headed by a Director, who shall be appointed by the Secretary.

(3) COOPERATION.—The Secretary shall cooperate with the Mayor of the District of Columbia, the Governors of Maryland and Virginia, and other State, local, and regional officers in the National Capital Region to integrate the District of Columbia, Maryland, and Virginia into the planning, coordination, and execution of the activities of the Federal Government for the enhancement of domestic preparedness against the consequences of terrorist attacks.

(b) RESPONSIBILITIES.—The Office established under subsection (a)(1) shall—

(1) coordinate the activities of the Department relating to the National Capital Region, including cooperation with the Homeland Security Liaison Officers for Maryland, Virginia, and the District of Columbia within the Office for State and Local Government Coordination;

(2) assess, and advocate for, the resources needed by State, local, and regional authorities in the National Capital Region to implement efforts to secure the homeland;

(3) provide State, local, and regional authorities in the National Capital Region with regular information, research, and technical support to assist the efforts of State, local, and regional authorities in the National Capital Region in securing the homeland;

(4) develop a process for receiving meaningful input from State, local, and regional authorities and the private sector in the National Capital Region to assist in the development of the homeland security plans and activities of the Federal Government;

(5) coordinate with Federal agencies in the National Capital Region on terrorism preparedness, to ensure adequate planning, information sharing, training, and execution of the Federal role in domestic preparedness activities;

(6) coordinate with Federal, State, local, and regional agencies, and the private sector in the National Capital Region on terrorism preparedness to ensure adequate planning, information sharing, training, and execution of domestic preparedness activities among these agencies and entities; and

(7) serve as a liaison between the Federal Government and State, local, and regional authorities, and private sector entities in the National Capital Region to facilitate access to Federal grants and other programs.

(c) ANNUAL REPORT.—The Office established under subsection (a) shall submit an annual report to Congress that includes—

(1) the identification of the resources required to fully implement homeland security efforts in the National Capital Region;

(2) an assessment of the progress made by the National Capital Region in implementing homeland security efforts; and

(3) recommendations to Congress regarding the additional resources needed to fully implement homeland security efforts in the National Capital Region.

(d) LIMITATION.—Nothing contained in this section shall be construed as limiting the power of State and local governments.

SEC. 141. EXECUTIVE SCHEDULE POSITIONS.

Section 5314 of title 5, United States Code, is amended by adding at the end the following:

''Under Secretary for Border and Transportation, Department of Homeland Security.

''Under Secretary for Critical Infrastructure Protection, Department of Homeland Security.

''Under Secretary for Emergency Preparedness and Response, Department of Homeland Security.

''Under Secretary for Immigration, Department of Homeland Security.

''Under Secretary for Intelligence, Department of Homeland Security.

''Under Secretary for Science and Technology, Department of Homeland Security.''.

SEC. 142. PRESERVING COAST GUARD MISSION PERFORMANCE.

(a) DEFINITIONS.—In this section:

(1) NON-HOMELAND SECURITY MISSIONS.—The term ''non-homeland security missions'' means the following missions of the Coast Guard:

(A) Marine safety.

(B) Search and rescue.

(C) Aids to navigation.

(D) Living marine resources (e.g., fisheries law enforcement).

(E) Marine environmental protection.

(F) Ice operations.

(2) HOMELAND SECURITY MISSIONS.—The term ''homeland security missions'' means the following missions of the Coast Guard:

(A) Ports, waterways and coastal security.

(B) Drug interdiction.

(C) Migrant interdiction.

(D) Defense readiness.

(E) Other law enforcement.

(b) TRANSFER.—There are transferred to the Department the authorities, functions, personnel, and assets of the Coast Guard, which shall be maintained as a distinct entity within the Department, including the authorities and functions of the Secretary of Transportation relating thereto.

(c) MAINTENANCE OF STATUS OF FUNCTIONS AND ASSETS.—Notwithstanding any other provision of this Act, the authorities, functions, assets, organizational structure, units, personnel, and non-homeland security missions of the Coast Guard shall be maintained intact and without reduction after the transfer of the Coast Guard to the Department, except as specified in subsequent Acts. Nothing in this paragraph shall prevent the Coast Guard from replacing or upgrading any asset with an asset of equivalent or greater capabilities.

(d) CERTAIN TRANSFERS PROHIBITED.—

(1) IN GENERAL.—None of the missions, functions, personnel, and assets (including ships, aircraft, helicopters, and vehicles) of the Coast Guard may be transferred to the operational control of, or diverted to the principal and continuing use of, any other organization, unit, or entity of the Department.

(2) APPLICABILITY.—The restrictions in paragraph (1) shall not apply—

(A) to any joint operation of less than 90 days between the Coast Guard and other entities and organizations of the Department; or

(B) to any detail or assignment of any individual member or civilian employee of the Coast Guard to any other entity or organization of the Department for the purposes of ensuring effective liaison, coordination, and operations of the Coast Guard and that entity or organization, except that the total number of individuals detailed or assigned in this capacity may not exceed 50 individuals during any fiscal year.

(e) CHANGES TO NON-HOMELAND SECURITY MISSIONS.—

(1) PROHIBITION.—The Secretary may not make any substantial or significant change to any of the non-homeland security missions of the Coast Guard, or to the capabilities of the Coast Guard to carry out each of the non-homeland security missions, without the prior approval of Congress as expressed in a subsequent Act. With respect to a change to the capabilities of the Coast Guard to carry out each of the non-homeland security missions, the restrictions in this paragraph shall not apply when such change shall result in an increase in those capabilities.

(2) WAIVER.—The President may waive the restrictions under paragraph (1) for a period of not to exceed 90 days upon a declaration and certification by the President to Congress that a clear, compelling, and immediate state of national emergency exists that justifies such a waiver. A certification under this paragraph shall include a detailed justification for the declaration and certification, including the reasons and specific information that demonstrate that the Nation and the Coast Guard cannot respond effectively to the national emergency if the restrictions under paragraph (1) are not waived.

(f) ANNUAL REVIEW.—

(1) IN GENERAL.—The Inspector General of the Department shall conduct an annual review that shall assess thoroughly the performance by the Coast Guard of all missions of the Coast Guard (including non-homeland security missions and homeland security missions) with a particular emphasis on examining the non-homeland security missions.

(2) REPORT.—The Inspector General shall submit the detailed results of the annual review and assessment required by paragraph (1) not later than March 1 of each year directly to—

(A) the Committee on Governmental Affairs of the Senate;

(B) the Committee on Government Reform of the House of Representatives;

(C) the Committees on Appropriations of the Senate and the House of Representatives;

(D) the Committee on Commerce, Science, and Transportation of the Senate; and

(E) the Committee on Transportation and Infrastructure of the House of Representatives.

(g) DIRECT REPORTING TO SECRETARY.—Upon the transfer of the Coast Guard to the Department, the Commandant shall report directly to the Secretary without being required to report through any other official of the Department.

(h) OPERATION AS A SERVICE IN THE NAVY.—None of the conditions and restrictions in this section shall apply when the Coast Guard operates as a service in the Navy under section 3 of title 14, United States Code.

Subtitle C—National Emergency Preparedness Enhancement

SEC. 151. SHORT TITLE.

This subtitle may be cited as the ''National Emergency Preparedness Enhancement Act of 2002''.

SEC. 152. PREPAREDNESS INFORMATION AND EDUCATION.

(a) ESTABLISHMENT OF CLEARINGHOUSE.—There is established in the Department a National Clearinghouse on Emergency Preparedness (referred to in this section as the ''Clearinghouse''). The Clearinghouse shall be headed by a Director.

(b) CONSULTATION.—The Clearinghouse shall consult with such heads of agencies, such task forces appointed by Federal officers or employees, and such representatives of the private sector, as appropriate, to collect information on emergency preparedness, including information relevant to a homeland security strategy.

(c) DUTIES.—

(1) DISSEMINATION OF INFORMATION.—The Clearinghouse shall ensure efficient dissemination of accurate emergency preparedness information.

(2) CENTER.—The Clearinghouse shall establish a one-stop center for emergency preparedness information, which shall include a website, with links to other relevant Federal websites, a telephone number, and staff, through which information shall be made available on—

(A) ways in which States, political subdivisions, and private entities can access Federal grants;

(B) emergency preparedness education and awareness tools that businesses, schools, and the general public can use; and

(C) other information as appropriate.

(3) PUBLIC AWARENESS CAMPAIGN.—The Clearinghouse shall develop a public awareness campaign. The campaign shall be ongoing, and shall include an annual theme to be implemented during the National Emergency Preparedness Week established under section 154. The Clearinghouse shall work with heads of agencies to coordinate public service announcements and other information-sharing tools utilizing a wide range of media.

(4) BEST PRACTICES INFORMATION.—The Clearinghouse shall compile and disseminate information on best practices for emergency preparedness identified by the Secretary and the heads of other agencies.

SEC. 153. PILOT PROGRAM.

(a) EMERGENCY PREPAREDNESS ENHANCEMENT PILOT PROGRAM.—The Department shall award grants to private entities to pay for the Federal share of the cost of improving emergency preparedness, and educating employees and other individuals using the entities' facilities about emergency preparedness.

(b) USE OF FUNDS.—An entity that receives a grant under this subsection may use the funds made available through the grant to—

(1) develop evacuation plans and drills;

(2) plan additional or improved security measures, with an emphasis on innovative technologies or practices;

(3) deploy innovative emergency preparedness technologies; or

(4) educate employees and customers about the development and planning activities described in paragraphs (1) and (2) in innovative ways.

(c) FEDERAL SHARE.—The Federal share of the cost described in subsection (a) shall be 50 percent, up to a maximum of $250,000 per grant recipient.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for each of fiscal years 2003 through 2005 to carry out this section.

SEC. 154. DESIGNATION OF NATIONAL EMERGENCY PREPAREDNESS WEEK.

(a) NATIONAL WEEK.—

(1) DESIGNATION.—Each week that includes September 11 is ''National Emergency Preparedness Week''.

(2) PROCLAMATION.—The President is requested every year to issue a proclamation calling on the people of the United States (including State and local governments and the private sector) to observe the week with appropriate activities and programs.

(b) FEDERAL AGENCY ACTIVITIES.—In conjunction with National Emergency Preparedness Week, the head of each agency, as appropriate, shall coordinate with the Department to inform and educate the private sector and the general public about emergency preparedness activities, resources, and tools, giving a high priority to emergency preparedness efforts designed to address terrorist attacks.

Subtitle D—Miscellaneous Provisions

SEC. 161. NATIONAL BIO-WEAPONS DEFENSE ANALYSIS CENTER.

(a) ESTABLISHMENT.—There is established within the Department of Defense a National Bio-Weapons Defense Analysis Center (in this section referred to as the ''Center'').

(b) MISSION.—The mission of the Center is to develop countermeasures to potential attacks by terrorists using biological or chemical weapons that are weapons of mass destruction (as defined under section 1403 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2302(1))) and conduct research and analysis concerning such weapons.

SEC. 162. REVIEW OF FOOD SAFETY.

(a) REVIEW OF FOOD SAFETY LAWS AND FOOD SAFETY ORGANIZATIONAL STRUCTURE.—The Secretary shall enter into an agreement with and provide funding to the National Academy of Sciences to conduct a detailed, comprehensive study which shall—

(1) review all Federal statutes and regulations affecting the safety and security of the food supply to determine the effectiveness of the statutes and regulations at protecting the food supply from deliberate contamination; and

(2) review the organizational structure of Federal food safety oversight to determine the efficiency and effectiveness of the organizational structure at protecting the food supply from deliberate contamination.

(b) REPORT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the National Academy of Sciences shall prepare and submit to the President, the Secretary, and Congress a comprehensive report containing—

(A) the findings and conclusions derived from the reviews conducted under subsection (a); and

(B) specific recommendations for improving—

(i) the effectiveness and efficiency of Federal food safety and security statutes and regulations; and

(ii) the organizational structure of Federal food safety oversight.

(2) CONTENTS.—In conjunction with the recommendations under paragraph (1), the report under paragraph (1) shall address—

(A) the effectiveness with which Federal food safety statutes and regulations protect public health and ensure the food supply remains free from contamination;

(B) the shortfalls, redundancies, and inconsistencies in Federal food safety statutes and regulations;

(C) the application of resources among Federal food safety oversight agencies;

(D) the effectiveness and efficiency of the organizational structure of Federal food safety oversight;

(E) the shortfalls, redundancies, and inconsistencies of the organizational structure of Federal food safety oversight; and

(F) the merits of a unified, central organizational structure of Federal food safety oversight.

(c) RESPONSE OF THE SECRETARY.—Not later than 90 days after the date on which the report under this section is submitted to the Secretary, the Secretary shall provide to the President and Congress the response of the Department to the recommendations of the report and recommendations of the Department to further protect the food supply from contamination.

SEC. 163. EXCHANGE OF EMPLOYEES BETWEEN AGENCIES AND STATE OR LOCAL GOVERNMENTS.

(a) FINDINGS.—Congress finds that—

(1) information sharing between Federal, State, and local agencies is vital to securing the homeland against terrorist attacks;

(2) Federal, State, and local employees working cooperatively can learn from one another and resolve complex issues;

(3) Federal, State, and local employees have specialized knowledge that should be consistently shared between and among agencies at all levels of government; and

(4) providing training and other support, such as staffing, to the appropriate Federal, State, and local agencies can enhance the ability of an agency to analyze and assess threats against the homeland, develop appropriate responses, and inform the United States public.

(b) EXCHANGE OF EMPLOYEES.—

(1) IN GENERAL.—The Secretary may provide for the exchange of employees of the Department and State and local agencies in accordance with subchapter VI of chapter 33 of title 5, United States Code.

(2) CONDITIONS.—With respect to exchanges described under this subsection, the Secretary shall ensure that—

(A) any assigned employee shall have appropriate training or experience to perform the work required by the assignment; and

(B) any assignment occurs under conditions that appropriately safeguard classified and other sensitive information.

SEC. 164. WHISTLEBLOWER PROTECTION FOR FEDERAL EMPLOYEES WHO ARE AIRPORT SECURITY SCREENERS.

Section 111(d) of the Aviation and Transportation Security Act (Public Law 107–71; 115 Stat. 620; 49 U.S.C. 44935 note) is amended—

(1) by striking ''(d) SCREENER PERSONNEL.—Notwithstanding any other provision of law,'' and inserting the following:

''(d) SCREENER PERSONNEL.—

''(1) IN GENERAL.—Notwithstanding any other provision of law (except as provided under paragraph (2)),''; and

(2) by adding at the end the following:

''(2) WHISTLEBLOWER PROTECTION.—

''(A) DEFINITION.—In this paragraph, the term ''security screener'' means—

''(i) any Federal employee hired as a security screener under subsection (e) of section 44935 of title 49, United States Code; or

''(ii) an applicant for the position of a security screener under that subsection.

''(B) IN GENERAL.—Notwithstanding paragraph (1)—

''(i) section 2302(b)(8) of title 5, United States Code, shall apply with respect to any security screener; and

''(ii) chapters 12, 23, and 75 of that title shall apply with respect to a security screener to the extent necessary to implement clause (i).

''(C) COVERED POSITION.—The President may not exclude the position of security screener as a covered position under section 2302(a)(2)(B)(ii) of title 5, United States Code, to the extent that such exclusion would prevent the implementation of subparagraph (B) of this paragraph.''.

SEC. 165. WHISTLEBLOWER PROTECTION FOR CERTAIN AIRPORT EMPLOYEES.

(a) IN GENERAL.—Section 42121(a) of title 49, United States Code, is amended—

(1) by striking ''(a) DISCRIMINATION AGAINST AIRLINE EMPLOYEES.—No air carrier or contractor or subcontractor of an air carrier'' and inserting the following:

''(a) DISCRIMINATION AGAINST EMPLOYEES.—

''(1) IN GENERAL.—No air carrier, contractor, subcontractor, or employer described under paragraph (2)'';

(2) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively; and

(3) by adding at the end the following:

''(2) APPLICABLE EMPLOYERS.—Paragraph (1) shall apply to—

''(A) an air carrier or contractor or subcontractor of an air carrier;

''(B) an employer of airport security screening personnel, other than the Federal Government, including a State or municipal government, or an airport authority, or a contractor of such government or airport authority; or

''(C) an employer of private screening personnel described in section 44919 or 44920 of this title.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 42121(b)(2)(B) of title 49, United States Code, is amended—

(1) in clause (i), by striking ''paragraphs (1) through (4) of subsection (a)'' and inserting ''subparagraphs (A) through (D) of subsection (a)(1)''; and

(2) in clause (iii), by striking ''paragraphs (1) through (4) of subsection (a)'' and inserting ''subparagraphs (A) through (D) of subsection (a)(1)''.

SEC. 166. BIOTERRORISM PREPAREDNESS AND RESPONSE DIVISION.

Section 319D of the Public Health Service Act (42 U.S.C. 2472–4) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b), the following:

''(c) BIOTERRORISM PREPAREDNESS AND RESPONSE DIVISION.—

''(1) ESTABLISHMENT.—There is established within the Office of the Director of the Centers for Disease Control and Prevention a Bioterrorism Preparedness and Response Division (in this subsection referred to as the 'Division').

''(2) MISSION.—The Division shall have the following primary missions:

''(A) To lead and coordinate the activities and responsibilities of the Centers for Disease Control and Prevention with respect to countering bioterrorism.

''(B) To coordinate and facilitate the interaction of Centers for Disease Control and Prevention personnel with personnel from the Department of Homeland Security and, in so doing, serve as a major contact point for 2-way communications between the jurisdictions of homeland security and public health.

''(C) To train and employ a cadre of public health personnel who are dedicated full-time to the countering of bioterrorism.

''(3) RESPONSIBILITIES.—In carrying out the mission under paragraph (2), the Division shall assume the responsibilities of and budget authority for the Centers for Disease Control and Prevention with respect to the following programs:

''(A) The Bioterrorism Preparedness and Response Program.

''(B) The Strategic National Stockpile.

''(C) Such other programs and responsibilities as may be assigned to the Division by the Director of the Centers for Disease Control and Prevention.

''(4) DIRECTOR.—There shall be in the Division a Director, who shall be appointed by the Director of the Centers for Disease Control and Prevention, in consultation with the Secretary of Health and Human Services and the Secretary of Homeland Security.

''(5) STAFFING.—Under agreements reached between the Director of the Centers for Disease Control and Prevention and the Secretary of Homeland Security—

''(A) the Division may be staffed, in part, by personnel assigned from the Department of Homeland Security by the Secretary of Homeland Security; and

''(B) the Director of the Centers for Disease Control and Prevention may assign some personnel from the Division to the Department of Homeland Security.''.

SEC. 167. COORDINATION WITH THE DEPARTMENT OF HEALTH AND HUMAN SERVICES UNDER THE PUBLIC HEALTH SERVICE ACT.

(a) IN GENERAL.—The annual Federal response plan developed by the Secretary under sections 102(b)(14) and 134(b)(7) shall be consistent with section 319 of the Public Health Service Act (42 U.S.C. 247d).

(b) DISCLOSURES AMONG RELEVANT AGENCIES.—

(1) IN GENERAL.—Full disclosure among relevant agencies shall be made in accordance with this subsection.

(2) PUBLIC HEALTH EMERGENCY.—During the period in which the Secretary of Health and Human Services has declared the existence of a public health emergency under section 319(a) of the Public Health Service Act (42 U.S.C. 247d(a)), the Secretary of Health and Human Services shall keep relevant agencies, including the Department of Homeland Security, the Department of Justice, and the Federal Bureau of Investigation, fully and currently informed.

(3) POTENTIAL PUBLIC HEALTH EMERGENCY.—In cases involving, or potentially involving, a public health emergency, but in which no determination of an emergency by the Secretary of Health and Human Services under section 319(a) of the Public Health Service Act (42 U.S.C. 247d(a)), has been made, all relevant agencies, including the Department of Homeland Security, the Department of Justice, and the Federal Bureau of Investigation, shall keep the Secretary of Health and Human Services and the Director of the Centers for Disease Control and Prevention fully and currently informed.

SEC. 168. RAIL SECURITY ENHANCEMENTS.

(a) IN GENERAL.—There are authorized to be appropriated to the Department, for the benefit of Amtrak, for the 2-year period beginning on the date of enactment of this Act—

(1) $375,000,000 for grants to finance the cost of enhancements to the security and safety of Amtrak rail passenger service;

(2) $778,000,000 for grants for life safety improvements to 6 New York Amtrak tunnels built in 1910, the Baltimore and Potomac Amtrak tunnel built in 1872, and the Washington, D.C. Union Station Amtrak tunnels built in 1904 under the Supreme Court and House and Senate Office Buildings; and

(3) $55,000,000 for the emergency repair, and returning to service of Amtrak passenger cars and locomotives.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated under subsection (a) shall remain available until expended.

(c) COORDINATION WITH EXISTING LAW.—Amounts made available to Amtrak under this section shall not be considered to be Federal assistance for purposes of part C of subtitle V of title 49, United States Code.

SEC. 169. GRANTS FOR FIREFIGHTING PERSONNEL.

(a) Section 33 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229) is amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively;

(2) by inserting after subsection (b) the following:

''(c) PERSONNEL GRANTS.—

''(1) IN GENERAL.—In addition to the grants authorized under subsection (b)(1), the Director may award grants to fire departments of a State for the purpose of hiring 'employees engaged in fire protection' as that term is defined in section 3 of the Fair Labor Standards Act (29 U.S.C. 203).

''(2) DURATION.—Grants awarded under this subsection shall be for a 3-year period.

''(3) MAXIMUM AMOUNT.—The total amount of grants awarded under this subsection shall not exceed $100,000 per firefighter, indexed for inflation, over the 3-year grant period.

''(4) FEDERAL SHARE.—

''(A) IN GENERAL.—The Federal share of a grant under this subsection shall not exceed 75 percent of the total salary and benefits cost for additional firefighters hired.

''(B) WAIVER.—The Director may waive the 25 percent non-Federal match under subparagraph (A) for a jurisdiction of 50,000 or fewer residents or in cases of extreme hardship.

''(5) APPLICATION.—An application for a grant under this subsection, shall—

''(A) meet the requirements under subsection (b)(5);

''(B) include an explanation for the applicant's need for Federal assistance; and

''(C) contain specific plans for obtaining necessary support to retain the position following the conclusion of Federal support.

''(6) MAINTENANCE OF EFFORT.—Grants awarded under this subsection shall only be used to pay the salaries and benefits of additional firefighting personnel, and shall not be used to supplant funding allocated for personnel from State and local sources.''; and

(3) in subsection (f) (as redesignated by paragraph (1)), by adding at the end the following:

''(3) $1,000,000,000 for each of fiscal years 2003 and 2004, to be used only for grants under subsection (c).''.

SEC. 170. REVIEW OF TRANSPORTATION SECURITY ENHANCEMENTS.

(a) REVIEW OF TRANSPORTATION VULNERABILITIES AND FEDERAL TRANSPORTATION SECURITY EFFORTS.—The Comptroller General shall conduct a detailed, comprehensive study which shall—

(1) review all available intelligence on terrorist threats against aviation, seaport, rail, motor carrier, motor coach, pipeline, highway, and transit facilities and equipment;

(2) review all available information on vulnerabilities of the aviation, seaport, rail, motor carrier, motor coach, pipeline, highway, and transit modes of transportation to terrorist attack; and

(3) review the steps taken by public and private entities since September 11, 2001, to improve aviation, seaport, rail, motor carrier, motor coach, pipeline, highway, and transit security to determine their effectiveness at protecting passengers, freight (including hazardous materials), and transportation infrastructure from terrorist attack.

(b) REPORT.—

(1) CONTENT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall prepare and submit to Congress, the Secretary, and the Secretary of Transportation a comprehensive report without compromising national security, containing—

(A) the findings and conclusions from the reviews conducted under subsection (a); and

(B) proposed steps to improve any deficiencies found in aviation, seaport, rail, motor carrier, motor coach, pipeline, highway, and transit security, including, to the extent possible, the cost of implementing the steps.

(2) FORMAT.—The Comptroller General may submit the report in both classified and redacted format if the Comptroller General determines that such action is appropriate or necessary.

(c) RESPONSE OF THE SECRETARY.—

(1) IN GENERAL.—Not later than 90 days after the date on which the report under this section is submitted to the Secretary, the Secretary shall provide to the President and Congress—

(A) the response of the Department to the recommendations of the report; and

(B) recommendations of the Department to further protect passengers and transportation infrastructure from terrorist attack.

(2) FORMATS.—The Secretary may submit the report in both classified and redacted formats if the Secretary determines that such action is necessary or appropriate.

(d) REPORTS PROVIDED TO COMMITTEES.—In furnishing the report required by subsection (b), and the Secretary's response and recommendations under subsection (c), to the Congress, the Comptroller General and the Secretary, respectively, shall ensure that the report, response, and recommendations are transmitted to the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Environment and Public Works of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives.

SEC. 171. INTEROPERABILITY OF INFORMATION SYSTEMS.

(a) IN GENERAL.—The Director of the Office of Management and Budget, in consultation with the Secretary and affected entities, shall develop—

(1) a comprehensive enterprise architecture for information systems, including communications systems, to achieve interoperability between and among information systems of agencies with responsibility for homeland security; and

(2) a plan to achieve interoperability between and among information systems, including communications systems, of agencies with responsibility for homeland security and those of State and local agencies with responsibility for homeland security.

(b) TIMETABLES.—The Director of the Office of Management and Budget, in consultation with the Secretary and affected entities, shall establish timetables for development and implementation of the enterprise architecture and plan referred to in subsection (a).

(c) IMPLEMENTATION.—The Director of the Office of Management and Budget, in consultation with the Secretary and acting under the responsibilities of the Director under law (including the Clinger-Cohen Act of 1996), shall ensure the implementation of the enterprise architecture developed under subsection (a)(1), and shall coordinate, oversee, and evaluate the management and acquisition of information technology by agencies with responsibility for homeland security to ensure interoperability consistent with the enterprise architecture developed under subsection (a)(1).

(d) AGENCY COOPERATION.—The head of each agency with responsibility for homeland security shall fully cooperate with the Director of the Office of Management and Budget in the development of a comprehensive enterprise architecture for information systems and in the management and acquisition of information technology consistent with the comprehensive enterprise architecture developed under subsection (a)(1).

(e) CONTENT.—The enterprise architecture developed under subsection (a)(1), and the information systems managed and acquired under the enterprise architecture, shall possess the characteristics of—

(1) rapid deployment;

(2) a highly secure environment, providing data access only to authorized users; and

(3) the capability for continuous system upgrades to benefit from advances in technology while preserving the integrity of stored data.

(f) UPDATED VERSIONS.—The Director of the Office of Management and Budget, in consultation with the Secretary, shall oversee and ensure the development of updated versions of the enterprise architecture and plan developed under subsection (a), as necessary.

(g) REPORT.—The Director of the Office of Management and Budget, in consultation with the Secretary, shall annually report to Congress on the development and implementation of the enterprise architecture and plan referred to under subsection (a).

(h) CONSULTATION.—The Director of the Office of Management and Budget shall consult with information systems management experts in the public and private sectors, in the development and implementation of the enterprise architecture and plan referred to under subsection (a).

(i) PRINCIPAL OFFICER.—The Director of the Office of Management and Budget shall designate, with the approval of the President, a principal officer in the Office of Management and Budget whose primary responsibility shall be to carry out the duties of the Director under this section.

SEC. 172. EXTENSION OF CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking ''September 30, 2003'' and inserting ''March 31, 2004''.

SEC. 173. CONFORMING AMENDMENTS REGARDING LAWS ADMINISTERED BY THE SECRETARY OF VETERANS AFFAIRS.

(a) TITLE 38, UNITED STATES CODE.—

(1) SECRETARY OF HOMELAND SECURITY AS HEAD OF COAST GUARD.—Title 38, United States Code, is amended by striking ''Secretary of Transportation'' and inserting ''Secretary of Homeland Security'' in each of the following provisions:

(A) Section 101(25)(D).

(B) Section 1974(a)(5).

(C) Section 3002(5).

(D) Section 3011(a)(1)(A)(ii), both places it appears.

(E) Section 3012(b)(1)(A)(v).

(F) Section 3012(b)(1)(B)(ii)(V).

(G) Section 3018A(a)(3).

(H) Section 3018B(a)(1)(C).

(I) Section 3018B(a)(2)(C).

(J) Section 3018C(a)(5).

(K) Section 3020(m)(4).

(L) Section 3035(d).

(M) Section 6105(c).

(2) DEPARTMENT OF HOMELAND SECURITY AS EXECUTIVE DEPARTMENT OF COAST GUARD.—Title 38, United States Code, is amended by striking ''Department of Transportation'' and inserting ''Department of Homeland Security'' in each of the following provisions:

(A) Section 1560(a).

(B) Section 3035(b)(2).

(C) Section 3035(c).

(D) Section 3035(d).

(E) Section 3035(e)(2)(C).

(F) Section 3680A(g).

(b) SOLDIERS' AND SAILORS' CIVIL RELIEF ACT OF 1940.—The Soldiers' and Sailors' Civil Relief Act of 1940 is amended by striking ''Secretary of Transportation'' and inserting ''Secretary of Homeland Security'' in each of the following provisions:

(1) Section 105 (50 U.S.C. App. 515), both places it appears.

(2) Section 300(c) (50 U.S.C. App. 530).

(c) OTHER LAWS AND DOCUMENTS.—(1) Any reference to the Secretary of Transportation, in that Secretary's capacity as the head of the Coast Guard when it is not operating as a service in the Navy, in any law, regulation, map, document, record, or other paper of the United States administered by the Secretary of Veterans Affairs shall be considered to be a reference to the Secretary of Homeland Security.

(2) Any reference to the Department of Transportation, in its capacity as the executive department of the Coast Guard when it is not operating as a service in the Navy, in any law, regulation, map, document, record, or other paper of the United States administered by the Secretary of Veterans Affairs shall be considered to be a reference to the Department of Homeland Security.

SEC. 174. PROHIBITION ON CONTRACTS WITH CORPORATE EXPATRIATES.

(a) IN GENERAL.—The Secretary may not enter into any contract with a foreign incorporated entity which is treated as an inverted domestic corporation under subsection (b), or any subsidiary of such entity.

(b) INVERTED DOMESTIC CORPORATION.—For purposes of this section, a foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

(1) the entity has completed the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership,

(2) after the acquisition at least 50 percent of the stock (by vote or value) of the entity is held—

(A) in the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation, or

(B) in the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership, and

(3) the expanded affiliated group which after the acquisition includes the entity does not have substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group.

(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

(1) RULES FOR APPLICATION OF SUBSECTION (b).—In applying subsection (b) for purposes of subsection (a), the following rules shall apply:

(A) CERTAIN STOCK DISREGARDED.—There shall not be taken into account in determining ownership for purposes of subsection (b)(2)—

(i) stock held by members of the expanded affiliated group which includes the foreign incorporated entity, or

(ii) stock of such entity which is sold in a public offering related to the acquisition described in subsection (b)(1).

(B) PLAN DEEMED IN CERTAIN CASES.—If a foreign incorporated entity acquires directly or indirectly substantially all of the properties of a domestic corporation or partnership during the 4-year period beginning on the date which is 2 years before the ownership requirements of subsection (b)(2) are met, such actions shall be treated as pursuant to a plan.

(C) CERTAIN TRANSFERS DISREGARDED.—The transfer of properties or liabilities (including by contribution or distribution) shall be disregarded if such transfers are part of a plan a principal purpose of which is to avoid the purposes of this section.

(D) SPECIAL RULE FOR RELATED PARTNERSHIPS.—For purposes of applying subsection (b) to the acquisition of a domestic partnership, except as provided in regulations, all partnerships which are under common control (within the meaning of section 482 of the Internal Revenue Code of 1986) shall be treated as 1 partnership.

(E) TREATMENT OF CERTAIN RIGHTS.—The Secretary shall prescribe such regulations as may be necessary—

(i) to treat warrants, options, contracts to acquire stock, convertible debt instruments, and other similar interests as stock, and

(ii) to treat stock as not stock.

(2) EXPANDED AFFILIATED GROUP.—The term ''expanded affiliated group'' means an affiliated group as defined in section 1504(a) of the Internal Revenue Code of 1986 (without regard to section 1504(b) of such Code), except that section 1504(a) of such Code shall be applied by substituting ''more than 50 percent'' for ''at least 80 percent'' each place it appears.

(3) FOREIGN INCORPORATED ENTITY.—The term ''foreign incorporated entity'' means any entity which is, or but for subsection (b) would be, treated as a foreign corporation for purposes of the Internal Revenue Code of 1986.

(4) OTHER DEFINITIONS.—The terms ''person'', ''domestic'', and ''foreign'' have the meanings given such terms by paragraphs (1), (4), and (5) of section 7701(a) of the Internal Revenue Code of 1986, respectively.

(d) WAIVER.—The President may waive subsection (a) with respect to any specific contract if the President certifies to Congress that the waiver is required in the interest of national security.

(e) EFFECTIVE DATE.—This section shall take effect 1 day after the date of the enactment of this Act.

SEC. 175. TRANSFER OF CERTAIN AGRICULTURAL INSPECTION FUNCTIONS OF THE DEPARTMENT OF AGRICULTURE.

(a) DEFINITION OF COVERED LAW.—In this section, the term ''covered law'' means—

(1) the first section of the Act of August 31, 1922 (commonly known as the ''Honeybee Act'') (7 U.S.C. 281);

(2) title III of the Federal Seed Act (7 U.S.C. 1581 et seq.);

(3) the Plant Protection Act (7 U.S.C. 7701 et seq.);

(4) the Animal Health Protection Act (7 U.S.C. 8301 et seq.);

(5) section 11 of the Endangered Species Act of 1973 (16 U.S.C. 1540).

(6) the Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.); and

(7) the eighth paragraph under the heading ''BUREAU OF ANIMAL INDUSTRY'' in the Act of March 4, 1913 (commonly known as the ''Virus-Serum-Toxin Act'') (21 U.S.C. 151 et seq.);

(b) TRANSFER.—

(1) IN GENERAL.—Subject to paragraph (2), there is transferred to the Secretary of Homeland Security the functions of the Secretary of Agriculture relating to agricultural import and entry inspection activities under each covered law.

(2) QUARANTINE ACTIVITIES.—The functions transferred under paragraph (1) shall not include any quarantine activity carried out under a covered law.

(c) EFFECT OF TRANSFER.—

(1) COMPLIANCE WITH DEPARTMENT OF AGRICULTURE REGULATIONS.—The authority transferred under subsection (b) shall be exercised by the Secretary of Homeland Security in accordance with the regulations, policies, and procedures issued by the Secretary of

Agriculture regarding the administration of each covered law.

(2) RULEMAKING COORDINATION.—The Secretary of Agriculture shall coordinate with the Secretary of Homeland Security in any case in which the Secretary of Agriculture prescribes regulations, policies, or procedures for administering the functions transferred under subsection (b) under a covered law.

(3) EFFECTIVE ADMINISTRATION.—The Secretary of Homeland Security, in consultation with the Secretary of Agriculture, may issue such directives and guidelines as are necessary to ensure the effective use of personnel of the Department of Homeland Security to carry out the functions transferred under subsection (b).

(d) TRANSFER AGREEMENT.—

(1) IN GENERAL.—Before the completion of the transition period (as defined in section 181), the Secretary of Agriculture and the Secretary of Homeland Security shall enter into an agreement to carry out this section.

(2) REQUIRED TERMS.—The agreement required by this subsection shall provide for—

(A) the supervision by the Secretary of Agriculture of the training of employees of the Secretary of Homeland Security to carry out the functions transferred under subsection (b);

(B) the transfer of funds to the Secretary of Homeland Security under subsection (e);

(C) authority under which the Secretary of Homeland Security may perform functions that—

(i) are delegated to the Animal and Plant Health Inspection Service of the Department of Agriculture regarding the protection of domestic livestock and plants; but

(ii) are not transferred to the Secretary of Homeland Security under subsection (b); and

(D) authority under which the Secretary of Agriculture may use employees of the Department of Homeland Security to carry out authorities delegated to the Animal and Plant Health Inspection Service regarding the protection of domestic livestock and plants.

(3) REVIEW AND REVISION.—After the date of execution of the agreement described in paragraph (1), the Secretary of Agriculture and the Secretary of Homeland Security—

(A) shall periodically review the agreement; and

(B) may jointly revise the agreement, as necessary.

(e) PERIODIC TRANSFER OF FUNDS TO DEPARTMENT OF HOMELAND SECURITY.—

(1) TRANSFER OF FUNDS.—Subject to paragraph (2), out of any funds collected as fees under sections 2508 and 2509 of the Food, Agriculture, Conservation, and Trade Act of 1990 (21 U.S.C. 136, 136a), the Secretary of Agriculture shall periodically transfer to the Secretary of Homeland Security, in accordance with the agreement under subsection (d), funds for activities carried out by the Secretary of Homeland Security for which the fees were collected.

(2) LIMITATION.—The proportion of fees collected under sections 2508 and 2509 of the Food, Agriculture, Conservation, and Trade Act of 1990 (21 U.S.C. 136, 136a) that are transferred to the Secretary of Homeland Security under paragraph (1) may not exceed the proportion that—

(A) the costs incurred by the Secretary of Homeland Security to carry out activities funded by those fees; bears to

(B) the costs incurred by the Federal Government to carry out activities funded by those fees.

(f) TRANSFER OF DEPARTMENT OF AGRICULTURE EMPLOYEES.—Not later than the completion of the transition period (as defined in section 181), the Secretary of Agriculture shall transfer to the Department of Homeland Security not more than 3,200 full-time equivalent positions of the Department of Agriculture.

(g) PROTECTION OF INSPECTION ANIMALS.—

(1) DEFINITION OF SECRETARY CONCERNED.—Title V of the Agricultural Risk Protection Act of 2000 is amended—

(A) by redesignating sections 501 and 502 (7 U.S.C. 2279e, 2279f) as sections 502 and 503, respectively; and

(B) by inserting before section 502 (as redesignated by subparagraph (A)) the following:

"SEC. 501. DEFINITION OF SECRETARY CONCERNED.

"In this title, the term 'Secretary concerned' means—

"(1) the Secretary of Agriculture, with respect to an animal used for purposes of official inspections by the Department of Agriculture; and

"(2) the Secretary of Homeland Security, with respect to an animal used for purposes of official inspections by the Department of Homeland Security.".

(2) CONFORMING AMENDMENTS.—

(A) Section 502 of the Agricultural Risk Protection Act of 2000 (as redesignated by paragraph (1)(A)) is amended—

(i) in subsection (a)—

(I) by inserting "or the Department of Homeland Security" after "Department of Agriculture"; and

(II) by inserting "or the Secretary of Homeland Security" after "Secretary of Agriculture"; and

(ii) by striking "Secretary" each place it appears (other than in subsections (a) and (e)) and inserting "Secretary concerned".

(B) Section 503 of the Agricultural Risk Protection Act of 2000 (as redesignated by paragraph (1)(A)) is amended by striking "501" each place it appears and inserting "502".

(C) Section 221 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (7 U.S.C. 8411) is repealed.

SEC. 176. COORDINATION OF INFORMATION AND INFORMATION TECHNOLOGY.

(a) DEFINITION OF AFFECTED AGENCY.—In this section, the term "affected agency" means—

(1) the Department of Homeland Security;

(2) the Department of Agriculture;

(3) the Department of Health and Human Services; and

(4) any other department or agency determined to be appropriate by the Secretary of Homeland Security.

(b) COORDINATION.—Consistent with section 171, the Secretary of Homeland Security, in coordination with the Secretary of Agriculture, the Secretary of Health and Human Services, and the head of each other department or agency determined to be appropriate by the Secretary of Homeland Security, shall ensure that appropriate information (as determined by the Secretary of Homeland Security) concerning inspections of articles that are imported or entered into the United States, and are inspected or regulated by 1 or more affected agencies, is timely and efficiently exchanged between the affected agencies.

(c) REPORT AND PLAN.—Not later than 18 months after the date of enactment of this Act, the Secretary of Homeland Security, in consultation with the Secretary of Agriculture, the Secretary of Health and Human Services, and the head of each other department or agency determined to be appropriate by the Secretary of Homeland Security, shall submit to Congress—

(1) a report on the progress made in implementing this section; and

(2) a plan to complete implementation of this section.

Subtitle E—Transition Provisions

SEC. 181. DEFINITIONS.

In this subtitle:

(1) AGENCY.—The term "agency" includes any entity, organizational unit, or function transferred or to be transferred under this title.

(2) TRANSITION PERIOD.—The term "transition period" means the 1-year period beginning on the effective date of this division.

SEC. 182. TRANSFER OF AGENCIES.

The transfer of an agency to the Department, as authorized by this title, shall occur when the President so directs, but in no event later than the end of the transition period.

SEC. 183. TRANSITIONAL AUTHORITIES.

(a) PROVISION OF ASSISTANCE BY OFFICIALS.—Until an agency is transferred to the Department, any official having authority over, or functions relating to, the agency immediately before the effective date of this division shall provide to the Secretary such assistance, including the use of personnel and assets, as the Secretary may reasonably request in preparing for the transfer and integration of the agency into the Department.

(b) SERVICES AND PERSONNEL.—During the transition period, upon the request of the Secretary, the head of any agency (as defined under section 2) may, on a reimbursable basis, provide services and detail personnel to assist with the transition.

(c) ACTING OFFICIALS.—

(1) DESIGNATION.—During the transition period, pending the nomination and advice and consent of the Senate to the appointment of an officer required by this division to be appointed by and with such advice and consent, the President may designate any officer whose appointment was required to be made by and with such advice and consent, and who continues as such an officer, to act in such office until the office is filled as provided in this division.

(2) COMPENSATION.—While serving as an acting officer under paragraph (1), the officer shall receive compensation at the higher of the rate provided—

(A) under this division for the office in which that officer acts; or

(B) for the office held at the time of designation.

(3) PERIOD OF SERVICE.—The person serving as an acting officer under paragraph (1) may serve in the office for the periods described under section 3346 of title 5, United States Code, as if the office became vacant on the effective date of this division.

(d) EXCEPTION TO ADVICE AND CONSENT REQUIREMENT.—Nothing in this Act shall be construed to require the advice and consent of the Senate to the appointment by the President to a position in the Department of any officer—

(1) whose agency is transferred to the Department under this Act;

(2) whose appointment was by and with the advice and consent of the Senate;

(3) who is proposed to serve in a directorate or office of the Department that is similar to the transferred agency in which the officer served; and

(4) whose authority and responsibilities following such transfer would be equivalent to those performed prior to such transfer.

SEC. 184. INCIDENTAL TRANSFERS AND TRANSFER OF RELATED FUNCTIONS.

(a) INCIDENTAL TRANSFERS.—The Director of the Office of Management and Budget, in consultation with the Secretary, shall make such additional incidental dispositions of personnel, assets, and liabilities held, used, arising from, available, or to be made available, in connection with the functions transferred by this title, as the Director determines necessary to accomplish the purposes of this title.

(b) ADJUDICATORY OR REVIEW FUNCTIONS.—

(1) IN GENERAL.—At the time an agency is transferred to the Department, the President may also transfer to the Department any agency established to carry out or support adjudicatory or review functions in relation to the transferred agency.

(2) EXCEPTION.—The President may not transfer the Executive Office of Immigration Review of the Department of Justice under this subsection.

(c) TRANSFER OF RELATED FUNCTIONS.—The transfer, under this title, of an agency that is a subdivision of a department before such transfer shall include the transfer to the Secretary of any function relating to such agency that, on the date before the transfer, was exercised by the head of the department from which such agency is transferred.

(d) REFERENCES.—A reference in any other Federal law, Executive order, rule, regulation, delegation of authority, or other document pertaining to an agency transferred under this title that refers to the head of the department from which such agency is transferred is deemed to refer to the Secretary.

SEC. 185. IMPLEMENTATION PROGRESS REPORTS AND LEGISLATIVE RECOMMENDATIONS.

(a) IN GENERAL.—In consultation with the President and in accordance with this section, the Secretary shall prepare implementation progress reports and submit such reports to—

(1) the President of the Senate and the Speaker of the House of Representatives for referral to the appropriate committees; and

(2) the Comptroller General of the United States.

(b) REPORT FREQUENCY.—

(1) INITIAL REPORT.—As soon as practicable, and not later than 6 months after the date of enactment of this Act, the Secretary shall submit the first implementation progress report.

(2) SEMIANNUAL REPORTS.—Following the submission of the report under paragraph (1), the Secretary shall submit additional implementation progress reports not less frequently than once every 6 months until all transfers to the Department under this title have been completed.

(3) FINAL REPORT.—Not later than 6 months after all transfers to the Department under this title have been completed, the Secretary shall submit a final implementation progress report.

(c) CONTENTS.—

(1) IN GENERAL.—Each implementation progress report shall report on the progress made in implementing titles I and XI, including fulfillment of the functions transferred under this Act, and shall include all of the information specified under paragraph (2) that the Secretary has gathered as of the date of submission. Information contained in an earlier report may be referenced, rather than set out in full, in a subsequent report. The final implementation progress report shall include any required information not yet provided.

(2) SPECIFICATIONS.—Each implementation progress report shall contain, to the extent available—

(A) with respect to the transfer and incorporation of entities, organizational units, and functions—

(i) the actions needed to transfer and incorporate entities, organizational units, and functions into the Department;

(ii) a projected schedule, with milestones, for completing the various phases of the transition;

(iii) a progress report on taking those actions and meeting the schedule;

(iv) the organizational structure of the Department, including a listing of the respective directorates, the field offices of the Department, and the executive positions that will be filled by political appointees or career executives;

(v) the location of Department headquarters, including a timeframe for relocating to the new location, an estimate of cost for the relocation, and information about which elements of the various agencies will be located at headquarters;

(vi) unexpended funds and assets, liabilities, and personnel that will be transferred, and the proposed allocations and disposition within the Department; and

(vii) the costs of implementing the transition;

(B) with respect to human capital planning—

(i) a description of the workforce planning undertaken for the Department, including the preparation of an inventory of skills and competencies available to the Department, to identify any gaps, and to plan for the training, recruitment, and retention policies necessary to attract and retain a workforce to meet the needs of the Department;

(ii) the past and anticipated future record of the Department with respect to recruitment and retention of personnel;

(iii) plans or progress reports on the utilization by the Department of existing personnel flexibility, provided by law or through regulations of the President and the Office of Personnel Management, to achieve the human capital needs of the Department;

(iv) any inequitable disparities in pay or other terms and conditions of employment among employees within the Department resulting from the consolidation under this division of functions, entities, and personnel previously covered by disparate personnel systems; and

(v) efforts to address the disparities under clause (iv) using existing personnel flexibility;

(C) with respect to information technology—

(i) an assessment of the existing and planned information systems of the Department; and

(ii) a report on the development and implementation of enterprise architecture and of the plan to achieve interoperability;

(D) with respect to programmatic implementation—

(i) the progress in implementing the programmatic responsibilities of this division;

(ii) the progress in implementing the mission of each entity, organizational unit, and function transferred to the Department;

(iii) recommendations of any other governmental entities, organizational units, or functions that need to be incorporated into the Department in order for the Department to function effectively; and

(iv) recommendations of any entities, organizational units, or functions not related to homeland security transferred to the Department that need to be transferred from the Department or terminated for the Department to function effectively.

(d) LEGISLATIVE RECOMMENDATIONS.—

(1) INCLUSION IN REPORT.—The Secretary, after consultation with the appropriate committees of Congress, shall include in the report under this section, recommendations for legislation that the Secretary determines is necessary to—

(A) facilitate the integration of transferred entities, organizational units, and functions into the Department;

(B) reorganize agencies, executive positions, and the assignment of functions within the Department;

(C) address any inequitable disparities in pay or other terms and conditions of employment among employees within the Department resulting from the consolidation of agencies, functions, and personnel previously covered by disparate personnel systems;

(D) enable the Secretary to engage in procurement essential to the mission of the Department;

(E) otherwise help further the mission of the Department; and

(F) make technical and conforming amendments to existing law to reflect the changes made by titles I and XI.

(2) SEPARATE SUBMISSION OF PROPOSED LEGISLATION.—The Secretary may submit the proposed legislation under paragraph (1) to Congress before submitting the balance of the report under this section.

SEC. 186. TRANSFER AND ALLOCATION.

Except as otherwise provided in this title, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the agencies transferred under this title, shall be transferred to the Secretary for appropriate allocation, subject to the approval of the Director of the Office of Management and Budget and to section 1531 of title 31, United States Code. Unexpended funds transferred under this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

SEC. 187. SAVINGS PROVISIONS.

(a) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, recognitions of labor organizations, collective bargaining agreements, certificates, licenses, registrations, privileges, and other administrative actions—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this title; and

(2) which are in effect at the time this division takes effect, or were final before the effective date of this division and are to become effective on or after the effective date of this division,

shall, to the extent related to such functions, continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary or other authorized official, or a court of competent jurisdiction, or by operation of law.

(b) PROCEEDINGS NOT AFFECTED.—The provisions of this title shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before an agency at the time this title takes effect, with respect to functions transferred by this title but such proceedings and applications shall continue. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this title had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this title had not been enacted.

(c) SUITS NOT AFFECTED.—The provisions of this title shall not affect suits commenced before the effective date of this division, and in all such suits, proceedings shall be had,

appeals taken, and judgments rendered in the same manner and with the same effect as if this title had not been enacted.

(d) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against an agency, or by or against any individual in the official capacity of such individual as an officer of an agency, shall abate by reason of the enactment of this title.

(e) ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.—Any administrative action relating to the preparation or promulgation of a regulation by an agency relating to a function transferred under this title may be continued by the Department with the same effect as if this title had not been enacted.

(f) EMPLOYMENT AND PERSONNEL.—

(1) TERMS AND CONDITIONS OF EMPLOYMENT.—The transfer of an employee to the Department under this Act shall not alter the terms and conditions of employment, including compensation, of any employee so transferred.

(2) CONDITIONS AND CRITERIA FOR APPOINTMENT.—Any qualifications, conditions, or criteria required by law for appointments to a position in an agency, or subdivision thereof, transferred to the Department under this title, including a requirement that an appointment be made by the President, by and with the advice and consent of the Senate, shall continue to apply with respect to any appointment to the position made after such transfer to the Department has occurred.

(3) WHISTLEBLOWER PROTECTION.—The President may not exclude any position transferred to the Department as a covered position under section 2302(a)(2)(B)(ii) of title 5, United States Code, to the extent that such exclusion subject to that authority was not made before the date of enactment of this Act.

(g) NO EFFECT ON INTELLIGENCE AUTHORITIES.—The transfer of authorities, functions, personnel, and assets of elements of the United States Government under this title, or the assumption of authorities and functions by the Department under this title, shall not be construed, in cases where such authorities, functions, personnel, and assets are engaged in intelligence activities as defined in the National Security Act of 1947, as affecting the authorities of the Director of Central Intelligence, the Secretary of Defense, or the heads of departments and agencies within the intelligence community.

SEC. 188. TRANSITION PLAN.

(a) IN GENERAL.—Not later than September 15, 2002, the President shall submit to Congress a transition plan as set forth in subsection (b).

(b) CONTENTS.—

(1) IN GENERAL.—The transition plan under subsection (a) shall include a detailed—

(A) plan for the transition to the Department and implementation of this title and division B; and

(B) proposal for the financing of those operations and needs of the Department that do not represent solely the continuation of functions for which appropriations already are available.

(2) FINANCING PROPOSAL.—The financing proposal under paragraph (1)(B) may consist of any combination of specific appropriations transfers, specific reprogrammings, and new specific appropriations as the President considers advisable.

SEC. 189. USE OF APPROPRIATED FUNDS.

(a) APPLICABILITY OF THIS SECTION.—Notwithstanding any other provision of this Act or any other law, this section shall apply to the use of any funds, disposal of property, and acceptance, use, and disposal of gifts, or donations of services or property, of, for, or by the Department, including any agencies, entities, or other organizations transferred to the Department under this Act.

(b) AUTHORIZATION OF APPROPRIATIONS TO CREATE DEPARTMENT.—There is authorized to be appropriated $160,000,000 for the Office of Homeland Security in the Executive Office of the President to be transferred without delay to the Department upon its creation by enactment of this Act, notwithstanding subsection (c)(1)(C) such funds shall be available only for the payment of necessary salaries and expenses associated with the initiation of operations of the Department.

(c) USE OF TRANSFERRED FUNDS.—

(1) IN GENERAL.—Except as may be provided in this subsection or in an appropriations Act in accordance with subsection (e), balances of appropriations and any other funds or assets transferred under this Act—

(A) shall be available only for the purposes for which they were originally available;

(B) shall remain subject to the same conditions and limitations provided by the law originally appropriating or otherwise making available the amount, including limitations and notification requirements related to the reprogramming of appropriated funds; and

(C) shall not be used to fund any new position established under this Act.

(2) TRANSFER OF FUNDS.—

(A) IN GENERAL.—After the creation of the Department and the swearing in of its Secretary, and upon determination by the Secretary that such action is necessary in the national interest, the Secretary is authorized to transfer, with the approval of the Office of Management and Budget, not to exceed $140,000,000 of unobligated funds from organizations and entities transferred to the new Department by this Act.

(B) LIMITATION.—Notwithstanding paragraph (1)(C), funds authorized to be transferred by subparagraph (A) shall be available only for payment of necessary costs, including funding of new positions, for the initiation of operations of the Department and may not be transferred unless the Committees on Appropriations are notified at least 15 days in advance of any proposed transfer and have approved such transfer in advance.

(C) NOTIFICATION.—The notification required in subparagraph (B) shall include a detailed justification of the purposes for which the funds are to be used and a detailed statement of the impact on the program or organization that is the source of the funds, and shall be submitted in accordance with reprogramming procedures to be established by the Committees on Appropriations.

(D) USE FOR OTHER ITEMS.—The authority to transfer funds established in this section may not be used unless for higher priority items, based on demonstrated homeland security requirements, than those for which funds originally were appropriated and in no case where the item for which funds are requested has been denied by Congress.

(d) NOTIFICATION REGARDING TRANSFERS.—The President shall notify Congress not less than 15 days before any transfer of appropriations balances, other funds, or assets under this Act.

(e) ADDITIONAL USES OF FUNDS DURING TRANSITION.—Subject to subsections (c) and (d), amounts transferred to, or otherwise made available to, the Department may be used during the transition period, as defined in section 801(2), for purposes in addition to those for which such amounts were originally available (including by transfer among accounts of the Department), but only to the extent such transfer or use is specifically permitted in advance in an appropriations Act and only under the conditions and for the purposes specified in such appropriations Act.

(f) DISPOSAL OF PROPERTY.—

(1) STRICT COMPLIANCE.—If specifically authorized to dispose of real property in this or any other Act, the Secretary shall exercise this authority in strict compliance with subchapter IV of chapter 5 of title 40, United States Code.

(2) DEPOSIT OF PROCEEDS.—The Secretary shall deposit the proceeds of any exercise of property disposal authority into the miscellaneous receipts of the Treasury in accordance with section 3302(b) of title 31, United States Code.

(g) GIFTS.—Gifts or donations of services or property of or for the Department may not be accepted, used, or disposed of unless specifically permitted in advance in an appropriations Act and only under the conditions and for the purposes specified in such appropriations Act.

(h) BUDGET REQUEST.—Under section 1105 of title 31, United States Code, the President shall submit to Congress a detailed budget request for the Department for fiscal year 2004, and for each subsequent fiscal year.

Subtitle F—Administrative Provisions

SEC. 191. REORGANIZATIONS AND DELEGATIONS.

(a) REORGANIZATION AUTHORITY.—

(1) IN GENERAL.—The Secretary may, as necessary and appropriate—

(A) allocate, or reallocate, functions among officers of the Department; and

(B) establish, consolidate, alter, or discontinue organizational entities within the Department.

(2) LIMITATION.—Paragraph (1) does not apply to—

(A) any office, bureau, unit, or other entity established by law and transferred to the Department;

(B) any function vested by law in an entity referred to in subparagraph (A) or vested by law in an officer of such an entity; or

(C) the alteration of the assignment or delegation of functions assigned by this Act to any officer or organizational entity of the Department.

(b) DELEGATION AUTHORITY.—

(1) SECRETARY.—The Secretary may—

(A) delegate any of the functions of the Secretary; and

(B) authorize successive redelegations of functions of the Secretary to other officers and employees of the Department.

(2) OFFICERS.—An officer of the Department may—

(A) delegate any function assigned to the officer by law; and

(B) authorize successive redelegations of functions assigned to the officer by law to other officers and employees of the Department.

(3) LIMITATIONS.—

(A) INTERUNIT DELEGATION.—Any function assigned by this title to an organizational unit of the Department or to the head of an organizational unit of the Department may not be delegated to an officer or employee outside of that unit.

(B) FUNCTIONS.—Any function vested by law in an entity established by law and transferred to the Department or vested by law in an officer of such an entity may not be delegated to an officer or employee outside of that entity.

SEC. 192. REPORTING REQUIREMENTS.

(a) ANNUAL EVALUATIONS.—The Comptroller General of the United States shall monitor and evaluate the implementation of this title and title XI. Not later than 15 months after the effective date of this division, and every year thereafter for the succeeding 5 years, the Comptroller General shall submit a report to Congress containing—

(1) an evaluation of the implementation progress reports submitted to Congress and

the Comptroller General by the Secretary under section 185;

(2) the findings and conclusions of the Comptroller General of the United States resulting from the monitoring and evaluation conducted under this subsection, including evaluations of how successfully the Department is meeting—

(A) the homeland security missions of the Department; and

(B) the other missions of the Department; and

(3) any recommendations for legislation or administrative action the Comptroller General considers appropriate.

(b) BIENNIAL REPORTS.—Every 2 years the Secretary shall submit to Congress—

(1) a report assessing the resources and requirements of executive agencies relating to border security and emergency preparedness issues; and

(2) a report certifying the preparedness of the United States to prevent, protect against, and respond to natural disasters, cyber attacks, and incidents involving weapons of mass destruction.

(c) POINT OF ENTRY MANAGEMENT REPORT.—Not later than 1 year after the effective date of this division, the Secretary shall submit to Congress a report outlining proposed steps to consolidate management authority for Federal operations at key points of entry into the United States.

(d) COMBATING TERRORISM AND HOMELAND SECURITY.—Not later than 270 days after the date of enactment of this Act, the Secretary shall—

(1) in consultation with the head of each department or agency affected by titles I, II, III, and XI, develop definitions of the terms ''combating terrorism'' and ''homeland security'' for purposes of those titles and shall consider such definitions in determining the mission of the Department; and

(2) submit a report to Congress on such definitions.

(e) RESULTS-BASED MANAGEMENT.—

(1) STRATEGIC PLAN.—

(A) IN GENERAL.—Not later than September 30, 2003, consistent with the requirements of section 306 of title 5, United States Code, the Secretary, in consultation with Congress, shall prepare and submit to the Director of the Office of Management and Budget and to Congress a strategic plan for the program activities of the Department.

(B) PERIOD; REVISIONS.—The strategic plan shall cover a period of not less than 5 years from the fiscal year in which it is submitted and it shall be updated and revised at least every 3 years.

(C) CONTENTS.—The strategic plan shall describe the planned results for the non-homeland security related activities of the Department and the homeland security related activities of the Department.

(2) PERFORMANCE PLAN.—

(A) IN GENERAL.—In accordance with section 1115 of title 31, United States Code, the Secretary shall prepare an annual performance plan covering each program activity set forth in the budget of the Department.

(B) CONTENTS.—The performance plan shall include—

(i) the goals to be achieved during the year;

(ii) strategies and resources required to meet the goals; and

(iii) the means used to verify and validate measured values.

(C) SCOPE.—The performance plan should describe the planned results for the non-homeland security related activities of the Department and the homeland security related activities of the Department.

(3) PERFORMANCE REPORT.—

(A) IN GENERAL.—In accordance with section 1116 of title 31, United States Code, the Secretary shall prepare and submit to the President and Congress an annual report on program performance for each fiscal year.

(B) CONTENTS.—The performance report shall include the actual results achieved during the year compared to the goals expressed in the performance plan for that year.

SEC. 193. ENVIRONMENTAL PROTECTION, SAFETY, AND HEALTH REQUIREMENTS.

The Secretary shall—

(1) ensure that the Department complies with all applicable environmental, safety, and health statutes and requirements; and

(2) develop procedures for meeting such requirements.

SEC. 194. LABOR STANDARDS.

(a) IN GENERAL.—All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance authorized under this Act shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly known as the ''Davis-Bacon Act'').

(b) SECRETARY OF LABOR.—The Secretary of Labor shall have, with respect to the enforcement of labor standards under subsection (a), the authority and functions set forth in Reorganization Plan Number 14 of 1950 (5 U.S.C. App.) and section 3145 of title 40, United States Code.

SEC. 195. PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.

The Secretary may—

(1) procure the temporary or intermittent services of experts or consultants (or organizations thereof) in accordance with section 3109(b) of title 5, United States Code; and

(2) whenever necessary due to an urgent homeland security need, procure temporary (not to exceed 1 year) or intermittent personal services, including the services of experts or consultants (or organizations thereof), without regard to the pay limitations of such section 3109.

SEC. 196. PRESERVING NON-HOMELAND SECURITY MISSION PERFORMANCE.

(a) IN GENERAL.—For each entity transferred into the Department that has non-homeland security functions, the respective Under Secretary in charge, in conjunction with the head of such entity, shall report to the Secretary, the Comptroller General, and the appropriate committees of Congress on the performance of the entity in all of its missions, with a particular emphasis on examining the continued level of performance of the non-homeland security missions.

(b) CONTENTS.—The report referred to in subsection (a) shall—

(1) to the greatest extent possible, provide an inventory of the non-homeland security functions of the entity and identify the capabilities of the entity with respect to those functions, including—

(A) the number of employees who carry out those functions;

(B) the budget for those functions; and

(C) the flexibilities, personnel or otherwise, currently used to carry out those functions;

(2) contain information related to the roles, responsibilities, missions, organizational structure, capabilities, personnel assets, and annual budgets, specifically with respect to the capabilities of the entity to accomplish its non-homeland security missions without any diminishment; and

(3) contain information regarding whether any changes are required to the roles, responsibilities, missions, organizational structure, modernization programs, projects, activities, recruitment and retention programs, and annual fiscal resources to enable the entity to accomplish its non-homeland security missions without diminishment.

(c) TIMING.—Each Under Secretary shall provide the report referred to in subsection (a) annually, for the 5 years following the transfer of the entity to the Department.

SEC. 197. FUTURE YEARS HOMELAND SECURITY PROGRAM.

(a) IN GENERAL.—Each budget request submitted to Congress for the Department under section 1105 of title 31, United States Code, and each budget request submitted to Congress for the National Terrorism Prevention and Response Program shall be accompanied by a Future Years Homeland Security Program.

(b) CONTENTS.—The Future Years Homeland Security Program under subsection (a) shall be structured, and include the same type of information and level of detail, as the Future Years Defense Program submitted to Congress by the Department of Defense under section 221 of title 10, United States Code.

(c) EFFECTIVE DATE.—This section shall take effect with respect to the preparation and submission of the fiscal year 2005 budget request for the Department and the fiscal year 2005 budget request for the National Terrorism Prevention and Response Program, and for any subsequent fiscal year.

SEC. 198. PROTECTION OF VOLUNTARILY FURNISHED CONFIDENTIAL INFORMATION.

(a) DEFINITIONS.—In this section:

(1) CRITICAL INFRASTRUCTURE.—The term ''critical infrastructure'' has the meaning given that term in section 1016(e) of the USA PATRIOT ACT of 2001 (42 U.S.C. 5195(e)).

(2) FURNISHED VOLUNTARILY.—

(A) DEFINITION.—The term ''furnished voluntarily'' means a submission of a record that—

(i) is made to the Department in the absence of authority of the Department requiring that record to be submitted; and

(ii) is not submitted or used to satisfy any legal requirement or obligation or to obtain any grant, permit, benefit (such as agency forbearance, loans, or reduction or modifications of agency penalties or rulings), or other approval from the Government.

(B) BENEFIT.—In this paragraph, the term ''benefit'' does not include any warning, alert, or other risk analysis by the Department.

(b) IN GENERAL.—Notwithstanding any other provision of law, a record pertaining to the vulnerability of and threats to critical infrastructure (such as attacks, response, and recovery efforts) that is furnished voluntarily to the Department shall not be made available under section 552 of title 5, United States Code, if—

(1) the provider would not customarily make the record available to the public; and

(2) the record is designated and certified by the provider, in a manner specified by the Department, as confidential and not customarily made available to the public.

(c) RECORDS SHARED WITH OTHER AGENCIES.—

(1) IN GENERAL.—

(A) RESPONSE TO REQUEST.—An agency in receipt of a record that was furnished voluntarily to the Department and subsequently shared with the agency shall, upon receipt of a request under section 552 of title 5, United States Code, for the record—

(i) not make the record available; and

(ii) refer the request to the Department for processing and response in accordance with this section.

(B) SEGREGABLE PORTION OF RECORD.—Any reasonably segregable portion of a record shall be provided to the person requesting the record after deletion of any portion which is exempt under this section.

(2) DISCLOSURE OF INDEPENDENTLY FURNISHED RECORDS.—Notwithstanding paragraph (1), nothing in this section shall prohibit an agency from making available under section 552 of title 5, United States Code, any record that the agency receives independently of the Department, regardless of whether or not the Department has a similar or identical record.

(d) WITHDRAWAL OF CONFIDENTIAL DESIGNATION.—The provider of a record that is furnished voluntarily to the Department under subsection (b) may at any time withdraw, in a manner specified by the Department, the confidential designation.

(e) PROCEDURES.—The Secretary shall prescribe procedures for—

(1) the acknowledgement of receipt of records furnished voluntarily;

(2) the designation, certification, and marking of records furnished voluntarily as confidential and not customarily made available to the public;

(3) the care and storage of records furnished voluntarily;

(4) the protection and maintenance of the confidentiality of records furnished voluntarily; and

(5) the withdrawal of the confidential designation of records under subsection (d).

(f) EFFECT ON STATE AND LOCAL LAW.—Nothing in this section shall be construed as preempting or otherwise modifying State or local law concerning the disclosure of any information that a State or local government receives independently of the Department.

(g) REPORT.—

(1) REQUIREMENT.—Not later than 18 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the committees of Congress specified in paragraph (2) a report on the implementation and use of this section, including—

(A) the number of persons in the private sector, and the number of State and local agencies, that furnished voluntarily records to the Department under this section;

(B) the number of requests for access to records granted or denied under this section; and

(C) such recommendations as the Comptroller General considers appropriate regarding improvements in the collection and analysis of sensitive information held by persons in the private sector, or by State and local agencies, relating to vulnerabilities of and threats to critical infrastructure, including the response to such vulnerabilities and threats.

(2) COMMITTEES OF CONGRESS.—The committees of Congress specified in this paragraph are—

(A) the Committees on the Judiciary and Governmental Affairs of the Senate; and

(B) the Committees on the Judiciary and Government Reform and Oversight of the House of Representatives.

(3) FORM.—The report shall be submitted in unclassified form, but may include a classified annex.

SEC. 199. ESTABLISHMENT OF HUMAN RESOURCES MANAGEMENT SYSTEM.

(a) AUTHORITY.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that—

(A) it is extremely important that employees of the Department be allowed to participate in a meaningful way in the creation of any human resources management system affecting them;

(B) such employees have the most direct knowledge of the demands of their jobs and have a direct interest in ensuring that their human resources management system is conducive to achieving optimal operational efficiencies;

(C) the 21st century human resources management system envisioned for the Department should be one that benefits from the input of its employees; and

(D) this collaborative effort will help secure our homeland.

(2) IN GENERAL.—Subpart I of part III of title 5, United States Code, is amended by adding at the end the following:

"CHAPTER 97—DEPARTMENT OF HOMELAND SECURITY

"Sec.
"9701. Establishment of human resources management system.

"§ 9701. Establishment of human resources management system

"(a) IN GENERAL.—Notwithstanding any other provision of this part, the Secretary of Homeland Security may, in regulations prescribed jointly with the Director of the Office of Personnel Management, establish, and from time to time adjust, a human resources management system for some or all of the organizational units of the Department of Homeland Security.

"(b) SYSTEM REQUIREMENTS.—Any system established under subsection (a) shall—

"(1) be flexible;

"(2) be contemporary;

"(3) not waive, modify, or otherwise affect—

"(A) the public employment principles of merit and fitness set forth in section 2301, including the principles of hiring based on merit, fair treatment without regard to political affiliation or other nonmerit considerations, equal pay for equal work, and protection of employees against reprisal for whistleblowing;

"(B) any provision of section 2302, relating to prohibited personnel practices;

"(C)(i) any provision of law referred to in section 2302(b)(1); or

"(ii) any provision of law implementing any provision of law referred to in section 2302(b)(1) by—

"(I) providing for equal employment opportunity through affirmative action; or

"(II) providing any right or remedy available to any employee or applicant for employment in the civil service;

"(D) any other provision of this part (as described in subsection (c)); or

"(E) any rule or regulation prescribed under any provision of law referred to in any of the preceding subparagraphs of this paragraph;

"(4) ensure that employees may organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them, subject to any exclusion from coverage or limitation on negotiability established by law; and

"(5) permit the use of a category rating system for evaluating applicants for positions in the competitive service.

"(c) OTHER NONWAIVABLE PROVISIONS.—The other provisions of this part as referred to in subsection (b)(3)(D), are (to the extent not otherwise specified in subparagraph (A), (B), (C), or (D) of subsection (b)(3))—

"(1) subparts A, B, E, G, and H of this part; and

"(2) chapters 41, 45, 47, 55, 57, 59, 71, 72, 73, 77, and 79, and this chapter.

"(d) LIMITATIONS RELATING TO PAY.—Nothing in this section shall constitute authority—

"(1) to modify the pay of any employee who serves in—

"(A) an Executive Schedule position under subchapter II of chapter 53 of this title; or

"(B) a position for which the rate of basic pay is fixed in statute by reference to a section or level under subchapter II of chapter 53 of this title;

"(2) to fix pay for any employee or position at an annual rate greater than the maximum amount of cash compensation allowable under section 5307 of this title in a year; or

"(3) to exempt any employee from the application of such section 5307.

"(e) PROVISIONS TO ENSURE COLLABORATION WITH EMPLOYEE REPRESENTATIVES.—

"(1) IN GENERAL.—In order to ensure that the authority of this section is exercised in collaboration with, and in a manner that ensures the direct participation of employee representatives in the planning development, and implementation of any human resources management system or adjustments under this section, the Secretary and the Director of the Office of Personnel Management shall provide for the following:

"(A) NOTICE OF PROPOSAL.— The Secretary and the Director shall, with respect to any proposed system or adjustment—

"(i) provide to each employee representative representing any employees who might be affected, a written description of the proposed system or adjustment (including the reasons why it is considered necessary);

"(ii) give each representative at least 60 days (unless extraordinary circumstances require earlier action) to review and make recommendations with respect to the proposal; and

"(iii) give any recommendations received from any such representatives under clause (ii) full and fair consideration in deciding whether or how to proceed with the proposal.

"(B) PREIMPLEMENTATION REQUIREMENTS.—If the Secretary and the Director decide to implement a proposal described in subparagraph (A), they shall before implementation—

"(i) give each representative details of the decision to implement the proposal, together with the information upon which the decision is based;

"(ii) give each representative an opportunity to make recommendations with respect to the proposal; and

"(iii) give such recommendation full and fair consideration, including the providing of reasons to an employee representative if any of its recommendations are rejected.

"(C) CONTINUING COLLABORATION.—If a proposal described in subparagraph (A) is implemented, the Secretary and the Director shall—

"(i) develop a method for each employee representative to participate in any further planning or development which might become necessary; and

"(ii) give each employee representative adequate access to information to make that participation productive.

"(2) PROCEDURES.—Any procedures necessary to carry out this subsection shall be established by the Secretary and the Director jointly. Such procedures shall include measures to ensure—

"(A) in the case of employees within a unit with respect to which a labor organization is accorded exclusive recognition, representation by individuals designated or from among individuals nominated by such organization;

"(B) in the case of any employees who are not within such a unit, representation by any appropriate organization which represents a substantial percentage of those employees or, if none, in such other manner as may be appropriate, consistent with the purposes of the subsection; and

"(C) the selection of representatives in a manner consistent with the relative number of employees represented by the organizations or other representatives involved.

"(3) WRITTEN AGREEMENT.—Notwithstanding any other provision of this part, employees within a unit to which a labor organization is accorded exclusive recognition under chapter 71 shall not be subject to any system provided under this section unless

the exclusive representative and the Secretary have entered into a written agreement, which specifically provides for the inclusion of such employees within such system. Such written agreement may be imposed by the Federal Service Impasses Panel under section 7119, after negotiations consistent with section 7117.

''(f) PROVISIONS RELATING TO APPELLATE PROCEDURES.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that—

''(A) employees of the Department are entitled to fair treatment in any appeals that they bring in decisions relating to their employment; and

''(B) in prescribing regulations for any such appeals procedures, the Secretary and the Director of the Office of Personnel Management—

''(i) should ensure that employees of the Department are afforded the protections of due process; and

''(ii) toward that end, should be required to consult with the Merit Systems Protection Board before issuing any such regulations.

''(2) REQUIREMENTS.—Any regulations under this section which relate to any matters within the purview of chapter 77—

''(A) shall be issued only after consultation with the Merit Systems Protection Board;

''(B) shall ensure the availability of procedures which shall—

''(i) be consistent with requirements of due process; and

''(ii) provide, to the maximum extent practicable, for the expeditious handling of any matters involving the Department; and

''(C) shall modify procedures under chapter 77 only insofar as such modifications are designed to further the fair, efficient, and expeditious resolution of matters involving the employees of the Department.

''(g) SUNSET PROVISION.—Effective 5 years after the conclusion of the transition period defined under section 181 of the Homeland Security Act of 2002, all authority to issue regulations under this section (including regulations which would modify, supersede, or terminate any regulations previously issued under this section) shall cease to be available.''.

(3) CLERICAL AMENDMENT.—The table of chapters for part III of title 5, United States Code, is amended by adding at the end of the following:

''97. Department of Homeland Security ..... 9701''.

(b) EFFECT ON PERSONNEL.—

(1) NONSEPARATION OR NONREDUCTION IN GRADE OR COMPENSATION OF FULL-TIME PERSONNEL AND PART-TIME PERSONNEL HOLDING PERMANENT POSITIONS.—Except as otherwise provided in this Act, the transfer pursuant to this act of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of transfer to the Department.

(2) POSITIONS COMPENSATED IN ACCORDANCE WITH EXECUTIVE SCHEDULE.—Any person who, on the day preceding such person's date of transfer pursuant to this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such position, for the duration of the service of such person in such new position.

(3) COORDINATION RULE.—Any exercise of authority under chapter 97 of title 5, United States Code (as amended by subsection (a)), including under any system established under such chapter, shall be in conformance with the requirements of this subsection.

SEC. 199A. LABOR-MANAGEMENT RELATIONS.

(a) LIMITATION ON EXCLUSIONARY AUTHORITY.—

(1) IN GENERAL.—No agency or subdivision of an agency which is transferred to the Department pursuant to this Act shall be excluded from the coverage of chapter 71 of title 5, United States Code, as a result of any order issued under section 7103(b)(1) of such title 5 after June 18, 2002, unless—

(A) the mission and responsibilities of the agency (or subdivision) materially change; and

(B) a majority of the employees within such agency (or subdivision) have as their primary duty intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

(2) EXCLUSIONS ALLOWABLE.—Nothing in paragraph (1) shall affect the effectiveness of any order to the extent that such order excludes any portion of an agency or subdivision of an agency as to which—

(A) recognition as an appropriate unit has never been conferred for purposes of chapter 71 of title 5, United States Code; or

(B) any such recognition has been revoked or otherwise terminated as a result of a determination under subsection (b)(1).

(b) PROVISIONS RELATING TO BARGAINING UNITS.—

(1) LIMITATION RELATING TO APPROPRIATE UNITS.—Each unit which is recognized as an appropriate unit for purposes of chapter 71 of title 5, United States Code, as of the day before the effective date of this Act (and any subdivision of any such unit) shall, if such unit (or subdivision) is transferred to the Department pursuant to this Act, continue to be so recognized for such purposes, unless—

(A) the mission and responsibilities of such unit (or subdivision) materially change; and

(B) a majority of the employees within such unit (or subdivision) have as their primary duty intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

(2) LIMITATION RELATING TO POSITIONS OR EMPLOYEES.—No position or employee within a unit (or subdivision of a unit) as to which continued recognition is given in accordance with paragraph (1) shall be excluded from such unit (or subdivision), for purposes of chapter 71 of title 5, United States Code, unless the primary job duty of such position or employee—

(A) materially changes; and

(B) consists of intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

In the case of any positions within a unit (or subdivision) which are first established on or after the effective date of this Act and any employee first appointed on or after such date, the preceding sentence shall be applied disregarding subparagraph (A).

(c) COORDINATION RULE.—No other provision of this Act or of any amendment made by this Act may be construed or applied in a manner so as to limit, supersede, or otherwise affect the provisions of this section, except to the extent that it does so by specific reference to this section.

SEC. 199B. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to—

(1) enable the Secretary to administer and manage the Department; and

(2) carry out the functions of the Department other than those transferred to the Department under this Act.

TITLE II—LAW ENFORCEMENT POWERS OF INSPECTOR GENERAL AGENTS

SEC. 201. LAW ENFORCEMENT POWERS OF INSPECTOR GENERAL AGENTS.

(a) IN GENERAL.—Section 6 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by adding at the end the following:

''(e)(1) In addition to the authority otherwise provided by this Act, each Inspector General appointed under section 3, any Assistant Inspector General for Investigations under such an Inspector General, and any special agent supervised by such an Assistant Inspector General may be authorized by the Attorney General to—

''(A) carry a firearm while engaged in official duties as authorized under this Act or other statute, or as expressly authorized by the Attorney General;

''(B) make an arrest without a warrant while engaged in official duties as authorized under this Act or other statute, or as expressly authorized by the Attorney General, for any offense against the United States committed in the presence of such Inspector General, Assistant Inspector General, or agent, or for any felony cognizable under the laws of the United States if such Inspector General, Assistant Inspector General, or agent has reasonable grounds to believe that the person to be arrested has committed or is committing such felony; and

''(C) seek and execute warrants for arrest, search of a premises, or seizure of evidence issued under the authority of the United States upon probable cause to believe that a violation has been committed.

''(2) The Attorney General may authorize exercise of the powers under this subsection only upon an initial determination that—

''(A) the affected Office of Inspector General is significantly hampered in the performance of responsibilities established by this Act as a result of the lack of such powers;

''(B) available assistance from other law enforcement agencies is insufficient to meet the need for such powers; and

''(C) adequate internal safeguards and management procedures exist to ensure proper exercise of such powers.

''(3) The Inspector General offices of the Department of Commerce, Department of Education, Department of Energy, Department of Health and Human Services, Department of Homeland Security, Department of Housing and Urban Development, Department of the Interior, Department of Justice, Department of Labor, Department of State, Department of Transportation, Department of the Treasury, Department of Veterans Affairs, Agency for International Development, Environmental Protection Agency, Federal Deposit Insurance Corporation, Federal Emergency Management Agency, General Services Administration, National Aeronautics and Space Administration, Nuclear Regulatory Commission, Office of Personnel Management, Railroad Retirement Board, Small Business Administration, Social Security Administration, and the Tennessee Valley Authority are exempt from the requirement of paragraph (2) of an initial determination of eligibility by the Attorney General.

''(4) The Attorney General shall promulgate, and revise as appropriate, guidelines which shall govern the exercise of the law enforcement powers established under paragraph (1).

''(5) Powers authorized for an Office of Inspector General under paragraph (1) shall be rescinded or suspended upon a determination by the Attorney General that any of the requirements under paragraph (2) is no longer satisfied or that the exercise of authorized powers by that Office of Inspector General

has not complied with the guidelines promulgated by the Attorney General under paragraph (4).

''(6) A determination by the Attorney General under paragraph (2) or (5) shall not be reviewable in or by any court.

''(7) To ensure the proper exercise of the law enforcement powers authorized by this subsection, the Offices of Inspector General described under paragraph (3) shall, not later than 180 days after the date of enactment of this subsection, collectively enter into a memorandum of understanding to establish an external review process for ensuring that adequate internal safeguards and management procedures continue to exist within each Office and within any Office that later receives an authorization under paragraph (2). The review process shall be established in consultation with the Attorney General, who shall be provided with a copy of the memorandum of understanding that establishes the review process. Under the review process, the exercise of the law enforcement powers by each Office of Inspector General shall be reviewed periodically by another Office of Inspector General or by a committee of Inspectors General. The results of each review shall be communicated in writing to the applicable Inspector General and to the Attorney General.

''(8) No provision of this subsection shall limit the exercise of law enforcement powers established under any other statutory authority, including United States Marshals Service special deputation.''.

(b) PROMULGATION OF INITIAL GUIDELINES.—

(1) DEFINITION.—In this subsection, the term ''memoranda of understanding'' means the agreements between the Department of Justice and the Inspector General offices described under section 6(e)(3) of the Inspector General Act of 1978 (5 U.S.C. App) (as added by subsection (a) of this section) that—

(A) are in effect on the date of enactment of this Act; and

(B) authorize such offices to exercise authority that is the same or similar to the authority under section 6(e)(1) of such Act.

(2) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Attorney General shall promulgate guidelines under section 6(e)(4) of the Inspector General Act of 1978 (5 U.S.C. App) (as added by subsection (a) of this section) applicable to the Inspector General offices described under section 6(e)(3) of that Act.

(3) MINIMUM REQUIREMENTS.—The guidelines promulgated under this subsection shall include, at a minimum, the operational and training requirements in the memoranda of understanding.

(4) NO LAPSE OF AUTHORITY.—The memoranda of understanding in effect on the date of enactment of this Act shall remain in effect until the guidelines promulgated under this subsection take effect.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Subsection (a) shall take effect 180 days after the date of enactment of this Act.

(2) INITIAL GUIDELINES.—Subsection (b) shall take effect on the date of enactment of this Act.

TITLE III—FEDERAL EMERGENCY PROCUREMENT FLEXIBILITY

Subtitle A—Temporary Flexibility for Certain Procurements

SEC. 301. DEFINITION.

In this title, the term ''executive agency'' has the meaning given that term under section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)).

SEC. 302. PROCUREMENTS FOR DEFENSE AGAINST OR RECOVERY FROM TERRORISM OR NUCLEAR, BIOLOGICAL, CHEMICAL, OR RADIOLOGICAL ATTACK.

The authorities provided in this subtitle apply to any procurement of property or services by or for an executive agency that, as determined by the head of the executive agency, are to be used to facilitate defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack, but only if a solicitation of offers for the procurement is issued during the 1-year period beginning on the date of the enactment of this Act.

SEC. 303. INCREASED SIMPLIFIED ACQUISITION THRESHOLD FOR PROCUREMENTS IN SUPPORT OF HUMANITARIAN OR PEACEKEEPING OPERATIONS OR CONTINGENCY OPERATIONS.

(a) TEMPORARY THRESHOLD AMOUNTS.—For a procurement referred to in section 302 that is carried out in support of a humanitarian or peacekeeping operation or a contingency operation, the simplified acquisition threshold definitions shall be applied as if the amount determined under the exception provided for such an operation in those definitions were—

(1) in the case of a contract to be awarded and performed, or purchase to be made, inside the United States, $250,000; or

(2) in the case of a contract to be awarded and performed, or purchase to be made, outside the United States, $500,000.

(b) SIMPLIFIED ACQUISITION THRESHOLD DEFINITIONS.—In this section, the term ''simplified acquisition threshold definitions'' means the following:

(1) Section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)).

(2) Section 309(d) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 259(d)).

(3) Section 2302(7) of title 10, United States Code.

(c) SMALL BUSINESS RESERVE.—For a procurement carried out pursuant to subsection (a), section 15(j) of the Small Business Act (15 U.S.C. 644(j)) shall be applied as if the maximum anticipated value identified therein is equal to the amounts referred to in subsection (a).

SEC. 304. INCREASED MICRO-PURCHASE THRESHOLD FOR CERTAIN PROCUREMENTS.

In the administration of section 32 of the Office of Federal Procurement Policy Act (41 U.S.C. 428) with respect to a procurement referred to in section 302, the amount specified in subsections (c), (d), and (f) of such section 32 shall be deemed to be $10,000.

SEC. 305. APPLICATION OF CERTAIN COMMERCIAL ITEMS AUTHORITIES TO CERTAIN PROCUREMENTS.

(a) AUTHORITY.—

(1) IN GENERAL.—The head of an executive agency may apply the provisions of law listed in paragraph (2) to a procurement referred to in section 302 without regard to whether the property or services are commercial items.

(2) COMMERCIAL ITEM LAWS.—The provisions of law referred to in paragraph (1) are as follows:

(A) Sections 31 and 34 of the Office of Federal Procurement Policy Act (41 U.S.C. 427, 430).

(B) Section 2304(g) of title 10, United States Code.

(C) Section 303(g) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)).

(b) INAPPLICABILITY OF LIMITATION ON USE OF SIMPLIFIED ACQUISITION PROCEDURES.—

(1) IN GENERAL.—The $5,000,000 limitation provided in section 31(a)(2) of the Office of Federal Procurement Policy Act (41 U.S.C. 427(a)(2)), section 2304(g)(1)(B) of title 10, United States Code, and section 303(g)(1)(B) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(1)(B)) shall not apply to purchases of property or services to which any of the provisions of law referred to in subsection (a) are applied under the authority of this section.

(2) OMB GUIDANCE.—The Director of the Office of Management and Budget shall issue guidance and procedures for the use of simplified acquisition procedures for a purchase of property or services in excess of $5,000,000 under the authority of this section.

(c) CONTINUATION OF AUTHORITY FOR SIMPLIFIED PURCHASE PROCEDURES.—Authority under a provision of law referred to in subsection (a)(2) that expires under section 4202(e) of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106; 10 U.S.C. 2304 note) shall, notwithstanding such section, continue to apply for use by the head of an executive agency as provided in subsections (a) and (b).

SEC. 306. USE OF STREAMLINED PROCEDURES.

(a) REQUIRED USE.—The head of an executive agency shall, when appropriate, use streamlined acquisition authorities and procedures authorized by law for a procurement referred to in section 302, including authorities and procedures that are provided under the following provisions of law:

(1) FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949.—In title III of the Federal Property and Administrative Services Act of 1949:

(A) Paragraphs (1), (2), (6), and (7) of subsection (c) of section 303 (41 U.S.C. 253), relating to use of procedures other than competitive procedures under certain circumstances (subject to subsection (e) of such section).

(B) Section 303J (41 U.S.C. 253j), relating to orders under task and delivery order contracts.

(2) TITLE 10, UNITED STATES CODE.—In chapter 137 of title 10, United States Code:

(A) Paragraphs (1), (2), (6), and (7) of subsection (c) of section 2304, relating to use of procedures other than competitive procedures under certain circumstances (subject to subsection (e) of such section).

(B) Section 2304c, relating to orders under task and delivery order contracts.

(3) OFFICE OF FEDERAL PROCUREMENT POLICY ACT.—Paragraphs (1)(B), (1)(D), and (2) of section 18(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(c)), relating to inapplicability of a requirement for procurement notice.

(b) WAIVER OF CERTAIN SMALL BUSINESS THRESHOLD REQUIREMENTS.—Subclause (II) of section 8(a)(1)(D)(i) of the Small Business Act (15 U.S.C. 637(a)(1)(D)(i)) and clause (ii) of section 31(b)(2)(A) of such Act (15 U.S.C. 657a(b)(2)(A)) shall not apply in the use of streamlined acquisition authorities and procedures referred to in paragraphs (1)(A) and (2)(A) of subsection (a) for a procurement referred to in section 302.

SEC. 307. REVIEW AND REPORT BY COMPTROLLER GENERAL.

(a) REQUIREMENTS.—Not later than March 31, 2004, the Comptroller General shall—

(1) complete a review of the extent to which procurements of property and services have been made in accordance with this subtitle; and

(2) submit a report on the results of the review to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

(b) CONTENT OF REPORT.—The report under subsection (a)(2) shall include the following matters:

(1) ASSESSMENT.—The Comptroller General's assessment of—

(A) the extent to which property and services procured in accordance with this title have contributed to the capacity of the workforce of Federal Government employees within each executive agency to carry out the mission of the executive agency; and

(B) the extent to which Federal Government employees have been trained on the use of technology.

(2) RECOMMENDATIONS.—Any recommendations of the Comptroller General resulting from the assessment described in paragraph (1).

(c) CONSULTATION.—In preparing for the review under subsection (a)(1), the Comptroller shall consult with the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives on the specific issues and topics to be reviewed. The extent of coverage needed in areas such as technology integration, employee training, and human capital management, as well as the data requirements of the study, shall be included as part of the consultation.

Subtitle B—Other Matters

SEC. 311. IDENTIFICATION OF NEW ENTRANTS INTO THE FEDERAL MARKETPLACE.

The head of each executive agency shall conduct market research on an ongoing basis to identify effectively the capabilities, including the capabilities of small businesses and new entrants into Federal contracting, that are available in the marketplace for meeting the requirements of the executive agency in furtherance of defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack. The head of the executive agency shall, to the maximum extent practicable, take advantage of commercially available market research methods, including use of commercial databases, to carry out the research.

TITLE IV—NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES

SEC. 401. ESTABLISHMENT OF COMMISSION.

There is established the National Commission on Terrorist Attacks Upon the United States (in this title referred to as the ''Commission'').

SEC. 402. PURPOSES.

The purposes of the Commission are to—

(1) examine and report upon the facts and causes relating to the terrorist attacks of September 11, 2001, occurring at the World Trade Center in New York, New York and at the Pentagon in Virginia;

(2) ascertain, evaluate, and report on the evidence developed by all relevant governmental agencies regarding the facts and circumstances surrounding the attacks;

(3) build upon the investigations of other entities, and avoid unnecessary duplication, by reviewing the findings, conclusions, and recommendations of—

(A) the Joint Inquiry of the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives regarding the terrorist attacks of September 11, 2001;

(B) other executive branch, congressional, or independent commission investigations into the terrorist attacks of September 11, 2001, other terrorist attacks, and terrorism generally;

(4) make a full and complete accounting of the circumstances surrounding the attacks, and the extent of the United States' preparedness for, and response to, the attacks; and

(5) investigate and report to the President and Congress on its findings, conclusions, and recommendations for corrective measures that can be taken to prevent acts of terrorism.

SEC. 403. COMPOSITION OF THE COMMISSION.

(a) MEMBERS.—The Commission shall be composed of 10 members, of whom—

(1) 3 members shall be appointed by the majority leader of the Senate;

(2) 3 members shall be appointed by the Speaker of the House of Representatives;

(3) 2 members shall be appointed by the minority leader of the Senate; and

(4) 2 members shall be appointed by the minority leader of the House of Representatives.

(b) CHAIRPERSON; VICE CHAIRPERSON.—

(1) IN GENERAL.—Subject to paragraph (2), the Chairperson and Vice Chairperson of the Commission shall be elected by the members.

(2) POLITICAL PARTY AFFILIATION.—The Chairperson and Vice Chairperson shall not be from the same political party.

(c) QUALIFICATIONS; INITIAL MEETING.—

(1) POLITICAL PARTY AFFILIATION.—Not more than 5 members of the Commission shall be from the same political party.

(2) NONGOVERNMENTAL APPOINTEES.—An individual appointed to the Commission may not be an officer or employee of the Federal Government or any State or local government.

(3) OTHER QUALIFICATIONS.—It is the sense of Congress that individuals appointed to the Commission should be prominent United States citizens, with national recognition and significant depth of experience in such professions as governmental service, law enforcement, the armed services, legal practice, public administration, intelligence gathering, commerce, including aviation matters, and foreign affairs.

(4) INITIAL MEETING.—If 60 days after the date of enactment of this Act, 6 or more members of the Commission have been appointed, those members who have been appointed may meet and, if necessary, select a temporary chairperson, who may begin the operations of the Commission, including the hiring of staff.

(d) QUORUM; VACANCIES.—After its initial meeting, the Commission shall meet upon the call of the chairperson or a majority of its members. Six members of the Commission shall constitute a quorum. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

SEC. 404. FUNCTIONS OF THE COMMISSION.

The functions of the Commission are to—

(1) conduct an investigation that—

(A) investigates relevant facts and circumstances relating to the terrorist attacks of September 11, 2001, including any relevant legislation, Executive order, regulation, plan, policy, practice, or procedure; and

(B) may include relevant facts and circumstances relating to—

(i) intelligence agencies;

(ii) law enforcement agencies;

(iii) diplomacy;

(iv) immigration, nonimmigrant visas, and border control;

(v) the flow of assets to terrorist organizations;

(vi) commercial aviation; and

(vii) other areas of the public and private sectors determined relevant by the Commission for its inquiry;

(2) identify, review, and evaluate the lessons learned from the terrorist attacks of September 11, 2001, regarding the structure, coordination, management policies, and procedures of the Federal Government, and, if appropriate, State and local governments and nongovernmental entities, relative to detecting, preventing, and responding to such terrorist attacks; and

(3) submit to the President and Congress such reports as are required by this title containing such findings, conclusions, and recommendations as the Commission shall determine, including proposing organization, coordination, planning, management arrangements, procedures, rules, and regulations.

SEC. 405. POWERS OF THE COMMISSION.

(a) IN GENERAL.—

(1) HEARINGS AND EVIDENCE.—The Commission or, on the authority of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out this title—

(A) hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, administer such oaths; and

(B) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents, as the Commission or such designated subcommittee or designated member may determine advisable.

(2) SUBPOENAS.—

(A) ISSUANCE.—Subpoenas issued under paragraph (1)(B) may be issued under the signature of the chairperson of the Commission, the vice chairperson of the Commission, the chairperson of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission, and may be served by any person designated by the chairperson, subcommittee chairperson, or member.

(B) ENFORCEMENT.—

(i) IN GENERAL.—In the case of contumacy or failure to obey a subpoena issued under paragraph (1)(B), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found, or where the subpoena is returnable, may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(ii) ADDITIONAL ENFORCEMENT.—In the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section, the Commission may, by majority vote, certify a statement of fact constituting such failure to the appropriate United States attorney, who may bring the matter before the grand jury for its action, under the same statutory authority and procedures as if the United States attorney had received a certification under sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192 through 194).

(b) CLOSED MEETINGS.—

(1) IN GENERAL.—Meetings of the Commission may be closed to the public under section 10(d) of the Federal Advisory Committee Act (5 U.S.C. App.) or other applicable law.

(2) ADDITIONAL AUTHORITY.—In addition to the authority under paragraph (1), section 10(a)(1) and (3) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to any portion of a Commission meeting if the President determines that such portion or portions of that meeting is likely to disclose matters that could endanger national security. If the President makes such determination, the requirements relating to a determination under section 10(d) of that Act shall apply.

(c) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts to enable the Commission to discharge its duties under this title.

(d) INFORMATION FROM FEDERAL AGENCIES.—The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Government information, suggestions, estimates, and statistics for the purposes of this title. Each department, bureau, agency, board, commission, office, independent establishment, or instrumentality shall, to the extent authorized by law, furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the chairperson, the chairperson of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission.

(e) ASSISTANCE FROM FEDERAL AGENCIES.—

(1) GENERAL SERVICES ADMINISTRATION.—The Administrator of General Services shall provide to the Commission on a reimbursable basis administrative support and other services for the performance of the Commission's functions.

(2) OTHER DEPARTMENTS AND AGENCIES.—In addition to the assistance prescribed in paragraph (1), departments and agencies of the United States are authorized to provide to the Commission such services, funds, facilities, staff, and other support services as they may determine advisable and as may be authorized by law.

(f) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(g) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

SEC. 406. STAFF OF THE COMMISSION.

(a) IN GENERAL.—

(1) APPOINTMENT AND COMPENSATION.—The chairperson, in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) PERSONNEL AS FEDERAL EMPLOYEES.—

(A) IN GENERAL.—The executive director and any personnel of the Commission who are employees shall be employees under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

(B) MEMBERS OF COMMISSION.—Subparagraph (A) shall not be construed to apply to members of the Commission.

(b) DETAILEES.—Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(c) CONSULTANT SERVICES.—The Commission is authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

SEC. 407. COMPENSATION AND TRAVEL EXPENSES.

(a) COMPENSATION.—Each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

(b) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

SEC. 408. SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.

The appropriate executive departments and agencies shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security clearances in a manner consistent with existing procedures and requirements, except that no person shall be provided with access to classified information under this section who would not otherwise qualify for such security clearance.

SEC. 409. REPORTS OF THE COMMISSION; TERMINATION.

(a) INITIAL REPORT.—Not later than 6 months after the date of the first meeting of the Commission, the Commission shall submit to the President and Congress an initial report containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(b) ADDITIONAL REPORTS.—Not later than 1 year after the submission of the initial report of the Commission, the Commission shall submit to the President and Congress a second report containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(c) TERMINATION.—

(1) IN GENERAL.—The Commission, and all the authorities of this title, shall terminate 60 days after the date on which the second report is submitted under subsection (b).

(2) ADMINISTRATIVE ACTIVITIES BEFORE TERMINATION.—The Commission may use the 60-day period referred to in paragraph (1) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its reports and disseminating the second report.

SEC. 410. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Commission to carry out this title $3,000,000, to remain available until expended.

TITLE V—EFFECTIVE DATE

SEC. 501. EFFECTIVE DATE.

This division shall take effect 30 days after the date of enactment of this Act or, if enacted within 30 days before January 1, 2003, on January 1, 2003.

DIVISION B—IMMIGRATION REFORM, ACCOUNTABILITY, AND SECURITY ENHANCEMENT ACT OF 2002

TITLE X—SHORT TITLE AND DEFINITIONS.

SEC. 1001. SHORT TITLE.

This division may be cited as the ''Immigration Reform, Accountability, and Security Enhancement Act of 2002''.

SEC. 1002. DEFINITIONS.

In this division:

(1) ENFORCEMENT BUREAU.—The term ''Enforcement Bureau'' means the Bureau of Enforcement and Border Affairs established in section 114 of the Immigration and Nationality Act, as added by section 1105 of this Act.

(2) FUNCTION.—The term ''function'' includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

(3) IMMIGRATION ENFORCEMENT FUNCTIONS.—The term ''immigration enforcement functions'' has the meaning given the term in section 114(b)(2) of the Immigration and Nationality Act, as added by section 1105 of this Act.

(4) IMMIGRATION LAWS OF THE UNITED STATES.—The term ''immigration laws of the United States'' has the meaning given the term in section 111(e) of the Immigration and Nationality Act, as added by section 1102 of this Act.

(5) IMMIGRATION POLICY, ADMINISTRATION, AND INSPECTION FUNCTIONS.—The term ''immigration policy, administration, and inspection functions'' has the meaning given the term in section 112(b)(3) of the Immigration and Nationality Act, as added by section 1103 of this Act.

(6) IMMIGRATION SERVICE FUNCTIONS.—The term ''immigration service functions'' has the meaning given the term in section 113(b)(2) of the Immigration and Nationality Act, as added by section 1104 of this Act.

(7) OFFICE.—The term ''office'' includes any office, administration, agency, bureau, institute, council, unit, organizational entity, or component thereof.

(8) SECRETARY.—The term ''Secretary'' means the Secretary of Homeland Security.

(9) SERVICE BUREAU.—The term ''Service Bureau'' means the Bureau of Immigration Services established in section 113 of the Immigration and Nationality Act, as added by section 1104 of this Act.

(10) UNDER SECRETARY.—The term ''Under Secretary'' means the Under Secretary of Homeland Security for Immigration Affairs appointed under section 112 of the Immigration and Nationality Act, as added by section 1103 of this Act.

TITLE XI—DIRECTORATE OF IMMIGRATION AFFAIRS

Subtitle A—Organization

SEC. 1101. ABOLITION OF INS.

(a) IN GENERAL.—The Immigration and Naturalization Service is abolished.

(b) REPEAL.—Section 4 of the Act of February 14, 1903, as amended (32 Stat. 826; relating to the establishment of the Immigration and Naturalization Service), is repealed.

SEC. 1102. ESTABLISHMENT OF DIRECTORATE OF IMMIGRATION AFFAIRS.

(a) ESTABLISHMENT.—Title I of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended—

(1) by inserting ''**CHAPTER 1—DEFINITIONS AND GENERAL AUTHORITIES**'' after ''**TITLE I—GENERAL**''; and

(2) by adding at the end the following:

''CHAPTER 2—DIRECTORATE OF IMMIGRATION AFFAIRS

''SEC. 111. ESTABLISHMENT OF DIRECTORATE OF IMMIGRATION AFFAIRS.

''(a) ESTABLISHMENT.—There is established within the Department of Homeland Security the Directorate of Immigration Affairs.

''(b) PRINCIPAL OFFICERS.—The principal officers of the Directorate are the following:

''(1) The Under Secretary of Homeland Security for Immigration Affairs appointed under section 112.

''(2) The Assistant Secretary of Homeland Security for Immigration Services appointed under section 113.

''(3) The Assistant Secretary of Homeland Security for Enforcement and Border Affairs appointed under section 114.

''(c) FUNCTIONS.—Under the authority of the Secretary of Homeland Security, the Directorate shall perform the following functions:

''(1) Immigration policy, administration, and inspection functions, as defined in section 112(b).

''(2) Immigration service and adjudication functions, as defined in section 113(b).

''(3) Immigration enforcement functions, as defined in section 114(b).

''(d) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated to the Department of Homeland Security such sums as may be necessary to carry out the functions of the Directorate.

''(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

''(e) IMMIGRATION LAWS OF THE UNITED STATES DEFINED.—In this chapter, the term 'immigration laws of the United States' means the following:

''(1) This Act.

''(2) Such other statutes, Executive orders, regulations, or directives, treaties, or other international agreements to which the United States is a party, insofar as they relate to the admission to, detention in, or removal from the United States of aliens, insofar as they relate to the naturalization of aliens, or insofar as they otherwise relate to the status of aliens.''.

(b) CONFORMING AMENDMENTS.—(1) The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended—

(A) by striking section 101(a)(34) (8 U.S.C. 1101(a)(34)) and inserting the following:

''(34) The term 'Directorate' means the Directorate of Immigration Affairs established by section 111.'';

(B) by adding at the end of section 101(a) the following new paragraphs:

''(51) The term 'Secretary' means the Secretary of Homeland Security.

''(52) The term 'Department' means the Department of Homeland Security.'';

(C) by striking ''Attorney General'' and ''Department of Justice'' each place it appears and inserting ''Secretary'' and ''Department'', respectively;

(D) in section 101(a)(17) (8 U.S.C. 1101(a)(17)), by striking ''The'' and inserting ''Except as otherwise provided in section 111(e), the; and

(E) by striking ''Immigration and Naturalization Service'', ''Service'', and ''Service's'' each place they appear and inserting ''Directorate of Immigration Affairs'', ''Directorate'', and ''Directorate's'', respectively.

(2) Section 6 of the Act entitled ''An Act to authorize certain administrative expenses for the Department of Justice, and for other purposes'', approved July 28, 1950 (64 Stat. 380), is amended—

(A) by striking ''Immigration and Naturalization Service'' and inserting ''Directorate of Immigration Affairs'';

(B) by striking clause (a); and

(C) by redesignating clauses (b), (c), (d), and (e) as clauses (a), (b), (c), and (d), respectively.

(c) REFERENCES.—Any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to the Immigration and Naturalization Service shall be deemed to refer to the Directorate of Immigration Affairs of the Department of Homeland Security, and any reference in the immigration laws of the United States (as defined in section 111(e) of the Immigration and Nationality Act, as added by this section) to the Attorney General shall be deemed to refer to the Secretary of Homeland Security, acting through the Under Secretary of Homeland Security for Immigration Affairs.

SEC. 1103. UNDER SECRETARY OF HOMELAND SECURITY FOR IMMIGRATION AFFAIRS.

(a) IN GENERAL.—Chapter 2 of title I of the Immigration and Nationality Act, as added by section 1102 of this Act, is amended by adding at the end the following:

''SEC. 112. UNDER SECRETARY OF HOMELAND SECURITY FOR IMMIGRATION AFFAIRS.

''(a) UNDER SECRETARY OF IMMIGRATION AFFAIRS.—The Directorate shall be headed by an Under Secretary of Homeland Security for Immigration Affairs who shall be appointed in accordance with section 103(c) of the Immigration and Nationality Act.

''(b) RESPONSIBILITIES OF THE UNDER SECRETARY.—

''(1) IN GENERAL.—The Under Secretary shall be charged with any and all responsibilities and authority in the administration of the Directorate and of this Act which are conferred upon the Secretary as may be delegated to the Under Secretary by the Secretary or which may be prescribed by the Secretary.

''(2) DUTIES.—Subject to the authority of the Secretary under paragraph (1), the Under Secretary shall have the following duties:

''(A) IMMIGRATION POLICY.—The Under Secretary shall develop and implement policy under the immigration laws of the United States. The Under Secretary shall propose, promulgate, and issue rules, regulations, and statements of policy with respect to any function within the jurisdiction of the Directorate.

''(B) ADMINISTRATION.—The Under Secretary shall have responsibility for—

''(i) the administration and enforcement of the functions conferred upon the Directorate under section 1111(c) of this Act; and

''(ii) the administration of the Directorate, including the direction, supervision, and coordination of the Bureau of Immigration Services and the Bureau of Enforcement and Border Affairs.

''(C) INSPECTIONS.—The Under Secretary shall be directly responsible for the administration and enforcement of the functions of the Directorate under the immigration laws of the United States with respect to the inspection of aliens arriving at ports of entry of the United States.

''(3) ACTIVITIES.—As part of the duties described in paragraph (2), the Under Secretary shall do the following:

''(A) RESOURCES AND PERSONNEL MANAGEMENT.—The Under Secretary shall manage the resources, personnel, and other support requirements of the Directorate.

''(B) INFORMATION RESOURCES MANAGEMENT.—Under the direction of the Secretary, the Under Secretary shall manage the information resources of the Directorate, including the maintenance of records and databases and the coordination of records and other information within the Directorate, and shall ensure that the Directorate obtains and maintains adequate information technology systems to carry out its functions.

''(C) COORDINATION OF RESPONSE TO CIVIL RIGHTS VIOLATIONS.—The Under Secretary shall coordinate, with the Civil Rights Officer of the Department of Homeland Security or other officials, as appropriate, the resolution of immigration issues that involve civil rights violations.

''(D) RISK ANALYSIS AND RISK MANAGEMENT.—Assisting and supporting the Secretary, in coordination with other Directorates and entities outside the Department, in conducting appropriate risk analysis and risk management activities consistent with the mission and functions of the Directorate.

''(3) DEFINITION.—In this chapter, the term ''immigration policy, administration, and inspection functions'' means the duties, activities, and powers described in this subsection.

''(c) GENERAL COUNSEL.—

''(1) IN GENERAL.—There shall be within the Directorate a General Counsel, who shall be appointed by the Secretary of Homeland Security, in consultation with the Under Secretary.

''(2) FUNCTION.—The General Counsel shall—

''(A) serve as the chief legal officer for the Directorate; and

''(B) be responsible for providing specialized legal advice, opinions, determinations, regulations, and any other assistance to the Under Secretary with respect to legal matters affecting the Directorate, and any of its components.

''(d) FINANCIAL OFFICERS FOR THE DIRECTORATE OF IMMIGRATION AFFAIRS.—

''(1) CHIEF FINANCIAL OFFICER.—

''(A) IN GENERAL.—There shall be within the Directorate a Chief Financial Officer. The position of Chief Financial Officer shall be a career reserved position in the Senior Executive Service and shall have the authorities and functions described in section 902 of title 31, United States Code, in relation to financial activities of the Directorate. For purposes of section 902(a)(1) of such title, the Under Secretary shall be deemed to be an agency head.

''(B) FUNCTIONS.—The Chief Financial Officer shall be responsible for directing, supervising, and coordinating all budget formulas and execution for the Directorate.

''(2) DEPUTY CHIEF FINANCIAL OFFICER.—The Directorate shall be deemed to be an agency for purposes of section 903 of such title (relating to Deputy Chief Financial Officers).

''(e) CHIEF OF POLICY.—

''(1) IN GENERAL.—There shall be within the Directorate a Chief of Policy. Under the authority of the Under Secretary, the Chief of Policy shall be responsible for—

''(A) establishing national immigration policy and priorities;

''(B) performing policy research and analysis on issues arising under the immigration laws of the United States; and

''(C) coordinating immigration policy between the Directorate, the Service Bureau, and the Enforcement Bureau.

''(2) WITHIN THE SENIOR EXECUTIVE SERVICE.—The position of Chief of Policy shall be a Senior Executive Service position under section 5382 of title 5, United States Code.

''(f) CHIEF OF CONGRESSIONAL, INTERGOVERNMENTAL, AND PUBLIC AFFAIRS.—

''(1) IN GENERAL.—There shall be within the Directorate a Chief of Congressional, Intergovernmental, and Public Affairs. Under the authority of the Under Secretary, the Chief of Congressional, Intergovernmental, and Public Affairs shall be responsible for—

''(A) providing to Congress information relating to issues arising under the immigration laws of the United States, including information on specific cases;

''(B) serving as a liaison with other Federal agencies on immigration issues; and

''(C) responding to inquiries from, and providing information to, the media on immigration issues.

''(2) WITHIN THE SENIOR EXECUTIVE SERVICE.—The position of Chief of Congressional, Intergovernmental, and Public Affairs shall be a Senior Executive Service position under section 5382 of title 5, United States Code.''.

(b) COMPENSATION OF THE UNDER SECRETARY.—Section 5314 of title 5, United States Code, is amended by adding at the end the following:

''Under Secretary of Immigration Affairs, Department of Justice.''.

(c) COMPENSATION OF GENERAL COUNSEL AND CHIEF FINANCIAL OFFICER.—Section 5316 of title 5, United States Code, is amended by adding at the end the following:

''General Counsel, Directorate of Immigration Affairs, Department of Homeland Security.

''Chief Financial Officer, Directorate of Immigration Affairs, Department of Homeland Security.''.

(d) REPEALS.—The following provisions of law are repealed:

(1) Section 7 of the Act of March 3, 1891, as amended (26 Stat. 1085; relating to the establishment of the office of the Commissioner of Immigration and Naturalization).

(2) Section 201 of the Act of June 20, 1956 (70 Stat. 307; relating to the compensation of assistant commissioners and district directors).

(3) Section 1 of the Act of March 2, 1895 (28 Stat. 780; relating to special immigrant inspectors).

(e) CONFORMING AMENDMENTS.—(1)(A) Section 101(a)(8) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(8)) is amended to read as follows:

''(8) The term 'Under Secretary' means the Under Secretary of Homeland Security for Immigration Affairs who is appointed under section 103(c).''.

(B) Except as provided in subparagraph (C), the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by striking ''Commissioner of Immigration and Naturalization'' and ''Commissioner'' each place they appear and inserting ''Under Secretary of Homeland Security for Immigration Affairs'' and ''Under Secretary'', respectively.

(C) The amendments made by subparagraph (B) do not apply to references to the ''Commissioner of Social Security'' in section 290(c) of the Immigration and Nationality Act (8 U.S.C. 1360(c)).

(2) Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) is amended—

(A) in subsection (c), by striking ''Commissioner'' and inserting ''Under Secretary'';

(B) in the section heading, by striking ''COMMISSIONER'' and inserting ''UNDER SECRETARY'';

(C) in subsection (d), by striking ''Commissioner'' and inserting ''Under Secretary''; and

(D) in subsection (e), by striking ''Commissioner'' and inserting ''Under Secretary''.

(3) Sections 104 and 105 of the Immigration and Nationality Act (8 U.S.C. 1104, 1105) are amended by striking ''Director'' each place it appears and inserting ''Assistant Secretary of State for Consular Affairs''.

(4) Section 104(c) of the Immigration and Nationality Act (8 U.S.C. 1104(c)) is amended—

(A) in the first sentence, by striking ''Passport Office, a Visa Office,'' and inserting ''a Passport Services office, a Visa Services office, an Overseas Citizen Services office,''; and

(B) in the second sentence, by striking ''the Passport Office and the Visa Office'' and inserting ''the Passport Services office and the Visa Services office''.

(5) Section 5315 of title 5, United States Code, is amended by striking the following:

''Commissioner of Immigration and Naturalization, Department of Justice.''.

(f) REFERENCES.—Any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to the Commissioner of Immigration and Naturalization shall be deemed to refer to the Under Secretary of Homeland Security for Immigration Affairs.

SEC. 1104. BUREAU OF IMMIGRATION SERVICES.

(a) IN GENERAL.—Chapter 2 of title I of the Immigration and Nationality Act, as added by section 1102 and amended by section 1103, is further amended by adding at the end the following:

''SEC. 113. BUREAU OF IMMIGRATION SERVICES.

''(a) ESTABLISHMENT OF BUREAU.—

''(1) IN GENERAL.—There is established within the Directorate a bureau to be known as the Bureau of Immigration Services (in this chapter referred to as the 'Service Bureau').

''(2) ASSISTANT SECRETARY.—The head of the Service Bureau shall be the Assistant Secretary of Homeland Security for Immigration Services (in this chapter referred to as the 'Assistant Secretary for Immigration Services'), who—

''(A) shall be appointed by the Secretary of Homeland Security, in consultation with the Under Secretary; and

''(B) shall report directly to the Under Secretary.

''(b) RESPONSIBILITIES OF THE ASSISTANT SECRETARY.—

''(1) IN GENERAL.—Subject to the authority of the Secretary and the Under Secretary, the Assistant Secretary for Immigration Services shall administer the immigration service functions of the Directorate.

''(2) IMMIGRATION SERVICE FUNCTIONS DEFINED.—In this chapter, the term 'immigration service functions' means the following functions under the immigration laws of the United States:

''(A) Adjudications of petitions for classification of nonimmigrant and immigrant status.

''(B) Adjudications of applications for adjustment of status and change of status.

''(C) Adjudications of naturalization applications.

''(D) Adjudications of asylum and refugee applications.

''(E) Adjudications performed at Service centers.

''(F) Determinations concerning custody and parole of asylum seekers who do not have prior nonpolitical criminal records and who have been found to have a credible fear of persecution, including determinations under section 236B.

''(G) All other adjudications under the immigration laws of the United States.

''(c) CHIEF BUDGET OFFICER OF THE SERVICE BUREAU.—There shall be within the Service Bureau a Chief Budget Officer. Under the authority of the Chief Financial Officer of the Directorate, the Chief Budget Officer of the Service Bureau shall be responsible for monitoring and supervising all financial activities of the Service Bureau.

''(d) QUALITY ASSURANCE.—There shall be within the Service Bureau an Office of Quality Assurance that shall develop procedures and conduct audits to—

''(1) ensure that the Directorate's policies with respect to the immigration service functions of the Directorate are properly implemented; and

''(2) ensure that Service Bureau policies or practices result in sound records management and efficient and accurate service.

''(e) OFFICE OF PROFESSIONAL RESPONSIBILITY.—There shall be within the Service Bureau an Office of Professional Responsibility that shall have the responsibility for ensuring the professionalism of the Service Bureau and for receiving and investigating charges of misconduct or ill treatment made by the public.

''(f) TRAINING OF PERSONNEL.—The Assistant Secretary for Immigration Services, in consultation with the Under Secretary, shall have responsibility for determining the training for all personnel of the Service Bureau.''.

(b) COMPENSATION OF ASSISTANT SECRETARY OF SERVICE BUREAU.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

''Assistant Secretary of Homeland Security for Immigration Services, Directorate of Immigration Affairs, Department of Homeland Security.''.

(c) SERVICE BUREAU OFFICES.—

(1) IN GENERAL.—Under the direction of the Secretary, the Under Secretary, acting through the Assistant Secretary for Immigration Services, shall establish Service Bureau offices, including suboffices and satellite offices, in appropriate municipalities and locations in the United States. In the selection of sites for the Service Bureau offices, the Under Secretary shall consider the location's proximity and accessibility to the community served, the workload for which that office shall be responsible, whether the location would significantly reduce the backlog of cases in that given geographic area, whether the location will improve customer service, and whether the location is in a geographic area with an increase in the population to be served. The Under Secretary shall conduct periodic reviews to assess whether the location and size of the respective Service Bureau offices adequately serve customer service needs.

(2) TRANSITION PROVISION.—In determining the location of Service Bureau offices, including suboffices and satellite offices, the Under Secretary shall first consider maintaining and upgrading offices in existing geographic locations that satisfy the provisions of paragraph (1). The Under Secretary shall also explore the feasibility and desirability of establishing new Service Bureau offices, including suboffices and satellite offices, in new geographic locations where there is a demonstrated need.

SEC. 1105. BUREAU OF ENFORCEMENT AND BORDER AFFAIRS.

(a) IN GENERAL.—Chapter 2 of title I of the Immigration and Nationality Act, as added by section 1102 and amended by sections 1103 and 1104, is further amended by adding at the end the following:

''SEC. 114. BUREAU OF ENFORCEMENT AND BORDER AFFAIRS.

''(a) ESTABLISHMENT OF BUREAU.—

''(1) IN GENERAL.—There is established within the Directorate a bureau to be known as the Bureau of Enforcement and Border Affairs (in this chapter referred to as the 'Enforcement Bureau').

''(2) ASSISTANT SECRETARY.—The head of the Enforcement Bureau shall be the Assistant Secretary of Homeland Security for Enforcement and Border Affairs (in this chapter referred to as the 'Assistant Secretary for Immigration Enforcement'), who—

''(A) shall be appointed by the Secretary of Homeland Security, in consultation with the Under Secretary; and

''(B) shall report directly to the Under Secretary.

''(b) RESPONSIBILITIES OF THE ASSISTANT SECRETARY.—

''(1) IN GENERAL.—Subject to the authority of the Secretary and the Under Secretary, the Assistant Secretary for Immigration Enforcement shall administer the immigration enforcement functions of the Directorate.

''(2) IMMIGRATION ENFORCEMENT FUNCTIONS DEFINED.—In this chapter, the term 'immigration enforcement functions' means the following functions under the immigration laws of the United States:

''(A) The border patrol function.

''(B) The detention function, except as specified in section 113(b)(2)(F).

''(C) The removal function.

''(D) The intelligence function.

''(E) The investigations function.

''(c) CHIEF BUDGET OFFICER OF THE ENFORCEMENT BUREAU.—There shall be within the Enforcement Bureau a Chief Budget Officer. Under the authority of the Chief Financial Officer of the Directorate, the Chief Budget Officer of the Enforcement Bureau shall be responsible for monitoring and supervising all financial activities of the Enforcement Bureau.

''(d) OFFICE OF PROFESSIONAL RESPONSIBILITY.—There shall be within the Enforcement Bureau an Office of Professional Responsibility that shall have the responsibility for ensuring the professionalism of the Enforcement Bureau and receiving charges of misconduct or ill treatment made by the public and investigating the charges.

''(e) OFFICE OF QUALITY ASSURANCE.—There shall be within the Enforcement Bureau an Office of Quality Assurance that shall develop procedures and conduct audits to—

''(1) ensure that the Directorate's policies with respect to immigration enforcement functions are properly implemented; and

''(2) ensure that Enforcement Bureau policies or practices result in sound record management and efficient and accurate recordkeeping.

''(f) TRAINING OF PERSONNEL.—The Assistant Secretary for Immigration Enforcement, in consultation with the Under Secretary, shall have responsibility for determining the training for all personnel of the Enforcement Bureau.''.

(b) COMPENSATION OF ASSISTANT SECRETARY OF ENFORCEMENT BUREAU.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

''Assistant Security of Homeland Security for Enforcement and Border Affairs, Directorate of Immigration Affairs, Department of Homeland Security.''.

(c) ENFORCEMENT BUREAU OFFICES.—

(1) IN GENERAL.—Under the direction of the Secretary, the Under Secretary, acting through the Assistant Secretary for Immigration Enforcement, shall establish Enforcement Bureau offices, including suboffices and satellite offices, in appropriate municipalities and locations in the United States. In the selection of sites for the Enforcement Bureau offices, the Under Secretary shall make selections according to trends in unlawful entry and unlawful presence, alien smuggling, national security concerns, the number of Federal prosecutions of immigration-related offenses in a given geographic area, and other enforcement considerations. The Under Secretary shall conduct periodic reviews to assess whether the location and size of the respective Enforcement Bureau offices adequately serve enforcement needs.

(2) TRANSITION PROVISION.—In determining the location of Enforcement Bureau offices, including suboffices and satellite offices, the Under Secretary shall first consider maintaining and upgrading offices in existing geographic locations that satisfy the provisions of paragraph (1). The Under Secretary shall also explore the feasibility and desirability of establishing new Enforcement Bureau offices, including suboffices and satellite offices, in new geographic locations where there is a demonstrated need.

SEC. 1106. OFFICE OF THE OMBUDSMAN WITHIN THE DIRECTORATE.

(a) IN GENERAL.—Chapter 2 of title I of the Immigration and Nationality Act, as added by section 1102 and amended by sections 1103, 1104, and 1105, is further amended by adding at the end the following:

''SEC. 115. OFFICE OF THE OMBUDSMAN FOR IMMIGRATION AFFAIRS.

''(a) IN GENERAL.—There is established within the Directorate the Office of the Ombudsman for Immigration Affairs, which shall be headed by the Ombudsman.

''(b) OMBUDSMAN.—

''(1) APPOINTMENT.—The Ombudsman shall be appointed by the Secretary of Homeland Security, in consultation with the Under Secretary. The Ombudsman shall report directly to the Under Secretary.

''(2) COMPENSATION.—The Ombudsman shall be entitled to compensation at the same rate as the highest rate of basic pay established for the Senior Executive Service under section 5382 of title 5, United States Code, or, if the Secretary of Homeland Security so determines, at a rate fixed under section 9503 of such title.

''(c) FUNCTIONS OF OFFICE.—The functions of the Office of the Ombudsman for Immigration Affairs shall include—

''(1) to assist individuals in resolving problems with the Directorate or any component thereof;

''(2) to identify systemic problems encountered by the public in dealings with the Directorate or any component thereof;

''(3) to propose changes in the administrative practices or regulations of the Directorate, or any component thereof, to mitigate problems identified under paragraph (2);

''(4) to identify potential changes in statutory law that may be required to mitigate such problems; and

''(5) to monitor the coverage and geographic distribution of local offices of the Directorate.

''(d) PERSONNEL ACTIONS.—The Ombudsman shall have the responsibility and authority to appoint local or regional representatives of the Ombudsman's Office as in the Ombudsman's judgment may be necessary to address and rectify problems.

''(e) ANNUAL REPORT.—Not later than December 31 of each year, the Ombudsman shall submit a report to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate on the activities of the Ombudsman during the fiscal year ending in that calendar year. Each report shall contain a full and substantive analysis, in addition to statistical information, and shall contain—

''(1) a description of the initiatives that the Office of the Ombudsman has taken on improving the responsiveness of the Directorate;

''(2) a summary of serious or systemic problems encountered by the public, including a description of the nature of such problems;

''(3) an accounting of the items described in paragraphs (1) and (2) for which action has been taken, and the result of such action;

''(4) an accounting of the items described in paragraphs (1) and (2) for which action remains to be completed;

''(5) an accounting of the items described in paragraphs (1) and (2) for which no action has been taken, the reasons for the inaction, and identify any Agency official who is responsible for such inaction;

''(6) recommendations as may be appropriate to resolve problems encountered by the public;

''(7) recommendations as may be appropriate to resolve problems encountered by the public, including problems created by backlogs in the adjudication and processing of petitions and applications;

''(8) recommendations to resolve problems caused by inadequate funding or staffing; and

''(9) such other information as the Ombudsman may deem advisable.

''(f) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated to the Office of the Ombudsman such sums as may be necessary to carry out its functions.

''(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.''.

SEC. 1107. OFFICE OF IMMIGRATION STATISTICS WITHIN THE DIRECTORATE.

(a) IN GENERAL.—Chapter 2 of title I of the Immigration and Nationality Act, as added by section 1102 and amended by sections 1103, 1104, and 1105, is further amended by adding at the end the following:

''SEC. 116. OFFICE OF IMMIGRATION STATISTICS.

''(a) ESTABLISHMENT.—There is established within the Directorate an Office of Immigration Statistics (in this section referred to as the 'Office'), which shall be headed by a Director who shall be appointed by the Secretary of Homeland Security, in consultation with the Under Secretary. The Office shall collect, maintain, compile, analyze, publish, and disseminate information and statistics about immigration in the United States, including information and statistics involving the functions of the Directorate and the Executive Office for Immigration Review (or its successor entity).

''(b) RESPONSIBILITIES OF DIRECTOR.—The Director of the Office shall be responsible for the following:

''(1) STATISTICAL INFORMATION.—Maintenance of all immigration statistical information of the Directorate of Immigration Affairs.

''(2) STANDARDS OF RELIABILITY AND VALIDITY.—Establishment of standards of reliability and validity for immigration statistics collected by the Bureau of Immigration Services, the Bureau of Enforcement, and the Executive Office for Immigration Review (or its successor entity).

''(c) RELATION TO THE DIRECTORATE OF IMMIGRATION AFFAIRS AND THE EXECUTIVE OFFICE FOR IMMIGRATION REVIEW.—

''(1) OTHER AUTHORITIES.—The Directorate and the Executive Office for Immigration Review (or its successor entity) shall provide statistical information to the Office from the operational data systems controlled by the Directorate and the Executive Office for Immigration Review (or its successor entity), respectively, as requested by the Office, for the purpose of meeting the responsibilities of the Director of the Office.

''(2) DATABASES.—The Director of the Office, under the direction of the Secretary, shall ensure the interoperability of the databases of the Directorate, the Bureau of Immigration Services, the Bureau of Enforcement, and the Executive Office for Immigration Review (or its successor entity) to permit the Director of the Office to perform the duties of such office.''.

(b) TRANSFER OF FUNCTIONS.—There are transferred to the Directorate of Immigration Affairs for exercise by the Under Secretary through the Office of Immigration Statistics established by section 116 of the Immigration and Nationality Act, as added by subsection (a), the functions performed by the Statistics Branch of the Office of Policy and Planning of the Immigration and Naturalization Service, and the statistical functions performed by the Executive Office for Immigration Review (or its successor entity), on the day before the effective date of this title.

SEC. 1108. CLERICAL AMENDMENTS.

The table of contents of the Immigration and Nationality Act is amended—

(1) by inserting after the item relating to the heading for title I the following:

''CHAPTER 1—DEFINITIONS AND GENERAL AUTHORITIES'';

(2) by striking the item relating to section 103 and inserting the following:

''Sec. 103. Powers and duties of the Secretary of Homeland Security and the Under Secretary of Homeland Security for Immigration Affairs.'';

and

(3) by inserting after the item relating to section 106 the following:

''CHAPTER 2—DIRECTORATE OF IMMIGRATION AFFAIRS

''Sec. 111. Establishment of Directorate of Immigration Affairs.

''Sec. 112. Under Secretary of Homeland Security for Immigration Affairs.
''Sec. 113. Bureau of Immigration Services.
''Sec. 114. Bureau of Enforcement and Border Affairs.
''Sec. 115. Office of the Ombudsman for Immigration Affairs.
''Sec. 116. Office of Immigration Statistics.''.

Subtitle B—Transition Provisions

SEC. 1111. TRANSFER OF FUNCTIONS.

(a) IN GENERAL.—

(1) FUNCTIONS OF THE ATTORNEY GENERAL.—All functions under the immigration laws of the United States vested by statute in, or exercised by, the Attorney General, immediately prior to the effective date of this title, are transferred to the Secretary on such effective date for exercise by the Secretary through the Under Secretary in accordance with section 112(b) of the Immigration and Nationality Act, as added by section 1103 of this Act.

(2) FUNCTIONS OF THE COMMISSIONER OR THE INS.—All functions under the immigration laws of the United States vested by statute in, or exercised by, the Commissioner of Immigration and Naturalization or the Immigration and Naturalization Service (or any officer, employee, or component thereof), immediately prior to the effective date of this title, are transferred to the Directorate of Immigration Affairs on such effective date for exercise by the Under Secretary in accordance with section 112(b) of the Immigration and Nationality Act, as added by section 1103 of this Act.

(b) EXERCISE OF AUTHORITIES.—Except as otherwise provided by law, the Under Secretary may, for purposes of performing any function transferred to the Directorate of Immigration Affairs under subsection (a), exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date of the transfer of the function under this title.

SEC. 1112. TRANSFER OF PERSONNEL AND OTHER RESOURCES.

Subject to section 1531 of title 31, United States Code, upon the effective date of this title, there are transferred to the Under Secretary for appropriate allocation in accordance with section 1115—

(1) the personnel of the Department of Justice employed in connection with the functions transferred under this title; and

(2) the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available to the Immigration and Naturalization Service in connection with the functions transferred pursuant to this title.

SEC. 1113. DETERMINATIONS WITH RESPECT TO FUNCTIONS AND RESOURCES.

Under the direction of the Secretary, the Under Secretary shall determine, in accordance with the corresponding criteria set forth in sections 1112(b), 1113(b), and 1114(b) of the Immigration and Nationality Act (as added by this title)—

(1) which of the functions transferred under section 1111 are—

(A) immigration policy, administration, and inspection functions;

(B) immigration service functions; and

(C) immigration enforcement functions; and

(2) which of the personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds transferred under section 1112 were held or used, arose from, were available to, or were made available, in connection with the performance of the respective functions specified in paragraph (1) immediately prior to the effective date of this title.

SEC. 1114. DELEGATION AND RESERVATION OF FUNCTIONS.

(a) IN GENERAL.—

(1) DELEGATION TO THE BUREAUS.—Under the direction of the Secretary, and subject to section 112(b)(1) of the Immigration and Nationality Act (as added by section 1103), the Under Secretary shall delegate—

(A) immigration service functions to the Assistant Secretary for Immigration Services; and

(B) immigration enforcement functions to the Assistant Secretary for Immigration Enforcement.

(2) RESERVATION OF FUNCTIONS.—Subject to section 112(b)(1) of the Immigration and Nationality Act (as added by section 1103), immigration policy, administration, and inspection functions shall be reserved for exercise by the Under Secretary.

(b) NONEXCLUSIVE DELEGATIONS AUTHORIZED.—Delegations made under subsection (a) may be on a nonexclusive basis as the Under Secretary may determine may be necessary to ensure the faithful execution of the Under Secretary's responsibilities and duties under law.

(c) EFFECT OF DELEGATIONS.—Except as otherwise expressly prohibited by law or otherwise provided in this title, the Under Secretary may make delegations under this subsection to such officers and employees of the office of the Under Secretary, the Service Bureau, and the Enforcement Bureau, respectively, as the Under Secretary may designate, and may authorize successive redelegations of such functions as may be necessary or appropriate. No delegation of functions under this subsection or under any other provision of this title shall relieve the official to whom a function is transferred under this title of responsibility for the administration of the function.

(d) STATUTORY CONSTRUCTION.—Nothing in this division may be construed to limit the authority of the Under Secretary, acting directly or by delegation under the Secretary, to establish such offices or positions within the Directorate of Immigration Affairs, in addition to those specified by this division, as the Under Secretary may determine to be necessary to carry out the functions of the Directorate.

SEC. 1115. ALLOCATION OF PERSONNEL AND OTHER RESOURCES.

(a) AUTHORITY OF THE UNDER SECRETARY.—

(1) IN GENERAL.—Subject to paragraph (2) and section 1114(b), the Under Secretary shall make allocations of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with the performance of the respective functions, as determined under section 1113, in accordance with the delegation of functions and the reservation of functions made under section 1114.

(2) LIMITATION.—Unexpended funds transferred pursuant to section 1112 shall be used only for the purposes for which the funds were originally authorized and appropriated.

(b) AUTHORITY TO TERMINATE AFFAIRS OF INS.—The Attorney General in consultation with the Secretary, shall provide for the termination of the affairs of the Immigration and Naturalization Service and such further measures and dispositions as may be necessary to effectuate the purposes of this division.

(c) TREATMENT OF SHARED RESOURCES.—The Under Secretary is authorized to provide for an appropriate allocation, or coordination, or both, of resources involved in supporting shared support functions for the office of the Under Secretary, the Service Bureau, and the Enforcement Bureau. The Under Secretary shall maintain oversight and control over the shared computer databases and systems and records management.

SEC. 1116. SAVINGS PROVISIONS.

(a) LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, grants, loans, contracts, recognition of labor organizations, agreements, including collective bargaining agreements, certificates, licenses, and privileges—

(1) that have been issued, made, granted, or allowed to become effective by the President, the Attorney General, the Commissioner of the Immigration and Naturalization Service, their delegates, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred under this title; and

(2) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date);

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, any other authorized official, a court of competent jurisdiction, or operation of law, except that any collective bargaining agreement shall remain in effect until the date of termination specified in the agreement.

(b) PROCEEDINGS.—

(1) PENDING.—Sections 111 through 116 of the Immigration and Nationality Act, as added by subtitle A of this title, shall not affect any proceeding or any application for any benefit, service, license, permit, certificate, or financial assistance pending on the effective date of this title before an office whose functions are transferred under this title, but such proceedings and applications shall be continued.

(2) ORDERS.—Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law.

(3) DISCONTINUANCE OR MODIFICATION.—Nothing in this section shall be considered to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(c) SUITS.—This title, and the amendments made by this title, shall not affect suits commenced before the effective date of this title, and in all such suits, proceeding shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this title, and the amendments made by this title, had not been enacted.

(d) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Department of Justice or the Immigration and Naturalization Service, or by or against any individual in the official capacity of such individual as an officer or employee in connection with a function transferred pursuant to this section, shall abate by reason of the enactment of this Act.

(e) CONTINUANCE OF SUIT WITH SUBSTITUTION OF PARTIES.—If any Government officer in the official capacity of such officer is party to a suit with respect to a function of the officer, and such function is transferred

under this title to any other officer or office, then such suit shall be continued with the other officer or the head of such other office, as applicable, substituted or added as a party.

(f) ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.—Except as otherwise provided by this title, any statutory requirements relating to notice, hearings, action upon the record, or administrative or judicial review that apply to any function transferred under this title shall apply to the exercise of such function by the head of the office, and other officers of the office, to which such function is transferred.

SEC. 1117. INTERIM SERVICE OF THE COMMISSIONER OF IMMIGRATION AND NATURALIZATION.

The individual serving as the Commissioner of Immigration and Naturalization on the day before the effective date of this title may serve as Under Secretary until the date on which an Under Secretary is appointed under section 112 of the Immigration and Nationality Act, as added by section 1103.

SEC. 1118. EXECUTIVE OFFICE FOR IMMIGRATION REVIEW AUTHORITIES NOT AFFECTED.

Nothing in this title, or any amendment made by this title, may be construed to authorize or require the transfer or delegation of any function vested in, or exercised by the Executive Office for Immigration Review of the Department of Justice (or its successor entity), or any officer, employee, or component thereof immediately prior to the effective date of this title.

SEC. 1119. OTHER AUTHORITIES NOT AFFECTED.

Nothing in this title, or any amendment made by this title, may be construed to authorize or require the transfer or delegation of any function vested in, or exercised by—

(1) the Secretary of State under the State Department Basic Authorities Act of 1956, or under the immigration laws of the United States, immediately prior to the effective date of this title, with respect to the issuance and use of passports and visas;

(2) the Secretary of Labor or any official of the Department of Labor immediately prior to the effective date of this title, with respect to labor certifications or any other authority under the immigration laws of the United States; or

(3) except as otherwise specifically provided in this division, any other official of the Federal Government under the immigration laws of the United States immediately prior to the effective date of this title.

SEC. 1120. TRANSITION FUNDING.

(a) AUTHORIZATION OF APPROPRIATIONS FOR TRANSITION.—

(1) IN GENERAL.—There are authorized to be appropriated to the Department of Homeland Security such sums as may be necessary—

(A) to effect—

(i) the abolition of the Immigration and Naturalization Service;

(ii) the establishment of the Directorate of Immigration Affairs and its components, the Bureau of Immigration Services, and the Bureau of Enforcement and Border Affairs; and

(iii) the transfer of functions required to be made under this division; and

(B) to carry out any other duty that is made necessary by this division, or any amendment made by this division.

(2) ACTIVITIES SUPPORTED.—Activities supported under paragraph (1) include—

(A) planning for the transfer of functions from the Immigration and Naturalization Service to the Directorate of Immigration Affairs, including the preparation of any reports and implementation plans necessary for such transfer;

(B) the division, acquisition, and disposition of—

(i) buildings and facilities;

(ii) support and infrastructure resources; and

(iii) computer hardware, software, and related documentation;

(C) other capital expenditures necessary to effect the transfer of functions described in this paragraph;

(D) revision of forms, stationery, logos, and signage;

(E) expenses incurred in connection with the transfer and training of existing personnel and hiring of new personnel; and

(F) such other expenses necessary to effect the transfers, as determined by the Secretary.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subsection (a) are authorized to remain available until expended.

(c) TRANSITION ACCOUNT.—

(1) ESTABLISHMENT.—There is established in the general fund of the Treasury of the United States a separate account, which shall be known as the ''Directorate of Immigration Affairs Transition Account'' (in this section referred to as the ''Account'').

(2) USE OF ACCOUNT.—There shall be deposited into the Account all amounts appropriated under subsection (a) and amounts reprogrammed for the purposes described in subsection (a).

(d) REPORT TO CONGRESS ON TRANSITION.—Beginning not later than 90 days after the effective date of division A of this Act, and at the end of each fiscal year in which appropriations are made pursuant to subsection (c), the Secretary of Homeland Security shall submit a report to Congress concerning the availability of funds to cover transition costs, including—

(1) any unobligated balances available for such purposes; and

(2) a calculation of the amount of appropriations that would be necessary to fully fund the activities described in subsection (a).

(e) EFFECTIVE DATE.—This section shall take effect 1 year after the effective date of division A of this Act.

Subtitle C—Miscellaneous Provisions

SEC. 1121. FUNDING ADJUDICATION AND NATURALIZATION SERVICES.

(a) LEVEL OF FEES.—Section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)) is amended by striking ''services, including the costs of similar services provided without charge to asylum applicants or other immigrants'' and inserting ''services''.

(b) USE OF FEES.—

(1) IN GENERAL.—Each fee collected for the provision of an adjudication or naturalization service shall be used only to fund adjudication or naturalization services or, subject to the availability of funds provided pursuant to subsection (c), costs of similar services provided without charge to asylum and refugee applicants.

(2) PROHIBITION.—No fee may be used to fund adjudication- or naturalization-related audits that are not regularly conducted in the normal course of operation.

(c) REFUGEE AND ASYLUM ADJUDICATION SERVICES.—

(1) AUTHORIZATION OF APPROPRIATIONS.—In addition to such sums as may be otherwise available for such purposes, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 207 through 209 of the Immigration and Nationality Act.

(2) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to paragraph (1) are authorized to remain available until expended.

(d) SEPARATION OF FUNDING.—

(1) IN GENERAL.—There shall be established separate accounts in the Treasury of the United States for appropriated funds and other collections available for the Bureau of Immigration Services and the Bureau of Enforcement and Border Affairs.

(2) FEES.—Fees imposed for a particular service, application, or benefit shall be deposited into the account established under paragraph (1) that is for the bureau with jurisdiction over the function to which the fee relates.

(3) FEES NOT TRANSFERABLE.—No fee may be transferred between the Bureau of Immigration Services and the Bureau of Enforcement and Border Affairs for purposes not authorized by section 286 of the Immigration and Nationality Act, as amended by subsection (a).

(e) AUTHORIZATION OF APPROPRIATIONS FOR BACKLOG REDUCTION.—

(1) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2003 through 2006 to carry out the Immigration Services and Infrastructure Improvement Act of 2000 (title II of Public Law 106–313).

(2) AVAILABILITY OF FUNDS.—Amounts appropriated under paragraph (1) are authorized to remain available until expended.

(3) INFRASTRUCTURE IMPROVEMENT ACCOUNT.—Amounts appropriated under paragraph (1) shall be deposited into the Immigration Services and Infrastructure Improvements Account established by section 204(a)(2) of title II of Public Law 106–313.

SEC. 1122. APPLICATION OF INTERNET-BASED TECHNOLOGIES.

(a) ESTABLISHMENT OF ON-LINE DATABASE.—

(1) IN GENERAL.—Not later than 2 years after the effective date of division A, the Secretary, in consultation with the Under Secretary and the Technology Advisory Committee, shall establish an Internet-based system that will permit an immigrant, nonimmigrant, employer, or other person who files any application, petition, or other request for any benefit under the immigration laws of the United States access to on-line information about the processing status of the application, petition, or other request.

(2) PRIVACY CONSIDERATIONS.—The Under Secretary shall consider all applicable privacy issues in the establishment of the Internet system described in paragraph (1). No personally identifying information shall be accessible to unauthorized persons.

(3) MEANS OF ACCESS.—The on-line information under the Internet system described in paragraph (1) shall be accessible to the persons described in paragraph (1) through a personal identification number (PIN) or other personalized password.

(4) PROHIBITION ON FEES.—The Under Secretary shall not charge any immigrant, nonimmigrant, employer, or other person described in paragraph (1) a fee for access to the information in the database that pertains to that person.

(b) FEASIBILITY STUDY FOR ON-LINE FILING AND IMPROVED PROCESSING.—

(1) ON-LINE FILING.—

(A) IN GENERAL.—The Under Secretary, in consultation with the Technology Advisory Committee, shall conduct a study to determine the feasibility of on-line filing of the documents described in subsection (a).

(B) STUDY ELEMENTS.—The study shall—

(i) include a review of computerization and technology of the Immigration and Naturalization Service (or successor agency) relating to immigration services and the processing of such documents;

(ii) include an estimate of the time-frame and costs of implementing on-line filing of such documents; and

(iii) consider other factors in implementing such a filing system, including the feasibility of the payment of fees on-line.

(2) REPORT.—Not later than 2 years after the effective date of division A, the Under Secretary shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a report on the findings of the study conducted under this subsection.

(c) TECHNOLOGY ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—Not later than 1 year after the effective date of division A, the Under Secretary shall establish, after consultation with the Committees on the Judiciary of the Senate and the House of Representatives, an advisory committee (in this section referred to as the ''Technology Advisory Committee'') to assist the Under Secretary in—

(A) establishing the tracking system under subsection (a); and

(B) conducting the study under subsection (b).

(2) COMPOSITION.—The Technology Advisory Committee shall be composed of—

(A) experts from the public and private sector capable of establishing and implementing the system in an expeditious manner; and

(B) representatives of persons or entities who may use the tracking system described in subsection (a) and the on-line filing system described in subsection (b)(1).

SEC. 1123. ALTERNATIVES TO DETENTION OF ASYLUM SEEKERS.

(a) ASSIGNMENTS OF ASYLUM OFFICERS.—The Under Secretary shall assign asylum officers to major ports of entry in the United States to assist in the inspection of asylum seekers. For other ports of entry, the Under Secretary shall take steps to ensure that asylum officers participate in the inspections process.

(b) AMENDMENT OF THE IMMIGRATION AND NATIONALITY ACT.—Chapter 4 of title II of the Immigration and Nationality Act (8 U.S.C. 1221 et seq.) is amended by inserting after section 236A the following new section:

''SEC. 236B. ALTERNATIVES TO DETENTION OF ASYLUM SEEKERS.

''(a) DEVELOPMENT OF ALTERNATIVES TO DETENTION.—The Under Secretary shall—

''(1) authorize and promote the utilization of alternatives to the detention of asylum seekers who do not have nonpolitical criminal records; and

''(2) establish conditions for the detention of asylum seekers that ensure a safe and humane environment.

''(b) SPECIFIC ALTERNATIVES FOR CONSIDERATION.—The Under Secretary shall consider the following specific alternatives to the detention of asylum seekers described in subsection (a):

''(1) Parole from detention.

''(2) For individuals not otherwise qualified for parole under paragraph (1), parole with appearance assistance provided by private nonprofit voluntary agencies with expertise in the legal and social needs of asylum seekers.

''(3) For individuals not otherwise qualified for parole under paragraph (1) or (2), non-secure shelter care or group homes operated by private nonprofit voluntary agencies with expertise in the legal and social needs of asylum seekers.

''(4) Noninstitutional settings for minors such as foster care or group homes operated by private nonprofit voluntary agencies with expertise in the legal and social needs of asylum seekers.

''(c) REGULATIONS.—The Under Secretary shall promulgate such regulations as may be necessary to carry out this section.

''(d) DEFINITION.—In this section, the term 'asylum seeker' means any applicant for asylum under section 208 or any alien who indicates an intention to apply for asylum under that section.''.

(b) CLERICAL AMENDMENT.—The table of contents of the Immigration and Nationality Act is amended by inserting after the item relating to section 236A the following new item:

''Sec. 236B. Alternatives to detention of asylum seekers.''.

Subtitle D—Effective Date

SEC. 1131. EFFECTIVE DATE.

This title, and the amendments made by this title, shall take effect one year after the effective date of division A of this Act.

TITLE XII—UNACCOMPANIED ALIEN CHILD PROTECTION

SEC. 1201. SHORT TITLE.

This title may be cited as the ''Unaccompanied Alien Child Protection Act of 2002''.

SEC. 1202. DEFINITIONS.

(a) IN GENERAL.—In this title:

(1) DIRECTOR.—The term ''Director'' means the Director of the Office.

(2) OFFICE.—The term ''Office'' means the Office of Refugee Resettlement as established by section 411 of the Immigration and Nationality Act.

(3) SERVICE.—The term ''Service'' means the Immigration and Naturalization Service (or, upon the effective date of title XI, the Directorate of Immigration Affairs).

(4) UNACCOMPANIED ALIEN CHILD.—The term ''unaccompanied alien child'' means a child who—

(A) has no lawful immigration status in the United States;

(B) has not attained the age of 18; and

(C) with respect to whom—

(i) there is no parent or legal guardian in the United States; or

(ii) no parent or legal guardian in the United States is available to provide care and physical custody.

(5) VOLUNTARY AGENCY.—The term ''voluntary agency'' means a private, nonprofit voluntary agency with expertise in meeting the cultural, developmental, or psychological needs of unaccompanied alien children as licensed by the appropriate State and certified by the Director of the Office of Refugee Resettlement.

(b) AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT.—Section 101(a) (8 U.S.C. 1101(a)) is amended by adding at the end the following new paragraphs:

''(53) The term 'unaccompanied alien child' means a child who—

''(A) has no lawful immigration status in the United States;

''(B) has not attained the age of 18; and

''(C) with respect to whom—

''(i) there is no parent or legal guardian in the United States; or

''(ii) no parent or legal guardian in the United States is able to provide care and physical custody.

''(54) The term 'unaccompanied refugee children' means persons described in paragraph (42) who—

''(A) have not attained the age of 18; and

''(B) with respect to whom there are no parents or legal guardians available to provide care and physical custody.''.

Subtitle A—Structural Changes

SEC. 1211. RESPONSIBILITIES OF THE OFFICE OF REFUGEE RESETTLEMENT WITH RESPECT TO UNACCOMPANIED ALIEN CHILDREN.

(a) IN GENERAL.—

(1) RESPONSIBILITIES OF THE OFFICE.—The Office shall be responsible for—

(A) coordinating and implementing the care and placement for unaccompanied alien children who are in Federal custody by reason of their immigration status; and

(B) ensuring minimum standards of detention for all unaccompanied alien children.

(2) DUTIES OF THE DIRECTOR WITH RESPECT TO UNACCOMPANIED ALIEN CHILDREN.—The Director shall be responsible under this title for—

(A) ensuring that the best interests of the child are considered in decisions and actions relating to the care and placement of an unaccompanied alien child;

(B) making placement, release, and detention determinations for all unaccompanied alien children in the custody of the Office;

(C) implementing the placement, release, and detention determinations made by the Office;

(D) convening, in the absence of the Assistant Secretary, Administration for Children and Families of the Department of Health and Human Services, the Interagency Task Force on Unaccompanied Alien Children established in section 1212;

(E) identifying a sufficient number of qualified persons, entities, and facilities to house unaccompanied alien children in accordance with sections 1222 and 1223;

(F) overseeing the persons, entities, and facilities described in sections 1222 and 1223 to ensure their compliance with such provisions;

(G) compiling, updating, and publishing at least annually a State-by-State list of professionals or other entities qualified to contract with the Office to provide the services described in sections 1231 and 1232;

(H) maintaining statistical information and other data on unaccompanied alien children in the Office's custody and care, which shall include—

(i) biographical information such as the child's name, gender, date of birth, country of birth, and country of habitual residence;

(ii) the date on which the child came into Federal custody, including each instance in which such child came into the custody of—

(I) the Service; or

(II) the Office;

(iii) information relating to the custody, detention, release, and repatriation of unaccompanied alien children who have been in the custody of the Office;

(iv) in any case in which the child is placed in detention, an explanation relating to the detention; and

(v) the disposition of any actions in which the child is the subject;

(I) collecting and compiling statistical information from the Service, including Border Patrol and inspections officers, on the unaccompanied alien children with whom they come into contact; and

(J) conducting investigations and inspections of facilities and other entities in which unaccompanied alien children reside.

(3) DUTIES WITH RESPECT TO FOSTER CARE.—In carrying out the duties described in paragraph (3)(F), the Director is encouraged to utilize the refugee children foster care system established under section 412(d)(2) of the Immigration and Nationality Act for the placement of unaccompanied alien children.

(4) POWERS.—In carrying out the duties under paragraph (3), the Director shall have the power to—

(A) contract with service providers to perform the services described in sections 1222, 1223, 1231, and 1232; and

(B) compel compliance with the terms and conditions set forth in section 1223, including the power to terminate the contracts of providers that are not in compliance with such conditions and reassign any unaccompanied alien child to a similar facility that is in compliance with such section.

(b) NO EFFECT ON SERVICE, EOIR, AND DEPARTMENT OF STATE ADJUDICATORY RESPONSIBILITIES.—Nothing in this title may be construed to transfer the responsibility for adjudicating benefit determinations under the Immigration and Nationality Act from the authority of any official of the Service, the Executive Office of Immigration Review (or successor entity), or the Department of State.

SEC. 1212. ESTABLISHMENT OF INTERAGENCY TASK FORCE ON UNACCOMPANIED ALIEN CHILDREN.

(a) ESTABLISHMENT.—There is established an Interagency Task Force on Unaccompanied Alien Children.

(b) COMPOSITION.—The Task Force shall consist of the following members:

(1) The Assistant Secretary, Administration for Children and Families, Department of Health and Human Services.

(2) The Under Secretary of Homeland Security for Immigration Affairs.

(3) The Assistant Secretary of State for Population, Refugees, and Migration.

(4) The Director.

(5) Such other officials in the executive branch of Government as may be designated by the President.

(c) CHAIRMAN.—The Task Force shall be chaired by the Assistant Secretary, Administration for Children and Families, Department of Health and Human Services.

(d) ACTIVITIES OF THE TASK FORCE.—In consultation with nongovernmental organizations, the Task Force shall—

(1) measure and evaluate the progress of the United States in treating unaccompanied alien children in United States custody; and

(2) expand interagency procedures to collect and organize data, including significant research and resource information on the needs and treatment of unaccompanied alien children in the custody of the United States Government.

SEC. 1213. TRANSITION PROVISIONS.

(a) TRANSFER OF FUNCTIONS.—All functions with respect to the care and custody of unaccompanied alien children under the immigration laws of the United States vested by statute in, or exercised by, the Commissioner of Immigration and Naturalization (or any officer, employee, or component thereof), immediately prior to the effective date of this subtitle, are transferred to the Office.

(b) TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL.—The personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the functions transferred by this section, subject to section 1531 of title 31, United States Code, shall be transferred to the Office. Unexpended funds transferred pursuant to this section shall be used only for the purposes for which the funds were originally authorized and appropriated.

(c) LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, grants, loans, contracts, recognition of labor organizations, agreements, including collective bargaining agreements, certificates, licenses, and privileges—

(1) that have been issued, made, granted, or allowed to become effective by the President, the Attorney General, the Commissioner of the Immigration and Naturalization Service, their delegates, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred pursuant to this section; and

(2) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date);

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, any other authorized official, a court of competent jurisdiction, or operation of law, except that any collective bargaining agreement shall remain in effect until the date of termination specified in the agreement.

(d) PROCEEDINGS.—

(1) PENDING.—The transfer of functions under subsection (a) shall not affect any proceeding or any application for any benefit, service, license, permit, certificate, or financial assistance pending on the effective date of this subtitle before an office whose functions are transferred pursuant to this section, but such proceedings and applications shall be continued.

(2) ORDERS.—Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law.

(3) DISCONTINUANCE OR MODIFICATION.—Nothing in this section shall be considered to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(e) SUITS.—This section shall not affect suits commenced before the effective date of this subtitle, and in all such suits, proceeding shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this section had not been enacted.

(f) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Department of Justice or the Immigration and Naturalization Service, or by or against any individual in the official capacity of such individual as an officer or employee in connection with a function transferred under this section, shall abate by reason of the enactment of this Act.

(g) CONTINUANCE OF SUIT WITH SUBSTITUTION OF PARTIES.—If any Government officer in the official capacity of such officer is party to a suit with respect to a function of the officer, and pursuant to this section such function is transferred to any other officer or office, then such suit shall be continued with the other officer or the head of such other office, as applicable, substituted or added as a party.

(h) ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.—Except as otherwise provided by this title, any statutory requirements relating to notice, hearings, action upon the record, or administrative or judicial review that apply to any function transferred pursuant to any provision of this section shall apply to the exercise of such function by the head of the office, and other officers of the office, to which such function is transferred pursuant to such provision.

SEC. 1214. EFFECTIVE DATE.

This subtitle shall take effect one year after the effective date of division A of this Act.

Subtitle B—Custody, Release, Family Reunification, and Detention

SEC. 1221. PROCEDURES WHEN ENCOUNTERING UNACCOMPANIED ALIEN CHILDREN.

(a) UNACCOMPANIED CHILDREN FOUND ALONG THE UNITED STATES BORDER OR AT UNITED STATES PORTS OF ENTRY.—

(1) IN GENERAL.—Subject to paragraph (2), if an immigration officer finds an unaccompanied alien child who is described in paragraph (2) at a land border or port of entry of the United States and determines that such child is inadmissible under the Immigration and Nationality Act, the officer shall—

(A) permit such child to withdraw the child's application for admission pursuant to section 235(a)(4) of the Immigration and Nationality Act; and

(B) remove such child from the United States.

(2) SPECIAL RULE FOR CONTIGUOUS COUNTRIES.—

(A) IN GENERAL.—Any child who is a national or habitual resident of a country that is contiguous with the United States and that has an agreement in writing with the United States providing for the safe return and orderly repatriation of unaccompanied alien children who are nationals or habitual residents of such country shall be treated in accordance with paragraph (1), unless a determination is made on a case-by-case basis that—

(i) such child has a fear of returning to the child's country of nationality or country of last habitual residence owing to a fear of persecution;

(ii) the return of such child to the child's country of nationality or country of last habitual residence would endanger the life or safety of such child; or

(iii) the child cannot make an independent decision to withdraw the child's application for admission due to age or other lack of capacity.

(B) RIGHT OF CONSULTATION.—Any child described in subparagraph (A) shall have the right to consult with a consular officer from the child's country of nationality or country of last habitual residence prior to repatriation, as well as consult with the Office, telephonically, and such child shall be informed of that right.

(3) RULE FOR APPREHENSIONS AT THE BORDER.—The custody of unaccompanied alien children not described in paragraph (2) who are apprehended at the border of the United States or at a United States port of entry shall be treated in accordance with the provisions of subsection (b).

(b) CUSTODY OF UNACCOMPANIED ALIEN CHILDREN FOUND IN THE INTERIOR OF THE UNITED STATES.—

(1) ESTABLISHMENT OF JURISDICTION.—

(A) IN GENERAL.—Except as otherwise provided under subsection (a) and subparagraphs (B) and (C), the custody of all unaccompanied alien children, including responsibility for their detention, where appropriate, shall be under the jurisdiction of the Office.

(B) EXCEPTION FOR CHILDREN WHO HAVE COMMITTED CRIMES.—Notwithstanding subparagraph (A), the Service shall retain or assume the custody and care of any unaccompanied alien child who—

(i) has been charged with any felony, excluding offenses proscribed by the Immigration and Nationality Act, while such charges are pending; or

(ii) has been convicted of any such felony.

(C) EXCEPTION FOR CHILDREN WHO THREATEN NATIONAL SECURITY.—Notwithstanding subparagraph (A), the Service shall retain or assume the custody and care of an unaccompanied alien child if the Secretary of Homeland Security has substantial evidence that such child endangers the national security of the United States.

(2) NOTIFICATION.—Upon apprehension of an unaccompanied alien child, the Secretary shall promptly notify the Office.

(3) TRANSFER OF UNACCOMPANIED ALIEN CHILDREN.—

(A) TRANSFER TO THE OFFICE.—The care and custody of an unaccompanied alien child shall be transferred to the Office—

(i) in the case of a child not described in paragraph (1) (B) or (C), not later than 72 hours after the apprehension of such child; or

(ii) in the case of a child whose custody has been retained or assumed by the Service pursuant to paragraph (1) (B) or (C), immediately following a determination that the child no longer meets the description set forth in such paragraph.

(B) TRANSFER TO THE SERVICE.—Upon determining that a child in the custody of the Office is described in paragraph (1) (B) or (C), the Director shall promptly make arrangements to transfer the care and custody of such child to the Service.

(c) AGE DETERMINATIONS.—In any case in which the age of an alien is in question and the resolution of questions about such alien's age would affect the alien's eligibility for treatment under the provisions of this title, a determination of whether such alien meets the age requirements of this title shall be made in accordance with the provisions of section 1225.

SEC. 1222. FAMILY REUNIFICATION FOR UNACCOMPANIED ALIEN CHILDREN WITH RELATIVES IN THE UNITED STATES.

(a) PLACEMENT AUTHORITY.—

(1) ORDER OF PREFERENCE.—Subject to the Director's discretion under paragraph (4) and section 1223(a)(2), an unaccompanied alien child in the custody of the Office shall be promptly placed with one of the following individuals in the following order of preference:

(A) A parent who seeks to establish custody, as described in paragraph (3)(A).

(B) A legal guardian who seeks to establish custody, as described in paragraph (3)(A).

(C) An adult relative.

(D) An entity designated by the parent or legal guardian that is capable and willing to care for the child's well-being.

(E) A State-licensed juvenile shelter, group home, or foster home willing to accept legal custody of the child.

(F) A qualified adult or entity seeking custody of the child when it appears that there is no other likely alternative to long-term detention and family reunification does not appear to be a reasonable alternative. For purposes of this subparagraph, the qualification of the adult or entity shall be decided by the Office.

(2) HOME STUDY.—Notwithstanding the provisions of paragraph (1), no unaccompanied alien child shall be placed with a person or entity unless a valid home-study conducted by an agency of the State of the child's proposed residence, by an agency authorized by that State to conduct such a study, or by an appropriate voluntary agency contracted with the Office to conduct such studies has found that the person or entity is capable of providing for the child's physical and mental well-being.

(3) RIGHT OF PARENT OR LEGAL GUARDIAN TO CUSTODY OF UNACCOMPANIED ALIEN CHILD.—

(A) PLACEMENT WITH PARENT OR LEGAL GUARDIAN.—If an unaccompanied alien child is placed with any person or entity other than a parent or legal guardian, but subsequent to that placement a parent or legal guardian seeks to establish custody, the Director shall assess the suitability of placing the child with the parent or legal guardian and shall make a written determination on the child's placement within 30 days.

(B) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to—

(i) supersede obligations under any treaty or other international agreement to which the United States is a party, including The Hague Convention on the Civil Aspects of International Child Abduction, the Vienna Declaration and Programme of Action, and the Declaration of the Rights of the Child; or

(ii) limit any right or remedy under such international agreement.

(4) PROTECTION FROM SMUGGLERS AND TRAFFICKERS.—The Director shall take affirmative steps to ensure that unaccompanied alien children are protected from smugglers, traffickers, or others seeking to victimize or otherwise engage such children in criminal, harmful, or exploitative activity. Attorneys involved in such activities should be reported to their State bar associations for disciplinary action.

(5) GRANTS AND CONTRACTS.—Subject to the availability of appropriations, the Director is authorized to make grants to, and enter into contracts with, voluntary agencies to carry out the provisions of this section.

(6) REIMBURSEMENT OF STATE EXPENSES.—Subject to the availability of appropriations, the Director is authorized to reimburse States for any expenses they incur in providing assistance to unaccompanied alien children who are served pursuant to this title.

(b) CONFIDENTIALITY.—All information obtained by the Office relating to the immigration status of a person listed in subsection (a) shall remain confidential and may be used only for the purposes of determining such person's qualifications under subsection (a)(1).

SEC. 1223. APPROPRIATE CONDITIONS FOR DETENTION OF UNACCOMPANIED ALIEN CHILDREN.

(a) STANDARDS FOR PLACEMENT.—

(1) PROHIBITION OF DETENTION IN CERTAIN FACILITIES.—Except as provided in paragraph (2), an unaccompanied alien child shall not be placed in an adult detention facility or a facility housing delinquent children.

(2) DETENTION IN APPROPRIATE FACILITIES.—An unaccompanied alien child who has exhibited a violent or criminal behavior that endangers others may be detained in conditions appropriate to the behavior in a facility appropriate for delinquent children.

(3) STATE LICENSURE.—In the case of a placement of a child with an entity described in section 1222(a)(1)(E), the entity must be licensed by an appropriate State agency to provide residential, group, child welfare, or foster care services for dependent children.

(4) CONDITIONS OF DETENTION.—

(A) IN GENERAL.—The Director shall promulgate regulations incorporating standards for conditions of detention in such placements that provide for—

(i) educational services appropriate to the child;

(ii) medical care;

(iii) mental health care, including treatment of trauma;

(iv) access to telephones;

(v) access to legal services;

(vi) access to interpreters;

(vii) supervision by professionals trained in the care of children, taking into account the special cultural, linguistic, and experiential needs of children in immigration proceedings;

(viii) recreational programs and activities;

(ix) spiritual and religious needs; and

(x) dietary needs.

(B) NOTIFICATION OF CHILDREN.—Such regulations shall provide that all children are notified orally and in writing of such standards.

(b) PROHIBITION OF CERTAIN PRACTICES.—The Director and the Secretary of Homeland Security shall develop procedures prohibiting the unreasonable use of—

(1) shackling, handcuffing, or other restraints on children;

(2) solitary confinement; or

(3) pat or strip searches.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to supersede procedures favoring release of children to appropriate adults or entities or placement in the least secure setting possible, as defined in the Stipulated Settlement Agreement under Flores v. Reno.

SEC. 1224. REPATRIATED UNACCOMPANIED ALIEN CHILDREN.

(a) COUNTRY CONDITIONS.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that, to the extent consistent with the treaties and other international agreements to which the United States is a party and to the extent practicable, the United States Government should undertake efforts to ensure that it does not repatriate children in its custody into settings that would threaten the life and safety of such children.

(2) ASSESSMENT OF CONDITIONS.—

(A) IN GENERAL.—In carrying out repatriations of unaccompanied alien children, the Office shall conduct assessments of country conditions to determine the extent to which the country to which a child is being repatriated has a child welfare system capable of ensuring the child's well being.

(B) FACTORS FOR ASSESSMENT.—In assessing country conditions, the Office shall, to the maximum extent practicable, examine the conditions specific to the locale of the child's repatriation.

(b) REPORT ON REPATRIATION OF UNACCOMPANIED ALIEN CHILDREN.—Beginning not later than 18 months after the date of enactment of this Act, and annually thereafter, the Director shall submit a report to the Judiciary Committees of the House of Representatives and Senate on the Director's efforts to repatriate unaccompanied alien children. Such report shall include at a minimum the following information:

(1) The number of unaccompanied alien children ordered removed and the number of such children actually removed from the United States.

(2) A description of the type of immigration relief sought and denied to such children.

(3) A statement of the nationalities, ages, and gender of such children.

(4) A description of the procedures used to effect the removal of such children from the United States.

(5) A description of steps taken to ensure that such children were safely and humanely repatriated to their country of origin.

(6) Any information gathered in assessments of country and local conditions pursuant to subsection (a)(2).

SEC. 1225. ESTABLISHING THE AGE OF AN UNACCOMPANIED ALIEN CHILD.

The Director shall develop procedures that permit the presentation and consideration of a variety of forms of evidence, including testimony of a child and other persons, to determine an unaccompanied alien child's age for purposes of placement, custody, parole, and detention. Such procedures shall allow the appeal of a determination to an immigration judge. Radiographs shall not be the sole means of determining age.

SEC. 1226. EFFECTIVE DATE.

This subtitle shall take effect one year after the effective date of division A of this Act.

Subtitle C—Access by Unaccompanied Alien Children to Guardians Ad Litem and Counsel

SEC. 1231. RIGHT OF UNACCOMPANIED ALIEN CHILDREN TO GUARDIANS AD LITEM.

(a) GUARDIAN AD LITEM.—

(1) APPOINTMENT.—The Director shall appoint a guardian ad litem who meets the qualifications described in paragraph (2) for each unaccompanied alien child in the custody of the Office not later than 72 hours after the Office assumes physical or constructive custody of such child. The Director is encouraged, wherever practicable, to contract with a voluntary agency for the selection of an individual to be appointed as a guardian ad litem under this paragraph.

(2) QUALIFICATIONS OF GUARDIAN AD LITEM.—

(A) IN GENERAL.—No person shall serve as a guardian ad litem unless such person—

(i) is a child welfare professional or other individual who has received training in child welfare matters; and

(ii) possesses special training on the nature of problems encountered by unaccompanied alien children.

(B) PROHIBITION.—A guardian ad litem shall not be an employee of the Service.

(3) DUTIES.—The guardian ad litem shall—

(A) conduct interviews with the child in a manner that is appropriate, taking into account the child's age;

(B) investigate the facts and circumstances relevant to such child's presence in the United States, including facts and circumstances arising in the country of the child's nationality or last habitual residence and facts and circumstances arising subsequent to the child's departure from such country;

(C) work with counsel to identify the child's eligibility for relief from removal or voluntary departure by sharing with counsel information collected under subparagraph (B);

(D) develop recommendations on issues relative to the child's custody, detention, release, and repatriation;

(E) ensure that the child's best interests are promoted while the child participates in, or is subject to, proceedings or actions under the Immigration and Nationality Act;

(F) ensure that the child understands such determinations and proceedings; and

(G) report findings and recommendations to the Director and to the Executive Office of Immigration Review (or successor entity).

(4) TERMINATION OF APPOINTMENT.—The guardian ad litem shall carry out the duties described in paragraph (3) until—

(A) those duties are completed,

(B) the child departs the United States,

(C) the child is granted permanent resident status in the United States,

(D) the child attains the age of 18, or

(E) the child is placed in the custody of a parent or legal guardian,

whichever occurs first.

(5) POWERS.—The guardian ad litem—

(A) shall have reasonable access to the child, including access while such child is being held in detention or in the care of a foster family;

(B) shall be permitted to review all records and information relating to such proceedings that are not deemed privileged or classified;

(C) may seek independent evaluations of the child;

(D) shall be notified in advance of all hearings involving the child that are held in connection with proceedings under the Immigration and Nationality Act, and shall be given a reasonable opportunity to be present at such hearings; and

(E) shall be permitted to consult with the child during any hearing or interview involving such child.

(b) TRAINING.—The Director shall provide professional training for all persons serving as guardians ad litem under this section in the circumstances and conditions that unaccompanied alien children face as well as in the various immigration benefits for which such a child might be eligible.

SEC. 1232. RIGHT OF UNACCOMPANIED ALIEN CHILDREN TO COUNSEL.

(a) ACCESS TO COUNSEL.—

(1) IN GENERAL.—The Director shall ensure that all unaccompanied alien children in the custody of the Office or in the custody of the Service who are not described in section 1221(a)(2) shall have competent counsel to represent them in immigration proceedings or matters.

(2) PRO BONO REPRESENTATION.—To the maximum extent practicable, the Director shall utilize the services of pro bono attorneys who agree to provide representation to such children without charge.

(3) GOVERNMENT FUNDED REPRESENTATION.—

(A) APPOINTMENT OF COMPETENT COUNSEL.—Notwithstanding section 292 of the Immigration and Nationality Act (8 U.S.C. 1362) or any other provision of law, when no competent counsel is available to represent an unaccompanied alien child without charge, the Director shall appoint competent counsel for such child at the expense of the Government.

(B) LIMITATION ON ATTORNEY FEES.—Counsel appointed under subparagraph (A) may not be compensated at a rate in excess of the rate provided under section 3006A of title 18, United States Code.

(C) ASSUMPTION OF THE COST OF GOVERNMENT-PAID COUNSEL.—In the case of a child for whom counsel is appointed under subparagraph (A) who is subsequently placed in the physical custody of a parent or legal guardian, such parent or legal guardian may elect to retain the same counsel to continue representation of the child, at no expense to the Government, beginning on the date that the parent or legal guardian assumes physical custody of the child.

(4) DEVELOPMENT OF NECESSARY INFRASTRUCTURES AND SYSTEMS.—In ensuring that legal representation is provided to such children, the Director shall develop the necessary mechanisms to identify entities available to provide such legal assistance and representation and to recruit such entities.

(5) CONTRACTING AND GRANT MAKING AUTHORITY.—

(A) IN GENERAL.—Subject to the availability of appropriations, the Director shall enter into contracts with or make grants to national nonprofit agencies with relevant expertise in the delivery of immigration-related legal services to children in order to carry out this subsection.

(B) INELIGIBILITY FOR GRANTS AND CONTRACTS.—In making grants and entering into contracts with such agencies, the Director shall ensure that no such agency is—

(i) a grantee or contractee for services provided under section 1222 or 1231; and

(ii) simultaneously a grantee or contractee for services provided under subparagraph (A).

(b) REQUIREMENT OF LEGAL REPRESENTATION.—The Director shall ensure that all unaccompanied alien children have legal representation within 7 days of the child coming into Federal custody.

(c) DUTIES.—Counsel shall represent the unaccompanied alien child all proceedings and actions relating to the child's immigration status or other actions involving the Service and appear in person for all individual merits hearings before the Executive Office for Immigration Review (or its successor entity) and interviews involving the Service.

(d) ACCESS TO CHILD.—

(1) IN GENERAL.—Counsel shall have reasonable access to the unaccompanied alien child, including access while the child is being held in detention, in the care of a foster family, or in any other setting that has been determined by the Office.

(2) RESTRICTION ON TRANSFERS.—Absent compelling and unusual circumstances, no child who is represented by counsel shall be transferred from the child's placement to another placement unless advance notice of at least 24 hours is made to counsel of such transfer.

(e) TERMINATION OF APPOINTMENT.—Counsel shall carry out the duties described in subsection (c) until—

(1) those duties are completed,

(2) the child departs the United States,

(3) the child is granted withholding of removal under section 241(b)(3) of the Immigration and Nationality Act,

(4) the child is granted protection under the Convention Against Torture,

(5) the child is granted asylum in the United States under section 208 of the Immigration and Nationality Act,

(6) the child is granted permanent resident status in the United States, or

(7) the child attains 18 years of age,

whichever occurs first.

(f) NOTICE TO COUNSEL DURING IMMIGRATION PROCEEDINGS.—

(1) IN GENERAL.—Except when otherwise required in an emergency situation involving the physical safety of the child, counsel shall be given prompt and adequate notice of all immigration matters affecting or involving an unaccompanied alien child, including adjudications, proceedings, and processing, before such actions are taken.

(2) OPPORTUNITY TO CONSULT WITH COUNSEL.—An unaccompanied alien child in the custody of the Office may not give consent to any immigration action, including consenting to voluntary departure, unless first afforded an opportunity to consult with counsel.

(g) ACCESS TO RECOMMENDATIONS OF GUARDIAN AD LITEM.—Counsel shall be afforded an opportunity to review the recommendation by the guardian ad litem affecting or involving a client who is an unaccompanied alien child.

SEC. 1233. EFFECTIVE DATE; APPLICABILITY.

(a) EFFECTIVE DATE.—This subtitle shall take effect one year after the effective date of division A of this Act.

(b) APPLICABILITY.—The provisions of this subtitle shall apply to all unaccompanied alien children in Federal custody on, before, or after the effective date of this subtitle.

Subtitle D—Strengthening Policies for Permanent Protection of Alien Children

SEC. 1241. SPECIAL IMMIGRANT JUVENILE VISA.

(a) J VISA.—Section 101(a)(27)(J) (8 U.S.C. 1101(a)(27)(J)) is amended to read as follows:

''(J) an immigrant under the age of 18 on the date of application who is present in the United States—

''(i) who has been declared dependent on a juvenile court located in the United States or whom such a court has legally committed to, or placed under the custody of, a department or agency of a State, or an individual or entity appointed by a State, and who has been deemed eligible by that court for long-term foster care due to abuse, neglect, or abandonment, or a similar basis found under State law;

''(ii) for whom it has been determined in administrative or judicial proceedings that it would not be in the alien's best interest to be returned to the alien's or parent's previous country of nationality or country of last habitual residence; and

''(iii) for whom the Office of Refugee Resettlement of the Department of Health and Human Services has certified to the Under Secretary of Homeland Security for Immigration Affairs that the classification of an alien as a special immigrant under this subparagraph has not been made solely to provide an immigration benefit to that alien;

except that no natural parent or prior adoptive parent of any alien provided special immigrant status under this subparagraph shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act;''.

(b) ADJUSTMENT OF STATUS.—Section 245(h)(2) (8 U.S.C. 1255(h)(2)) is amended—

(1) by amending subparagraph (A) to read as follows:

''(A) paragraphs (1), (4), (5), (6), and (7)(A) of section 212(a) shall not apply,'';

(2) in subparagraph (B), by striking the period and inserting '', and''; and

(3) by adding at the end the following new subparagraph:

''(C) the Secretary of Homeland Security may waive paragraph (2) (A) and (B) in the

case of an offense which arose as a consequence of the child being unaccompanied.''.

(c) ELIGIBILITY FOR ASSISTANCE.—A child who has been granted relief under section 101(a)(27)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)), as amended by subsection (a), and who is in the custody of a State shall be eligible for all funds made available under section 412(d) of such Act.

SEC. 1242. TRAINING FOR OFFICIALS AND CERTAIN PRIVATE PARTIES WHO COME INTO CONTACT WITH UNACCOMPANIED ALIEN CHILDREN.

(a) TRAINING OF STATE AND LOCAL OFFICIALS AND CERTAIN PRIVATE PARTIES.—The Secretary of Health and Human Services, acting jointly with the Secretary, shall provide appropriate training to be available to State and county officials, child welfare specialists, teachers, public counsel, and juvenile judges who come into contact with unaccompanied alien children. The training shall provide education on the processes pertaining to unaccompanied alien children with pending immigration status and on the forms of relief potentially available. The Director shall be responsible for establishing a core curriculum that can be incorporated into currently existing education, training, or orientation modules or formats that are currently used by these professionals.

(b) TRAINING OF SERVICE PERSONNEL.—The Secretary, acting jointly with the Secretary of Health and Human Services, shall provide specialized training to all personnel of the Service who come into contact with unaccompanied alien children. In the case of Border Patrol agents and immigration inspectors, such training shall include specific training on identifying children at the United States border or at United States ports of entry who have been victimized by smugglers or traffickers, and children for whom asylum or special immigrant relief may be appropriate, including children described in section 1221(a)(2).

SEC. 1243. EFFECTIVE DATE.

The amendment made by section 1241 shall apply to all eligible children who were in the United States before, on, or after the date of enactment of this Act.

Subtitle E—Children Refugee and Asylum Seekers

SEC. 1251. GUIDELINES FOR CHILDREN'S ASYLUM CLAIMS.

(a) SENSE OF CONGRESS.—Congress commends the Service for its issuance of its ''Guidelines for Children's Asylum Claims'', dated December 1998, and encourages and supports the Service's implementation of such guidelines in an effort to facilitate the handling of children's asylum claims. Congress calls upon the Executive Office for Immigration Review of the Department of Justice (or successor entity) to adopt the ''Guidelines for Children's Asylum Claims'' in its handling of children's asylum claims before immigration judges and the Board of Immigration Appeals.

(b) TRAINING.—The Secretary of Homeland Security shall provide periodic comprehensive training under the ''Guidelines for Children's Asylum Claims'' to asylum officers, immigration judges, members of the Board of Immigration Appeals, and immigration officers who have contact with children in order to familiarize and sensitize such officers to the needs of children asylum seekers. Voluntary agencies shall be allowed to assist in such training.

SEC. 1252. UNACCOMPANIED REFUGEE CHILDREN.

(a) IDENTIFYING UNACCOMPANIED REFUGEE CHILDREN.—Section 207(e) (8 U.S.C. 1157(e)) is amended—

(1) by redesignating paragraphs (3), (4), (5), (6), and (7) as paragraphs (4), (5), (6), (7), and (8), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

''(3) An analysis of the worldwide situation faced by unaccompanied refugee children, by region. Such analysis shall include an assessment of—

''(A) the number of unaccompanied refugee children, by region;

''(B) the capacity of the Department of State to identify such refugees;

''(C) the capacity of the international community to care for and protect such refugees;

''(D) the capacity of the voluntary agency community to resettle such refugees in the United States;

''(E) the degree to which the United States plans to resettle such refugees in the United States in the coming fiscal year; and

''(F) the fate that will befall such unaccompanied refugee children for whom resettlement in the United States is not possible.''.

(b) TRAINING ON THE NEEDS OF UNACCOMPANIED REFUGEE CHILDREN.—Section 207(f)(2) (8 U.S.C. 1157(f)(2)) is amended by—

(1) striking ''and'' after ''countries,''; and

(2) inserting before the period at the end the following: '', and instruction on the needs of unaccompanied refugee children''.

Subtitle F—Authorization of Appropriations

SEC. 1261. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subsection (a) are authorized to remain available until expended.

TITLE XIII—AGENCY FOR IMMIGRATION HEARINGS AND APPEALS

Subtitle A—Structure and Function

SEC. 1301. ESTABLISHMENT.

(a) IN GENERAL.—There is established within the Department of Justice the Agency for Immigration Hearings and Appeals (in this title referred to as the ''Agency'').

(b) ABOLITION OF EOIR.—The Executive Office for Immigration Review of the Department of Justice is hereby abolished.

SEC. 1302. DIRECTOR OF THE AGENCY.

(a) APPOINTMENT.—There shall be at the head of the Agency a Director who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) OFFICES.—The Director shall appoint a Deputy Director, General Counsel, Pro Bono Coordinator, and other offices as may be necessary to carry out this title.

(c) RESPONSIBILITIES.—The Director shall—

(1) administer the Agency and be responsible for the promulgation of rules and regulations affecting the Agency;

(2) appoint each Member of the Board of Immigration Appeals, including a Chair;

(3) appoint the Chief Immigration Judge; and

(4) appoint and fix the compensation of attorneys, clerks, administrative assistants, and other personnel as may be necessary.

SEC. 1303. BOARD OF IMMIGRATION APPEALS.

(a) IN GENERAL.—The Board of Immigration Appeals (in this title referred to as the ''Board'') shall perform the appellate functions of the Agency. The Board shall consist of a Chair and not less than 14 other immigration appeals judges.

(b) APPOINTMENT.—Members of the Board shall be appointed by the Director, in consultation with the Chair of the Board of Immigration Appeals.

(c) QUALIFICATIONS.—The Chair and each other Member of the Board shall be an attorney in good standing of a bar of a State or the District of Columbia and shall have at least 7 years of professional legal expertise in immigration and nationality law.

(d) CHAIR.—The Chair shall direct, supervise, and establish the procedures and policies of the Board.

(e) JURISDICTION.—

(1) IN GENERAL.—The Board shall have such jurisdiction as was, prior to the date of enactment of this Act, provided by statute or regulation to the Board of Immigration Appeals (as in effect under the Executive Office of Immigration Review).

(2) DE NOVO REVIEW.—The Board shall have de novo review of any decision by an immigration judge, including any final order of removal.

(f) DECISIONS OF THE BOARD.—The decisions of the Board shall constitute final agency action, subject to review only as provided by the Immigration and Nationality Act and other applicable law.

(g) INDEPENDENCE OF BOARD MEMBERS.—The Members of the Board shall exercise their independent judgment and discretion in the cases coming before the Board.

SEC. 1304. CHIEF IMMIGRATION JUDGE.

(a) ESTABLISHMENT OF OFFICE.—There shall be within the Agency the position of Chief Immigration Judge, who shall administer the immigration courts.

(b) DUTIES OF THE CHIEF IMMIGRATION JUDGE.—The Chief Immigration Judge shall be responsible for the general supervision, direction, and procurement of resource and facilities and for the general management of immigration court dockets.

(c) APPOINTMENT OF IMMIGRATION JUDGES.—Immigration judges shall be appointed by the Director, in consultation with the Chief Immigration Judge.

(d) QUALIFICATIONS.—Each immigration judge, including the Chief Immigration Judge, shall be an attorney in good standing of a bar of a State or the District of Columbia and shall have at least 7 years of professional legal expertise in immigration and nationality law.

(e) JURISDICTION AND AUTHORITY OF IMMIGRATION COURTS.—The immigration courts shall have such jurisdiction as was, prior to the date of enactment of this Act, provided by statute or regulation to the immigration courts within the Executive Office for Immigration Review of the Department of Justice.

(f) INDEPENDENCE OF IMMIGRATION JUDGES.—The immigration judges shall exercise their independent judgment and discretion in the cases coming before the Immigration Court.

SEC. 1305. CHIEF ADMINISTRATIVE HEARING OFFICER.

(a) ESTABLISHMENT OF POSITION.—There shall be within the Agency the position of Chief Administrative Hearing Officer.

(b) DUTIES OF THE CHIEF ADMINISTRATIVE HEARING OFFICER.—The Chief Administrative Hearing Officer shall hear cases brought under sections 274A, 274B, and 274C of the Immigration and Nationality Act.

SEC. 1306. REMOVAL OF JUDGES.

Immigration judges and Members of the Board may be removed from office only for good cause, including neglect of duty or malfeasance, by the Director, in consultation with the Chair of the Board, in the case of the removal of a Member of the Board, or in consultation with the Chief Immigration Judge, in the case of the removal of an immigration judge.

SEC. 1307. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Agency such sums as may be necessary to carry out this title.

Subtitle B—Transfer of Functions and Savings Provisions

SEC. 1311. TRANSITION PROVISIONS.

(a) TRANSFER OF FUNCTIONS.—All functions under the immigration laws of the United

States (as defined in section 111(e) of the Immigration and Nationality Act, as added by section 1101(a)(2) of this Act) vested by statute in, or exercised by, the Executive Office of Immigration Review of the Department of Justice (or any officer, employee, or component thereof), immediately prior to the effective date of this title, are transferred to the Agency.

(b) TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL.—The personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the functions transferred by this section, subject to section 1531 of title 31, United States Code, shall be transferred to the Agency. Unexpended funds transferred pursuant to this section shall be used only for the purposes for which the funds were originally authorized and appropriated.

(c) LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, grants, loans, contracts, recognition of labor organizations, agreements, including collective bargaining agreements, certificates, licenses, and privileges—

(1) that have been issued, made, granted, or allowed to become effective by the Attorney General or the Executive Office of Immigration Review of the Department of Justice, their delegates, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred under this section; and

(2) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date);

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the Agency, any other authorized official, a court of competent jurisdiction, or operation of law, except that any collective bargaining agreement shall remain in effect until the date of termination specified in the agreement.

(d) PROCEEDINGS.—

(1) PENDING.—The transfer of functions under subsection (a) shall not affect any proceeding or any application for any benefit, service, license, permit, certificate, or financial assistance pending on the effective date of this title before an office whose functions are transferred pursuant to this section, but such proceedings and applications shall be continued.

(2) ORDERS.—Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law.

(3) DISCONTINUANCE OR MODIFICATION.—Nothing in this section shall be considered to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(e) SUITS.—This section shall not affect suits commenced before the effective date of this title, and in all such suits, proceeding shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this section had not been enacted.

(f) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Department of Justice or the Executive Office of Immigration Review, or by or against any individual in the official capacity of such individual as an officer or employee in connection with a function transferred under this section, shall abate by reason of the enactment of this Act.

(g) CONTINUANCE OF SUIT WITH SUBSTITUTION OF PARTIES.—If any Government officer in the official capacity of such officer is party to a suit with respect to a function of the officer, and pursuant to this section such function is transferred to any other officer or office, then such suit shall be continued with the other officer or the head of such other office, as applicable, substituted or added as a party.

(h) ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.—Except as otherwise provided by this title, any statutory requirements relating to notice, hearings, action upon the record, or administrative or judicial review that apply to any function transferred pursuant to any provision of this section shall apply to the exercise of such function by the head of the office, and other officers of the office, to which such function is transferred pursuant to such provision.

Subtitle C—Effective Date

SEC. 1321. EFFECTIVE DATE.

This title shall take effect one year after the effective date of division A of this Act.

DIVISION C—FEDERAL WORKFORCE IMPROVEMENT

TITLE XXI—CHIEF HUMAN CAPITAL OFFICERS

SEC. 2101. SHORT TITLE.

This title may be cited as the ''Chief Human Capital Officers Act of 2002''.

SEC. 2102. AGENCY CHIEF HUMAN CAPITAL OFFICERS.

(a) IN GENERAL.—Part II of title 5, United States Code, is amended by inserting after chapter 13 the following:

''CHAPTER 14—AGENCY CHIEF HUMAN CAPITAL OFFICERS

''Sec.
''1401. Establishment of agency Chief Human Capital Officers.
''1402. Authority and functions of agency Chief Human Capital Officers.

''§ 1401. Establishment of agency Chief Human Capital Officers

''The head of each agency referred to under paragraphs (1) and (2) of section 901(b) of title 31 shall appoint or designate a Chief Human Capital Officer, who shall—

''(1) advise and assist the head of the agency and other agency officials in carrying out the agency's responsibilities for selecting, developing, training, and managing a high-quality, productive workforce in accordance with merit system principles;

''(2) implement the rules and regulations of the President and the Office of Personnel Management and the laws governing the civil service within the agency; and

''(3) carry out such functions as the primary duty of the Chief Human Capital Officer.

''§ 1402. Authority and functions of agency Chief Human Capital Officers

''(a) The functions of each Chief Human Capital Officer shall include—

''(1) setting the workforce development strategy of the agency;

''(2) assessing workforce characteristics and future needs based on the agency's mission and strategic plan;

''(3) aligning the agency's human resources policies and programs with organization mission, strategic goals, and performance outcomes;

''(4) developing and advocating a culture of continuous learning to attract and retain employees with superior abilities;

''(5) identifying best practices and benchmarking studies; and

''(6) applying methods for measuring intellectual capital and identifying links of that capital to organizational performance and growth.

''(b) In addition to the authority otherwise provided by this section, each agency Chief Human Capital Officer—

''(1) shall have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material that—

''(A) are the property of the agency or are available to the agency; and

''(B) relate to programs and operations with respect to which that agency Chief Human Capital Officer has responsibilities under this chapter; and

''(2) may request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by this chapter from any Federal, State, or local governmental entity.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part II of title 5, United States Code, is amended by inserting after the item relating to chapter 13 the following:

''14. Chief Human Capital Officers ..... 1401''.

SEC. 2103. CHIEF HUMAN CAPITAL OFFICERS COUNCIL.

(a) ESTABLISHMENT.—There is established a Chief Human Capital Officers Council, consisting of—

(1) the Director of the Office of Personnel Management, who shall act as chairperson of the Council;

(2) the Deputy Director for Management of the Office of Management and Budget, who shall act as vice chairperson of the Council; and

(3) the Chief Human Capital Officers of Executive departments and any other members who are designated by the Director of the Office of Personnel Management.

(b) FUNCTIONS.—The Chief Human Capital Officers Council shall meet periodically to advise and coordinate the activities of the agencies of its members on such matters as modernization of human resources systems, improved quality of human resources information, and legislation affecting human resources operations and organizations.

(c) EMPLOYEE LABOR ORGANIZATIONS AT MEETINGS.—The Chief Human Capital Officers Council shall ensure that representatives of Federal employee labor organizations are present at a minimum of 1 meeting of the Council each year. Such representatives shall not be members of the Council.

(d) ANNUAL REPORT.—Each year the Chief Human Capital Officers Council shall submit a report to Congress on the activities of the Council.

SEC. 2104. STRATEGIC HUMAN CAPITAL MANAGEMENT.

Section 1103 of title 5, United States Code, is amended by adding at the end the following:

''(c)(1) The Office of Personnel Management shall design a set of systems, including appropriate metrics, for assessing the management of human capital by Federal agencies.

''(2) The systems referred to under paragraph (1) shall be defined in regulations of the Office of Personnel Management and include standards for—

''(A)(i) aligning human capital strategies of agencies with the missions, goals, and organizational objectives of those agencies; and

''(ii) integrating those strategies into the budget and strategic plans of those agencies;

''(B) closing skill gaps in mission critical occupations;

''(C) ensuring continuity of effective leadership through implementation of recruitment, development, and succession plans;

''(D) sustaining a culture that cultivates and develops a high performing workforce;

''(E) developing and implementing a knowledge management strategy supported by appropriate investment in training and technology; and

''(F) holding managers and human resources officers accountable for efficient and effective human resources management in support of agency missions in accordance with merit system principles.''.

SEC. 2105. EFFECTIVE DATE.

This title shall take effect 180 days after the date of enactment of this division.

TITLE XXII—REFORMS RELATING TO FEDERAL HUMAN CAPITAL MANAGEMENT

SEC. 2201. INCLUSION OF AGENCY HUMAN CAPITAL STRATEGIC PLANNING IN PERFORMANCE PLANS AND PROGRAM PERFORMANCE REPORTS.

(a) PERFORMANCE PLANS.—Section 1115 of title 31, United States Code, is amended—

(1) in subsection (a), by striking paragraph (3) and inserting the following:

''(3) provide a description of how the performance goals and objectives are to be achieved, including the operational processes, training, skills and technology, and the human, capital, information, and other resources and strategies required to meet those performance goals and objectives.'';

(2) by redesignating subsection (f) as subsection (g); and

(3) by inserting after subsection (e) the following:

''(f) With respect to each agency with a Chief Human Capital Officer, the Chief Human Capital Officer shall prepare that portion of the annual performance plan described under subsection (a)(3).''.

(b) PROGRAM PERFORMANCE REPORTS.—Section 1116(d) of title 31, United States Code, is amended—

(1) in paragraph (4), by striking ''and'' after the semicolon;

(2) by redesignating paragraph (5) as paragraph (6); and

(3) by inserting after paragraph (4) the following:

''(5) include a review of the performance goals and evaluation of the performance plan relative to the agency's strategic human capital management; and''.

SEC. 2202. REFORM OF THE COMPETITIVE SERVICE HIRING PROCESS.

(a) IN GENERAL.—Chapter 33 of title 5, United States Code, is amended—

(1) in section 3304(a)—

(A) in paragraph (1), by striking ''and'' after the semicolon;

(B) in paragraph (2), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(3) authority for agencies to appoint, without regard to the provisions of sections 3309 through 3318, candidates directly to positions for which—

''(A) public notice has been given; and

''(B) the Office of Personnel Management has determined that there exists a severe shortage of candidates or there is a critical hiring need.

The Office shall prescribe, by regulation, criteria for identifying such positions and may delegate authority to make determinations under such criteria.''; and

(2) by inserting after section 3318 the following:

''§ 3319. Alternative ranking and selection procedures

''(a)(1) the Office, in exercising its authority under section 3304; or

''(2) an agency to which the Office has delegated examining authority under section 1104(a)(2);

may establish category rating systems for evaluating applicants for positions in the competitive service, under 2 or more quality categories based on merit consistent with regulations prescribed by the Office of Personnel Management, rather than assigned individual numerical ratings.

''(b) Within each quality category established under subsection (a), preference-eligibles shall be listed ahead of individuals who are not preference eligibles. For other than scientific and professional positions at GS–9 of the General Schedule (equivalent or higher), qualified preference-eligibles who have a compensable service-connected disability of 10 percent or more shall be listed in the highest quality category.

''(c)(1) An appointing official may select any applicant in the highest quality category or, if fewer than 3 candidates have been assigned to the highest quality category, in a merged category consisting of the highest and the second highest quality categories.

''(2) Notwithstanding paragraph (1), the appointing official may not pass over a preference-eligible in the same category from which selection is made, unless the requirements of section 3317(b) or 3318(b), as applicable, are satisfied.

''(d) Each agency that establishes a category rating system under this section shall submit in each of the 3 years following that establishment, a report to Congress on that system including information on—

''(1) the number of employees hired under that system;

''(2) the impact that system has had on the hiring of veterans and minorities, including those who are American Indian or Alaska Natives, Asian, Black or African American, and native Hawaiian or other Pacific Islander; and

''(3) the way in which managers were trained in the administration of that system.

''(e) The Office of Personnel Management may prescribe such regulations as it considers necessary to carry out the provisions of this section.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 33 of title 5, United States Code, is amended by striking the item relating to section 3319 and inserting the following:

''3319. Alternative ranking and selection procedures.''.

SEC. 2203. PERMANENT EXTENSION, REVISION, AND EXPANSION OF AUTHORITIES FOR USE OF VOLUNTARY SEPARATION INCENTIVE PAY AND VOLUNTARY EARLY RETIREMENT.

(a) VOLUNTARY SEPARATION INCENTIVE PAYMENTS.—

(1) IN GENERAL.—

(A) AMENDMENT TO TITLE 5, UNITED STATES CODE.—Chapter 35 of title 5, United States Code, is amended by inserting after subchapter I the following:

''SUBCHAPTER II—VOLUNTARY SEPARATION INCENTIVE PAYMENTS

''§ 3521. Definitions

''In this subchapter, the term—

''(1) 'agency' means an Executive agency as defined under section 105; and

''(2) 'employee'—

''(A) means an employee as defined under section 2105 employed by an agency and an individual employed by a county committee established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)) who—

''(i) is serving under an appointment without time limitation; and

''(ii) has been currently employed for a continuous period of at least 3 years; and

''(B) shall not include—

''(i) a reemployed annuitant under subchapter III of chapter 83 or 84 or another retirement system for employees of the Government;

''(ii) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under subchapter III of chapter 83 or 84 or another retirement system for employees of the Government;

''(iii) an employee who is in receipt of a decision notice of involuntary separation for misconduct or unacceptable performance;

''(iv) an employee who has previously received any voluntary separation incentive payment from the Federal Government under this subchapter or any other authority;

''(v) an employee covered by statutory reemployment rights who is on transfer employment with another organization; or

''(vi) any employee who—

''(I) during the 36-month period preceding the date of separation of that employee, performed service for which a student loan repayment benefit was or is to be paid under section 5379;

''(II) during the 24-month period preceding the date of separation of that employee, performed service for which a recruitment or relocation bonus was or is to be paid under section 5753; or

''(III) during the 12-month period preceding the date of separation of that employee, performed service for which a retention bonus was or is to be paid under section 5754.

''§ 3522. Agency plans; approval

''(a) Before obligating any resources for voluntary separation incentive payments, the head of each agency shall submit to the Office of Personnel Management a plan outlining the intended use of such incentive payments and a proposed organizational chart for the agency once such incentive payments have been completed.

''(b) The plan of an agency under subsection (a) shall include—

''(1) the specific positions and functions to be reduced or eliminated;

''(2) a description of which categories of employees will be offered incentives;

''(3) the time period during which incentives may be paid;

''(4) the number and amounts of voluntary separation incentive payments to be offered; and

''(5) a description of how the agency will operate without the eliminated positions and functions.

''(c) The Director of the Office of Personnel Management shall review each agency's plan and may make any appropriate modifications in the plan, in consultation with the Director of the Office of Management and Budget. A plan under this section may not be implemented without the approval of the Director of the Office of Personnel Management.

''§ 3523. Authority to provide voluntary separation incentive payments

''(a) A voluntary separation incentive payment under this subchapter may be paid to an employee only as provided in the plan of an agency established under section 3522.

''(b) A voluntary incentive payment—

''(1) shall be offered to agency employees on the basis of—

''(A) 1 or more organizational units;

''(B) 1 or more occupational series or levels;

''(C) 1 or more geographical locations;

''(D) skills, knowledge, or other factors related to a position;

''(E) specific periods of time during which eligible employees may elect a voluntary incentive payment; or

''(F) any appropriate combination of such factors;

''(2) shall be paid in a lump sum after the employee's separation;

''(3) shall be equal to the lesser of—

''(A) an amount equal to the amount the employee would be entitled to receive under section 5595(c) if the employee were entitled to payment under such section (without adjustment for any previous payment made); or

''(B) an amount determined by the agency head, not to exceed $25,000;

''(4) may be made only in the case of an employee who voluntarily separates (whether by retirement or resignation) under this subchapter;

''(5) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit;

''(6) shall not be taken into account in determining the amount of any severance pay to which the employee may be entitled under section 5595, based on any other separation; and

''(7) shall be paid from appropriations or funds available for the payment of the basic pay of the employee.

''§ 3524. Effect of subsequent employment with the Government

''(a) The term 'employment'—

''(1) in subsection (b) includes employment under a personal services contract (or other direct contract) with the United States Government (other than an entity in the legislative branch); and

''(2) in subsection (c) does not include employment under such a contract.

''(b) An individual who has received a voluntary separation incentive payment under this subchapter and accepts any employment for compensation with the Government of the United States within 5 years after the date of the separation on which the payment is based shall be required to pay, before the individual's first day of employment, the entire amount of the incentive payment to the agency that paid the incentive payment.

''(c)(1) If the employment under this section is with an agency, other than the General Accounting Office, the United States Postal Service, or the Postal Rate Commission, the Director of the Office of Personnel Management may, at the request of the head of the agency, waive the repayment if—

''(A) the individual involved possesses unique abilities and is the only qualified applicant available for the position; or

''(B) in the case of an emergency involving a direct threat to life or property, the individual—

''(i) has skills directly related to resolving the emergency; and

''(ii) will serve on a temporary basis only so long as that individual's services are made necessary by the emergency.

''(2) If the employment under this section is with an entity in the legislative branch, the head of the entity or the appointing official may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

''(3) If the employment under this section is with the judicial branch, the Director of the Administrative Office of the United States Courts may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

''§ 3525. Regulations

''The Office of Personnel Management may prescribe regulations to carry out this subchapter.''.

(B) TECHNICAL AND CONFORMING AMENDMENTS.—Chapter 35 of title 5, United States Code, is amended—

(i) by striking the chapter heading and inserting the following:

''CHAPTER 35—RETENTION PREFERENCE, VOLUNTARY SEPARATION INCENTIVE PAYMENTS, RESTORATION, AND REEMPLOYMENT''; and

(ii) in the table of sections by inserting after the item relating to section 3504 the following:

''SUBCHAPTER II—VOLUNTARY SEPARATION INCENTIVE PAYMENTS

''3521. Definitions.
''3522. Agency plans; approval.
''3523. Authority to provide voluntary separation incentive payments.
''3524. Effect of subsequent employment with the Government.
''3525. Regulations.''.

(2) ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—The Director of the Administrative Office of the United States Courts may, by regulation, establish a program substantially similar to the program established under paragraph (1) for individuals serving in the judicial branch.

(3) CONTINUATION OF OTHER AUTHORITY.—Any agency exercising any voluntary separation incentive authority in effect on the effective date of this subsection may continue to offer voluntary separation incentives consistent with that authority until that authority expires.

(4) EFFECTIVE DATE.—This subsection shall take effect 60 days after the date of enactment of this Act.

(b) FEDERAL EMPLOYEE VOLUNTARY EARLY RETIREMENT.—

(1) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8336(d)(2) of title 5, United States Code, is amended to read as follows:

''(2)(A) has been employed continuously, by the agency in which the employee is serving, for at least the 31-day period ending on the date on which such agency requests the determination referred to in subparagraph (D);

''(B) is serving under an appointment that is not time limited;

''(C) has not been duly notified that such employee is to be involuntarily separated for misconduct or unacceptable performance;

''(D) is separated from the service voluntarily during a period in which, as determined by the Office of Personnel Management (upon request of the agency) under regulations prescribed by the Office—

''(i) such agency (or, if applicable, the component in which the employee is serving) is undergoing substantial delayering, substantial reorganization, substantial reductions in force, substantial transfer of function, or other substantial workforce restructuring (or shaping);

''(ii) a significant percentage of employees serving in such agency (or component) are likely to be separated or subject to an immediate reduction in the rate of basic pay (without regard to subchapter VI of chapter 53, or comparable provisions); or

''(iii) identified as being in positions which are becoming surplus or excess to the agency's future ability to carry out its mission effectively; and

''(E) as determined by the agency under regulations prescribed by the Office, is within the scope of the offer of voluntary early retirement, which may be made on the basis of—

''(i) 1 or more organizational units;

''(ii) 1 or more occupational series or levels;

''(iii) 1 or more geographical locations;

''(iv) specific periods;

''(v) skills, knowledge, or other factors related to a position; or

''(vi) any appropriate combination of such factors;''.

(2) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—Section 8414(b)(1) of title 5, United States Code, is amended by striking subparagraph (B) and inserting the following:

''(B)(i) has been employed continuously, by the agency in which the employee is serving, for at least the 31-day period ending on the date on which such agency requests the determination referred to in clause (iv);

''(ii) is serving under an appointment that is not time limited;

''(iii) has not been duly notified that such employee is to be involuntarily separated for misconduct or unacceptable performance;

''(iv) is separated from the service voluntarily during a period in which, as determined by the Office of Personnel Management (upon request of the agency) under regulations prescribed by the Office—

''(I) such agency (or, if applicable, the component in which the employee is serving) is undergoing substantial delayering, substantial reorganization, substantial reductions in force, substantial transfer of function, or other substantial workforce restructuring (or shaping);

''(II) a significant percentage of employees serving in such agency (or component) are likely to be separated or subject to an immediate reduction in the rate of basic pay (without regard to subchapter VI of chapter 53, or comparable provisions); or

''(III) identified as being in positions which are becoming surplus or excess to the agency's future ability to carry out its mission effectively; and

''(v) as determined by the agency under regulations prescribed by the Office, is within the scope of the offer of voluntary early retirement, which may be made on the basis of—

''(I) 1 or more organizational units;

''(II) 1 or more occupational series or levels;

''(III) 1 or more geographical locations;

''(IV) specific periods;

''(V) skills, knowledge, or other factors related to a position; or

''(VI) any appropriate combination of such factors;''.

(3) GENERAL ACCOUNTING OFFICE AUTHORITY.—The amendments made by this subsection shall not be construed to affect the authority under section 1 of Public Law 106–303 (5 U.S.C. 8336 note; 114 Stat. 1063).

(4) TECHNICAL AND CONFORMING AMENDMENT.—Section 7001 of the 1998 Supplemental Appropriations and Rescissions Act (Public Law 105–174; 112 Stat. 91) is repealed.

(5) REGULATIONS.—The Office of Personnel Management may prescribe regulations to carry out this subsection.

(c) SENSE OF CONGRESS.—It is the sense of Congress that the implementation of this section is intended to reshape the Federal workforce and not downsize the Federal workforce.

SEC. 2204. STUDENT VOLUNTEER TRANSIT SUBSIDY.

(a) IN GENERAL.—Section 7905(a)(1) of title 5, United States Code, is amended by striking ''and a member of a uniformed service'' and inserting '', a member of a uniformed service, and a student who provides voluntary services under section 3111''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 3111(c)(1) of title 5, United States Code, is amended by striking ''chapter 81 of this title'' and inserting ''section 7905 (relating to commuting by means other than single-occupancy motor vehicles), chapter 81''.

TITLE XXIII—REFORMS RELATING TO THE SENIOR EXECUTIVE SERVICE

SEC. 2301. REPEAL OF RECERTIFICATION REQUIREMENTS OF SENIOR EXECUTIVES.

(a) IN GENERAL.—Title 5, United States Code, is amended—

(1) in chapter 33—

(A) in section 3393(g) by striking ''3393a,'';

(B) by repealing section 3393a; and

(C) in the table of sections by striking the item relating to section 3393a;

(2) in chapter 35—

(A) in section 3592(a)—

(i) in paragraph (1), by inserting ''or'' at the end;

(ii) in paragraph (2), by striking ''or'' at the end;

(iii) by striking paragraph (3); and

(iv) by striking the last sentence;

(B) in section 3593(a), by striking paragraph (2) and inserting the following:

''(2) the appointee left the Senior Executive Service for reasons other than misconduct, neglect of duty, malfeasance, or less than fully successful executive performance as determined under subchapter II of chapter 43.''; and

(C) in section 3594(b)—

(i) in paragraph (1), by inserting ''or'' at the end;

(ii) in paragraph (2), by striking ''or'' at the end; and

(iii) by striking paragraph (3);

(3) in section 7701(c)(1)(A), by striking ''or removal from the Senior Executive Service for failure to be recertified under section 3393a'';

(4) in chapter 83—

(A) in section 8336(h)(1), by striking ''for failure to be recertified as a senior executive under section 3393a or''; and

(B) in section 8339(h), in the first sentence, by striking '', except that such reduction shall not apply in the case of an employee retiring under section 8336(h) for failure to be recertified as a senior executive''; and

(5) in chapter 84—

(A) in section 8414(a)(1), by striking ''for failure to be recertified as a senior executive under section 3393a or''; and

(B) in section 8421(a)(2), by striking '', except that an individual entitled to an annuity under section 8414(a) for failure to be recertified as a senior executive shall be entitled to an annuity supplement without regard to such applicable minimum retirement age''.

(b) SAVINGS PROVISION.—Notwithstanding the amendments made by subsection (a)(2)(A), an appeal under the final sentence of section 3592(a) of title 5, United States Code, that is pending on the day before the effective date of this section—

(1) shall not abate by reason of the enactment of the amendments made by subsection (a)(2)(A); and

(2) shall continue as if such amendments had not been enacted.

(c) APPLICATION.—The amendment made by subsection (a)(2)(B) shall not apply with respect to an individual who, before the effective date of this section, leaves the Senior Executive Service for failure to be recertified as a senior executive under section 3393a of title 5, United States Code.

SEC. 2302. ADJUSTMENT OF LIMITATION ON TOTAL ANNUAL COMPENSATION.

Section 5307(a) of title 5, United States Code, is amended by adding at the end the following:

''(3) Notwithstanding paragraph (1), the total payment referred to under such paragraph with respect to an employee paid under section 5372, 5376, or 5383 of title 5 or section 332(f), 603, or 604 of title 28 shall not exceed the total annual compensation payable to the Vice President under section 104 of title 3. Regulations prescribed under subsection (c) may extend the application of this paragraph to other equivalent categories of employees.''.

TITLE XXIV—ACADEMIC TRAINING

SEC. 2401. ACADEMIC TRAINING.

(a) ACADEMIC DEGREE TRAINING.—Section 4107 of title 5, United States Code, is amended to read as follows:

''§ 4107. Academic degree training

''(a) Subject to subsection (b), an agency may select and assign an employee to academic degree training and may pay or reimburse the costs of academic degree training from appropriated or other available funds if such training—

''(1) contributes significantly to—

''(A) meeting an identified agency training need;

''(B) resolving an identified agency staffing problem; or

''(C) accomplishing goals in the strategic plan of the agency;

''(2) is part of a planned, systematic, and coordinated agency employee development program linked to accomplishing the strategic goals of the agency; and

''(3) is accredited and is provided by a college or university that is accredited by a nationally recognized body.

''(b) In exercising authority under subsection (a), an agency shall—

''(1) consistent with the merit system principles set forth in paragraphs (2) and (7) of section 2301(b), take into consideration the need to—

''(A) maintain a balanced workforce in which women, members of racial and ethnic minority groups, and persons with disabilities are appropriately represented in Government service; and

''(B) provide employees effective education and training to improve organizational and individual performance;

''(2) assure that the training is not for the sole purpose of providing an employee an opportunity to obtain an academic degree or to qualify for appointment to a particular position for which the academic degree is a basic requirement;

''(3) assure that no authority under this subsection is exercised on behalf of any employee occupying or seeking to qualify for—

''(A) a noncareer appointment in the Senior Executive Service; or

''(B) appointment to any position that is excepted from the competitive service because of its confidential policy-determining, policymaking, or policy-advocating character; and

''(4) to the greatest extent practicable, facilitate the use of online degree training.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 41 of title 5, United States Code, is amended by striking the item relating to section 4107 and inserting the following:

''4107. Academic degree training.''.

SEC. 2402. MODIFICATIONS TO NATIONAL SECURITY EDUCATION PROGRAM.

(a) FINDINGS AND POLICIES.—

(1) FINDINGS.—Congress finds that—

(A) the United States Government actively encourages and financially supports the training, education, and development of many United States citizens;

(B) as a condition of some of those supports, many of those citizens have an obligation to seek either compensated or uncompensated employment in the Federal sector; and

(C) it is in the United States national interest to maximize the return to the Nation of funds invested in the development of such citizens by seeking to employ them in the Federal sector.

(2) POLICY.—It shall be the policy of the United States Government to—

(A) establish procedures for ensuring that United States citizens who have incurred service obligations as the result of receiving financial support for education and training from the United States Government and have applied for Federal positions are considered in all recruitment and hiring initiatives of Federal departments, bureaus, agencies, and offices; and

(B) advertise and open all Federal positions to United States citizens who have incurred service obligations with the United States Government as the result of receiving financial support for education and training from the United States Government.

(b) FULFILLMENT OF SERVICE REQUIREMENT IF NATIONAL SECURITY POSITIONS ARE UNAVAILABLE.— Section 802(b)(2) of the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1902) is amended—

(1) in subparagraph (A), by striking clause (ii) and inserting the following:

''(ii) if the recipient demonstrates to the Secretary (in accordance with such regulations) that no national security position in an agency or office of the Federal Government having national security responsibilities is available, work in other offices or agencies of the Federal Government or in the field of higher education in a discipline relating to the foreign country, foreign language, area study, or international field of study for which the scholarship was awarded, for a period specified by the Secretary, which period shall be determined in accordance with clause (i); or''; and

(2) in subparagraph (B), by striking clause (ii) and inserting the following:

''(ii) if the recipient demonstrates to the Secretary (in accordance with such regulations) that no national security position is available upon the completion of the degree, work in other offices or agencies of the Federal Government or in the field of higher education in a discipline relating to the foreign country, foreign language, area study, or international field of study for which the fellowship was awarded, for a period specified by the Secretary, which period shall be established in accordance with clause (i); and''.

SEC. 2403. COMPENSATORY TIME OFF FOR TRAVEL.

Subchapter V of chapter 55 of title 5, United States Code, is amended by adding at end the following:

''§ 5550b. Compensatory time off for travel

''(a) An employee shall receive 1 hour of compensatory time off for each hour spent by the employee in travel status away from the official duty station of the employee, to the extent that the time spent in travel status is not otherwise compensable.

''(b) Not later than 30 days after the date of enactment of this section, the Office of Personnel Management shall prescribe regulations to implement this section.''.

DIVISION D—E-GOVERNMENT ACT OF 2002

TITLE XXX—SHORT TITLE; FINDINGS AND PURPOSES

SEC. 3001. SHORT TITLE.

This division may be cited as the ''E-Government Act of 2002''.

SEC. 3002. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) The use of computers and the Internet is rapidly transforming societal interactions and the relationships among citizens, private businesses, and the Government.

(2) The Federal Government has had uneven success in applying advances in information technology to enhance governmental functions and services, achieve more efficient performance, increase access to Government information, and increase citizen participation in Government.

(3) Most Internet-based services of the Federal Government are developed and presented separately, according to the jurisdictional boundaries of an individual department or agency, rather than being integrated cooperatively according to function or topic.

(4) Internet-based Government services involving interagency cooperation are especially difficult to develop and promote, in part because of a lack of sufficient funding mechanisms to support such interagency cooperation.

(5) Electronic Government has its impact through improved Government performance and outcomes within and across agencies.

(6) Electronic Government is a critical element in the management of Government, to be implemented as part of a management framework that also addresses finance, procurement, human capital, and other challenges to improve the performance of Government.

(7) To take full advantage of the improved Government performance that can be achieved through the use of Internet-based technology requires strong leadership, better organization, improved interagency collaboration, and more focused oversight of agency compliance with statutes related to information resource management.

(b) PURPOSES.—The purposes of this division are the following:

(1) To provide effective leadership of Federal Government efforts to develop and promote electronic Government services and processes by establishing an Administrator of a new Office of Electronic Government within the Office of Management and Budget.

(2) To promote use of the Internet and other information technologies to provide increased opportunities for citizen participation in Government.

(3) To promote interagency collaboration in providing electronic Government services, where this collaboration would improve the service to citizens by integrating related functions, and in the use of internal electronic Government processes, where this collaboration would improve the efficiency and effectiveness of the processes.

(4) To improve the ability of the Government to achieve agency missions and program performance goals.

(5) To promote the use of the Internet and emerging technologies within and across Government agencies to provide citizen-centric Government information and services.

(6) To reduce costs and burdens for businesses and other Government entities.

(7) To promote better informed decision-making by policy makers.

(8) To promote access to high quality Government information and services across multiple channels.

(9) To make the Federal Government more transparent and accountable.

(10) To transform agency operations by utilizing, where appropriate, best practices from public and private sector organizations.

(11) To provide enhanced access to Government information and services in a manner consistent with laws regarding protection of personal privacy, national security, records retention, access for persons with disabilities, and other relevant laws.

TITLE XXXI—OFFICE OF MANAGEMENT AND BUDGET ELECTRONIC GOVERNMENT SERVICES

SEC. 3101. MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES.

(a) IN GENERAL.—Title 44, United States Code, is amended by inserting after chapter 35 the following:

"CHAPTER 36—MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES

''Sec.
''3601. Definitions.
''3602. Office of Electronic Government.
''3603. Chief Information Officers Council.
''3604. E-Government Fund.
''3605. E-Government report.

"§ 3601. Definitions

''In this chapter, the definitions under section 3502 shall apply, and the term—

''(1) 'Administrator' means the Administrator of the Office of Electronic Government established under section 3602;

''(2) 'Council' means the Chief Information Officers Council established under section 3603;

''(3) 'electronic Government' means the use by the Government of web-based Internet applications and other information technologies, combined with processes that implement these technologies, to—

''(A) enhance the access to and delivery of Government information and services to the public, other agencies, and other Government entities; or

''(B) bring about improvements in Government operations that may include effectiveness, efficiency, service quality, or transformation;

''(4) 'enterprise architecture'—

''(A) means—

''(i) a strategic information asset base, which defines the mission;

''(ii) the information necessary to perform the mission;

''(iii) the technologies necessary to perform the mission; and

''(iv) the transitional processes for implementing new technologies in response to changing mission needs; and

''(B) includes—

''(i) a baseline architecture;

''(ii) a target architecture; and

''(iii) a sequencing plan;

''(5) 'Fund' means the E-Government Fund established under section 3604;

''(6) 'interoperability' means the ability of different operating and software systems, applications, and services to communicate and exchange data in an accurate, effective, and consistent manner;

''(7) 'integrated service delivery' means the provision of Internet-based Federal Government information or services integrated according to function or topic rather than separated according to the boundaries of agency jurisdiction; and

''(8) 'tribal government' means the governing body of any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"§ 3602. Office of Electronic Government

''(a) There is established in the Office of Management and Budget an Office of Electronic Government.

''(b) There shall be at the head of the Office an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate.

''(c) The Administrator shall assist the Director in carrying out—

''(1) all functions under this chapter;

''(2) all of the functions assigned to the Director under title XXXII of the E-Government Act of 2002; and

''(3) other electronic government initiatives, consistent with other statutes.

''(d) The Administrator shall assist the Director and the Deputy Director for Management and work with the Administrator of the Office of Information and Regulatory Affairs in setting strategic direction for implementing electronic Government, under relevant statutes, including—

''(1) chapter 35;

''(2) division E of the Clinger-Cohen Act of 1996 (division E of Public Law 104–106; 40 U.S.C. 1401 et seq.);

''(3) section 552a of title 5 (commonly referred to as the Privacy Act);

''(4) the Government Paperwork Elimination Act (44 U.S.C. 3504 note);

''(5) the Government Information Security Reform Act; and

''(6) the Computer Security Act of 1987 (40 U.S.C. 759 note).

''(e) The Administrator shall work with the Administrator of the Office of Information and Regulatory Affairs and with other offices within the Office of Management and Budget to oversee implementation of electronic Government under this chapter, chapter 35, the E-Government Act of 2002, and other relevant statutes, in a manner consistent with law, relating to—

''(1) capital planning and investment control for information technology;

''(2) the development of enterprise architectures;

''(3) information security;

''(4) privacy;

''(5) access to, dissemination of, and preservation of Government information;

''(6) accessibility of information technology for persons with disabilities; and

''(7) other areas of electronic Government.

''(f) Subject to requirements of this chapter, the Administrator shall assist the Director by performing electronic Government functions as follows:

''(1) Advise the Director on the resources required to develop and effectively operate and maintain Federal Government information systems.

''(2) Recommend to the Director changes relating to Governmentwide strategies and priorities for electronic Government.

''(3) Provide overall leadership and direction to the executive branch on electronic Government by working with authorized officials to establish information resources management policies and requirements, and by reviewing performance of each agency in acquiring, using, and managing information resources.

''(4) Promote innovative uses of information technology by agencies, particularly initiatives involving multiagency collaboration, through support of pilot projects, research, experimentation, and the use of innovative technologies.

''(5) Oversee the distribution of funds from, and ensure appropriate administration and coordination of, the E-Government Fund established under section 3604.

''(6) Coordinate with the Administrator of General Services regarding programs undertaken by the General Services Administration to promote electronic government and the efficient use of information technologies by agencies.

''(7) Lead the activities of the Chief Information Officers Council established under section 3603 on behalf of the Deputy Director for Management, who shall chair the council.

''(8) Assist the Director in establishing policies which shall set the framework for information technology standards for the Federal Government under section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441), to be developed by the National Institute of Standards and Technology and promulgated by the Secretary of Commerce, taking into account, if appropriate, recommendations of the Chief Information Officers Council, experts, and interested parties from the private and nonprofit sectors and State, local, and tribal governments, and maximizing the use of commercial standards as appropriate, as follows:

''(A) Standards and guidelines for interconnectivity and interoperability as described under section 3504.

''(B) Consistent with the process under section 3207(d) of the E-Government Act of 2002, standards and guidelines for categorizing

Federal Government electronic information to enable efficient use of technologies, such as through the use of extensible markup language.

''(C) Standards and guidelines for Federal Government computer system efficiency and security.

''(9) Sponsor ongoing dialogue that—

''(A) shall be conducted among Federal, State, local, and tribal government leaders on electronic Government in the executive, legislative, and judicial branches, as well as leaders in the private and nonprofit sectors, to encourage collaboration and enhance understanding of best practices and innovative approaches in acquiring, using, and managing information resources;

''(B) is intended to improve the performance of governments in collaborating on the use of information technology to improve the delivery of Government information and services; and

''(C) may include—

''(i) development of innovative models—

''(I) for electronic Government management and Government information technology contracts; and

''(II) that may be developed through focused discussions or using separately sponsored research;

''(ii) identification of opportunities for public-private collaboration in using Internet-based technology to increase the efficiency of Government-to-business transactions;

''(iii) identification of mechanisms for providing incentives to program managers and other Government employees to develop and implement innovative uses of information technologies; and

''(iv) identification of opportunities for public, private, and intergovernmental collaboration in addressing the disparities in access to the Internet and information technology.

''(10) Sponsor activities to engage the general public in the development and implementation of policies and programs, particularly activities aimed at fulfilling the goal of using the most effective citizen-centered strategies and those activities which engage multiple agencies providing similar or related information and services.

''(11) Oversee the work of the General Services Administration and other agencies in developing the integrated Internet-based system under section 3204 of the E-Government Act of 2002.

''(12) Coordinate with the Administrator of the Office of Federal Procurement Policy to ensure effective implementation of electronic procurement initiatives.

''(13) Assist Federal agencies, including the General Services Administration, the Department of Justice, and the United States Access Board in—

''(A) implementing accessibility standards under section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d); and

''(B) ensuring compliance with those standards through the budget review process and other means.

''(14) Oversee the development of enterprise architectures within and across agencies.

''(15) Assist the Director and the Deputy Director for Management in overseeing agency efforts to ensure that electronic Government activities incorporate adequate, risk-based, and cost-effective security compatible with business processes.

''(16) Administer the Office of Electronic Government established under section 3602.

''(17) Assist the Director in preparing the E-Government report established under section 3605.

''(g) The Director shall ensure that the Office of Management and Budget, including the Office of Electronic Government, the Office of Information and Regulatory Affairs, and other relevant offices, have adequate staff and resources to properly fulfill all functions under the E-Government Act of 2002.

''§ 3603. Chief Information Officers Council

''(a) There is established in the executive branch a Chief Information Officers Council.

''(b) The members of the Council shall be as follows:

''(1) The Deputy Director for Management of the Office of Management and Budget, who shall act as chairperson of the Council.

''(2) The Administrator of the Office of Electronic Government.

''(3) The Administrator of the Office of Information and Regulatory Affairs.

''(4) The chief information officer of each agency described under section 901(b) of title 31.

''(5) The chief information officer of the Central Intelligence Agency.

''(6) The chief information officer of the Department of the Army, the Department of the Navy, and the Department of the Air Force, if chief information officers have been designated for such departments under section 3506(a)(2)(B).

''(7) Any other officer or employee of the United States designated by the chairperson.

''(c)(1) The Administrator of the Office of Electronic Government shall lead the activities of the Council on behalf of the Deputy Director for Management.

''(2)(A) The Vice Chairman of the Council shall be selected by the Council from among its members.

''(B) The Vice Chairman shall serve a 1-year term, and may serve multiple terms.

''(3) The Administrator of General Services shall provide administrative and other support for the Council.

''(d) The Council is designated the principal interagency forum for improving agency practices related to the design, acquisition, development, modernization, use, operation, sharing, and performance of Federal Government information resources.

''(e) In performing its duties, the Council shall consult regularly with representatives of State, local, and tribal governments.

''(f) The Council shall perform functions that include the following:

''(1) Develop recommendations for the Director on Government information resources management policies and requirements.

''(2) Share experiences, ideas, best practices, and innovative approaches related to information resources management.

''(3) Assist the Administrator in the identification, development, and coordination of multiagency projects and other innovative initiatives to improve Government performance through the use of information technology.

''(4) Promote the development and use of common performance measures for agency information resources management under this chapter and title XXXII of the E-Government Act of 2002.

''(5) Work as appropriate with the National Institute of Standards and Technology and the Administrator to develop recommendations on information technology standards developed under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3) and promulgated under section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441), as follows:

''(A) Standards and guidelines for interconnectivity and interoperability as described under section 3504.

''(B) Consistent with the process under section 3207(d) of the E-Government Act of 2002, standards and guidelines for categorizing Federal Government electronic information to enable efficient use of technologies, such as through the use of extensible markup language.

''(C) Standards and guidelines for Federal Government computer system efficiency and security.

''(6) Work with the Office of Personnel Management to assess and address the hiring, training, classification, and professional development needs of the Government related to information resources management.

''(7) Work with the Archivist of the United States to assess how the Federal Records Act can be addressed effectively by Federal information resources management activities.

''§ 3604. E-Government Fund

''(a)(1) There is established in the Treasury of the United States the E-Government Fund.

''(2) The Fund shall be administered by the Administrator of the General Services Administration to support projects approved by the Director, assisted by the Administrator of the Office of Electronic Government, that enable the Federal Government to expand its ability, through the development and implementation of innovative uses of the Internet or other electronic methods, to conduct activities electronically.

''(3) Projects under this subsection may include efforts to—

''(A) make Federal Government information and services more readily available to members of the public (including individuals, businesses, grantees, and State and local governments);

''(B) make it easier for the public to apply for benefits, receive services, pursue business opportunities, submit information, and otherwise conduct transactions with the Federal Government; and

''(C) enable Federal agencies to take advantage of information technology in sharing information and conducting transactions with each other and with State and local governments.

''(b)(1) The Administrator shall—

''(A) establish procedures for accepting and reviewing proposals for funding;

''(B) consult with interagency councils, including the Chief Information Officers Council, the Chief Financial Officers Council, and other interagency management councils, in establishing procedures and reviewing proposals; and

''(C) assist the Director in coordinating resources that agencies receive from the Fund with other resources available to agencies for similar purposes.

''(2) When reviewing proposals and managing the Fund, the Administrator shall observe and incorporate the following procedures:

''(A) A project requiring substantial involvement or funding from an agency shall be approved by a senior official with agency-wide authority on behalf of the head of the agency, who shall report directly to the head of the agency.

''(B) Projects shall adhere to fundamental capital planning and investment control processes.

''(C) Agencies shall identify in their proposals resource commitments from the agencies involved and how these resources would be coordinated with support from the Fund, and include plans for potential continuation of projects after all funds made available from the Fund are expended.

''(D) After considering the recommendations of the interagency councils, the Director, assisted by the Administrator, shall have final authority to determine which of the candidate projects shall be funded from the Fund.

''(E) Agencies shall assess the results of funded projects.

''(c) In determining which proposals to recommend for funding, the Administrator—

''(1) shall consider criteria that include whether a proposal—

''(A) identifies the group to be served, including citizens, businesses, the Federal Government, or other governments;

''(B) indicates what service or information the project will provide that meets needs of groups identified under subparagraph (A);

''(C) ensures proper security and protects privacy;

''(D) is interagency in scope, including projects implemented by a primary or single agency that—

''(i) could confer benefits on multiple agencies; and

''(ii) have the support of other agencies; and

''(E) has performance objectives that tie to agency missions and strategic goals, and interim results that relate to the objectives; and

''(2) may also rank proposals based on criteria that include whether a proposal—

''(A) has Governmentwide application or implications;

''(B) has demonstrated support by the public to be served;

''(C) integrates Federal with State, local, or tribal approaches to service delivery;

''(D) identifies resource commitments from nongovernmental sectors;

''(E) identifies resource commitments from the agencies involved;

''(F) uses web-based technologies to achieve objectives;

''(G) identifies records management and records access strategies;

''(H) supports more effective citizen participation in and interaction with agency activities that further progress toward a more citizen-centered Government;

''(I) directly delivers Government information and services to the public or provides the infrastructure for delivery;

''(J) supports integrated service delivery;

''(K) describes how business processes across agencies will reflect appropriate transformation simultaneous to technology implementation; and

''(L) is new or innovative and does not supplant existing funding streams within agencies.

''(d) The Fund may be used to fund the integrated Internet-based system under section 3204 of the E-Government Act of 2002.

''(e) None of the funds provided from the Fund may be transferred to any agency until 15 days after the Administrator of the General Services Administration has submitted to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, and the appropriate authorizing committees of the Senate and the House of Representatives, a notification and description of how the funds are to be allocated and how the expenditure will further the purposes of this chapter.

''(f)(1) The Director shall report annually to Congress on the operation of the Fund, through the report established under section 3605.

''(2) The report under paragraph (1) shall describe—

''(A) all projects which the Director has approved for funding from the Fund; and

''(B) the results that have been achieved to date for these funded projects.

''(g)(1) There are authorized to be appropriated to the Fund—

''(A) $45,000,000 for fiscal year 2003;

''(B) $50,000,000 for fiscal year 2004;

''(C) $100,000,000 for fiscal year 2005;

''(D) $150,000,000 for fiscal year 2006; and

''(E) such sums as are necessary for fiscal year 2007.

''(2) Funds appropriated under this subsection shall remain available until expended.

''§ 3605. E-Government report

''(a) Not later than March 1 of each year, the Director shall submit an E-Government status report to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

''(b) The report under subsection (a) shall contain—

''(1) a summary of the information reported by agencies under section 3202(f) of the E-Government Act of 2002;

''(2) the information required to be reported by section 3604(f); and

''(3) a description of compliance by the Federal Government with other goals and provisions of the E-Government Act of 2002.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for title 44, United States Code, is amended by inserting after the item relating to chapter 35 the following:

''36. Management and Promotion of Electronic Government Services .. 3601''.

SEC. 3102. CONFORMING AMENDMENTS.

(a) ELECTRONIC GOVERNMENT AND INFORMATION TECHNOLOGIES.—

(1) IN GENERAL.—Chapter 3 of title 40, United States Code, is amended by inserting after section 304 the following:

''SEC. 305. ELECTRONIC GOVERNMENT AND INFORMATION TECHNOLOGIES.

''The Administrator of General Services shall consult with the Administrator of the Office of Electronic Government on programs undertaken by the General Services Administration to promote electronic Government and the efficient use of information technologies by Federal agencies.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 40, United States Code, is amended by inserting after the item relating to section 304 the following:

''Sec. 305. Electronic Government and information technologies.''.

(b) MODIFICATION OF DEPUTY DIRECTOR FOR MANAGEMENT FUNCTIONS.—Section 503(b) of title 31, United States Code, is amended—

(1) by redesignating paragraphs (5), (6), (7), (8), and (9), as paragraphs (6), (7), (8), (9), and (10), respectively; and

(2) by inserting after paragraph (4) the following:

''(5) Chair the Chief Information Officers Council established under section 3603 of title 44.''.

(c) OFFICE OF ELECTRONIC GOVERNMENT.—

(1) IN GENERAL.—Chapter 5 of title 31, United States Code, is amended by inserting after section 506 the following:

''§ 507. Office of Electronic Government

''The Office of Electronic Government, established under section 3602 of title 44, is an office in the Office of Management and Budget.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 31, United States Code, is amended by inserting after the item relating to section 506 the following:

''507. Office of Electronic Government.''.

TITLE XXXII—FEDERAL MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES

SEC. 3201. DEFINITIONS.

Except as otherwise provided, in this title the definitions under sections 3502 and 3601 of title 44, United States Code, shall apply.

SEC. 3202. FEDERAL AGENCY RESPONSIBILITIES.

(a) IN GENERAL.—The head of each agency shall be responsible for—

(1) complying with the requirements of this division (including the amendments made by this Act), the related information resource management policies and guidance established by the Director of the Office of Management and Budget, and the related information technology standards promulgated by the Secretary of Commerce;

(2) ensuring that the information resource management policies and guidance established under this division by the Director, and the information technology standards promulgated under this division by the Secretary of Commerce are communicated promptly and effectively to all relevant officials within their agency; and

(3) supporting the efforts of the Director and the Administrator of the General Services Administration to develop, maintain, and promote an integrated Internet-based system of delivering Federal Government information and services to the public under section 3204.

(b) PERFORMANCE INTEGRATION.—

(1) Agencies shall develop performance measures that demonstrate how electronic government enables progress toward agency objectives, strategic goals, and statutory mandates.

(2) In measuring performance under this section, agencies shall rely on existing data collections to the extent practicable.

(3) Areas of performance measurement that agencies should consider include—

(A) customer service;

(B) agency productivity; and

(C) adoption of innovative information technology, including the appropriate use of commercial best practices.

(4) Agencies shall link their performance goals to key groups, including citizens, businesses, and other governments, and to internal Federal Government operations.

(5) As appropriate, agencies shall work collectively in linking their performance goals to groups identified under paragraph (4) and shall use information technology in delivering Government information and services to those groups.

(c) AVOIDING DIMINISHED ACCESS.—When promulgating policies and implementing programs regarding the provision of Government information and services over the Internet, agency heads shall consider the impact on persons without access to the Internet, and shall, to the extent practicable—

(1) ensure that the availability of Government information and services has not been diminished for individuals who lack access to the Internet; and

(2) pursue alternate modes of delivery that make Government information and services more accessible to individuals who do not own computers or lack access to the Internet.

(d) ACCESSIBILITY TO PEOPLE WITH DISABILITIES.—All actions taken by Federal departments and agencies under this division shall be in compliance with section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d).

(e) SPONSORED ACTIVITIES.—Agencies shall sponsor activities that use information technology to engage the public in the development and implementation of policies and programs.

(f) CHIEF INFORMATION OFFICERS.—The Chief Information Officer of each of the agencies designated under chapter 36 of title 44, United States Code (as added by this Act) shall be responsible for—

(1) participating in the functions of the Chief Information Officers Council; and

(2) monitoring the implementation, within their respective agencies, of information technology standards promulgated under

this division by the Secretary of Commerce, including common standards for interconnectivity and interoperability, categorization of Federal Government electronic information, and computer system efficiency and security.

(g) E-GOVERNMENT STATUS REPORT.—

(1) IN GENERAL.—Each agency shall compile and submit to the Director an annual E-Government Status Report on—

(A) the status of the implementation by the agency of electronic government initiatives;

(B) compliance by the agency with this Act; and

(C) how electronic Government initiatives of the agency improve performance in delivering programs to constituencies.

(2) SUBMISSION.—Each agency shall submit an annual report under this subsection—

(A) to the Director at such time and in such manner as the Director requires;

(B) consistent with related reporting requirements; and

(C) which addresses any section in this title relevant to that agency.

(h) USE OF TECHNOLOGY.—Nothing in this division supersedes the responsibility of an agency to use or manage information technology to deliver Government information and services that fulfill the statutory mission and programs of the agency.

(i) NATIONAL SECURITY SYSTEMS.—

(1) INAPPLICABILITY.—Except as provided under paragraph (2), this title does not apply to national security systems as defined in section 11103 of title 40, United States Code.

(2) APPLICABILITY.—Sections 3202, 3203, 3210, and 3214 of this title do apply to national security systems to the extent practicable and consistent with law.

SEC. 3203. COMPATIBILITY OF EXECUTIVE AGENCY METHODS FOR USE AND ACCEPTANCE OF ELECTRONIC SIGNATURES.

(a) PURPOSE.—The purpose of this section is to achieve interoperable implementation of electronic signatures for appropriately secure electronic transactions with Government.

(b) ELECTRONIC SIGNATURES.—In order to fulfill the objectives of the Government Paperwork Elimination Act (Public Law 105–277; 112 Stat. 2681–749 through 2681–751), each Executive agency (as defined under section 105 of title 5, United States Code) shall ensure that its methods for use and acceptance of electronic signatures are compatible with the relevant policies and procedures issued by the Director.

(c) AUTHORITY FOR ELECTRONIC SIGNATURES.—The Administrator of General Services shall support the Director by establishing a framework to allow efficient interoperability among Executive agencies when using electronic signatures, including processing of digital signatures.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the General Services Administration, to ensure the development and operation of a Federal bridge certification authority for digital signature compatibility, or for other activities consistent with this section, $8,000,000 in fiscal year 2003, and such sums as are necessary for each fiscal year thereafter.

SEC. 3204. FEDERAL INTERNET PORTAL.

(a) IN GENERAL.—

(1) PUBLIC ACCESS.—The Director shall work with the Administrator of the General Services Administration and other agencies to maintain and promote an integrated Internet-based system of providing the public with access to Government information and services.

(2) CRITERIA.—To the extent practicable, the integrated system shall be designed and operated according to the following criteria:

(A) The provision of Internet-based Government information and services directed to key groups, including citizens, business, and other governments, and integrated according to function or topic rather than separated according to the boundaries of agency jurisdiction.

(B) An ongoing effort to ensure that Internet-based Government services relevant to a given citizen activity are available from a single point.

(C) Access to Federal Government information and services consolidated, as appropriate, with Internet-based information and services provided by State, local, and tribal governments.

(D) Access to Federal Government information held by 1 or more agencies shall be made available in a manner that protects privacy, consistent with law.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the General Services Administration $15,000,000 for the maintenance, improvement, and promotion of the integrated Internet-based system for fiscal year 2003, and such sums as are necessary for fiscal years 2004 through 2007.

SEC. 3205. FEDERAL COURTS.

(a) INDIVIDUAL COURT WEBSITES.—The Chief Justice of the United States, the chief judge of each circuit and district, and the chief bankruptcy judge of each district shall establish with respect to the Supreme Court or the respective court of appeals, district, or bankruptcy court of a district, a website that contains the following information or links to websites with the following information:

(1) Location and contact information for the courthouse, including the telephone numbers and contact names for the clerk's office and justices' or judges' chambers.

(2) Local rules and standing or general orders of the court.

(3) Individual rules, if in existence, of each justice or judge in that court.

(4) Access to docket information for each case.

(5) Access to the substance of all written opinions issued by the court, regardless of whether such opinions are to be published in the official court reporter, in a text searchable format.

(6) Access to all documents filed with the courthouse in electronic form, described under subsection (c).

(7) Any other information (including forms in a format that can be downloaded) that the court determines useful to the public.

(b) MAINTENANCE OF DATA ONLINE.—

(1) UPDATE OF INFORMATION.—The information and rules on each website shall be updated regularly and kept reasonably current.

(2) CLOSED CASES.—Electronic files and docket information for cases closed for more than 1 year are not required to be made available online, except all written opinions with a date of issuance after the effective date of this section shall remain available online.

(c) ELECTRONIC FILINGS.—

(1) IN GENERAL.—Except as provided under paragraph (2), each court shall make any document that is filed electronically publicly available online. A court may convert any document that is filed in paper form to electronic form. To the extent such conversions are made, all such electronic versions of the document shall be made available online.

(2) EXCEPTIONS.—Documents that are filed that are not otherwise available to the public, such as documents filed under seal, shall not be made available online.

(3) PRIVACY AND SECURITY CONCERNS.—The Judicial Conference of the United States may promulgate rules under this subsection to protect important privacy and security concerns.

(d) DOCKETS WITH LINKS TO DOCUMENTS.—The Judicial Conference of the United States shall explore the feasibility of technology to post online dockets with links allowing all filings, decisions, and rulings in each case to be obtained from the docket sheet of that case.

(e) COST OF PROVIDING ELECTRONIC DOCKETING INFORMATION.—Section 303(a) of the Judiciary Appropriations Act, 1992 (28 U.S.C. 1913 note) is amended in the first sentence by striking ''shall hereafter'' and inserting ''may, only to the extent necessary,''.

(f) TIME REQUIREMENTS.—Not later than 2 years after the effective date of this title, the websites under subsection (a) shall be established, except that access to documents filed in electronic form shall be established not later than 4 years after that effective date.

(g) DEFERRAL.—

(1) IN GENERAL.—

(A) ELECTION.—

(i) NOTIFICATION.—The Chief Justice of the United States, a chief judge, or chief bankruptcy judge may submit a notification to the Administrative Office of the United States Courts to defer compliance with any requirement of this section with respect to the Supreme Court, a court of appeals, district, or the bankruptcy court of a district.

(ii) CONTENTS.—A notification submitted under this subparagraph shall state—

(I) the reasons for the deferral; and

(II) the online methods, if any, or any alternative methods, such court or district is using to provide greater public access to information.

(B) EXCEPTION.—To the extent that the Supreme Court, a court of appeals, district, or bankruptcy court of a district maintains a website under subsection (a), the Supreme Court or that court of appeals or district shall comply with subsection (b)(1).

(2) REPORT.—Not later than 1 year after the effective date of this title, and every year thereafter, the Judicial Conference of the United States shall submit a report to the Committees on Governmental Affairs and the Judiciary of the Senate and the Committees on Government Reform and the Judiciary of the House of Representatives that—

(A) contains all notifications submitted to the Administrative Office of the United States Courts under this subsection; and

(B) summarizes and evaluates all notifications.

SEC. 3206. REGULATORY AGENCIES.

(a) PURPOSES.—The purposes of this section are to—

(1) improve performance in the development and issuance of agency regulations by using information technology to increase access, accountability, and transparency; and

(2) enhance public participation in Government by electronic means, consistent with requirements under subchapter II of chapter 5 of title 5, United States Code, (commonly referred to as the Administrative Procedures Act).

(b) INFORMATION PROVIDED BY AGENCIES ONLINE.—To the extent practicable as determined by the agency in consultation with the Director, each agency (as defined under section 551 of title 5, United States Code) shall ensure that a publicly accessible Federal Government website includes all information about that agency required to be published in the Federal Register under section 552(a)(1) of title 5, United States Code.

(c) SUBMISSIONS BY ELECTRONIC MEANS.—To the extent practicable, agencies shall accept submissions under section 553(c) of title 5, United States Code, by electronic means.

(d) ELECTRONIC DOCKETING.—

(1) IN GENERAL.—To the extent practicable, as determined by the agency in consultation with the Director, agencies shall ensure that a publicly accessible Federal Government website contains electronic dockets for rulemakings under section 553 of title 5, United States Code.

(2) INFORMATION AVAILABLE.—Agency electronic dockets shall make publicly available online to the extent practicable, as determined by the agency in consultation with the Director—

(A) all submissions under section 553(c) of title 5, United States Code; and

(B) other materials that by agency rule or practice are included in the rulemaking docket under section 553(c) of title 5, United States Code, whether or not submitted electronically.

(e) TIME LIMITATION.—Agencies shall implement the requirements of this section consistent with a timetable established by the Director and reported to Congress in the first annual report under section 3605 of title 44 (as added by this Act).

SEC. 3207. ACCESSIBILITY, USABILITY, AND PRESERVATION OF GOVERNMENT INFORMATION.

(a) PURPOSE.—The purpose of this section is to improve the methods by which Government information, including information on the Internet, is organized, preserved, and made accessible to the public.

(b) DEFINITIONS.—In this section, the term—

(1) ''Committee'' means the Interagency Committee on Government Information established under subsection (c); and

(2) ''directory'' means a taxonomy of subjects linked to websites that—

(A) organizes Government information on the Internet according to subject matter; and

(B) may be created with the participation of human editors.

(c) INTERAGENCY COMMITTEE.—

(1) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this title, the Director shall establish the Interagency Committee on Government Information.

(2) MEMBERSHIP.—The Committee shall be chaired by the Director or the designee of the Director and—

(A) shall include representatives from—

(i) the National Archives and Records Administration;

(ii) the offices of the Chief Information Officers from Federal agencies; and

(iii) other relevant officers from the executive branch; and

(B) may include representatives from the Federal legislative and judicial branches.

(3) FUNCTIONS.—The Committee shall—

(A) engage in public consultation to the maximum extent feasible, including consultation with interested communities such as public advocacy organizations;

(B) conduct studies and submit recommendations, as provided under this section, to the Director and Congress; and

(C) share effective practices for access to, dissemination of, and retention of Federal information.

(4) TERMINATION.—The Committee may be terminated on a date determined by the Director, except the Committee may not terminate before the Committee submits all recommendations required under this section.

(d) CATEGORIZING OF INFORMATION.—

(1) COMMITTEE FUNCTIONS.—Not later than 1 year after the date of enactment of this Act, the Committee shall submit recommendations to the Director on—

(A) the adoption of standards, which are open to the maximum extent feasible, to enable the organization and categorization of Government information—

(i) in a way that is searchable electronically, including by searchable identifiers; and

(ii) in ways that are interoperable across agencies;

(B) the definition of categories of Government information which should be classified under the standards; and

(C) determining priorities and developing schedules for the initial implementation of the standards by agencies.

(2) FUNCTIONS OF THE DIRECTOR.—Not later than 180 days after the submission of recommendations under paragraph (1), the Director shall issue policies—

(A) requiring that agencies use standards, which are open to the maximum extent feasible, to enable the organization and categorization of Government information—

(i) in a way that is searchable electronically, including by searchable identifiers;

(ii) in ways that are interoperable across agencies; and

(iii) that are, as appropriate, consistent with the standards promulgated by the Secretary of Commerce under section 3602(f)(8) of title 44, United States Code;

(B) defining categories of Government information which shall be required to be classified under the standards; and

(C) determining priorities and developing schedules for the initial implementation of the standards by agencies.

(3) MODIFICATION OF POLICIES.—After the submission of agency reports under paragraph (4), the Director shall modify the policies, as needed, in consultation with the Committee and interested parties.

(4) AGENCY FUNCTIONS.—Each agency shall report annually to the Director, in the report established under section 3202(g), on compliance of that agency with the policies issued under paragraph (2)(A).

(e) PUBLIC ACCESS TO ELECTRONIC INFORMATION.—

(1) COMMITTEE FUNCTIONS.—Not later than 1 year after the date of enactment of this Act, the Committee shall submit recommendations to the Director and the Archivist of the United States on—

(A) the adoption by agencies of policies and procedures to ensure that chapters 21, 25, 27, 29, and 31 of title 44, United States Code, are applied effectively and comprehensively to Government information on the Internet and to other electronic records; and

(B) the imposition of timetables for the implementation of the policies and procedures by agencies.

(2) FUNCTIONS OF THE ARCHIVIST.—Not later than 180 days after the submission of recommendations by the Committee under paragraph (1), the Archivist of the United States shall issue policies—

(A) requiring the adoption by agencies of policies and procedures to ensure that chapters 21, 25, 27, 29, and 31 of title 44, United States Code, are applied effectively and comprehensively to Government information on the Internet and to other electronic records; and

(B) imposing timetables for the implementation of the policies, procedures, and technologies by agencies.

(3) MODIFICATION OF POLICIES.—After the submission of agency reports under paragraph (4), the Archivist of the United States shall modify the policies, as needed, in consultation with the Committee and interested parties.

(4) AGENCY FUNCTIONS.—Each agency shall report annually to the Director, in the report established under section 3202(g), on compliance of that agency with the policies issued under paragraph (2)(A).

(f) AVAILABILITY OF GOVERNMENT INFORMATION ON THE INTERNET.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, each agency shall—

(A) consult with the Committee and solicit public comment;

(B) determine which Government information the agency intends to make available and accessible to the public on the Internet and by other means;

(C) develop priorities and schedules for making that Government information available and accessible;

(D) make such final determinations, priorities, and schedules available for public comment;

(E) post such final determinations, priorities, and schedules on the Internet; and

(F) submit such final determinations, priorities, and schedules to the Director, in the report established under section 3202(g).

(2) UPDATE.—Each agency shall update determinations, priorities, and schedules of the agency, as needed, after consulting with the Committee and soliciting public comment, if appropriate.

(g) ACCESS TO FEDERALLY FUNDED RESEARCH AND DEVELOPMENT.—

(1) DEVELOPMENT AND MAINTENANCE OF GOVERNMENTWIDE REPOSITORY AND WEBSITE.—

(A) REPOSITORY AND WEBSITE.—The Director of the National Science Foundation, working with the Director of the Office of Science and Technology Policy and other relevant agencies, shall ensure the development and maintenance of—

(i) a repository that fully integrates, to the maximum extent feasible, information about research and development funded by the Federal Government, and the repository shall—

(I) include information about research and development funded by the Federal Government and performed by—

(aa) institutions not a part of the Federal Government, including State, local, and foreign governments; industrial firms; educational institutions; not-for-profit organizations; federally funded research and development center; and private individuals; and

(bb) entities of the Federal Government, including research and development laboratories, centers, and offices; and

(II) integrate information about each separate research and development task or award, including—

(aa) the dates upon which the task or award is expected to start and end;

(bb) a brief summary describing the objective and the scientific and technical focus of the task or award;

(cc) the entity or institution performing the task or award and its contact information;

(dd) the total amount of Federal funds expected to be provided to the task or award over its lifetime and the amount of funds expected to be provided in each fiscal year in which the work of the task or award is ongoing;

(ee) any restrictions attached to the task or award that would prevent the sharing with the general public of any or all of the information required by this subsection, and the reasons for such restrictions; and

(ff) such other information as may be determined to be appropriate; and

(ii) 1 or more websites upon which all or part of the repository of Federal research and development shall be made available to and searchable by Federal agencies and non-Federal entities, including the general public, to facilitate—

(I) the coordination of Federal research and development activities;

(II) collaboration among those conducting Federal research and development;

(III) the transfer of technology among Federal agencies and between Federal agencies and non-Federal entities; and

(IV) access by policymakers and the public to information concerning Federal research and development activities.

(B) OVERSIGHT.—The Director of the Office of Management and Budget shall issue any guidance determined necessary to ensure that agencies provide all information requested under this subsection.

(2) AGENCY FUNCTIONS.—Any agency that funds Federal research and development under this subsection shall provide the information required to populate the repository in the manner prescribed by the Director of the Office of Management and Budget.

(3) COMMITTEE FUNCTIONS.—Not later than 18 months after the date of enactment of this Act, working with the Director of the Office of Science and Technology Policy, and after consultation with interested parties, the Committee shall submit recommendations to the Director on—

(A) policies to improve agency reporting of information for the repository established under this subsection; and

(B) policies to improve dissemination of the results of research performed by Federal agencies and federally funded research and development centers.

(4) FUNCTIONS OF THE DIRECTOR.—After submission of recommendations by the Committee under paragraph (3), the Director shall report on the recommendations of the Committee and Director to Congress, in the E-Government report under section 3605 of title 44 (as added by this Act).

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the National Science Foundation for the development, maintenance, and operation of the Governmentwide repository and website under this subsection—

(A) $2,000,000 in each of the fiscal years 2003 through 2005; and

(B) such sums as are necessary in each of the fiscal years 2006 and 2007.

(h) PUBLIC DOMAIN DIRECTORY OF PUBLIC FEDERAL GOVERNMENT WEBSITES.—

(1) ESTABLISHMENT.—Not later than 2 years after the effective date of this title, the Director and each agency shall—

(A) develop and establish a public domain directory of public Federal Government websites; and

(B) post the directory on the Internet with a link to the integrated Internet-based system established under section 3204.

(2) DEVELOPMENT.—With the assistance of each agency, the Director shall—

(A) direct the development of the directory through a collaborative effort, including input from—

(i) agency librarians;

(ii) information technology managers;

(iii) program managers;

(iv) records managers;

(v) Federal depository librarians; and

(vi) other interested parties; and

(B) develop a public domain taxonomy of subjects used to review and categorize public Federal Government websites.

(3) UPDATE.—With the assistance of each agency, the Administrator of the Office of Electronic Government shall—

(A) update the directory as necessary, but not less than every 6 months; and

(B) solicit interested persons for improvements to the directory.

(i) STANDARDS FOR AGENCY WEBSITES.—Not later than 18 months after the effective date of this title, the Director shall promulgate guidance for agency websites that include—

(1) requirements that websites include direct links to—

(A) descriptions of the mission and statutory authority of the agency;

(B) the electronic reading rooms of the agency relating to the disclosure of information under section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act);

(C) information about the organizational structure of the agency; and

(D) the strategic plan of the agency developed under section 306 of title 5, United States Code; and

(2) minimum agency goals to assist public users to navigate agency websites, including—

(A) speed of retrieval of search results;

(B) the relevance of the results;

(C) tools to aggregate and disaggregate data; and

(D) security protocols to protect information.

SEC. 3208. PRIVACY PROVISIONS.

(a) PURPOSE.—The purpose of this section is to ensure sufficient protections for the privacy of personal information as agencies implement citizen-centered electronic Government.

(b) PRIVACY IMPACT ASSESSMENTS.—

(1) RESPONSIBILITIES OF AGENCIES.—

(A) IN GENERAL.—An agency shall take actions described under subparagraph (B) before—

(i) developing or procuring information technology that collects, maintains, or disseminates information that includes any identifier permitting the physical or online contacting of a specific individual; or

(ii) initiating a new collection of information that—

(I) will be collected, maintained, or disseminated using information technology; and

(II) includes any identifier permitting the physical or online contacting of a specific individual, if the information concerns 10 or more persons.

(B) AGENCY ACTIVITIES.—To the extent required under subparagraph (A), each agency shall—

(i) conduct a privacy impact assessment;

(ii) ensure the review of the privacy impact assessment by the Chief Information Officer, or equivalent official, as determined by the head of the agency; and

(iii) if practicable, after completion of the review under clause (ii), make the privacy impact assessment publicly available through the website of the agency, publication in the Federal Register, or other means.

(C) SENSITIVE INFORMATION.—Subparagraph (B)(iii) may be modified or waived for security reasons, or to protect classified, sensitive, or private information contained in an assessment.

(D) COPY TO DIRECTOR.—Agencies shall provide the Director with a copy of the privacy impact assessment for each system for which funding is requested.

(2) CONTENTS OF A PRIVACY IMPACT ASSESSMENT.—

(A) IN GENERAL.—The Director shall issue guidance to agencies specifying the required contents of a privacy impact assessment.

(B) GUIDANCE.—The guidance shall—

(i) ensure that a privacy impact assessment is commensurate with the size of the information system being assessed, the sensitivity of personally identifiable information in that system, and the risk of harm from unauthorized release of that information; and

(ii) require that a privacy impact assessment address—

(I) what information is to be collected;

(II) why the information is being collected;

(III) the intended use of the agency of the information;

(IV) with whom the information will be shared;

(V) what notice or opportunities for consent would be provided to individuals regarding what information is collected and how that information is shared;

(VI) how the information will be secured; and

(VII) whether a system of records is being created under section 552a of title 5, United States Code, (commonly referred to as the Privacy Act).

(3) RESPONSIBILITIES OF THE DIRECTOR.—The Director shall—

(A) develop policies and guidelines for agencies on the conduct of privacy impact assessments;

(B) oversee the implementation of the privacy impact assessment process throughout the Government; and

(C) require agencies to conduct privacy impact assessments of existing information systems or ongoing collections of personally identifiable information as the Director determines appropriate.

(c) PRIVACY PROTECTIONS ON AGENCY WEBSITES.—

(1) PRIVACY POLICIES ON WEBSITES.—

(A) GUIDELINES FOR NOTICES.—The Director shall develop guidance for privacy notices on agency websites used by the public.

(B) CONTENTS.—The guidance shall require that a privacy notice address, consistent with section 552a of title 5, United States Code—

(i) what information is to be collected;

(ii) why the information is being collected;

(iii) the intended use of the agency of the information;

(iv) with whom the information will be shared;

(v) what notice or opportunities for consent would be provided to individuals regarding what information is collected and how that information is shared;

(vi) how the information will be secured; and

(vii) the rights of the individual under section 552a of title 5, United States Code (commonly referred to as the Privacy Act), and other laws relevant to the protection of the privacy of an individual.

(2) PRIVACY POLICIES IN MACHINE-READABLE FORMATS.—The Director shall issue guidance requiring agencies to translate privacy policies into a standardized machine-readable format.

SEC. 3209. FEDERAL INFORMATION TECHNOLOGY WORKFORCE DEVELOPMENT.

(a) PURPOSE.—The purpose of this section is to improve the skills of the Federal workforce in using information technology to deliver Government information and services.

(b) IN GENERAL.—In consultation with the Director, the Chief Information Officers Council, and the Administrator of General Services, the Director of the Office of Personnel Management shall—

(1) analyze, on an ongoing basis, the personnel needs of the Federal Government related to information technology and information resource management;

(2) oversee the development of curricula, training methods, and training priorities that correspond to the projected personnel needs of the Federal Government related to information technology and information resource management; and

(3) assess the training of Federal employees in information technology disciplines, as necessary, in order to ensure that the information resource management needs of the Federal Government are addressed.

(c) EMPLOYEE PARTICIPATION.—Subject to information resource management needs and the limitations imposed by resource needs in other occupational areas, and consistent with their overall workforce development strategies, agencies shall encourage employees to participate in occupational information technology training.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Office of Personnel Management for the

implementation of this section, $7,000,000 in fiscal year 2003, and such sums as are necessary for each fiscal year thereafter.

SEC. 3210. COMMON PROTOCOLS FOR GEOGRAPHIC INFORMATION SYSTEMS.

(a) PURPOSES.—The purposes of this section are to—

(1) reduce redundant data collection and information; and

(2) promote collaboration and use of standards for government geographic information.

(b) DEFINITION.—In this section, the term ''geographic information'' means information systems that involve locational data, such as maps or other geospatial information resources.

(c) IN GENERAL.—

(1) COMMON PROTOCOLS.—The Secretary of the Interior, working with the Director and through an interagency group, and working with private sector experts, State, local, and tribal governments, commercial and international standards groups, and other interested parties, shall facilitate the development of common protocols for the development, acquisition, maintenance, distribution, and application of geographic information. If practicable, the Secretary of the Interior shall incorporate intergovernmental and public private geographic information partnerships into efforts under this subsection.

(2) INTERAGENCY GROUP.—The interagency group referred to under paragraph (1) shall include representatives of the National Institute of Standards and Technology and other agencies.

(d) DIRECTOR.—The Director shall oversee—

(1) the interagency initiative to develop common protocols;

(2) the coordination with State, local, and tribal governments, public private partnerships, and other interested persons on effective and efficient ways to align geographic information and develop common protocols; and

(3) the adoption of common standards relating to the protocols.

(e) COMMON PROTOCOLS.—The common protocols shall be designed to—

(1) maximize the degree to which unclassified geographic information from various sources can be made electronically compatible and accessible; and

(2) promote the development of interoperable geographic information systems technologies that shall—

(A) allow widespread, low-cost use and sharing of geographic data by Federal agencies, State, local, and tribal governments, and the public; and

(B) enable the enhancement of services using geographic data.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of the Interior such sums as are necessary to carry out this section, for each of the fiscal years 2003 through 2007.

SEC. 3211. SHARE-IN-SAVINGS PROGRAM IMPROVEMENTS.

Section 11521 of title 40, United States Code, is amended—

(1) in subsection (a)—

(A) by striking ''the heads of two executive agencies to carry out'' and inserting ''heads of executive agencies to carry out a total of 5 projects under'';

(B) by striking ''and'' at the end of paragraph (1);

(C) by striking the period at the end of paragraph (2) and inserting ''; and''; and

(D) by adding at the end the following:

''(3) encouraging the use of the contracting and sharing approach described in paragraphs (1) and (2) by allowing the head of the executive agency conducting a project under the pilot program—

''(A) to retain, until expended, out of the appropriation accounts of the executive agency in which savings computed under paragraph (2) are realized as a result of the project, up to the amount equal to half of the excess of—

''(i) the total amount of the savings; over

''(ii) the total amount of the portion of the savings paid to the private sector source for such project under paragraph (2); and

''(B) to use the retained amount to acquire additional information technology.'';

(2) in subsection (b)—

(A) by inserting ''a project under'' after ''authorized to carry out''; and

(B) by striking ''carry out one project and''; and

(3) in subsection (c), by inserting before the period ''and the Administrator for the Office of Electronic Government''; and

(4) by inserting after subsection (c) the following:

''(d) REPORT.—

''(1) IN GENERAL.—After 5 pilot projects have been completed, but no later than 3 years after the effective date of this subsection, the Director shall submit a report on the results of the projects to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

''(2) CONTENTS.—The report under paragraph (1) shall include—

''(A) a description of the reduced costs and other measurable benefits of the pilot projects;

''(B) a description of the ability of agencies to determine the baseline costs of a project against which savings would be measured; and

''(C) recommendations of the Director relating to whether Congress should provide general authority to the heads of executive agencies to use a share-in-savings contracting approach to the acquisition of information technology solutions for improving mission-related or administrative processes of the Federal Government.''.

SEC. 3212. INTEGRATED REPORTING STUDY AND PILOT PROJECTS.

(a) PURPOSES.—The purposes of this section are to—

(1) enhance the interoperability of Federal information systems;

(2) assist the public, including the regulated community, in electronically submitting information to agencies under Federal requirements, by reducing the burden of duplicate collection and ensuring the accuracy of submitted information; and

(3) enable any person to integrate and obtain similar information held by 1 or more agencies under 1 or more Federal requirements without violating the privacy rights of an individual.

(b) DEFINITIONS.—In this section, the term—

(1) ''agency'' means an Executive agency as defined under section 105 of title 5, United States Code; and

(2) ''person'' means any individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, interstate body, or agency or component of the Federal Government.

(c) REPORT.—

(1) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Director shall oversee a study, in consultation with agencies, the regulated community, public interest organizations, and the public, and submit a report to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives on progress toward integrating Federal information systems across agencies.

(2) CONTENTS.—The report under this section shall—

(A) address the integration of data elements used in the electronic collection of information within databases established under Federal statute without reducing the quality, accessibility, scope, or utility of the information contained in each database;

(B) address the feasibility of developing, or enabling the development of, software, including Internet-based tools, for use by reporting persons in assembling, documenting, and validating the accuracy of information electronically submitted to agencies under nonvoluntary, statutory, and regulatory requirements;

(C) address the feasibility of developing a distributed information system involving, on a voluntary basis, at least 2 agencies, that—

(i) provides consistent, dependable, and timely public access to the information holdings of 1 or more agencies, or some portion of such holdings, including the underlying raw data, without requiring public users to know which agency holds the information; and

(ii) allows the integration of public information held by the participating agencies;

(D) address the feasibility of incorporating other elements related to the purposes of this section at the discretion of the Director; and

(E) make recommendations that Congress or the executive branch can implement, through the use of integrated reporting and information systems, to reduce the burden on reporting and strengthen public access to databases within and across agencies.

(d) PILOT PROJECTS TO ENCOURAGE INTEGRATED COLLECTION AND MANAGEMENT OF DATA AND INTEROPERABILITY OF FEDERAL INFORMATION SYSTEMS.—

(1) IN GENERAL.—In order to provide input to the study under subsection (c), the Director shall designate, in consultation with agencies, a series of no more than 5 pilot projects that integrate data elements. The Director shall consult with agencies, the regulated community, public interest organizations, and the public on the implementation of the pilot projects.

(2) GOALS OF PILOT PROJECTS.—

(A) IN GENERAL.—Each goal described under subparagraph (B) shall be addressed by at least 1 pilot project each.

(B) GOALS.—The goals under this paragraph are to—

(i) reduce information collection burdens by eliminating duplicative data elements within 2 or more reporting requirements;

(ii) create interoperability between or among public databases managed by 2 or more agencies using technologies and techniques that facilitate public access; and

(iii) develop, or enable the development of, software to reduce errors in electronically submitted information.

(3) INPUT.—Each pilot project shall seek input from users on the utility of the pilot project and areas for improvement. To the extent practicable, the Director shall consult with relevant agencies and State, tribal, and local governments in carrying out the report and pilot projects under this section.

(e) PRIVACY PROTECTIONS.—The activities authorized under this section shall afford protections for—

(1) confidential business information consistent with section 552(b)(4) of title 5, United States Code, and other relevant law;

(2) personal privacy information under sections 552(b) (6) and (7)(C) and 552a of title 5, United States Code, and other relevant law; and

(3) other information consistent with section 552(b)(3) of title 5, United States Code, and other relevant law.

SEC. 3213. COMMUNITY TECHNOLOGY CENTERS.

(a) PURPOSES.—The purposes of this section are to—

(1) study and enhance the effectiveness of community technology centers, public libraries, and other institutions that provide computer and Internet access to the public; and

(2) promote awareness of the availability of on-line government information and services, to users of community technology centers, public libraries, and other public facilities that provide access to computer technology and Internet access to the public.

(b) STUDY AND REPORT.—Not later than 2 years after the effective date of this title, the Secretary of Education, in consultation with the Secretary of Housing and Urban Development, the Secretary of Commerce, the Director of the National Science Foundation, and the Director of the Institute of Museum and Library Services, shall—

(1) conduct a study to evaluate the best practices of community technology centers that have received Federal funds; and

(2) submit a report on the study to—

(A) the Committee on Governmental Affairs of the Senate;

(B) the Committee on Health, Education, Labor, and Pensions of the Senate;

(C) the Committee on Government Reform of the House of Representatives; and

(D) the Committee on Education and the Workforce of the House of Representatives.

(c) CONTENTS.—The report under subsection (b) may consider—

(1) an evaluation of the best practices being used by successful community technology centers;

(2) a strategy for—

(A) continuing the evaluation of best practices used by community technology centers; and

(B) establishing a network to share information and resources as community technology centers evolve;

(3) the identification of methods to expand the use of best practices to assist community technology centers, public libraries, and other institutions that provide computer and Internet access to the public;

(4) a database of all community technology centers that have received Federal funds, including—

(A) each center's name, location, services provided, director, other points of contact, number of individuals served; and

(B) other relevant information;

(5) an analysis of whether community technology centers have been deployed effectively in urban and rural areas throughout the Nation; and

(6) recommendations of how to—

(A) enhance the development of community technology centers; and

(B) establish a network to share information and resources.

(d) COOPERATION.—All agencies that fund community technology centers shall provide to the Department of Education any information and assistance necessary for the completion of the study and the report under this section.

(e) ASSISTANCE.—

(1) IN GENERAL.—The Secretary of the Department of Education shall work with other relevant Federal agencies, and other interested persons in the private and nonprofit sectors to—

(A) assist in the implementation of recommendations; and

(B) identify other ways to assist community technology centers, public libraries, and other institutions that provide computer and Internet access to the public.

(2) TYPES OF ASSISTANCE.—Assistance under this subsection may include—

(A) contribution of funds;

(B) donations of equipment, and training in the use and maintenance of the equipment; and

(C) the provision of basic instruction or training material in computer skills and Internet usage.

(f) ONLINE TUTORIAL.—

(1) IN GENERAL.—The Secretary of Education, in consultation with the Director of the Institute of Museum and Library Services, the Director of the National Science Foundation, other relevant agencies, and the public, shall develop an online tutorial that—

(A) explains how to access Government information and services on the Internet; and

(B) provides a guide to available online resources.

(2) DISTRIBUTION.—The Secretary of Education shall distribute information on the tutorial to community technology centers, public libraries, and other institutions that afford Internet access to the public.

(g) PROMOTION OF COMMUNITY TECHNOLOGY CENTERS.—In consultation with other agencies and organizations, the Department of Education shall promote the availability of community technology centers to raise awareness within each community where such a center is located.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Education for the study of best practices at community technology centers, for the development and dissemination of the online tutorial, and for the promotion of community technology centers under this section—

(1) $2,000,000 in fiscal year 2003;

(2) $2,000,000 in fiscal year 2004; and

(3) such sums as are necessary in fiscal years 2005 through 2007.

SEC. 3214. ENHANCING CRISIS MANAGEMENT THROUGH ADVANCED INFORMATION TECHNOLOGY.

(a) PURPOSE.—The purpose of this section is to improve how information technology is used in coordinating and facilitating information on disaster preparedness, response, and recovery, while ensuring the availability of such information across multiple access channels.

(b) IN GENERAL.—

(1) STUDY ON ENHANCEMENT OF CRISIS RESPONSE.—Not later than 90 days after the date of enactment of this Act, the Federal Emergency Management Agency shall enter into a contract to conduct a study on using information technology to enhance crisis preparedness, response, and consequence management of natural and manmade disasters.

(2) CONTENTS.—The study under this subsection shall address—

(A) a research and implementation strategy for effective use of information technology in crisis response and consequence management, including the more effective use of technologies, management of information technology research initiatives, and incorporation of research advances into the information and communications systems of—

(i) the Federal Emergency Management Agency; and

(ii) other Federal, State, and local agencies responsible for crisis preparedness, response, and consequence management; and

(B) opportunities for research and development on enhanced technologies into areas of potential improvement as determined during the course of the study.

(3) REPORT.—Not later than 2 years after the date on which a contract is entered into under paragraph (1), the Federal Emergency Management Agency shall submit a report on the study, including findings and recommendations to—

(A) the Committee on Governmental Affairs of the Senate; and

(B) the Committee on Government Reform of the House of Representatives.

(4) INTERAGENCY COOPERATION.—Other Federal departments and agencies with responsibility for disaster relief and emergency assistance shall fully cooperate with the Federal Emergency Management Agency in carrying out this section.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Federal Emergency Management Agency for research under this subsection, such sums as are necessary for fiscal year 2003.

(c) PILOT PROJECTS.—Based on the results of the research conducted under subsection (b), the Federal Emergency Management Agency shall initiate pilot projects or report to Congress on other activities that further the goal of maximizing the utility of information technology in disaster management. The Federal Emergency Management Agency shall cooperate with other relevant agencies, and, if appropriate, State, local, and tribal governments, in initiating such pilot projects.

SEC. 3215. DISPARITIES IN ACCESS TO THE INTERNET.

(a) STUDY AND REPORT.—

(1) STUDY.—Not later than 90 days after the date of enactment of this Act, the Director of the National Science Foundation shall request that the National Academy of Sciences, acting through the National Research Council, enter into a contract to conduct a study on disparities in Internet access for online Government services.

(2) REPORT.—Not later than 2 years after the date of enactment of this Act, the Director of the National Science Foundation shall submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives a final report of the study under this section, which shall set forth the findings, conclusions, and recommendations of the National Research Council.

(b) CONTENTS.—The report under subsection (a) shall include a study of—

(1) how disparities in Internet access influence the effectiveness of online Government services, including a review of—

(A) the nature of disparities in Internet access;

(B) the affordability of Internet service;

(C) the incidence of disparities among different groups within the population; and

(D) changes in the nature of personal and public Internet access that may alleviate or aggravate effective access to online Government services;

(2) how the increase in online Government services is influencing the disparities in Internet access and how technology development or diffusion trends may offset such adverse influences; and

(3) related societal effects arising from the interplay of disparities in Internet access and the increase in online Government services.

(c) RECOMMENDATIONS.—The report shall include recommendations on actions to ensure that online Government initiatives shall not have the unintended result of increasing any deficiency in public access to Government services.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the National Science Foundation $950,000 in fiscal year 2003 to carry out this section.

SEC. 3216. NOTIFICATION OF OBSOLETE OR COUNTERPRODUCTIVE PROVISIONS.

If the Director of the Office of Management and Budget makes a determination that any provision of this division (including any amendment made by this division) is obsolete or counterproductive to the purposes of this Act, as a result of changes in technology or any other reason, the Director

shall submit notification of that determination to—

(1) the Committee on Governmental Affairs of the Senate; and

(2) the Committee on Government Reform of the House of Representatives.

TITLE XXXIII—GOVERNMENT INFORMATION SECURITY

SEC. 3301. INFORMATION SECURITY.

(a) ADDITION OF SHORT TITLE.—Subtitle G of title X of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–266) is amended by inserting after the heading for the subtitle the following new section:

"SEC. 1060. SHORT TITLE.

''This subtitle may be cited as the 'Government Information Security Reform Act'.''.

(b) CONTINUATION OF AUTHORITY.—

(1) IN GENERAL.—Section 3536 of title 44, United States Code, is repealed.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 35 of title 44, United States Code, is amended by striking the item relating to section 3536.

TITLE XXXIV—AUTHORIZATION OF APPROPRIATIONS AND EFFECTIVE DATES

SEC. 3401. AUTHORIZATION OF APPROPRIATIONS.

Except for those purposes for which an authorization of appropriations is specifically provided in title XXXI or XXXII, including the amendments made by such titles, there are authorized to be appropriated such sums as are necessary to carry out titles XXXI and XXXII for each of fiscal years 2003 through 2007.

SEC. 3402. EFFECTIVE DATES.

(a) TITLES XXXI AND XXXII.—

(1) IN GENERAL.—Except as provided under paragraph (2), titles XXXI and XXXII and the amendments made by such titles shall take effect 120 days after the date of enactment of this Act.

(2) IMMEDIATE ENACTMENT.—Sections 3207, 3214, 3215, and 3216 shall take effect on the date of enactment of this Act.

(b) TITLES XXXIII AND XXXIV.—Title XXXIII and this title shall take effect on the date of enactment of this Act.

DIVISION E—FLIGHT AND CABIN SECURITY ON PASSENGER AIRCRAFT

TITLE XLI—FLIGHT AND CABIN SECURITY ON PASSENGER AIRCRAFT

SECTION 4101. SHORT TITLE.

This title may be cited as the ''Arming Pilots Against Terrorism and Cabin Defense Act of 2002''.

SEC. 4102. FINDINGS.

Congress makes the following findings:

(1) Terrorist hijackers represent a profound threat to the American people.

(2) According to the Federal Aviation Administration, between 33,000 and 35,000 commercial flights occur every day in the United States.

(3) The Aviation and Transportation Security Act (public law 107–71) mandated that air marshals be on all high risk flights such as those targeted on September 11, 2001.

(4) Without air marshals, pilots and flight attendants are a passenger's first line of defense against terrorists.

(5) A comprehensive and strong terrorism prevention program is needed to defend the Nation's skies against acts of criminal violence and air piracy. Such a program should include—

(A) armed Federal air marshals;

(B) other Federal agents;

(C) reinforced cockpit doors;

(D) properly-trained armed pilots;

(E) flight attendants trained in self-defense and terrorism prevention; and

(F) electronic communications devices, such as real-time video monitoring and hands-free wireless communications devices to permit pilots to monitor activities in the cabin.

SEC. 4103. FEDERAL FLIGHT DECK OFFICER PROGRAM.

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

"§ 44921. Federal flight deck officer program

''(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of the Arming Pilots Against Terrorism and Cabin Defense Act of 2002, the Under Secretary of Transportation for Security shall establish a program to deputize qualified pilots of commercial cargo or passenger aircraft who volunteer for the program as Federal law enforcement officers to defend the flight decks of commercial aircraft of air carriers engaged in air transportation or intrastate air transportation against acts of criminal violence or air piracy. Such officers shall be known as 'Federal flight deck officers'. The program shall be administered in connection with the Federal air marshal program.

''(b) QUALIFIED PILOT.—Under the program described in subsection (a), a qualified pilot is a pilot of an aircraft engaged in air transportation or intrastate air transportation who—

''(1) is employed by an air carrier;

''(2) has demonstrated fitness to be a Federal flight deck officer in accordance with regulations promulgated pursuant to this title; and

''(3) has been the subject of an employment investigation (including a criminal history record check) under section 44936(a)(1).

''(c) TRAINING, SUPERVISION, AND EQUIPMENT.—The Under Secretary of Transportation for Security shall provide or make arrangements for training, supervision, and equipment necessary for a qualified pilot to be a Federal flight deck officer under this section at no expense to the pilot or the air carrier employing the pilot. Such training, qualifications, curriculum, and equipment shall be consistent with and equivalent to those required of Federal law enforcement officers and shall include periodic re-qualification as determined by the Under Secretary. The Under Secretary may approve private training programs which meet the Under Secretary's specifications and guidelines. Air carriers shall make accommodations to facilitate the training of their pilots as Federal flight deck officers and shall facilitate Federal flight deck officers in the conduct of their duties under this program.

''(d) DEPUTIZATION.—

''(1) IN GENERAL.—The Under Secretary of Transportation for Security shall train and deputize, as a Federal flight deck officer under this section, any qualified pilot who submits to the Under Secretary a request to be such an officer.

''(2) INITIAL DEPUTIZATION.—Not later than 120 days after the date of enactment of this section, the Under Secretary shall deputize not fewer than 500 qualified pilots who are former military or law enforcement personnel as Federal flight deck officers under this section.

''(3) FULL IMPLEMENTATION.—Not later than 24 months after the date of enactment of this section, the Under Secretary shall deputize any qualified pilot as a Federal flight deck officer under this section.

''(e) COMPENSATION.—Pilots participating in the program under this section shall not be eligible for compensation from the Federal Government for services provided as a Federal flight deck officer.

''(f) AUTHORITY TO CARRY FIREARMS.—The Under Secretary of Transportation for Security shall authorize a Federal flight deck officer under this section to carry a firearm to defend the flight deck of a commercial passenger or cargo aircraft while engaged in providing air transportation or intrastate air transportation. No air carrier may prohibit a Federal flight deck officer from carrying a firearm in accordance with the provisions of the Arming Pilots Against Terrorism and Cabin Defense Act of 2002.

''(g) AUTHORITY TO USE FORCE.—Notwithstanding section 44903(d), a Federal flight deck officer may use force (including lethal force) against an individual in the defense of a commercial aircraft in air transportation or intrastate air transportation if the officer reasonably believes that the security of the aircraft is at risk.

''(h) LIMITATION ON LIABILITY.—

''(1) LIABILITY OF AIR CARRIERS.—An air carrier shall not be liable for damages in any action brought in a Federal or State court arising out of the air carrier employing a pilot of an aircraft who is a Federal flight deck officer under this section or out of the acts or omissions of the pilot in defending an aircraft of the air carrier against acts of criminal violence or air piracy.

''(2) LIABILITY OF FEDERAL FLIGHT DECK OFFICERS.—A Federal flight deck officer shall not be liable for damages in any action brought in a Federal or State court arising out of the acts or omissions of the officer in defending an aircraft against acts of criminal violence or air piracy unless the officer is guilty of gross negligence or willful misconduct.

''(3) EMPLOYEE STATUS OF FEDERAL FLIGHT DECK OFFICERS.—A Federal flight deck officer shall be considered an 'employee of the Government while acting within the scope of his office or employment' with respect to any act or omission of the officer in defending an aircraft against acts of criminal violence or air piracy, for purposes of sections 1346(b), 2401(b), and 2671 through 2680 of title 28 United States Code.

''(i) REGULATIONS.—Not later than 90 days after the date of enactment of this section, the Under Secretary of Transportation for Security, in consultation with the Firearms Training Unit of the Federal Bureau of Investigation, shall issue regulations to carry out this section.

''(j) PILOT DEFINED.—In this section, the term 'pilot' means an individual who is responsible for the operation of an aircraft, and includes a co-pilot or other member of the flight deck crew.''.

(b) CONFORMING AMENDMENTS.—

(1) CHAPTER ANALYSIS.—The analysis for such chapter 449 is amended by inserting after the item relating to section 44920 the following new item:

''44921. Federal flight deck officer program.''.

(2) EMPLOYMENT INVESTIGATIONS.—Section 44936(a)(1)(B) is amended—

(A) by aligning clause (iii) with clause (ii);

(B) by striking ''and'' at the end of clause (iii);

(C) by striking the period at the end of clause (iv) and inserting ''; and''; and

(D) by adding at the end the following:

''(v) qualified pilots who are deputized as Federal flight deck officers under section 44921.''.

(3) FLIGHT DECK SECURITY.—Section 128 of the Aviation and Transportation Security Act (49 U.S.C. 44903 note) is repealed.

SEC. 4104. CABIN SECURITY.

(a) TECHNICAL AMENDMENTS.—Section 44903, of title 49, United States Code, is amended—

(1) by redesignating subsection (h) (relating to authority to arm flight deck crew with less-than-lethal weapons, as added by section 126(b) of public law 107–71) as subsection (j); and

(2) by redesignating subsection (h) (relating to limitation on liability for acts to

thwart criminal violence or aircraft piracy, as added by section 144 of public law 107–71) as subsection (k).

(b) AVIATION CREWMEMBER SELF-DEFENSE DIVISION.—Section 44918 of title 49, United States Code, is amended—

(1) by striking subsection (a) and inserting the following new subsection:

''(a) IN GENERAL.—

''(1) REQUIREMENT FOR AIR CARRIERS.—Not later than 60 days after the date of enactment of the Arming Pilots Against Terrorism and Cabin Defense Act of 2002, the Under Secretary of Transportation for Security, shall prescribe detailed requirements for an air carrier cabin crew training program, and for the instructors of that program as described in subsection (b) to prepare crew members for potential threat conditions. In developing the requirements, the Under Secretary shall consult with appropriate law enforcement personnel who have expertise in self-defense training, security experts, and terrorism experts, and representatives of air carriers and labor organizations representing individuals employed in commercial aviation.

''(2) AVIATION CREWMEMBER SELF-DEFENSE DIVISION.—Not later than 60 days after the date of enactment of the Arming Pilots Against Terrorism and Cabin Defense Act of 2002, the Under Secretary of Transportation for Security shall establish an Aviation Crew Self-Defense Division within the Transportation Security Administration. The Division shall develop and administer the implementation of the requirements described in this section. The Under Secretary shall appoint a Director of the Aviation Crew Self-Defense Division who shall be the head of the Division. The Director shall report to the Under Secretary. In the selection of the Director, the Under Secretary shall solicit recommendations from law enforcement, air carriers, and labor organizations representing individuals employed in commercial aviation. The Director shall have a background in self-defense training, including military or law enforcement training with an emphasis in teaching self-defense and the appropriate use force. Regional training supervisors shall be under the control of the Director and shall have appropriate training and experience in teaching self-defense and the appropriate use of force.'';

(2) by striking subsection (b), and inserting the following new subsection:

''(b) PROGRAM ELEMENTS.—

''(1) IN GENERAL.—The requirements prescribed under subsection (a) shall include, at a minimum, 28 hours of self-defense training that incorporates classroom and situational training that contains the following elements:

''(A) Determination of the seriousness of any occurrence.

''(B) Crew communication and coordination.

''(C) Appropriate responses to defend oneself, including a minimum of 16 hours of hands-on training, with reasonable and effective requirements on time allotment over a 4 week period, in the following levels of self-defense:

''(i) awareness, deterrence, and avoidance;

''(ii) verbalization;

''(iii) empty hand control;

''(iv) intermediate weapons and self-defense techniques; and

''(v) deadly force.

''(D) Use of protective devices assigned to crewmembers (to the extent such devices are approved by the Administrator or Under Secretary).

''(E) Psychology of terrorists to cope with hijacker behavior and passenger responses.

''(F) Live situational simulation joint training exercises regarding various threat conditions, including all of the elements required by this section.

''(G) Flight deck procedures or aircraft maneuvers to defend the aircraft.

''(2) PROGRAM ELEMENTS FOR INSTRUCTORS.—The requirements prescribed under subsection (a) shall contain program elements for instructors that include, at a minimum, the following:

''(A) A certification program for the instructors who will provide the training described in paragraph (1).

''(B) A requirement that no training session shall have fewer than 1 instructor for every 12 students.

''(C) A requirement that air carriers provide certain instructor information, including names and qualifications, to the Aviation Crew Member Self-Defense Division within 30 days after receiving the requirements described in subsection (a).

''(D) Training course curriculum lesson plans and performance objectives to be used by instructors.

''(E) Written training bulletins to reinforce course lessons and provide necessary progressive updates to instructors.

''(3) RECURRENT TRAINING.—Each air carrier shall provide the training under the program every 6 months after the completion of the initial training.

''(4) INITIAL TRAINING.—Air carriers shall provide the initial training under the program within 24 months of the date of enactment of the Arming Pilots Against Terrorism and Cabin Defense Act of 2002.

''(5) COMMUNICATION DEVICES.—The requirements described in subsection (a) shall include a provision mandating that air carriers provide flight and cabin crew with a discreet, hands-free, wireless method of communicating with the flight deck.

''(6) REAL-TIME VIDEO MONITORING.—The requirements described in subsection (a) shall include a program to provide flight deck crews with real-time video surveillance of the cabins of commercial airline flights. In developing this program, the Under Secretary shall consider—

''(A) maximizing the security of the flight deck;

''(B) enhancing the safety of the flight deck crew;

''(C) protecting the safety of the passengers and crew;

''(D) preventing acts of criminal violence or air piracy;

''(E) the cost of the program;

''(F) privacy concerns; and

''(G) the feasibility of installing such a device in the flight deck.''; and

(3) by adding at the end the following new subsections:

''(f) RULEMAKING AUTHORITY.—Notwithstanding subsection (j) (relating to authority to arm flight deck crew with less than-lethal weapons) of section 44903, of this title, within 180 days after the date of enactment of the Arming Pilots Against Terrorism and Cabin Defense Act of 2002, the Under Secretary of Transportation for Security, in consultation with persons described in subsection (a)(1), shall prescribe regulations requiring air carriers to—

''(1) provide adequate training in the proper conduct of a cabin search and allow adequate duty time to perform such a search; and

''(2) conduct a preflight security briefing with flight deck and cabin crew and, when available, Federal air marshals or other authorized law enforcement officials.

''(g) LIMITATION ON LIABILITY.—

''(1) AIR CARRIERS.—An air carrier shall not be liable for damages in any action brought in a Federal or State court arising out of the acts or omissions of the air carrier's training instructors or cabin crew using reasonable and necessary force in defending an aircraft of the air carrier against acts of criminal violence or air piracy.

''(2) TRAINING INSTRUCTORS AND CABIN CREW.—An air carrier's training instructors or cabin crew shall not be liable for damages in any action brought in a Federal or State court arising out of an act or omission of a training instructor or a member of the cabin crew regarding the defense of an aircraft against acts of criminal violence or air piracy unless the crew member is guilty of gross negligence or willful misconduct.''.

(c) NONLETHAL WEAPONS FOR FLIGHT ATTENDANTS.—

(1) STUDY.—The Under Secretary of Transportation for Security shall conduct a study to determine whether possession of a nonlethal weapon by a member of an air carrier's cabin crew would aid the flight deck crew in combating air piracy and criminal violence on commercial airlines.

(2) REPORT.—Not later than 6 months after the date of enactment of this Act, the Under Secretary of Transportation for Security shall prepare and submit to Congress a report on the study conducted under paragraph (1).

SEC. 4105. PROHIBITION ON OPENING COCKPIT DOORS IN FLIGHT.

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

''§ 44917. Prohibition on opening cockpit doors in flight

''(a) IN GENERAL.—The door to the flight deck of any aircraft engaged in passenger air transportation or interstate air transportation that is required to have a door between the passenger and pilot compartment under title 14, Code of Federal Regulations, shall remain closed and locked at all times during flight, except for mechanical or physiological emergencies.

''(b) MANTRAP DOOR EXCEPTION.—It shall not be a violation of subsection (a) for an authorized person to enter or leave the flight deck during flight of any aircraft described in subsection (a) that is equipped with double doors between the flight deck and the passenger compartment that are designed so that—

''(1) any person entering or leaving the flight deck is required to lock the first door through which that person passes before the second door can be opened; and

''(2) the flight crew is able to monitor by remote camera the area between the 2 doors and prevent the door to the flight deck from being unlocked from that area.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 449 of title 49, United States Code, is amended by inserting after the item relating to section 44916 the following:

''44917. Prohibition on opening cockpit doors in flight.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 day after the date of enactment of this Act.

SA 4848. Mr. HOLLINGS (for himself, Mr. MCCAIN, Mr. REID, Mr. JEFFORDS, Mr. CARPER, and Mr. TORRICELLI) submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 170 and insert the following:

SEC. 170. REVIEW OF TRANSPORTATION SECURITY ENHANCEMENTS.

(a) REVIEW OF TRANSPORTATION VULNERABILITIES AND FEDERAL TRANSPORTATION SECURITY EFFORTS.—The Comptroller General shall conduct a detailed, comprehensive study which shall—

(1) review all available intelligence on terrorist threats against aviation, seaport, rail, motor carrier, motor coach, pipeline, highway, and transit facilities and equipment;

(2) review all available information on vulnerabilities of the aviation, seaport, rail, motor carrier, motor coach, pipeline, highway, and transit modes of transportation to terrorist attack; and

(3) review the steps taken by public and private entities since September 11, 2001, to improve aviation, seaport, rail, motor carrier, motor coach, pipeline, highway, and transit security to determine their effectiveness at protecting passengers, freight (including hazardous materials), and transportation infrastructure from terrorist attack.

(b) REPORT.—

(1) CONTENT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall prepare and submit to Congress, the Secretary, and the Secretary of Transportation a comprehensive report, without compromising national security, containing—

(A) the findings and conclusions from the reviews conducted under subsection (a); and

(B) proposed steps to improve any deficiencies found in aviation, seaport, rail, motor carrier, motor coach, pipeline, highway, and transit security, including, to the extent possible, the cost of implementing the steps.

(2) FORMAT.—The Comptroller General may submit the report in both classified and redacted format if the Comptroller General determines that such action is appropriate or necessary.

(c) RESPONSE OF THE SECRETARY.—

(1) IN GENERAL.—Not later than 90 days after the date on which the report under this section is submitted to the Secretary, the Secretary shall provide to the President and Congress—

(A) the response of the Department to the recommendations of the report; and

(B) recommendations of the Department to further protect passengers and transportation infrastructure from terrorist attack.

(2) FORMATS.—The Secretary may submit the report in both classified and redacted formats if the Secretary determines that such action is necessary or appropriate.

(d) REPORTS PROVIDED TO COMMITTEES.—In furnishing the report required by subsection (b), and the Secretary's response and recommendations under subsection (c), to the Congress, the Comptroller General and the Secretary, respectively, shall ensure that the report, response, and recommendations are transmitted to the Senate Committee on Commerce, Science, and Transportation, the Senate Committee on Environment and Public Works, and the House of Representatives Committee on Transportation and Infrastructure.

SA 4849. Mr. INOUYE submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 7, line 14, insert ''tribal,'' after ''State,''.

On page 7, after line 25, insert the following:

(8) INDIAN TRIBE.—The term ''Indian tribe'' means any Indian tribe, band, nation, or other organized group or community located in the continental United States (excluding the State of Alaska) that is recognized as being eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

On page 8, line 1, strike ''(8)'' and insert ''(9)''.

On page 8, strike lines 5 through 8 and insert the following:

(10) LOCAL GOVERNMENT.—The term ''local government'' means—

(A) a county, city, village, town, district, or other political subdivision of any State;

(B) an Alaska Native village or organization; and

(C) a rural community or unincorporated town or village.

On page 8, line 9, strike ''(10)'' and insert ''(11)''.

On page 8, line 13, strike ''(11)'' and insert ''(12)''.

On page 8, line 15, strike ''(12)'' and insert ''(13)''.

On page 8, strike line 17 and insert the following:

(14) TRIBAL GOVERNMENT.—The term ''tribal government'' means the governing body of an Indian tribe that is recognized by the Secretary of the Interior.

(15) UNITED STATES.—The term ''United

On page 10, line 22, insert '', tribal,'' after ''State''.

On page 17, line 24, insert '', tribal,'' after ''State''.

On page 19, line 1, insert '', tribal,'' after ''State''.

On page 19, line 9, insert '', tribal,'' after ''State''.

On page 19, line 20, insert '', tribal,'' after ''State''.

On page 20, line 7, insert '', tribal,'' after ''State''.

On page 20, line 16, insert '', tribal,'' after ''State''.

On page 20, line 22, insert '', tribal,'' after ''State''.

On page 21, line 13, insert '', tribal,'' after ''State''.

On page 22, line 10, insert '', tribal,'' after ''State''.

On page 23, line 13, insert '', tribal,'' after ''State''.

On page 23, line 21, insert ''tribal,'' after ''State,''.

On page 31, line 1, insert '', tribal,'' after ''State''.

On page 34, line 12, insert '', tribal,'' after ''State''.

On page 34, line 13, insert '', tribal,'' after ''State''.

On page 34, line 23, insert '', tribal,'' after ''State''.

On page 35, line 8, insert '', tribal,'' after ''State''.

On page 38, line 1, strike ''state,'' and insert ''State, tribal,''.

On page 42, line 5, insert ''and the Indian Health Service'' after ''Service''.

On page 42, line 23, insert ''and the Indian Health Service'' after ''Service''.

On page 52, line 3, insert '', tribal,'' after ''State''.

On page 81, line 7, insert ''tribal,'' after ''State,''.

On page 83, line 17, insert ''tribal,'' after ''State,''.

On page 83, line 21, insert ''and the Indian Health Service'' after ''Service''.

On page 87, line 12, insert '', tribal,'' after ''State''.

On page 87, line 15, insert '', tribal,'' after ''State''.

On page 87, line 22, insert '', tribal,'' after ''State''.

On page 88, line 2, insert '', tribal,'' after ''State''.

On page 88, line 6, insert '', tribal,'' after ''State''.

On page 136, line 14, insert ''**, TRIBAL,**'' after ''**STATE**''.

On page 136, line 20, insert '', a tribal government,'' after ''State''.

On page 137, line 1, insert '', a tribal government,'' after ''State''.

On page 137, line 11, insert '', tribal,'' after ''State''.

On page 137, line 19, insert ''**, TRIBAL,**'' after ''**STATE**''.

On page 137, line 23, insert '', Indian tribes,'' after ''States''.

On page 138, line 12, insert '', TRIBAL,'' after ''STATE''.

On page 138, line 16, insert '', tribal government,'' after ''State''.

On page 138, line 23, insert '', Indian tribes,'' after ''States''.

On page 139, line 4, insert '', Indian tribes,'' after ''States''.

On page 139, line 11, insert ''or Indian tribe'' after ''State''.

On page 139, line 21, insert '', Indian tribe,'' after ''State''.

On page 140, line 6, insert '', Indian tribes,'' after ''States''.

On page 140, line 11, insert '', Indian tribes,'' after ''States''.

On page 140, line 14, insert ''or Indian tribe'' after ''State''.

On page 141, line 2, insert ''or Indian tribe'' after ''State''.

On page 141, lines 6 and 7, strike ''State and localities within the State'' and insert ''State or Indian tribe''.

On page 141, line 9, insert '', Indian tribe,'' after ''State''.

On page 141, line 11, insert '', Indian tribe,'' after ''State''.

On page 143, between lines 7 and 8, insert the following:

(4) INDIAN TRIBE.—The term ''Indian tribe'' means any Indian tribe, band, nation, or other organized group or community located in the continental United States (excluding the State of Alaska) that is recognized as being eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

On page 143, line 8, strike ''(4)'' and insert ''(5)''.

On page 143, line 13, strike ''(5)'' and insert ''(6)''.

On page 143, lines 16 through 18, strike ''an Indian tribe which performs law enforcement functions as determined by the Secretary of the Interior''.

On page 235, line 19, insert ''tribal,'' after ''State,''.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Tuesday, October 1, 2002, at 2:30 p.m. in Room 485 of the Russell Senate Office Building to conduct a business meeting to consider the following: S. 2743, a bill to approve the settlement of the water rights claims of the Zuni Indian Tribe in Apache County, Arizona, and for other purposes; S. 2799, a bill to provide for the use and distribution of certain funds awarded to the Gila River, Pima-Maricopa Indian Community, and for other purposes; S. 2989, A bill to protect certain lands held in fee by the

Pechanga Band of Luiseno Mission Indians from condemnation until a final decision is made by the Secretary of the Interior regarding a pending fee to trust application for that land; S. Res. 321, A resolution commemorating the 30th Anniversary of the Founding of the American Indian Higher Education Consortium, AIHEC; Nomination of Phil Hogen to serve as Chairman of the National Indian Gaming Commission; and Nomination of Quannah Crossland Stamps to serve as Commissioner of the Administration for Native Americans.

Those wishing additional information may contact the Indian Affairs Committee at 224–2251.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. HARKIN. Mr. President, I would like to announce that the Committee on Agriculture, Nutrition, and Forestry will conduct a hearing on October 3, 2002 in SR–328A at 11:00 a.m. The purpose of this hearing will be to discuss a pending nomination for the Farm Credit Administration.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, October 1, 2002, at 9:30 am on Government Role in Promoting the Future of Telecommunications Industry and Broadband Deployment.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet on Tuesday, October 1, 2002, at 10:00 a.m. to conduct a hearing to assess green school initiatives. Specifically, the Committee will evaluate environmental standards for schools such as school siting in relation to toxic waste sites and green building codes. The Committee is interested in evaluating activities being undertaken by the Environmental Protection Agency's Office of Children's Environmental Health and the Office of Indoor Air Quality, as well as the Department of Energy, that address environmental and energy concerns relevant to school properties.

The hearing will be held in SD–406.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, October 1, 2002 at 2:30 p.m. to hold a nomination hearing.

AGENDA

Nominees: Mr. Gene B. Christy, of Texas, to be Ambassador to Brunei Darussalam. Mr. David L. Lyon, of California, to be Ambassador to the Republic of Fiji, and to serve concurrently and without additional compensation as Ambassador to the Republic of Nauru, Ambassador to the Kingdom of Tonga, and Ambassador to Tuvalu. Mr. Charles A. Ray, of Texas, to be Ambassador to the Kingdom of Cambodia. Mr. Grover J. Rees, of Louisiana, to be Ambassador to the Democratic Republic of East Timor.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Tuesday, October 1, 2002, at 2:30 p.m. in Room 485 of the Russell Senate Office Building to conduct a Business Meeting to consider the following: S. 2743, a bill to approve the settlement of the water rights claims of the Zuni Indian Tribe in Apache County, Arizona, and for other purposes; S. 2799, a bill to provide for the use an distribution of certain funds awarded to the Gila River, Pima-Maricopa Indian Community, and for other purposes; S. 2989, A bill to protect certain lands held in fee by the Pechanga Band of Luiseno Mission Indians from condemnation until a final decision is made by the Secretary of the Interior regarding a pending fee to trust application for that land; S. Res. 321, A resolution commemorating the 30th Anniversary of the Founding of the American Indian Higher Education Consortium (AIH EC); Nomination of Phil Hogen to serve as Chairman of the National Indian Gaming Commission; and Nomination of Quannah Crossland Stamps to serve as Commissioner of the Administration for Native Americans.

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

COMMITTEE ON THE JUDICIARY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on ''Narrowing the Nation's Power: The Supreme Court Sides with the States'' on Tuesday, October 1, 2002 in Dirksen Room 226 at 11:00 a.m.

WITNESS LIST

The Honorable John T. Noonan, Jr., Judge, Ninth Circuit Court of Appeals San Francisco, CA; Professor Marci Hamilton, Benjamin N. Cardozo School of Law, New York, New York.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. REID. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, October 1, 2002 at 10:00 a.m. to hold a joint hearing with the House Permanent Select Committee on Intelligence concerning the Joint Inquiry into the events of September 11, 2001.

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

SUBCOMMITTEE ON IMMIGRATION

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on Immigration be authorized to meet to conduct a hearing on ''Detention and Treatment of Haitian Asylum Seekers,'' on Tuesday, October 1, 2002 at 2:15 p.m. in SD226.

FINAL WITNESS LIST

Panel I: Bishop Thomas G. Wenski, Auxiliary Bishop of Miami, Florida and Chairman of the U.S. Conference of Catholic Bishops Committee on Migration, Miami, FL; Marie Ocean, Haitian Asylee and Former Detainee, Miami, Florida; Cheryl Little, Executive Director, Florida Immigrant Advocacy Center (FIAC), Miami, Florida; Stephen Johnson, Policy Analyst for Latin America, Heritage Foundation, Washington, D.C.; Dina Paul Parks, Executive Director, National Coalition for Haitian Rights (NCHR), New York, New York.

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

PRIVILEGE OF THE FLOOR

Mr. LEAHY. Mr. President, I ask unanimous consent that the privilege of the floor be granted to Wan Kim and Michael Volkov, who are detailed to Senator HATCH's staff, during the course of debate on H.R. 2215.

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

AUTHORIZATION OF THE USE OF UNITED STATES ARMED FORCES AGAINST IRAQ—MOTION TO PROCEED

Mr. REID. Mr. President, I move to proceed to Calendar No. 618, S.J. Res. 45, and I send a cloture motion to the desk.

CLOTURE MOTION

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

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the motion to proceed to S.J. Res. 45, a joint resolution to authorize the use of U.S. forces against Iraq.

Harry Reid, Jeff Bingaman, Jean Carnahan, Daniel K. Inouye, Bill Nelson of Florida, Ben Nelson of Nebraska, Ernest F. Hollings, John Edwards, Tim Johnson, Joseph I. Lieberman, Herb Kohl, John Breaux, Joseph R. Biden, Jr., Max Baucus, Mary Landrieu, Tom Daschle.

Mr. REID. Mr. President, I withdraw that motion.

The PRESIDING OFFICER. The Senator has that right.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Nos. 1055

through 1070, and the nominations placed on the Secretary's desk; that the nominations be confirmed; that the motions to reconsider be laid upon the table; that the President be immediately notified of the Senate's action; that any statements thereon be printed in the RECORD; and that the Senate then resume legislative session, with the preceding all occurring without any intervening action or debate.

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

The nominations were considered and confirmed as follows:

AIR FORCE

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be general

Lt. Gen. Charles F. Wald, 0000

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. Thomas B. Goslin, Jr., 0000

The following Air National Guard of the United States officer for appointment in the Reserve of the Air Force to the grade indicated under title 10 U.S.C., section 12203:

To be major general

Brig. Gen. George W. Keefe, 0000

The following named officers for appointment in the United States Air Force to the grade indicated under title 10 U.S.C., section 624:

To be major general

Brigadier General Joseph P. Stein, 0000

ARMY

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10 U.S.C., section 601:

To be general

Lt. Gen. Kevin P. Byrnes, 0000

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10 U.S.C., section 601:

To be lieutenant general

Lt. Gen. John B. Sylvester, 0000

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10 U.S.C., section 601:

To be lieutenant general

Lt. Gen. Edward G. Anderson, III, 0000

The following named officers for appointment in the United States Army to the grade indicated under title 10 U.S.C., section 624:

To be major general

Brigadier General Dorian T. Anderson, 0000
Brigadier General Guy M. Bourn, 0000
Brigadier General John M. Brown, III, 0000
Brigadier General Ronald L. Burgess, Jr., 0000
Brigadier General William B. Caldwell, IV, 0000
Brigadier General Kevin T. Campbell, 0000
Brigadier General Ann E. Dunwoody, 0000
Brigadier General Jeanette K. Edmunds, 0000
Brigadier General Galen B. Jackman, 0000
Brigadier General Ronald L. Johnson, 0000
Brigadier General John F. Kimmons, 0000
Brigadier General James A. Marks, 0000
Brigadier General Stanley A. McChrystal, 0000
Brigadier General David F. Melcher, 0000
Brigadier General Thomas G. Miller, 0000
Brigadier General Robert W. Mixon, Jr., 0000
Brigadier General James W. Parker, 0000
Brigadier General Elbert N. Perkins, 0000
Brigadier General Kenneth J. Quinlan, Jr., 0000
Brigadier General Fred D. Robinson, Jr., 0000
Brigadier General Stephen M. Speakes, 0000
Brigadier General Carl A. Strock, 0000
Brigadier General Antonio M. Taguba, 0000
Brigadier General Alan W. Thrasher, 0000
Brigadier General Randal M. Tieszen, 0000
Brigadier General Bennie E. Williams, 0000
Brigadier General Walter Wojdakowski, 0000

The following named officers for appointment in the Reserve of the Army to the grades indicated under title 10, U.S.C., section 12203:

To be major general

Brig. Gen. Paul E. Mock, 0000

To be brigadier general

Col. Bruce A. Casella, 0000

The following Army National Guard officers for appointment in the Reserve of the Army to the grades indicated under title 10 U.S.C., Section 12203:

To be major general

Brigadier General Harry B. Burchstead, Jr., 0000
Brigadier General James A. Cozine, 0000
Brigadier General Ricky D. Erlandson, 0000
Brigadier General Gregory J. Vadnais, 0000

To be brigadier general

Colonel Bruce E. Beck, 0000
Colonel Richard M. Blunt, 0000
Colonel Tod J. Carmony, 0000
Colonel Michael J. Curtin, 0000
Colonel Huntington B. Downer, Jr., 0000
Colonel Michael P. Fleming, 0000
Colonel Ralph R. Griffin, 0000
Colonel Gregory A. Howard, 0000
Colonel Arthur V. Jewett, 0000
Colonel Michael A. Kiefer, 0000
Colonel Thomas C. Lawing, 0000
Colonel John E. Leatherman, 0000
Colonel Herbert L. Newton, 0000
Colonel Patrick M. O'Hara, 0000
Colonel Darren G. Owens, 0000
Colonel Stewart A. Reeve, 0000
Colonel Lawrence H. Ross, 0000
Colonel John E. Sayers, Jr., 0000
Colonel Theodore G. Shuey, Jr., 0000
Colonel Anthony M. Stanich, Jr., 0000
Colonel Robin C. Timmons, 0000
Colonel Jodi S. Tymeson, 0000
Colonel Edward L. Wright, 0000
Colonel Mark E. Zirkelbach, 0000

The following Army National Guard of the United States officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be brigadier general

Col. Clarence M. Agena, 0000

MARINE CORPS

The following named officer for appointment in the United States Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be general

Gen. James L. Jones, Jr., 0000

The following named officer for appointment as Commandant of the Marine Corps, and appointment to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., sections 5043 and 601:

To be general

Lt. Gen. Michael W. Hagee, 0000

The following named officer for appointment in the United States Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Michael A. Hough, 0000

NAVY

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be admiral

Adm. James O. Ellis, 0000

The following named officer for appointment as Chief of Naval Personnel, United States Navy, and appointment to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., sections 601 and 5141:

To be vice admiral

Rear Adm. Gerald L. Hoewing, 0000

ARMY

PN2164 Army nomination of Maurice L. McDougald, which was received by the Senate and appeared in the Congressional Record of September 17, 2002

PN2165 Army nominations (4) beginning JOHN R. HINSON, and ending JOSEPH M. SCATURO, which nominations were received by the Senate and appeared in the Congressional Record of September 17, 2002

PN2166 Army nominations (4) beginning CATHI A. KIGER, and ending TIMOTHY R. WARRICK, which nominations were received by the Senate and appeared in the Congressional Record of September 17, 2002

PN2167 Army nominations (9) beginning JAY F. DALEY, and ending DONNA S. WOODBY, which nominations were received by the Senate and appeared in the Congressional Record of September 17, 2002

PN2168 Army nominations (3) beginning PAUL M. AMALFITANO, and ending JAMES S. HOGGARD, which nominations were received by the Senate and appeared in the Congressional Record of September 17, 2002

PN2169 Army nomination of Stephen M. Bloomer, which was received by the Senate and appeared in the Congressional Record of September 17, 2002

PN2170 Army nomination of Theodore A. Mickevicius, which was received by the Senate and appeared in the Congressional Record of September 17, 2002

PN2171 Army nomination of Hugo E. Salazar, which was received by the Senate and appeared in the Congressional Record of September 17, 2002

PN2187 Army nominations (1565) beginning JEFFREY W * ABBOTT, and ending X122, which nominations were received by the Senate and appeared in the Congressional Record of September 18, 2002

MARINE CORPS

PN2172 Marine Corps nomination of David A. Suggs, which was received by the Senate and appeared in the Congressional Record of September 17, 2002

PN2173 Marine Corps nomination of Chandler P. Seagraves, which was received by the Senate and appeared in the Congressional Record of September 17, 2002

PN2188 Marine Corps nomination of Brent A. Harrison, which was received by the Senate and appeared in the Congressional Record of September 18, 2002

NAVY

PN2174 Navy nomination of Arthur R. Stiffel, IV, which was received by the Senate and appeared in the Congressional Record of September 17, 2002

PN2175 Navy nomination of Jeffrey Ball, which was received by the Senate and appeared in the Congressional Record of September 17, 2002

PN2176 Navy nominations (90) beginning ENEIN Y H ABOUL, and ending KIMBERLY A ZUZELSKI, which nominations were received by the Senate and appeared in the Congressional Record of September 17, 2002

PN2177 Navy nominations (31) beginning CHRISTOPHER H BERKERS, and ending RICHARD L ZIMMERMANN, which nominations were received by the Senate and appeared in the Congressional Record of September 17, 2002

PN2178 Navy nominations (30) beginning DAVID R BROWN, and ending GEORGE B YOUNGER, which nominations were received by the Senate and appeared in the Congressional Record of September 17, 2002

PN2189 Navy nomination of Edward T. Modenhauer, which was received by the Senate and appeared in the Congressional Record of September 18, 2002

LEGISLATIVE SESSION

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

MEASURE READ THE FIRST TIME—S. 3018

Mr. REID. Mr. President, it is my understanding that S. 3018 introduced earlier today by Senators BAUCUS and GRASSLEY is at the desk and due for its first reading.

The PRESIDING OFFICER. The Senator is correct.

Mr. REID. I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill by title.

The legislative clerk read as follows:

A bill (S. 3018) to amend title XVIII of the Social Security Act to enhance beneficiary access to quality health care services under the medicare program, and for other purposes.

Mr. REID. I now ask for its second reading but object to my own request.

The PRESIDING OFFICER. Objection having been heard, the bill will receive its second reading on the next legislative day.

ORDERS FOR WEDNESDAY, OCTOBER 2, 2002

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m., tomorrow morning, October 2; that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be deemed approved to date, the time for the two leaders be reserved for their use later in the day, and there be a period for morning business until 11:30 a.m., with Senators permitted to speak for up to 10 minutes each, with the time until 10 a.m., and the time from 11 to 11:30 a.m., under the control of the majority leader or his designee; that the first 20 minutes be under the control of Senator JEFFORDS, and that the time from 10 a.m., until 11 a.m., be under the control of the Republican leader or his designee for tributes to Senator HELMS; and at 11:30 a.m., the Senate will resume consideration of the Department of Justice authorization conference report.

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

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. If there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:52 p.m., adjourned until Wednesday, October 2, 2002, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate October 1, 2002:

IN THE ARMY

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. DAVID C. HARRIS, 0000

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be colonel

JAMES M. KNAUF, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be colonel

GARY P. ENDERSBY, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be colonel

MARK A. JEFFRIES, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

JOHN P. REGAN, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

JOHN S. MCFADDEN, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

LARRY B. LARGENT, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

FRANK W. PALMISANO, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

DAVID S. BRENTON, 0000
BRENDA K. ROBERTS, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be major

CYNTHIA A. JONES, 0000
JEFFREY F. JONES, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be major

MARIO G. CORREIA, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be major

MICHAEL L. MARTIN, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be lieutenant colonel

XIAO LI REN, 0000
JEFFREY H.* SEDGEWICK, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be major

THOMAS A.* AUGUSTINE III, 0000
ROBERT H.* GARRISON, 0000
CHARLES E.* PYKE, 0000

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

To be major

SCOTT T. WILLIAMS, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be major

ERIK A. DAHL, 0000

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR TEMPORARY APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 6221:

To be captain

RALPH M. GAMBONE, 0000

CONFIRMATIONS

Executive nominations confirmed by the Senate October 1, 2002:

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. CHARLES F. WALD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. THOMAS B. GOSLIN, JR.

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. GEORGE W. KEEFE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIGADIER GENERAL JOSEPH P. STEIN

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. KEVIN P. BYRNES

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. JOHN B. SYLVESTER

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. EDWARD G. ANDERSON III

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIGADIER GENERAL DORIAN T. ANDERSON
BRIGADIER GENERAL GUY M. BOURN
BRIGADIER GENERAL JOHN M. BROWN III
BRIGADIER GENERAL RONALD L. BURGESS, JR.
BRIGADIER GENERAL WILLIAM B. CALDWELL IV
BRIGADIER GENERAL KEVIN T. CAMPBELL
BRIGADIER GENERAL ANN E. DUNWOODY
BRIGADIER GENERAL JEANETTE K. EDMUNDS
BRIGADIER GENERAL GALEN B. JACKMAN
BRIGADIER GENERAL RONALD L. JOHNSON
BRIGADIER GENERAL JOHN F. KIMMONS
BRIGADIER GENERAL JAMES A. MARKS
BRIGADIER GENERAL STANLEY A. MCCHRYSTAL
BRIGADIER GENERAL DAVID F. MELCHER
BRIGADIER GENERAL THOMAS G. MILLER
BRIGADIER GENERAL ROBERT W. MIXON, JR.
BRIGADIER GENERAL JAMES W. PARKER
BRIGADIER GENERAL ELBERT N. PERKINS
BRIGADIER GENERAL KENNETH J. QUINLAN, JR.
BRIGADIER GENERAL FRED D. ROBINSON, JR.
BRIGADIER GENERAL STEPHEN M. SPEAKES
BRIGADIER GENERAL CARL A. STROCK
BRIGADIER GENERAL ANTONIO M. TAGUBA
BRIGADIER GENERAL ALAN W. THRASHER
BRIGADIER GENERAL RANDAL M. TIESZEN
BRIGADIER GENERAL BENNIE E. WILLIAMS
BRIGADIER GENERAL WALTER WOJDAKOWSKI

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. PAUL E. MOCK

To be brigadier general

COL. BRUCE A. CASELLA

THE FOLLOWING ARMY NATIONAL GUARD OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIGADIER GENERAL HARRY B. BURCHSTEAD, JR.
BRIGADIER GENERAL JAMES A. COZINE
BRIGADIER GENERAL RICKY D. ERLANDSON
BRIGADIER GENERAL GREGORY J. VADNAIS

To be brigadier general

COLONEL BRUCE E. BECK
COLONEL RICHARD M. BLUNT
COLONEL TOD J. CARMONY
COLONEL MICHAEL J. CURTIN
COLONEL HUNTINGTON B. DOWNER, JR.
COLONEL MICHAEL P. FLEMING
COLONEL RALPH R. GRIFFIN
COLONEL GREGORY A. HOWARD
COLONEL ARTHUR V. JEWETT
COLONEL MICHAEL A. KIEFER
COLONEL THOMAS C. LAWING
COLONEL JOHN E. LEATHERMAN
COLONEL HERBERT L. NEWTON
COLONEL PATRICK M. O'HARA
COLONEL DARREN G. OWENS
COLONEL STEWART A. REEVE
COLONEL LAWRENCE H. ROSS
COLONEL JOHN E. SAYERS, JR.
COLONEL THEODORE G. SHUEY, JR.
COLONEL ANTHONY M. STANICH, JR.
COLONEL ROBIN C. TIMMONS
COLONEL JODI S. TYMESON
COLONEL EDWARD L. WRIGHT
COLONEL MARK E. ZIRKELBACH

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. CLARENCE M. AGENA

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

GEN. JAMES L. JONES, JR.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS COMMANDANT OF THE MARINE CORPS, AND APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTIONS 5043 AND 601:

To be general

LT. GEN. MICHAEL W. HAGEE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. MICHAEL A. HOUGH

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be admiral

ADM. JAMES O. ELLIS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS CHIEF OF NAVAL PERSONNEL, UNITED STATES NAVY, AND APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTIONS 601 AND 5141:

To be vice admiral

REAR ADM. GERALD L. HOEWING

ARMY NOMINATION OF MAURICE L. MCDOUGALD.

ARMY NOMINATIONS BEGINNING JOHN R. HINSON AND ENDING JOSEPH M. SCATURO, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 17, 2002.

ARMY NOMINATIONS BEGINNING CATHI A. KIGER AND ENDING TIMOTHY R. WARRICK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 17, 2002.

ARMY NOMINATIONS BEGINNING JAY F. DALEY AND ENDING DONNA S. WOODBY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 17, 2002.

ARMY NOMINATIONS BEGINNING PAUL M. AMALFITANO AND ENDING JAMES S. HOGGARD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 17, 2002.

ARMY NOMINATION OF STEPHEN M. BLOOMER.

ARMY NOMINATION OF THEODORE A. MICKEVICIUS.

ARMY NOMINATION OF HUGO E. SALAZAR.

ARMY NOMINATIONS BEGINNING JEFFREY W * ABBOTT AND ENDING X122, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 18, 2002.

MARINE CORPS NOMINATION OF DAVID A. SUGGS.

MARINE CORPS NOMINATION OF CHANDLER P. SEAGRAVES.

MARINE CORPS NOMINATION OF BRENT A. HARRISON.

NAVY NOMINATION OF ARTHUR R. STIFFEL IV.

NAVY NOMINATION OF JEFFREY BALL.

NAVY NOMINATIONS BEGINNING ENEIN Y H ABOUL AND ENDING KIMBERLY A ZUZELSKI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 17, 2002.

NAVY NOMINATIONS BEGINNING CHRISTOPHER H BERKERS AND ENDING RICHARD L ZIMMERMANN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 17, 2002.

NAVY NOMINATIONS BEGINNING DAVID R BROWN AND ENDING GEORGE B YOUNGER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 17, 2002.

NAVY NOMINATION OF EDWARD T. MOLDENHAUER.