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House of Representatives

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H. CON. RES. 507

Mrs. JONES of Ohio. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H. Con. Res. 507.

The SPEAKER pro tempore (Mr. ISAKSON). Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

REDUCING PREEXISTING PAYGO BALANCES

Mr. NUSSLE. Mr. Speaker, pursuant to House Resolution 602, I call up the bill (H.R. 5708) to reduce preexisting PAYGO balances, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The text of H.R. 5708 is as follows:

H.R. 5708

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

SECTION 1. Reduction of Preexisting PAYGO Balances.

Upon the enactment of this Act, the Director of the Office of Management and Budget shall reduce any balances of direct spending and receipts legislation for all fiscal years under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 to zero.

The SPEAKER pro tempore. Pursuant to House Resolution 602, the gentleman from Iowa (Mr. NUSSLE) and the gentleman from South Carolina (Mr. SPRATT) each will control 30 minutes.

The Chair recognizes the gentleman from Iowa (Mr. NUSSLE).

Mr. NUSSLE. Mr. Speaker, I yield myself such time as I may consume.

I rise in favor of the bill before us, H.R. 5708. It is a bill that would prevent the automatic spending cuts in Medicare and other entitlements.

Under the Budget Enforcement Act of 1990, entitlement and tax legislation must be offset on a year-by-year basis. We do this so that it will not increase the deficit or reduce the surplus.

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MARK DAYTON, *Chairman.*

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If such legislation is not offset, then automatic spending cuts, often called a sequester, are triggered in selected entitlement programs, including Medicare. This so-called pay-as-you-go rule, or what we refer to around here oftentimes as PAYGO, expired at the end of September; but the Office of Management and Budget is still required to trigger a sequester for previously enacted legislation.

On various occasions during which the Federal Government was running large surpluses, this Congress saw fit to depart from the PAYGO rule for selected measures. This was the case with the tax bill enacted last year. Similarly this year on both sides of the aisle, we have promoted initiatives to provide prescription drug benefit coverage under Medicare, and we also did so without offsetting entitlement cuts or tax increases.

But as we know, last year's recession and the shock of the terrorist attacks are still affecting our economy and have changed the budget outlook considerably. As a result, these and other such measures could trigger what we refer to as a PAYGO sequester several weeks after the Congress adjourns. Should we fail to enact this bill, the Office of Management and Budget has estimated that Medicare and other entitlements should be reduced by almost $125 billion in fiscal year 2003. Given various rules that exempt certain programs from sequestration, or that limit the size of any sequester, the maximum sequester would still be substantial, about $31 billion, all of which would have to be absorbed in 1 year.

The magnitude of these cuts would be so great as to cause a 4 percent reduction in certain Medicare payments and cuts ranging in the billions in such key programs as crop insurance, the Department of Defense health fund, payments to States for child support enforcement, veterans education and readjustment, and the September 11 victims compensation fund. With the other body unable to pass even a budget this year, we were obviously unable to reach an agreement on legislation to extend PAYGO and other budget rules. It is my hope that this can be done next year as part of a normal budget process.

I would close by reminding our Members and colleagues that the PAYGO rule contributed to the taming of deficits over the past 7 years, and it is my hope that a successor to PAYGO can be developed and coupled with caps on distressary appropriations.

Mr. Speaker, in short, what this bill does is prevents automatic spending cuts in Medicare and other entitlements. As we know in years past, particularly in years of surplus while the PAYGO rule was used, it was not a perfect rule because it suggested that tax cuts and entitlement reforms go on what we call the PAYGO scorecard. Every year in a very routinized way, the last bill has taken care of this concern in years of surplus. That would have been the intention this year. However, this controversy looms as a result of the fact that we have had this triple budget threat of a downturn in the economy, the terrorist attacks, and the war on terrorism.

Mr. Speaker, I believe all of us want to avoid Draconian cuts to Medicare and to other entitlements or to prevent tax increases in order to pay for this during a time of recession. What we need is a plan, and we have a plan. The House passed a plan. The President has endorsed that plan. If we stick to that plan, we can get back to surpluses, we can get back to fiscal discipline. But in the meantime, let us take this ministerial opportunity to take care of this unfortunate situation so that we can avoid something automatic happening while Congress is not in session.

Mr. Speaker, I reserve the balance of my time.

Mr. SPRATT. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. STENHOLM).

(Mr. STENHOLM asked and was given permission to revise and extend his remarks.)

□ 1900

Mr. STENHOLM. Mr. Speaker, a year ago the Blue Dogs warned about the danger of making long-term commitments for tax cuts or new spending programs. We were concerned that the projections were based on unrealistic assumptions and that the projected surpluses could vanish as quickly as they materialized. We were concerned that the large tax cuts and increased spending would drive up the deficit and the national debt. Our warnings were ignored, and now we are told we will be borrowing virtually all of our Social Security surplus for the next decade and beyond.

After passing legislation that would rack up an additional debt of $127 billion next year alone, Congress is considering legislation that would wipe the slate clean to remove all those costs from the ledger. The bill before us wipes the slate clean not just for this year and next year but for each of the next 5 years, allowing us to avoid responsibility for legislation adding over $550 billion in new national debt.

I do not want to cut Medicare or veterans benefits, farm assistance, or child support enforcement. However, we object strongly to clearing the scorecard for the next 5 years, which allows Congress and the President to ignore the impact of legislation that will increase the deficit for the next 5 years without working to plan to stem the tide of red ink.

I agree with what the gentleman from Iowa (Mr. NUSSLE) said a moment ago. This is not the time to be talking about spending cuts or tax increases. I agree. But why not in 2004, 2005, 2006, 2007, and 2008? Why do we feel compelled tonight to say we are going to wipe the slate clean for the next 5 years when we have constantly and the motion to recommit tonight will allow us to do just that? The motion that the gentleman from Kansas (Mr. MOORE) will offer will say we do not object to wiping the scorecard clean for 2002 and 2003. Obviously 9/11/01 has made a big change in the economics of this country. But let us sit down in the next Congress and let us work out the details of how we are in fact going to deal with these exploding deficits. Let us not exempt new tax cuts or new spending increases from the hard decisions that this body should be trying to make in order to bring our budget back under control. That is what we object to. I do not understand the rationale of why we need to do this for 2004, 2005, 2006, 2007, and 2008. And I would be glad to yield to the chairman if he could answer that question because he made a very compelling argument a moment ago of why we should not do it now.

I do not want to cut Medicare right now. In fact, we need to do just the opposite. We do have to recognize the rationale of the situation we are in today, but why do we want to do it for these outyears? I do not understand that.

Just yesterday Federal Reserve Chairman Alan Greenspan reiterated the importance of restoring the budget enforcement rules for the Federal budget. We should not ignore the chairman's request of this body. ''It's important for Congress and the administration to have a long-term budget structure which we continuously update and evaluate so that we have a mechanism to make judgments . . . relative priorities within the overall budget choice process or with respect to the economy . . . we need to get the process back to where it was. We need to reestablish the basic caps on discretionary spending, on PAYGO, introduce new things like triggers or other things which give us a vehicle to function with.''

I believe the chairman has agreed with that in the past. I certainly do. Earlier this year Chairman Greenspan told the Committee on the Budget that failing to preserve budget enforcement rules would be a grave mistake. Tonight we are about to do just that. We are about to make a grave mistake saying we are going to waive all PAYGO rules, all discretionary caps, everything for the next 8 years in order to do what? Accomplish somebody's political agenda? Or are we going to seriously roll up our sleeves in the next Congress and deal with it?

Vote for the motion to recommit. Let us wipe the PAYGO slate clean for 2002 and 2003. Wipe it clean. We all will agree, but do not do it for 2004, 2005, 2006, 2007, 2008. That will not be a fiscally responsible thing for this House to do.

Mr. NUSSLE. Mr. Speaker I yield myself such time as I may consume.

Mr. Speaker, while I certainly enjoy the philosophical discussion of budget process and budget enforcement with maybe the best of them, the fact of the matter is that this is a real vote and

you are either going to vote yes to prevent automatic sequestration of Medicare or you are not. It is either a vote to allow OMB, or not even allow, to force OMB for automatic sequestration of Medicare or you are not. So a vote in favor of this bill prevents Medicare cuts. A vote against this bill or a vote even for that matter for the motion to recommit allows Medicare cuts, and it is that simple.

So we will have a lot of time to talk about budget process for many years, weeks, months to come, but the fact of the matter is that this is a real bill. It has real consequences, and therefore it should be passed.

Mr. Speaker, I reserve the balance of my time.

Mr. SPRATT. Mr. Speaker, I yield 4 minutes to the gentleman from Florida (Mr. DAVIS).

Mr. DAVIS of Florida. Mr. Speaker, I would like to respond to the comments just made by the chairman of the Committee on the Budget. It is correct to say that probably every Member of this body is opposed to cutting Medicare spending to fund the effects of the tax cut whose size in retrospect was way too large given the condition of the economy and the cost to our country of maintaining security at home and abroad, but there is another point involved here in the motion to recommit, and this is what we need to debate.

We are not cutting taxes tonight or spending money. We are engaged in accounting. We just spent a year preaching to corporate America about the need to be open and honest to shareholders and investors and to the public about admitting when they were in deficit and doing the math correctly, and here we are tonight in direct defiance of that principle because what we are voting upon is whether we are going to be honest first with ourselves and then with the American people that we are in deficit spending and in balance only because we are relying upon the Social Security Trust Fund. Every Member of Congress who went home the last campaign campaigned upon fiscal responsibility, the virtues of balancing the budget and paying down the debt, and there are many Democrats and some Republicans that increasingly will argue for that. It has had benefits in terms of interest rates. It has benefits in terms of preparing Social Security and Medicare for the retirement of the baby boomers. One of the key principles that brought Democrats and Republicans together to balance the budget was the principle of pay as you go because pay as you go has meant, until today after this vote, that if you want to increase spending, Medicare or other discretionary spending under formulas or programs, or if you wanted to increase taxes, you had to pay as you go. You had to consider the impact that would have on the balanced budget, growing the deficit.

Tonight we are throwing those rules out. We are saying for the next 5 years, whether it is increased spending or additional tax cuts, we do not care what impact it has on the size of the deficit. We are going to dig deeper.

Let us think back to the things we said to corporate America and what we promised the people we represent. Let us have a direct, open, and honest debate tonight. Let us admit to ourselves we made a mistake in terms of the size of the tax cut. We need to come straight with the American public. It starts by coming straight with ourselves. Let us reinstate PAYGO starting the year after this. Let us vote for the motion to recommit because what the motion to recommit says, and my colleagues are going to hear this over and over again, is let us commit, let us make the President commit to a plan to get back to a balanced budget, to stop relying upon the Social Security Trust Fund. The motion to recommit says it is not going to happen tomorrow. We have got security problems we need to deal with. We have got funding at home we need to deal with, but we need to have a plan, and we need to be honest with the folks at home just as we said to corporations across America, we have got a problem, we have got a growing deficit and we are going in the right direction and not the wrong direction. It starts by reinstating the PAYGO principle. I would ask my colleagues, Democrats and Republicans, that care about fiscal responsibility and the growing budget deficit to vote for the motion to recommit.

Mr. NUSSLE. Mr. Speaker, I reserve the balance of my time.

Mr. SPRATT. Mr. Speaker, I yield 3 minutes to the gentleman from Washington (Mr. MCDERMOTT).

Mr. MCDERMOTT. Mr. Speaker, I want to thank the gentleman from South Carolina (Mr. SPRATT) for yielding me this time.

Mr. Speaker, I think that I want to caution my friends on the Democratic side do not get excited. You guys understand this President is in total control of this country, and he lied to us about taxes and now it is coming home to roost. Do not get exercised because you have got to save your voice. We are going to have 2 years of this stuff where they can do anything they want. This bill is simply giving them the keys to the hen house. The fox has now got it. He has got votes in the Senate, got votes in the House, and the President is going to send up stuff here and he does not have to balance any budget anymore.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. ISAKSON). The Chair would respectfully rule that the gentleman not make such personal references to the President of the United States. The gentleman may proceed in order.

Mr. MCDERMOTT. But you all understand where it is coming from, do you not? I mean it is not falling out of the sky. This is a concentrated effort, and what they wanted to do was they wanted to give all those taxes away so there would be no money to deal with social programs, and now it happens and they are suddenly afraid. They were fools before. They were saying, well, you can give it all away and we do not have to worry. We will just stiffen our spine and when the people come in here begging, we will send them away. Then they suddenly found out that the people coming in here were veterans.

I mean we are going to war. We are going to create a whole bunch more veterans. Are we going to take care of them? Go to my veterans hospital and you will find out what they are doing right now. Or poor people, of course they do not count anyway. So never mind. Let them yell all they want. And education, well, what do we care about stooges? Let them pile on some more debt.

This is a blank check to the executive branch to write and spend endlessly. And an unfortunate chairman of the committee has to come out here and defend this all by himself. No one will come here and speak with him. He is the only one. They put him out there and they said you are the chairman, you go carry this and just take the lumps, it will not make any difference because down at the White House we will write up some stuff and we will spend on war, we will spend the $200 billion going to war in Iraq over the next 10 years. That is no problem. We can find that anywhere.

Let us see what else we can find. Oh, we have got to have that insurance for terrorism. Of course that will not cost anything. And in this bill that is coming up next they have got additional money for Medicare. Do my colleagues know what they did? They went down to CBO and they said CBO, do not score this, do not show it cost anything, so they can bring it out here and they can say it does not cost anything, CBO says there is no scoring.

I mean this game is rigged, and you are watching this game be rigged right in front of your eyes. This will be when you come back and want to balance the budget and you look for some rules, you gave them away on whatever this is, the 15th of November. Vote for the recommittal.

Mr. NUSSLE. Mr. Speaker, I yield myself such time as I may consume.

Again for the benefit of the Members, a yes vote is to follow the budget, follow our plan that we have put in place, and a no vote cuts Medicare, crop insurance, military health, child enforcement, veterans education, and the victims of September 11. It is that simple. Again, these are good discussions, nice philosophical arguments, but the facts are still the facts. If you vote for the motion to recommit, you are cutting Medicare. If you vote yes, you are allowing us to continue to follow the budget plan that has been put in place.

Mr. Speaker, I continue to reserve the balance of my time.

Mr. SPRATT. Mr. Speaker, I yield myself such time as I may consume.

Let me make clear that the motion to recommit will wipe clean the scorecard, $125 billion on the scorecard this

year. It will wipe it clean for 2003. It will only apply to the future and it will only require that the President give us a budget which shows some light at the end of the tunnel, a balanced budget by 2008. So for this year and next year, it will allow us the freedom of movement without being concerned about it.

Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. BENTSEN).

(Mr. BENTSEN asked and was given permission to revise and extend his remarks.)

□ 1915

Mr. BENTSEN. Mr. Speaker, this will probably be the last legislative item that I will debate in my House career; and it is ironic that, given that when I came here as a Member of the House we heard about how we had deficits as far as the eye can see, and, in fact, even before that when I was a member of the staff of this body back in the 1980s we went through a quadrupling of the national debt and we went through Gramm-Rudman I and Gramm-Rudman II, and we never could seem to get a handle on the deficit until 1990 with the Budget Control and Enforcement Act, and we imposed PAYGO and spending caps. Then we extended it in 1993. Then when I got here the Republicans extended in 1997. Then, lo and behold, we got control of the deficit, and we began to argue about how much public debt we could pay down.

Now, in the age of deficits again where we are going to have a $200 billion deficit in the current fiscal year, apparently, we are going to repeal all the rules. We might as well repeal the Unified Budget Act and go back to the pre-68 rules when we do not know what the real budget is, the Committee on Appropriations can spend what they want to, the Committee on Ways and Means and Energy and Commerce committee can spend what they want to, and at some point, at some point, the American people will pay the tab.

I am afraid that is where we are heading with this. I do not think this is where the chairman wants to go, but I understand he has to follow his orders. But how ironic, coming in when it was deficits as far as the eye can see, and we had a chance to pay down the debt and we started to do it, I leave on a note where once again it is deficits as far as the eye can see; and we are not doing anything to correct it. In fact, we are stepping on the gas to make it even worse.

I think we are going to regret this day for a long time when we see our national debt balloon far beyond anything this country has ever seen before, and I do not think there is any Member of this House who has an idea of how they are going to deal with it, particularly if they do this today. So I hope we will defeat this really unsatisfactory piece of legislation.

Mr. NUSSLE. Mr. Speaker, I reserve the balance of my time.

Mr. SPRATT. Mr. Speaker, I yield 4 minutes to the gentleman from North Carolina (Mr. PRICE).

Mr. PRICE of North Carolina. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise in support of the motion to recommit, which our distinguished colleague from South Carolina (Mr. SPRATT) will be offering.

Today's vote represents a fork in the road of Federal budgeting. We must decide whether to continue down the path of deeper budget deficits or to take those first difficult steps toward returning to a balanced budget.

The pay-as-you-go rule expired at the end of fiscal year 2002. However, PAYGO sequestration for prior laws extends through 2006. These PAYGO rules, which were adopted as part of the 1990 bipartisan budget agreement, have been crucial to the progress that we made during the 1990s to go from record budget deficits to budget surpluses, surpluses that let us retire $400 billion in the national debt.

With the help of PAYGO and statutory limits on discretionary spending, we were able to improve the bottom line of the budget for 8 consecutive years, culminating in surpluses for fiscal years 1998 through 2000. Unfortunately, the 10-year, $5.6 trillion surplus that was projected less than 2 years ago has almost disappeared, and the budget has fallen back into annual deficit.

Now more than ever, it is essential that we reaffirm our commitment to the budget tools that can help us restore budget discipline and return the Federal Government to a balanced budget. That is why I am disappointed that the Republican leadership has decided to bring to the floor legislation that would eliminate PAYGO sequestration for all future years to which the law applies.

Mr. Speaker, no one wants across-the-board cuts to Medicare or veterans' education or child support enforcement or other domestic priorities; and contrary to the assertion of the chairman of the Committee on the Budget, the motion to recommit would do no such thing.

The Republican solution, that we ignore the long-term budget deficits facing our Nation, will not make them go away. We should not ignore our budget problems; we should work to solve them.

The Spratt motion to recommit would avoid domestic spending cuts by clearing the PAYGO scorecard for 2002 and 2003. But unlike H.R. 5708, the Spratt motion would require the President to submit a budget that achieves balance within 5 years, excluding the Social Security trust fund surplus, before clearing the PAYGO scorecard for fiscal years 2004 through 2006. The motion to recommit would, therefore, hold Republicans and the President to their professed goal of achieving fiscal balance and protecting Social Security revenues in the process. To avoid future across-the-board cuts, the President would have to reverse course and move the budget back into surplus.

Mr. Speaker, for several months we have been urging the President to hold bipartisan budget negotiations to chart a path back to fiscal control. It is well past time for the President to present Congress with a budget that acknowledges the new fiscal realities confronting our Nation. I urge my colleagues to vote for the motion to recommit and to take the first steps toward restoring fiscal discipline to the Federal budget.

Mr. NUSSLE. Mr. Speaker, I reserve the balance of my time.

Mr. SPRATT. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. KIND).

(Mr. KIND asked and was given permission to revise and extend his remarks.)

Mr. KIND. Mr. Speaker, I thank my friend for yielding me time.

Mr. Speaker, this is not some type of rhetorical debating society we are having tonight or some philosophical argument. This is a group of Members who feel it is important enough to stand up in this body tonight to warn the American people about the disastrous fiscal course that this Congress and this administration have embarked upon, which is leading to exploding deficits again and an accumulation of a national debt at exactly the wrong moment in our Nation's mystery, when we have close to 80 million Americans, so-called baby boom generation, all marching lockstep to their retirement in a few short years; and the decisions that we need to make today to prepare the next generation to deal with that challenge are not being made. In fact, one of the fiscal disciplinary rules that has worked well to rein in spending, to maintain balance in our budgetary choices, they are seeking to waive over the next 5 years.

I think everyone agrees that this bill before us is a recognition of a failed budgetary policy of large tax cuts that were not paid for and new spending programs were not paid for. To avoid the inevitable across-the-board cuts with Medicare and veterans benefits and farm programs, we have to pass this legislation.

But I for the life of me do not understand why we cannot deal with the fiscal mess created this fiscal year, give them a little leeway in the next fiscal year, but then support a motion to recommit that calls upon the President to submit a balanced budget plan that leaves our hands and their hands off from Social Security surpluses in the following years so we have a chance to reverse the fiscal course that we have embarked upon.

What is different today than in the past is we do not have the luxury of the 1990s to bring the budget back into balance and to run surpluses to reduce the debt before the baby boomers start their retirement. It is now or never. We can be back next year having another philosophical debate, but at that time we are going to be much deeper in the hole; and I cannot think of anything

more morally irresponsible than to leave the next generation with this mountain of debt for them to bail the country out of.

Mr. NUSSLE. Mr. Speaker, I reserve the balance of my time.

Mr. SPRATT. Mr. Speaker, I yield 2 minutes to the gentleman from North Dakota (Mr. POMEROY).

Mr. POMEROY. Mr. Speaker, in 1990, President Bush, looking at runaway deficits, put his political career on the line, convened a bipartisan summit on the budget and produced some very important budget rules to get a handle on these out-of-control deficits. Perhaps the most important facets of those rules were pay-as-you-go requirements, requirements that if you spend more tax money, you have got to show where it is accounted for in the budget so you do not run the deficits deeper. If you cut revenue, you got to show where it is accounted for and reduce spending so you do not run those deficits deeper. Those pay-as-you-go requirements have been critical to getting us to a surplus.

Now we are once again dealing with another President and runaway deficits, and we are looking at a completely different response.

I have read with interest accounts of the majority in terms of their agenda for the Congress ahead: make the tax cuts permanent, add prescription drug coverage to Medicare. On the one hand you reduce revenue, on the other hands you increase spending. I am wondering how does all this add up? With this legislation we see they have no intention whatsoever of making it add up. They are going to do it on the deficit. They are going to run up the debt.

Now, the motion to recommit deals with every spending problem that the chairman has illustrated tonight, Medicare fraud programs, the like of it. But over the long term, can we not agree as Republicans and Democrats that this is not the decade to run government on the debt? Because next decade, as the baby boomers retire, expenses are inevitably going to go up, and go up significantly.

This will be the greatest self-indulgent act of the self-indulgent baby boom generation if we do not pay our way now and rely on the kids to bail out the debt that this will bring upon the country. There is not a family I represent that plans for their retirement by running up the debt with the hope that the children will pay for them in retirement. It is wrong for us to do it as a country. Let us reject this approach. Let us pass the motion to recommit.

Mr. NUSSLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the very distinguished gentleman who just spoke suggested that he read with interest our plan, and we all appreciate the fact that he did read with interest our plan. At least we have a plan to read. Since September 11, the Democrats in both bodies have yet to present a plan on how to deal with this.

We understand that you oppose our position. We understand that you oppose the President's plan. We understand that you oppose the direction that we have taken, and that is fine. You have a right to do so.

But I also believe if you are going to complain, you also need to propose; and as of yet, your side has yet to propose an alternative. That is why tonight we are forced to continue to go down the road that we are going, continue to follow the plan that we have put into place in the House, together with the President, and that is why tonight it is important for us to vote down the motion to recommit, which would not follow that plan, and allow this bill to pass so that we do not provide cuts in Medicare and crop insurance, which I know are important to the gentleman as well as to myself and our States, as well as to military health, child enforcement, veterans' education and the victims of September 11.

It is, again, not a philosophical discussion, as the gentleman from Wisconsin said. These are real issues that are going to affect people in a real way. We want to prevent the cuts from happening. As of yet, we see no plan on how to accomplish what you are demanding from the President, even from your side, not even an idea, not even a plan.

A few are bold enough to come down and say raise taxes. A few are bold enough to come down and say that entitlements should be increased. But, by and large, I have not seen anything that has gotten close to a majority of support from the Democratic side.

So I would suggest to the gentleman that while he reads with interest our plan, we wait with interest for yours.

Mr. SPRATT. I yield 30 seconds to the gentleman from North Dakota (Mr. POMEROY).

Mr. POMEROY. Mr. Speaker, I thank the gentleman for yielding me time.

I would just say in response to my friend from Iowa, the question I had about the gentleman's plan is how we pay for it. I see the revenue cuts, I see the spending increases, and the question I had was, How is this paid for?

I believe that by eliminating the budget rules, as you do in this resolution, the answer is clear: you have no intention of paying for it. You will pay for it on the debt that you will pass on to our children.

We would propose in our motion to recommit another way. Let us at least agree that by 5 years from now, by 5 years from now, on a bipartisan basis, we will be having plans to get us to a balanced budget and stop the debt on our children.

Mr. NUSSLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman is asking how are we going to pay for it? We passed a budget. That is how we are going to pay for it.

But I guess my question is, How did you pay for your Medicare plan that you voted for which costs $1 trillion? How were you going to pay for that? Let me see here: POMEROY, POMEROY, why, my goodness, POMEROY is on here, without a budget. The gentleman from North Dakota voted for a plan that cost $1 trillion, and yet he has the audacity to come down and ask how I am going to pay for it?

Let me look at another one here. Let us see, tax cuts. Oh, I cannot believe the gentleman from North Dakota would have voted for tax relief. POMEROY. My goodness, he voted to reduce revenue, and he does not have a budget; and he comes down and asks me how I am going to do it?

The double standard here is amazing.

□ 1930

We have a plan. I know the gentleman does not like it. Fine. Vote no. That is fine. But realize that when the gentleman votes no tonight, he is voting no for seniors. He is voting no for farmers. He is voting no for folks who are veterans. He is voting no for people who rely on these programs. Go ahead and vote no. Knock yourself out. Have a great philosophical discussion. These are facts that the gentleman cannot avoid. That is what he is voting no on. So it is great that he gets to vote for these great programs, trillion dollar drug benefits that the gentleman does not pay for and tax cuts that are not paid for, but then he comes down here and complains about our budget. Come up with a budget, come up with a plan, come up with some ideas, and then come back and tell us why ours are wrong. Otherwise, just vote no tonight and suffer the consequences.

Mr. Speaker, I reserve the balance of my time.

Mr. SPRATT. Mr. Speaker, I yield 15 seconds to the gentleman from North Dakota (Mr. POMEROY).

Mr. POMEROY. Mr. Speaker, I would just say back to my friend, the gentleman from Iowa, the issue is over 5 years, can we not agree we ought to balance the budget? The gentleman's plan does not balance the budget, the plan runs up on the debt. The gentleman has run into the budget rules that require pay-as-you-go requirements and tonight he eliminates those budget rules. This is Katie-bar-the-door on deficit spending and the chairman of the Committee on the Budget owes a great deal of personal responsibility for this action.

Mr. SPRATT. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee (Mr. TANNER).

(Mr. TANNER asked and was given permission to revise and extend his remarks.)

Mr. TANNER. Mr. Speaker, right now, I do not believe that the majority of the people in this country realize that we are in debt over $6 trillion; we are paying $1 billion a day in interest on consumption that we are either unwilling to make cuts to bring the budget into balance, or we are unwilling and do not have the courage to raise

the revenue for a first class, world class military, a first class system of education, a health care system second to none.

Last year we ran a unified deficit of $159 billion. The statutory debt ceiling will probably have to be increased again next year, creating further incentive for Congress to borrow more money, and it is in this light we are asked to vote on a bill that throws out the PAYGO rules, and for erasing the $60 billion debt. We are here tonight because the PAYGO rules have failed. We are passing on more and more debt to our children. Those are the facts.

I would say to the gentleman from Iowa, my friend, you all are in control of this place, you are in charge, and all we are asking is that there be some plan put in place before we throw these rules out, these budgetary rules for 5 years, to at least get us, talk with us to get back to a plan that will let us get back in the black in 5 years.

Mr. Speaker, I came here in 1988 because our country was awash in red ink and, sadly, tonight, in 2002, we are back awash in a sea of red ink for as far as the eye can see. We are engaged in a generational mugging of the young people of this country on a scale that is massive and has never before been done, and we are unwilling, all of us, Democrats, Republicans, Independents, you name it, we are unwilling to face up to it. If my colleagues will not talk to us and bring these bills where we cannot even have a chance to sit down and say within the next 5 years can we not agree on a plan as Americans, not as Democrats and Republicans, as Americans with a moral obligation to those who follow. That is all we are asking for.

Mr. SPRATT. Mr. Speaker, I yield 1½ minutes to the gentleman from Arkansas (Mr. BERRY).

Mr. BERRY. Mr. Speaker, I thank the gentleman from South Carolina for yielding me this time, and I appreciate his leadership.

Mr. Speaker, I can tell my colleague this, I say to the gentleman from Iowa. He may think it is cute, he may think it is funny, he may think it is smart to stand over there and act like the Blue Dogs did not submit a plan. He may think that because he put a rule up here that would not let us put a plan on the floor to be voted on that he did something cute. But let me tell my colleague something. He can continue to be intellectually dishonest, he can continue to deceive the American people, but he is passing on a burden to our children and grandchildren, and I will not be a part of it, and he is going to answer for it one of these days, and he deserves it. But I can tell my colleague this: It is not cute. So when my colleague is over there making those smart remarks, just remember, it is not funny.

Mr. SPRATT. Mr. Speaker, I yield myself the remaining time to explain to everybody what is happening here.

In 1990, after years of trying to get our hands around the deficit, we finally had a budget summit with President Bush and we devised not only a 5-year plan for reducing the deficit, but we also passed something called a Budget Enforcement Act and it contained several new rules, budget process controls which have had a significant impact on our ability to get rid of the deficit.

In particular, we adopted a set of discretionary spending ceilings, a ceiling on discretionary spending, we adopted it in 1991, we renewed it in 1993, and we extended it in 1997, and that held discretionary spending to substantially lower rates of increase than the 1980s. We also adopted something called the pay-as-you-go rule, which said with respect to entitlement spending, if you want to liberalize the entitlement benefit or add a new one, you have to pay for it or you have to go through the catalog of all of the other entitlements and reduce the entitlement by enough to pay for the new one you are creating or an increase in the benefit that you are providing for. In addition, with respect to tax cuts, we said if you want a tax cut, it will have to be budget neutral. You can cut taxes one place, but you have to increase them elsewhere so the deficit is not worsened, or you can offset a tax cut with an entitlement cut so that once again it is budget neutral.

A lot of people at the time scoffed at these process changes on the grounds that we were just rearranging the deck chairs and they would not have any real results. One of those who was skeptical at the time was Alan Greenspan, the chairman of the Fed. When he appeared before our committee this March, March 2, he said in response to my question, Congressman, I thought that whole set of rules had very little chance of working, and I was wrong. It really did matter, much to my surprise. The PAYGO rules, for example, have been extremely and always very useful. That is what the Chairman of the Fed said. He came back to us in September and repeated and said the same thing.

The gentleman from Iowa (Mr. NUSSLE), the chairman of our committee, on June 27 acknowledged that the President was seeking an extension of the discretionary caps and the PAYGO requirement and implied that that needed to be done. I think he and I were in basic agreement on that.

What has happened is we never did it. I introduced legislation to that effect and it has never come to the floor of this place; we have never had a hearing on it. We have never done it. So we are here just before adjournment, the discretionary spending caps are gone in 2002. They are gone. The PAYGO rule has expired. It is gone. The 5-year budgets that we adopted in 1991 and 1993 and 1997 are gone. The last one ran out in 2002.

So all of the devices we had to control the budget that worked spectacularly well in the 1990s; we reduced the deficit from $290 billion when President Bush left office to $330 billion surplus in 2000. When President Bush came to office, the second President Bush came to office, unlike his father, we gave him a budget in surplus, $127 billion in surplus. It is gone, and the budget devices that worked so well to help us contain the deficit, reduce the deficit every year for 8 straight years in the 1990s are gone too, and there is no effort here to reintroduce them.

Now, there is one last vestige of the PAYGO rule. PAYGO required sequestration, across-the-board cuts. If you ignored the PAYGO rule and increased entitlements or cut taxes and therefore increased the deficit, there was a scorecard kept, and at the end of the year if that scorecard showed an excess amount on it, the law decreed across-the-board reductions in spending in selected accounts. We are now faced with that particular law for this year and for years to come, because even though the PAYGO rule has expired, it still applies as to existing law and future years.

This bill takes out that last vestige. We have done away with sequestration as to any future legislation, we have done away with the PAYGO rule and discretionary spending, no 5-year budget at all, it takes that last vestige. What it does, even worse, is it passes up the opportunity to take the legislation that we have offered to extend the PAYGO rule, to extend the authority for 5-year discretionary spending caps, to extend the authority for sequestration, to reinstall those budget disciplines, those process rules that got rid of the deficit in the 1990s, to reinstate them. This bill completely ignores that opportunity and simply wipes the slate clean.

So what is happening here? What is this all about? The purpose of this is to clear the way for the next session of Congress with no disciplines whatsoever; tax cuts as much as you want. There will be no restraints, no 60-vote margins in the Senate, no other restraints, no PAYGO rules that have to be waived, no scorecard, nothing. This takes away all of the discipline at a time when the budget is literally in free-fall.

We have a deficit that increases this year to $159 billion from a surplus of $127 billion last year. It goes up next year and the next year and the next year, and there is no plan in place, nothing implicit in the budget, no 5-year plan to deal with it, and this erases any hope whatsoever of that.

Now, we are offering, we are offering a motion to recommit. The gentleman from Kansas (Mr. MOORE) will offer that motion, and it will simply say as of this year, next year, go ahead and wipe the scorecard clean. But as to future years, the scorecard will still be there, the PAYGO rule will still have that remaining applicability. However, it will not apply if the President sends us a budget which gets in balance finally by the year 2008.

Mr. Speaker, that is a small thing to ask. If we are going to have any kind of

discipline, any kind of planning, it is the right thing to ask for. The right way to vote on this bill is to vote for the motion to recommit and then we will have something that we can live with and something that leaves at least some small modicum of discipline in place.

Mr. NUSSLE. Mr. Speaker, I yield myself the balance of the time.

Mr. Speaker, budgeting is about choices, and it is about putting together a plan. We did so together with the President this last year. All of the items that we find on the PAYGO scorecard fit within that plan. All of the items as a result need to be taken care of as a result of that plan. This is our proposal to do so to avoid automatic sequestration by OMB.

There has been a number of comments made tonight and I just want to respond to them. First of all, there have been those that say they want to sit down and they want to talk about the future budget, and that is fine. But you need a ticket to the dance and your ticket to the dance is to come up with a plan. Now, the Blue Dogs say they came up with a plan. Well, it is kind of interesting, the Blue Dogs, so-called Blue Dog plan was basically the Republican budget with a trigger. All right. That is kind of interesting. They did not really come up with any other ideas, except for the Republican budget with a trigger. Okay. It did not get any votes, and it did not get the majority of the votes, and, as a result, it really does not qualify much as a plan because it was our plan.

There were really no other plans brought to the table. There were individual bills, however; substitutes, individual proposals. The gentleman from Texas had a farm bill that evidently does not technically fit if in fact you do not have a budget. The gentleman wrote it, wrote it under our budget, supported it, worked hard on it, I compliment the gentleman on it, I voted for it, because it fit within our budget plan. It would not fit now, would it, I would say to the gentleman and to any of my colleagues. Yet should we have automatic spending cuts? Should we have automatic cuts in Medicare in order to pay for it? No. And that is what this bill tonight does. It basically says we should not have automatic cuts in Medicare in order to accomplish that.

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I will admit to my colleagues on both sides, and the gentleman from Arkansas, if he thought I was trying to be funny, I was not, because there is nothing funny about it; this is very serious. It is serious for both sides, because it is fine to come down here and say that the tax cuts were too big. Then have the guts to introduce a bill to repeal them. Have the guts to come down here and vote to increase taxes.

They do not have a plan that does that. I do not see too many people with the guts to introduce that kind of legislation.

The same is true on our side, though. We always talk about spending restraint. Boy, we can be spellbinding some nights about how we are going to restrain spending, cut spending. We have even said ''cut spending'' when in fact that is not really what is going on very often around here. Maybe it is allowing it to grow less than somebody's idea of where it should be, and therefore somebody thinks it has been cut.

The bottom line is, as we go into this next budget, we have some huge choices that we are going to have to make. We have to be serious about them. But I do think that because of the situation that we find ourselves in it is fair to allow, particularly with PAYGO, which was never written to work during times of surpluses, it was only, only written and contemplated for times of deficits, that we should allow that to expire and rewrite the rules.

While we allow that to expire, wiping the slate clean I think is a fair thing to do, particularly if it is going to result in cuts in Medicare, crop insurance, veterans' education, child support recovery, and the victims of September 11.

So what we are suggesting tonight is very simple. That is what the vote is about. This is not about the budget. There is no budget process reform in this bill, trust me. I have written a budget process reform bill. I would know one when I saw it. This is not it, either. All this does is it does two things. It says, follow the budget; and do not allow for automatic cuts in Medicare, crop insurance, military, child support, veterans' education, September 11, and actually a whole host of other automatic cuts that would occur.

Mr. SPRATT. Mr. Speaker, will the gentleman yield?

Mr. NUSSLE. I yield to the gentleman from South Carolina.

Mr. SPRATT. Mr. Speaker, would it be the chairman's intention in the next Congress to introduce legislation, pass it through our committee, bring it to the floor, which would reinstate discretionary spending caps and the PAYGO rule for 5 additional years?

Mr. NUSSLE. Reclaiming my time, Mr. Speaker, the gentleman and I need to discuss that. I would be not only very happy to consider that, but I would even go further with regard to budget process issues. There are a number of them that should be discussed, now that we have an opportunity to do so.

I would hope that we can do that quietly and calmly and with sober regard to the consequences of our actions. We have not done that. Unfortunately, people around here do not necessarily follow the budget process as well as they should; and as a result, demagoguery has reigned with regard to many of these budget rules in the past with regard to changes that we have tried to bring to the floor.

I would hope that we could bring a budget process reform bill to the floor; I have written a PAYGO extension in the past that actually contemplated this very situation that we are in; and I would hope also caps.

Mr. SPRATT. If the gentleman would yield further, Mr. Speaker, and sequestration?

Mr. NUSSLE. I want to make the budget have the force of law, so that we cannot waive it all the time on the floor. That is a proposal that I recommended. There are a number that I would suggest that the committee and the Congress need to consider.

But tonight we have a very simple situation that we need to address. It has been ministerially addressed in years past, and we should do so again tonight, and join together and prevent cuts to Medicare, crop insurance, military health, child support enforcement, veterans' education, and the victims of September 11.

Let us follow the budget plan, let us pass this bill, and let us reject the motion to recommit, which basically says: let us not follow a plan, but let us wait and cut Medicare 3 years from now.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. ISAKSON). Pursuant to House Resolution 602, the bill is considered as read for amendment, and the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. MOORE

Mr. MOORE. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill in its present form?

Mr. MOORE. Yes, Mr. Speaker, I am.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. MOORE moves to recommit the bill H.R. 5708 to the Committee on the Budget with instructions to report the same back to the House forthwith with the following amendment:

Strike all after the enacting clause and insert the following:

SEC. 1. REDUCTION OF PREEXISTING PAYGO BALANCES.

Upon the enactment of this Act, the Director of the Office of Management and Budget shall reduce any balances of direct spending and receipts legislation for fiscal years 2002 and 2003 under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 to zero. If the President submits a budget for the Government under section 1105(a) of title 31, United States Code, that projects an on-budget balance or an on-budget surplus by fiscal year 2008, then such Director shall reduce all balances of direct spending and receipts legislation under such section 252 to zero.

Mr. MOORE (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kansas?

There was no objection.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Kansas (Mr. MOORE) is recognized for 5 minutes in support of his motion to recommit.

Mr. EDWARDS. Mr. Speaker, will the gentleman yield?

Mr. MOORE. I yield to the gentleman from Texas.

(Mr. EDWARDS asked and was given permission to revise and extend his remarks.)

Mr. EDWARDS. Mr. Speaker, I rise in support of the motion to recommit and in opposition to the Republican deficit tax.

Mr. Speaker, if the House Republican leadership continues forward with its fiscally irresponsible tax policies, it will be responsible for passing the largest tax increase in American history—the deficit tax. The deficit tax is real. It is permanent. It is a tax on small businesses and families all across America. In fact, on a per capita basis, the deficit tax cost each American citizen over $1000 last year. Very simply, as the $6 trillion national debt is increased, it increases the interest payments on that debt, which must be paid by taxing hard-working American families.

As bad as the deficit tax is, there's even another burden resulting from increasing the national debt. It is called higher interest rates on loans for homes, cars, credit cards and small business. When the economy gets back on its feet, borrowing hundreds of billions of dollars to finance a huge national deficit will drive up interest rates, in effect, a tax increase on families and businesses.

We all know that this measure tonight to address the pay-go rules was necessary for this year and next in order to prevent major cuts in entitlement programs such as Medicare and veterans benefits. However, by opposing the Moore motion to recommit, the Republican leadership in this House is throwing out fiscal discipline rules for several years after that. I will vote for this measure, because we cannot allow Medicare and veterans benefits to be slashed, but the Republican leadership, by forcing an up or down vote on suspending pay-go rules for the next four to five years, is leading this House down the path of higher national debt, higher annual deficits, and, yes, a deficit tax on our families and our children for the rest of their lives.

House Republicans may brag about tax cuts at election time, but they should be honest in telling our families and children that they are imposing a permanent deficit tax that will take dollars out of their paychecks for generations to come.

Instead of partisan budget bills, what this Congress should do for the good of our economy and the future of our children is to sit down on a bipartisan basis and make tough decisions on how to balance the federal budget.

That would be the right thing to do.

Mr. MOORE. Mr. Speaker, a year ago, several of my colleagues and I who believe in fiscal responsibility urged caution in making long-term commitments for tax cuts or new spending programs. We were concerned that budget projections were based on unrealistic economic assumptions and that the projected surplus might never materialize. We were concerned that large tax cuts and spending programs could drive up the deficit and add to our $6.3 trillion national debt. Our warnings were ignored.

This year, Congress will be borrowing virtually all of the Social Security surplus for the next decade. There were those who said we will have enough money for everything. That turned out not to be true, Mr. Speaker. Next year we will have a deficit of $127 billion.

Today Congress is considering legislation that would wipe the slate clean for the next 5 years. This would allow Congress to avoid responsibility for legislation, adding billions more to the national debt by wiping clean the PAYGO scorecard. What is worse, this bill provides no safeguard for the future, Mr. Speaker; no guarantees that our children and grandchildren will not suffer under a massive national debt, now at $6.3 trillion.

American families live by three basic rules: number one, do not spend more money than you make; number two, pay your debts; number three, invest in the basics of the future. I think Congress should live by those same simple rules.

I am glad that American families do not use Congress' accounting methods, Mr. Speaker. American families cannot wipe the slate clean when they overspend. The Blue Dogs have repeatedly said that Congress and the President need to sit down and develop a plan to deal with our escalating national debt: no recriminations, no finger-pointing, or blaming, but just sit down and try to come up with a plan out of this crisis. Unfortunately, our calls have been ignored, leaving us in the situation we face today.

This motion to recommit requires as a condition of waiving the PAYGO rules that the President present a balanced budget next year. The President's budget would be required to put us on a path to balancing the budget by 2008 without borrowing the Social Security surplus, a goal that I believe every Member of this Congress wants.

This motion to recommit allows the slate to be wiped clean for fiscal year 2003 to avoid sequestration, because it is too late to do anything about the current fiscal year. There would be no cuts in any programs that have been commented on by the chairman of the Committee on the Budget. This is the least we can do to stop the bleeding, to turn back red ink and get us in the black again, and to get our country out of the deficit ditch and back on the way to fiscal responsibility.

Mr. NUSSLE. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore. The gentleman from Iowa (Mr. NUSSLE) is recognized for 5 minutes.

Mr. NUSSLE. Mr. Speaker, the President said in his first address to the Congress that there were three reasons why this country may have to return to deficits: one was an emergency, one was a war, one was an economic recession. There is no one in this body who predicted any of those three.

Warnings were not heeded? Wake up. There was not anybody warning about Osama bin Laden and September 11, so do not make those accusations. They are not true. That is why we find ourselves in a deficit.

The President submitted a plan last year, and he will submit a plan this year, which he must do by law. The House last year passed a plan. The House will do so again this year, which we must do so by law.

The other body, and I know I have to be careful, here. I do not want to say anything wrong, because we have our rules. However, my understanding is what I am allowed to say is that no budget passed in the other body last year. We will wait and see what happens this next year.

The point I am getting at is that we need a plan in order to move forward. The President has proved he has a plan. The House has proved they have a plan. No other plans have been presented. No other plans have received a majority of support. No other plans have seen the light of day. Therefore, let us follow the plan that the President has laid out.

Let us not allow us to get off track with absolutely no vision for the future, which is what is being suggested here tonight. Instead, let us reject the motion to recommit, and let us vote to prevent automatic cuts to Medicare, to veterans' health, to veterans' benefits, veterans' education, to crop insurance, and the like. These Draconian cuts are not necessary if we continue to follow the plan that the President and the House has laid out.

I urge my colleagues to vote ''no'' on the motion to recommit and vote to prevent these cuts on final passage.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. SPRATT. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—ayes 187, noes 201, not voting 43, as follows:

[Roll No. 481]

AYES—187

Abercrombie	Bentsen	Brady (PA)
Ackerman	Berkley	Brown (FL)
Allen	Berman	Brown (OH)
Andrews	Berry	Capps
Baca	Bishop	Capuano
Baird	Blumenauer	Cardin
Baldwin	Boswell	Carson (IN)
Barrett	Boucher	Carson (OK)

Clayton
Clement
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (TX)
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Lucas (KY)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mollohan
Moore
Murtha
Napolitano
Neal
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Phelps
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu

NOES—201

Aderholt
Akin
Armey
Bachus
Baker
Bartlett
Barton
Bass
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Coble
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Latham
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCrery
McHugh
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Morella
Myrick
Nadler
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Pence
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sununu
Sweeney
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)

NOT VOTING—43

Baldacci
Ballenger
Barcia
Barr
Becerra
Bereuter
Blagojevich
Bonior
Borski
Boyd
Callahan
Clay
Clyburn
Combest
Condit
Conyers
Cooksey
Diaz-Balart
Doolittle
Ehrlich
Frost
Gillmor
Grucci
Hilliard
Hooley
Houghton
LaFalce
LaTourette
Lipinski
McInnis
McKinney
Moran (VA)
Oberstar
Obey
Paul
Peterson (PA)
Roukema
Smith (MI)
Stump
Tancredo
Toomey
Wynn
Young (FL)

□ 2023

Messrs. ABERCROMBIE, UDALL of Colorado and SNYDER changed their vote from ''no'' to ''aye.''

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. ISAKSON). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. NUSSLE. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 366, noes 19, not voting 46, as follows:

[Roll No. 482]

AYES—366

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldwin
Barrett
Bartlett
Barton
Bass
Bentsen
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Boswell
Boucher
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clayton
Clement
Coble
Collins
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeLauro
DeLay
DeMint
Deutsch
Dicks
Dingell
Doggett
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Gutierrez
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Horn
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Lantos
Larsen (WA)
Larson (CT)
Latham
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, George
Miller, Jeff
Mollohan
Moore
Moran (KS)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Obey
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Pence
Peterson (MN)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stearns
Strickland
Stupak
Sullivan
Sununu
Sweeney
Tanner
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker

Wilson (NM)	Wolf	Wu
Wilson (SC)	Woolsey	Young (AK)

NOES—19

Blumenauer	Dooley	Stark
Capuano	Hill	Stenholm
Costello	Hinchey	Taylor (MS)
Coyne	Kleczka	Visclosky
DeFazio	Langevin	Waters
DeGette	Lee	
Delahunt	Olver	

NOT VOTING—46

Baldacci	Cooksey	McKinney
Ballenger	Diaz-Balart	Miller, Gary
Barcia	Doolittle	Moran (VA)
Barr	Ehrlich	Oberstar
Becerra	Frost	Paul
Bereuter	Graham	Peterson (PA)
Blagojevich	Greenwood	Roukema
Bonior	Grucci	Sawyer
Borski	Hilliard	Saxton
Boyd	Hooley	Stump
Callahan	Houghton	Tancredo
Clay	Jenkins	Toomey
Clyburn	LaFalce	Wynn
Combest	LaTourette	Young (FL)
Condit	Lipinski	
Conyers	McInnis	

□ 2033

Ms. WATERS changed her vote from ''aye'' to ''no.''

Ms. RIVERS changed her vote from ''no'' to ''aye.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. BEREUTER. Mr. Speaker, on November 14, 2002, this Member unavoidably missed two roll call votes. On Roll Call Number 481 (motion to recommit on H.R. 5708, a bill to reduce pre-existing PAYBO Balances), this Member would have voted ''no.'' On Roll Call Number 482 (final passage of H.R. 5708), this Member would have voted ''aye.''

ARMED FORCES TAX FAIRNESS ACT OF 2002

Mr. THOMAS. Mr. Speaker, pursuant to House Resolution 609, I call up the bill (H.R. 5063) to amend the Internal Revenue Code of 1986 to provide a special rule for members of the uniformed services in determining the exclusion of gain from the sale of a principal residence and to restore the tax exempt status of death gratuity payments to members of the uniformed services and ask for its immediate consideration.

The Clerk read the title of the bill.

MOTION OFFERED BY MR. THOMAS

Mr. THOMAS. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore (Mr. SIMPSON). The Clerk will designate the motion.

The text of the motion is as follows:

A motion offered by Mr. THOMAS that the House concur in each of the Senate amendments with the respective amendment printed in House Report 107–784, as follows:

Senate amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This Act may be cited as the ''Armed Forces Tax Fairness Act of 2002''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

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

Sec. 1. Short title; etc.

TITLE I—IMPROVING TAX EQUITY FOR MILITARY PERSONNEL

Sec. 101. Exclusion from gross income of certain death gratuity payments.
Sec. 102. Exclusion of gain from sale of a principal residence by a member of the uniformed services or the Foreign Service.
Sec. 103. Exclusion for amounts received under Department of Defense Homeowners Assistance Program.
Sec. 104. Expansion of combat zone filing rules to contingency operations.
Sec. 105. Above-the-line deduction for overnight travel expenses of National Guard and Reserve members.
Sec. 106. Modification of membership requirement for exemption from tax for certain veterans' organizations.
Sec. 107. Clarification of treatment of certain dependent care assistance programs.

TITLE II—OTHER PROVISIONS

Sec. 201. Revision of tax rules on expatriation.
Sec. 202. Extension of IRS user fees.
Sec. 203. Partial payment of tax liability in installment agreements.

TITLE I—IMPROVING TAX EQUITY FOR MILITARY PERSONNEL

SEC. 101. EXCLUSION FROM GROSS INCOME OF CERTAIN DEATH GRATUITY PAYMENTS.

(a) IN GENERAL.—Subsection (b)(3) of section 134 (relating to certain military benefits) is amended by adding at the end the following new subparagraph:

''(C) EXCEPTION FOR DEATH GRATUITY ADJUSTMENTS MADE BY LAW.—Subparagraph (A) shall not apply to any adjustment to the amount of death gratuity payable under chapter 75 of title 10, United States Code, which is pursuant to a provision of law enacted after September 9, 1986.''.

(b) CONFORMING AMENDMENT.—Subparagraph (A) of section 134(b)(3) is amended by striking ''subparagraph (B)'' and inserting ''subparagraphs (B) and (C)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to deaths occurring after September 10, 2001.

SEC. 102. EXCLUSION OF GAIN FROM SALE OF A PRINCIPAL RESIDENCE BY A MEMBER OF THE UNIFORMED SERVICES OR THE FOREIGN SERVICE.

(a) IN GENERAL.—Subsection (d) of section 121 (relating to exclusion of gain from sale of principal residence) is amended by adding at the end the following new paragraph:

''(9) MEMBERS OF UNIFORMED SERVICES AND FOREIGN SERVICE.—

''(A) IN GENERAL.—At the election of an individual with respect to a property, the running of the 5-year period described in subsection (a) with respect to such property shall be suspended during any period that such individual or such individual's spouse is serving on qualified official extended duty as a member of the uniformed services or of the Foreign Service of the United States.

''(B) MAXIMUM PERIOD OF SUSPENSION.—The 5-year period described in subsection (a) shall not be extended more than 10 years by reason of subparagraph (A).

''(C) QUALIFIED OFFICIAL EXTENDED DUTY.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'qualified official extended duty' means any extended duty while serving at a duty station which is at least 50 miles from such property or while residing under Government orders in Government quarters.

''(ii) UNIFORMED SERVICES.—The term 'uniformed services' has the meaning given such term by section 101(a)(5) of title 10, United States Code, as in effect on the date of the enactment of this paragraph.

''(iii) FOREIGN SERVICE OF THE UNITED STATES.—The term 'member of the Foreign Service of the United States' has the meaning given the term 'member of the Service' by paragraph (1), (2), (3), (4), or (5) of section 103 of the Foreign Service Act of 1980.

''(iv) EXTENDED DUTY.—The term 'extended duty' means any period of duty pursuant to a call or order to such duty for a period in excess of 90 days or for an indefinite period.

''(D) SPECIAL RULES RELATING TO ELECTION.—

''(i) ELECTION LIMITED TO 1 PROPERTY AT A TIME.—An election under subparagraph (A) with respect to any property may not be made if such an election is in effect with respect to any other property.

''(ii) REVOCATION OF ELECTION.—An election under subparagraph (A) may be revoked at any time.''.

(b) EFFECTIVE DATE; SPECIAL RULE.—

(1) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 312 of the Taxpayer Relief Act of 1997.

(2) WAIVER OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the amendment made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

SEC. 103. EXCLUSION FOR AMOUNTS RECEIVED UNDER DEPARTMENT OF DEFENSE HOMEOWNERS ASSISTANCE PROGRAM.

(a) IN GENERAL.—Section 132(a) (relating to the exclusion from gross income of certain fringe benefits) is amended by striking ''or'' at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting '', or'' and by adding at the end the following new paragraph:

''(8) qualified military base realignment and closure fringe.''.

(b) QUALIFIED MILITARY BASE REALIGNMENT AND CLOSURE FRINGE.—Section 132 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

''(n) QUALIFIED MILITARY BASE REALIGNMENT AND CLOSURE FRINGE.—For purposes of this section, the term 'qualified military base realignment and closure fringe' means 1 or more payments under the authority of section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374) to offset the adverse effects on housing values as a result of a military base realignment or closure.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made after the date of the enactment of this Act.

SEC. 104. EXPANSION OF COMBAT ZONE FILING RULES TO CONTINGENCY OPERATIONS.

(a) IN GENERAL.—Section 7508(a) (relating to time for performing certain acts postponed by reason of service in combat zone) is amended—

(1) by inserting ''or when deployed outside the United States away from the individual's permanent duty station while participating in an operation designated by the Secretary of Defense as a contingency operation (as defined in section 101(a)(13) of title 10, United States Code) or which became such a contingency operation by operation of law'' after ''section 112'',

(2) by inserting in the first sentence ''or at any time during the period of such contingency operation'' after ''for purposes of such section'',

(3) by inserting ''or operation'' after ''such an area'', and

(4) by inserting ''or operation'' after ''such area''.

(b) CONFORMING AMENDMENTS.—

(1) Section 7508(d) is amended by inserting ''or contingency operation'' after ''area''.

*(2) The heading for section 7508 is amended by inserting ''**OR CONTINGENCY OPERATION**'' after ''**COMBAT ZONE**''.*

(3) The item relating to section 7508 in the table of sections for chapter 77 is amended by inserting ''or contingency operation'' after ''combat zone''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any period for performing an act which has not expired before the date of the enactment of this Act.

SEC. 105. ABOVE-THE-LINE DEDUCTION FOR OVERNIGHT TRAVEL EXPENSES OF NATIONAL GUARD AND RESERVE MEMBERS.

(a) DEDUCTION ALLOWED.—Section 162 (relating to certain trade or business expenses) is amended by redesignating subsection (p) as subsection (q) and inserting after subsection (o) the following new subsection:

''(p) TREATMENT OF EXPENSES OF MEMBERS OF RESERVE COMPONENT OF ARMED FORCES OF THE UNITED STATES.—For purposes of subsection (a)(2), in the case of an individual who performs services as a member of a reserve component of the Armed Forces of the United States at any time during the taxable year, such individual shall be deemed to be away from home in the pursuit of a trade or business for any period during which such individual is away from home in connection with such service.''.

(b) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ELECTS TO ITEMIZE.—Section 62(a)(2) (relating to certain trade and business deductions of employees) is amended by adding at the end the following new subparagraph:

''(E) CERTAIN EXPENSES OF MEMBERS OF RESERVE COMPONENTS OF THE ARMED FORCES OF THE UNITED STATES.—The deductions allowed by section 162 which consist of expenses, in amounts not in excess of the rates for travel expenses (including per diem in lieu of subsistence) authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, paid or incurred by the taxpayer in connection with the performance of services by such taxpayer as a member of a reserve component of the Armed Forces of the United States.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2001.

SEC. 106. MODIFICATION OF MEMBERSHIP REQUIREMENT FOR EXEMPTION FROM TAX FOR CERTAIN VETERANS' ORGANIZATIONS.

(a) IN GENERAL.—Subparagraph (B) of section 501(c)(19) (relating to list of exempt organizations) is amended by striking ''or widowers'' and inserting '', widowers, or ancestors or lineal descendants''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 107. CLARIFICATION OF THE TREATMENT OF CERTAIN DEPENDENT CARE ASSISTANCE PROGRAMS.

(a) IN GENERAL.—Section 134(b) (defining qualified military benefit) is amended by adding at the end the following new paragraph:

''(4) CLARIFICATION OF CERTAIN BENEFITS.—For purposes of paragraph (1), such term includes any dependent care assistance program for any individual described in paragraph (1)(A).''.

(b) CONFORMING AMENDMENTS.—

(1) Section 134(b)(3)(A) is amended by inserting ''and paragraph (4)'' after ''subparagraph (B)''.

(2) Section 3121(a)(18) is amended by striking ''or 129'' and inserting '', 129, or 134(b)(4)''.

(3) Section 3306(b)(13) is amended by striking ''or 129'' and inserting '', 129, or 134(b)(4)''.

(4) Section 3401(a)(18) is amended by striking ''or 129'' and inserting '', 129, or 134(b)(4)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

(d) NO INFERENCE.—No inference may be drawn from the amendments made by this section with respect to the tax treatment of any amounts under the program described in section 134(b)(4) of the Internal Revenue Code of 1986 (as added by this section) for any taxable year beginning before January 1, 2002.

TITLE II—OTHER PROVISIONS

SEC. 201. REVISION OF TAX RULES ON EXPATRIATION.

(a) IN GENERAL.—Subpart A of part II of subchapter N of chapter 1 is amended by inserting after section 877 the following new section:

''SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

''(a) GENERAL RULES.—For purposes of this subtitle—

''(1) MARK TO MARKET.—Except as provided in subsections (d) and (f), all property of a covered expatriate to whom this section applies shall be treated as sold on the day before the expatriation date for its fair market value.

''(2) RECOGNITION OF GAIN OR LOSS.—In the case of any sale under paragraph (1)—

''(A) notwithstanding any other provision of this title, any gain arising from such sale shall be taken into account for the taxable year of the sale, and

''(B) any loss arising from such sale shall be taken into account for the taxable year of the sale to the extent otherwise provided by this title, except that section 1091 shall not apply to any such loss.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence.

''(3) EXCLUSION FOR CERTAIN GAIN.—

''(A) IN GENERAL.—The amount which, but for this paragraph, would be includible in the gross income of any individual by reason of this section shall be reduced (but not below zero) by $600,000. For purposes of this paragraph, allocable expatriation gain taken into account under subsection (f)(2) shall be treated in the same manner as an amount required to be includible in gross income.

''(B) COST-OF-LIVING ADJUSTMENT.—

''(i) IN GENERAL.—In the case of an expatriation date occurring in any calendar year after 2002, the $600,000 amount under subparagraph (A) shall be increased by an amount equal to—

''(I) such dollar amount, multiplied by

''(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, determined by substituting 'calendar year 2001' for 'calendar year 1992' in subparagraph (B) thereof.

''(ii) ROUNDING RULES.—If any amount after adjustment under clause (i) is not a multiple of $1,000, such amount shall be rounded to the next lower multiple of $1,000.

''(4) ELECTION TO CONTINUE TO BE TAXED AS UNITED STATES CITIZEN.—

''(A) IN GENERAL.—If a covered expatriate elects the application of this paragraph—

''(i) this section (other than this paragraph and subsection (i)) shall not apply to the expatriate, but

''(ii) in the case of property to which this section would apply but for such election, the expatriate shall be subject to tax under this title in the same manner as if the individual were a United States citizen.

''(B) REQUIREMENTS.—Subparagraph (A) shall not apply to an individual unless the individual—

''(i) provides security for payment of tax in such form and manner, and in such amount, as the Secretary may require,

''(ii) consents to the waiver of any right of the individual under any treaty of the United States which would preclude assessment or collection of any tax which may be imposed by reason of this paragraph, and

''(iii) complies with such other requirements as the Secretary may prescribe.

''(C) ELECTION.—An election under subparagraph (A) shall apply to all property to which this section would apply but for the election and, once made, shall be irrevocable. Such election shall also apply to property the basis of which is determined in whole or in part by reference to the property with respect to which the election was made.

''(b) ELECTION TO DEFER TAX.—

''(1) IN GENERAL.—If the taxpayer elects the application of this subsection with respect to any property treated as sold by reason of subsection (a), the payment of the additional tax attributable to such property shall be postponed until the due date of the return for the taxable year in which such property is disposed of (or, in the case of property disposed of in a transaction in which gain is not recognized in whole or in part, until such other date as the Secretary may prescribe).

''(2) DETERMINATION OF TAX WITH RESPECT TO PROPERTY.—For purposes of paragraph (1), the additional tax attributable to any property is an amount which bears the same ratio to the additional tax imposed by this chapter for the taxable year solely by reason of subsection (a) as the gain taken into account under subsection (a) with respect to such property bears to the total gain taken into account under subsection (a) with respect to all property to which subsection (a) applies.

''(3) TERMINATION OF POSTPONEMENT.—No tax may be postponed under this subsection later than the due date for the return of tax imposed by this chapter for the taxable year which includes the date of death of the expatriate (or, if earlier, the time that the security provided with respect to the property fails to meet the requirements of paragraph (4), unless the taxpayer corrects such failure within the time specified by the Secretary).

''(4) SECURITY.—

''(A) IN GENERAL.—No election may be made under paragraph (1) with respect to any property unless adequate security is provided to the Secretary with respect to such property.

''(B) ADEQUATE SECURITY.—For purposes of subparagraph (A), security with respect to any property shall be treated as adequate security if—

''(i) it is a bond in an amount equal to the deferred tax amount under paragraph (2) for the property, or

''(ii) the taxpayer otherwise establishes to the satisfaction of the Secretary that the security is adequate.

''(5) WAIVER OF CERTAIN RIGHTS.—No election may be made under paragraph (1) unless the taxpayer consents to the waiver of any right under any treaty of the United States which would preclude assessment or collection of any tax imposed by reason of this section.

''(6) ELECTIONS.—An election under paragraph (1) shall only apply to property described in the election and, once made, is irrevocable. An election may be made under paragraph (1) with respect to an interest in a trust with respect to which gain is required to be recognized under subsection (f)(1).

''(7) INTEREST.—For purposes of section 6601—

''(A) the last date for the payment of tax shall be determined without regard to the election under this subsection, and

''(B) section 6621(a)(2) shall be applied by substituting '5 percentage points' for '3 percentage points' in subparagraph (B) thereof.

''(c) COVERED EXPATRIATE.—For purposes of this section—

''(1) IN GENERAL.—Except as provided in paragraph (2), the term 'covered expatriate' means an expatriate.

''(2) EXCEPTIONS.—An individual shall not be treated as a covered expatriate if—

''(A) the individual—

''(i) became at birth a citizen of the United States and a citizen of another country and, as of the expatriation date, continues to be a citizen of, and is taxed as a resident of, such other country, and

''(ii) has not been a resident of the United States (as defined in section 7701(b)(1)(A)(ii)) during the 5 taxable years ending with the taxable year during which the expatriation date occurs, or

''(B)(i) the individual's relinquishment of United States citizenship occurs before such individual attains age 18½, and

''(ii) the individual has been a resident of the United States (as so defined) for not more than 5 taxable years before the date of relinquishment.

''(d) EXEMPT PROPERTY; SPECIAL RULES FOR PENSION PLANS.—

''(1) EXEMPT PROPERTY.—This section shall not apply to the following:

''(A) UNITED STATES REAL PROPERTY INTERESTS.—Any United States real property interest (as defined in section 897(c)(1)), other than stock of a United States real property holding corporation which does not, on the day before the expatriation date, meet the requirements of section 897(c)(2).

''(B) SPECIFIED PROPERTY.—Any property or interest in property not described in subparagraph (A) which the Secretary specifies in regulations.

''(2) SPECIAL RULES FOR CERTAIN RETIREMENT PLANS.—

''(A) IN GENERAL.—If a covered expatriate holds on the day before the expatriation date any interest in a retirement plan to which this paragraph applies—

''(i) such interest shall not be treated as sold for purposes of subsection (a)(1), but

''(ii) an amount equal to the present value of the expatriate's nonforfeitable accrued benefit shall be treated as having been received by such individual on such date as a distribution under the plan.

''(B) TREATMENT OF SUBSEQUENT DISTRIBUTIONS.—In the case of any distribution on or after the expatriation date to or on behalf of the covered expatriate from a plan from which the expatriate was treated as receiving a distribution under subparagraph (A), the amount otherwise includible in gross income by reason of the subsequent distribution shall be reduced by the excess of the amount includible in gross income under subparagraph (A) over any portion of such amount to which this subparagraph previously applied.

''(C) TREATMENT OF SUBSEQUENT DISTRIBUTIONS BY PLAN.—For purposes of this title, a retirement plan to which this paragraph applies, and any person acting on the plan's behalf, shall treat any subsequent distribution described in subparagraph (B) in the same manner as such distribution would be treated without regard to this paragraph.

''(D) APPLICABLE PLANS.—This paragraph shall apply to—

''(i) any qualified retirement plan (as defined in section 4974(c)),

''(ii) an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A), and

''(iii) to the extent provided in regulations, any foreign pension plan or similar retirement arrangements or programs.

''(e) DEFINITIONS.—For purposes of this section—

''(1) EXPATRIATE.—The term 'expatriate' means—

''(A) any United States citizen who relinquishes citizenship, and

''(B) any long-term resident of the United States who—

''(i) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

''(ii) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

''(2) EXPATRIATION DATE.—The term 'expatriation date' means—

''(A) the date an individual relinquishes United States citizenship, or

''(B) in the case of a long-term resident of the United States, the date of the event described in clause (i) or (ii) of paragraph (1)(B).

''(3) RELINQUISHMENT OF CITIZENSHIP.—A citizen shall be treated as relinquishing United States citizenship on the earliest of—

''(A) the date the individual renounces such individual's United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

''(B) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)),

''(C) the date the United States Department of State issues to the individual a certificate of loss of nationality, or

''(D) the date a court of the United States cancels a naturalized citizen's certificate of naturalization.

Subparagraph (A) or (B) shall not apply to any individual unless the renunciation or voluntary relinquishment is subsequently approved by the issuance to the individual of a certificate of loss of nationality by the United States Department of State.

''(4) LONG-TERM RESIDENT.—The term 'long-term resident' has the meaning given to such term by section 877(e)(2).

''(f) SPECIAL RULES APPLICABLE TO BENEFICIARIES' INTERESTS IN TRUST.—

''(1) IN GENERAL.—Except as provided in paragraph (2), if an individual is determined under paragraph (3) to hold an interest in a trust on the day before the expatriation date—

''(A) the individual shall not be treated as having sold such interest,

''(B) such interest shall be treated as a separate share in the trust, and

''(C)(i) such separate share shall be treated as a separate trust consisting of the assets allocable to such share,

''(ii) the separate trust shall be treated as having sold its assets on the day before the expatriation date for their fair market value and as having distributed all of its assets to the individual as of such time, and

''(iii) the individual shall be treated as having recontributed the assets to the separate trust.

Subsection (a)(2) shall apply to any income, gain, or loss of the individual arising from a distribution described in subparagraph (C)(ii). In determining the amount of such distribution, proper adjustments shall be made for liabilities of the trust allocable to an individual's share in the trust.

''(2) SPECIAL RULES FOR INTERESTS IN QUALIFIED TRUSTS.—

''(A) IN GENERAL.—If the trust interest described in paragraph (1) is an interest in a qualified trust—

''(i) paragraph (1) and subsection (a) shall not apply, and

''(ii) in addition to any other tax imposed by this title, there is hereby imposed on each distribution with respect to such interest a tax in the amount determined under subparagraph (B).

''(B) AMOUNT OF TAX.—The amount of tax under subparagraph (A)(ii) shall be equal to the lesser of—

''(i) the highest rate of tax imposed by section 1(e) for the taxable year which includes the day before the expatriation date, multiplied by the amount of the distribution, or

''(ii) the balance in the deferred tax account immediately before the distribution determined without regard to any increases under subparagraph (C)(ii) after the 30th day preceding the distribution.

''(C) DEFERRED TAX ACCOUNT.—For purposes of subparagraph (B)(ii)—

''(i) OPENING BALANCE.—The opening balance in a deferred tax account with respect to any trust interest is an amount equal to the tax which would have been imposed on the allocable expatriation gain with respect to the trust interest if such gain had been included in gross income under subsection (a).

''(ii) INCREASE FOR INTEREST.—The balance in the deferred tax account shall be increased by the amount of interest determined (on the balance in the account at the time the interest accrues), for periods after the 90th day after the expatriation date, by using the rates and method applicable under section 6621 for underpayments of tax for such periods, except that section 6621(a)(2) shall be applied by substituting '5 percentage points' for '3 percentage points' in subparagraph (B) thereof.

''(iii) DECREASE FOR TAXES PREVIOUSLY PAID.—The balance in the tax deferred account shall be reduced—

''(I) by the amount of taxes imposed by subparagraph (A) on any distribution to the person holding the trust interest, and

''(II) in the case of a person holding a nonvested interest, to the extent provided in regulations, by the amount of taxes imposed by subparagraph (A) on distributions from the trust with respect to nonvested interests not held by such person.

''(D) ALLOCABLE EXPATRIATION GAIN.—For purposes of this paragraph, the allocable expatriation gain with respect to any beneficiary's interest in a trust is the amount of gain which would be allocable to such beneficiary's vested and nonvested interests in the trust if the beneficiary held directly all assets allocable to such interests.

''(E) TAX DEDUCTED AND WITHHELD.—

''(i) IN GENERAL.—The tax imposed by subparagraph (A)(ii) shall be deducted and withheld by the trustees from the distribution to which it relates.

''(ii) EXCEPTION WHERE FAILURE TO WAIVE TREATY RIGHTS.—If an amount may not be deducted and withheld under clause (i) by reason of the distributee failing to waive any treaty right with respect to such distribution—

''(I) the tax imposed by subparagraph (A)(ii) shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax, and

''(II) any other beneficiary of the trust shall be entitled to recover from the distributee the amount of such tax imposed on the other beneficiary.

''(F) DISPOSITION.—If a trust ceases to be a qualified trust at any time, a covered expatriate disposes of an interest in a qualified trust, or a covered expatriate holding an interest in a qualified trust dies, then, in lieu of the tax imposed by subparagraph (A)(ii), there is hereby imposed a tax equal to the lesser of—

''(i) the tax determined under paragraph (1) as if the day before the expatriation date were the date of such cessation, disposition, or death, whichever is applicable, or

''(ii) the balance in the tax deferred account immediately before such date.

Such tax shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax and any other beneficiary of the trust shall be entitled to recover from the covered expatriate or the estate the amount of such tax imposed on the other beneficiary.

''(G) DEFINITIONS AND SPECIAL RULES.—For purposes of this paragraph—

''(i) QUALIFIED TRUST.—The term 'qualified trust' means a trust which is described in section 7701(a)(30)(E).

''(ii) VESTED INTEREST.—The term 'vested interest' means any interest which, as of the day before the expatriation date, is vested in the beneficiary.

''(iii) NONVESTED INTEREST.—The term 'nonvested interest' means, with respect to any beneficiary, any interest in a trust which is not a vested interest. Such interest shall be determined by assuming the maximum exercise of discretion in favor of the beneficiary and the occurrence of all contingencies in favor of the beneficiary.

''(iv) ADJUSTMENTS.—The Secretary may provide for such adjustments to the bases of assets in a trust or a deferred tax account, and the timing of such adjustments, in order to ensure that gain is taxed only once.

''(v) COORDINATION WITH RETIREMENT PLAN RULES.—This subsection shall not apply to an interest in a trust which is part of a retirement plan to which subsection (d)(2) applies.

''(3) DETERMINATION OF BENEFICIARIES' INTEREST IN TRUST.—

''(A) DETERMINATIONS UNDER PARAGRAPH (1).—For purposes of paragraph (1), a beneficiary's interest in a trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar adviser.

''(B) OTHER DETERMINATIONS.—For purposes of this section—

''(i) CONSTRUCTIVE OWNERSHIP.—If a beneficiary of a trust is a corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.

''(ii) TAXPAYER RETURN POSITION.—A taxpayer shall clearly indicate on its income tax return—

''(I) the methodology used to determine that taxpayer's trust interest under this section, and

''(II) if the taxpayer knows (or has reason to know) that any other beneficiary of such trust is using a different methodology to determine such beneficiary's trust interest under this section.

''(g) TERMINATION OF DEFERRALS, ETC.—In the case of any covered expatriate, notwithstanding any other provision of this title—

''(1) any period during which recognition of income or gain is deferred shall terminate on the day before the expatriation date, and

''(2) any extension of time for payment of tax shall cease to apply on the day before the expatriation date and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

''(h) IMPOSITION OF TENTATIVE TAX.—

''(1) IN GENERAL.—If an individual is required to include any amount in gross income under subsection (a) for any taxable year, there is hereby imposed, immediately before the expatriation date, a tax in an amount equal to the amount of tax which would be imposed if the taxable year were a short taxable year ending on the expatriation date.

''(2) DUE DATE.—The due date for any tax imposed by paragraph (1) shall be the 90th day after the expatriation date.

''(3) TREATMENT OF TAX.—Any tax paid under paragraph (1) shall be treated as a payment of the tax imposed by this chapter for the taxable year to which subsection (a) applies.

''(4) DEFERRAL OF TAX.—The provisions of subsection (b) shall apply to the tax imposed by this subsection to the extent attributable to gain includible in gross income by reason of this section.

''(i) SPECIAL LIENS FOR DEFERRED TAX AMOUNTS.—

''(1) IMPOSITION OF LIEN.—

''(A) IN GENERAL.—If a covered expatriate makes an election under subsection (a)(4) or (b) which results in the deferral of any tax imposed by reason of subsection (a), the deferred amount (including any interest, additional amount, addition to tax, assessable penalty, and costs attributable to the deferred amount) shall be a lien in favor of the United States on all property of the expatriate located in the United States (without regard to whether this section applies to the property).

''(B) DEFERRED AMOUNT.—For purposes of this subsection, the deferred amount is the amount of the increase in the covered expatriate's income tax which, but for the election under subsection (a)(4) or (b), would have occurred by reason of this section for the taxable year including the expatriation date.

''(2) PERIOD OF LIEN.—The lien imposed by this subsection shall arise on the expatriation date and continue until—

''(A) the liability for tax by reason of this section is satisfied or has become unenforceable by reason of lapse of time, or

''(B) it is established to the satisfaction of the Secretary that no further tax liability may arise by reason of this section.

''(3) CERTAIN RULES APPLY.—The rules set forth in paragraphs (1), (3), and (4) of section 6324A(d) shall apply with respect to the lien imposed by this subsection as if it were a lien imposed by section 6324A.

''(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''.

(b) INCLUSION IN INCOME OF GIFTS AND BEQUESTS RECEIVED BY UNITED STATES CITIZENS AND RESIDENTS FROM EXPATRIATES.—Section 102 (relating to gifts, etc. not included in gross income) is amended by adding at the end the following new subsection:

''(d) GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.—

''(1) IN GENERAL.—Subsection (a) shall not exclude from gross income the value of any property acquired by gift, bequest, devise, or inheritance from a covered expatriate after the expatriation date. For purposes of this subsection, any term used in this subsection which is also used in section 877A shall have the same meaning as when used in section 877A.

''(2) EXCEPTIONS FOR TRANSFERS OTHERWISE SUBJECT TO ESTATE OR GIFT TAX.—Paragraph (1) shall not apply to any property if either—

''(A) the gift, bequest, devise, or inheritance is—

''(i) shown on a timely filed return of tax imposed by chapter 12 as a taxable gift by the covered expatriate, or

''(ii) included in the gross estate of the covered expatriate for purposes of chapter 11 and shown on a timely filed return of tax imposed by chapter 11 of the estate of the covered expatriate, or

''(B) no such return was timely filed but no such return would have been required to be filed even if the covered expatriate were a citizen or long-term resident of the United States.''.

(c) DEFINITION OF TERMINATION OF UNITED STATES CITIZENSHIP.—Section 7701(a) is amended by adding at the end the following new paragraph:

''(48) TERMINATION OF UNITED STATES CITIZENSHIP.—

''(A) IN GENERAL.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3).

''(B) DUAL CITIZENS.—Under regulations prescribed by the Secretary, subparagraph (A) shall not apply to an individual who became at birth a citizen of the United States and a citizen of another country.''.

(d) INELIGIBILITY FOR VISA OR ADMISSION TO UNITED STATES.—

(1) IN GENERAL.—Section 212(a)(10)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(E)) is amended to read as follows:

''(E) FORMER CITIZENS NOT IN COMPLIANCE WITH EXPATRIATION REVENUE PROVISIONS.—Any alien who is a former citizen of the United States who relinquishes United States citizenship (within the meaning of section 877A(e)(3) of the Internal Revenue Code of 1986) and who is not in compliance with section 877A of such Code (relating to expatriation).''.

(2) AVAILABILITY OF INFORMATION.—

(A) IN GENERAL.—Section 6103(l) (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end the following new paragraph:

''(18) DISCLOSURE TO DENY VISA OR ADMISSION TO CERTAIN EXPATRIATES.—Upon written request of the Attorney General or the Attorney General's delegate, the Secretary shall disclose whether an individual is in compliance with section 877A (and if not in compliance, any items of noncompliance) to officers and employees of the Federal agency responsible for administering section 212(a)(10)(E) of the Immigration and Nationality Act solely for the purpose of, and to the extent necessary in, administering such section 212(a)(10)(E).''.

(B) SAFEGUARDS.—Section 6103(p)(4) (relating to safeguards) is amended by striking ''or (17)'' each place it appears and inserting ''(17), or (18)''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to individuals who relinquish United States citizenship on or after the date of the enactment of this Act.

(e) CONFORMING AMENDMENTS.—

(1) Section 877 is amended by adding at the end the following new subsection:

''(g) APPLICATION.—This section shall not apply to an expatriate (as defined in section 877A(e)) whose expatriation date (as so defined) occurs on or after September 12, 2002.''.

(2) Section 2107 is amended by adding at the end the following new subsection:

''(f) APPLICATION.—This section shall not apply to any expatriate subject to section 877A.''.

(3) Section 2501(a)(3) is amended by adding at the end the following new subparagraph:

''(F) APPLICATION.—This paragraph shall not apply to any expatriate subject to section 877A.''.

(4)(A) Paragraph (1) of section 6039G(d) is amended by inserting ''or 877A'' after ''section 877''.

(B) The second sentence of section 6039G(e) is amended by inserting ''or who relinquishes United States citizenship (within the meaning of section 877A(e)(3))'' after ''877(a))''.

(C) Section 6039G(f) is amended by inserting ''or 877A(e)(2)(B)'' after ''877(e)(1)''.

(f) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by inserting after the item relating to section 877 the following new item:

''Sec. 877A. Tax responsibilities of expatriation.''.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs on or after September 12, 2002.

(2) GIFTS AND BEQUESTS.—Section 102(d) of the Internal Revenue Code of 1986 (as added by subsection (b)) shall apply to gifts and bequests received on or after September 12, 2002, from an individual or the estate of an individual whose expatriation date (as so defined) occurs after such date.

(3) DUE DATE FOR TENTATIVE TAX.—The due date under section 877A(h)(2) of the Internal Revenue Code of 1986, as added by this section, shall in no event occur before the 90th day after the date of the enactment of this Act.

SEC. 202. EXTENSION OF INTERNAL REVENUE SERVICE USER FEES.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

"SEC. 7527. INTERNAL REVENUE SERVICE USER FEES.

''(a) GENERAL RULE.—The Secretary shall establish a program requiring the payment of user fees for—

''(1) requests to the Internal Revenue Service for ruling letters, opinion letters, and determination letters, and

''(2) other similar requests.

''(b) PROGRAM CRITERIA.—

''(1) IN GENERAL.—The fees charged under the program required by subsection (a)—

''(A) shall vary according to categories (or subcategories) established by the Secretary,

''(B) shall be determined after taking into account the average time for (and difficulty of) complying with requests in each category (and subcategory), and

''(C) shall be payable in advance.

''(2) EXEMPTIONS, ETC.—

''(A) IN GENERAL.—The Secretary shall provide for such exemptions (and reduced fees) under such program as the Secretary determines to be appropriate.

''(B) EXEMPTION FOR CERTAIN REQUESTS REGARDING PENSION PLANS.—The Secretary shall not require payment of user fees under such program for requests for determination letters with respect to the qualified status of a pension benefit plan maintained solely by 1 or more eligible employers or any trust which is part of the plan. The preceding sentence shall not apply to any request—

''(i) made after the later of—

''(I) the fifth plan year the pension benefit plan is in existence, or

''(II) the end of any remedial amendment period with respect to the plan beginning within the first 5 plan years, or

''(ii) made by the sponsor of any prototype or similar plan which the sponsor intends to market to participating employers.

''(C) DEFINITIONS AND SPECIAL RULES.—For purposes of subparagraph (B)—

''(i) PENSION BENEFIT PLAN.—The term 'pension benefit plan' means a pension, profit-sharing, stock bonus, annuity, or employee stock ownership plan.

''(ii) ELIGIBLE EMPLOYER.—The term 'eligible employer' means an eligible employer (as defined in section 408(p)(2)(C)(i)(I)) which has at least 1 employee who is not a highly compensated employee (as defined in section 414(q)) and is participating in the plan. The determination of whether an employer is an eligible employer under subparagraph (B) shall be made as of the date of the request described in such subparagraph.

''(iii) DETERMINATION OF AVERAGE FEES CHARGED.—For purposes of any determination of average fees charged, any request to which subparagraph (B) applies shall not be taken into account.

''(3) AVERAGE FEE REQUIREMENT.—The average fee charged under the program required by subsection (a) shall not be less than the amount determined under the following table:

''Category	*Average Fee*
Employee plan ruling and opinion	*$250*
Exempt organization ruling	*$350*
Employee plan determination	*$300*
Exempt organization determination ...	*$275*
Chief counsel ruling	*$200.*

''(c) TERMINATION.—No fee shall be imposed under this section with respect to requests made after September 30, 2012.''.

(b) CONFORMING AMENDMENTS.—

(1) The table of sections for chapter 77 is amended by adding at the end the following new item:

''Sec. 7527. Internal Revenue Service user fees.''.

(2) Section 10511 of the Revenue Act of 1987 is repealed.

(3) Section 620 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is repealed.

(c) LIMITATIONS.—Notwithstanding any other provision of law, any fees collected pursuant to section 7527 of the Internal Revenue Code of 1986, as added by subsection (a), shall not be expended by the Internal Revenue Service unless provided by an appropriations Act.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to requests made after the date of the enactment of this Act.

SEC. 203. PARTIAL PAYMENT OF TAX LIABILITY IN INSTALLMENT AGREEMENTS.

(a) IN GENERAL.—

(1) Section 6159(a) (relating to authorization of agreements) is amended—

(A) by striking ''satisfy liability for payment of'' and inserting ''make payment on'', and

(B) by inserting ''full or partial'' after ''facilitate''.

(2) Section 6159(c) (relating to Secretary required to enter into installment agreements in certain cases) is amended in the matter preceding paragraph (1) by inserting ''full'' before ''payment''.

(b) REQUIREMENT TO REVIEW PARTIAL PAYMENT AGREEMENTS EVERY TWO YEARS.—Section 6159 is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and inserting after subsection (c) the following new subsection:

''(d) SECRETARY REQUIRED TO REVIEW INSTALLMENT AGREEMENTS FOR PARTIAL COLLECTION EVERY TWO YEARS.—In the case of an agreement entered into by the Secretary under subsection (a) for partial collection of a tax liability, the Secretary shall review the agreement at least once every 2 years.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements entered into on or after the date of the enactment of this Act.

Amend the title so as to read: ''An Act to amend the Internal Revenue Code of 1986 to improve tax equity for military personnel, and for other purposes.''.

Amendment printed in House Report 107–784:

Strike all after the enacting clause and insert the following:

SECTION 1. Section 114 of Public Law 107–229 is amended by striking ''the date specified in section 107(c) of this joint resolution'' and inserting ''March 31, 2003''.

SEC. 2. (a) IN GENERAL.—The Temporary Extended Unemployment Compensation Act of 2002 (26 U.S.C. 3304 note) is amended by adding at the end the following:

"SEC. 210. EXTENSION OF PROGRAM IN HIGH UNEMPLOYMENT STATES.

''(a) IN GENERAL.—Notwithstanding section 208(2), an agreement entered into under this title shall apply to weeks of unemployment beginning after December 28, 2002, and ending before February 2, 2003, but only as provided in this section and section 211.

''(b) NEW ACCOUNT.—If, at any time during the period described in subsection (a), an individual's State is in an extended benefit period (as determined under section 203(c)(2)), and such individual meets the requirements of section 202(b)–(c), such State shall establish an account under this section for such individual (to be available beginning with the individual's first week of unemployment within such period as to which both of those conditions are met) in an amount equal to the amount determined in accordance with section 203(b).

''(c) ELIGIBILITY FOR PAYMENTS.—In the case of an individual for whom an account is established under subsection (b)—

''(1) temporary extended unemployment compensation shall be payable for any week of unemployment described in subsection (a) for which such individual would qualify if the criteria in effect for the week ending on December 28, 2002, were applied (and section 202(d)(3) were disregarded); and

''(2) any temporary extended unemployment compensation payable to an individual under this section shall be payable only out of the account established for such individual under subsection (b).

''(d) INELIGIBLE INDIVIDUALS.—Notwithstanding any other provision of this section, no account under subsection (b) shall be established for the benefit of an individual for whom an account was established under section 203, if—

''(1) such account was at any time augmented in the manner described in section 203(c); and

''(2) such account (as so augmented)—

''(A) was exhausted before December 29, 2002; or

''(B) remains available, for weeks beginning on or after December 29, 2002, by virtue of section 211.

"SEC. 211. PHASE-OUT PROVISIONS.

''(a) IN GENERAL.—In the case of an individual who is receiving temporary extended unemployment compensation for a week of unemployment ending on December 28, 2002, the provisions of this title and of any agreement then in effect shall be applied in a manner such that any amounts remaining in an account established for such individual under section 203 as of that date shall continue to remain available to the same extent and in the same manner as if section 208(2) had been amended by striking 'January 1' and inserting 'February 2'.

''(b) COORDINATION PROVISION.—After any amounts (in an account established under section 203) remaining available for the benefit of an individual by virtue of subsection (a) are exhausted, section 210 shall apply to such individual in accordance with its terms.

''(c) RULE OF CONSTRUCTION.—Nothing in this title shall be considered to permit or require the payment of any amount, out of an account established under section 203 or 210, for any week of unemployment ending after February 1, 2003.''.

(b) CLERICAL AMENDMENT.—The table of contents of Public Law 107–147 is amended by inserting after the item relating to section 209 the following:

''210. Extension of program in high unemployment States.

''211. Phase-out provisions.''.

SEC. 3. Section 1848(i)(1)(C) of the Social Security Act (42 U.S.C. 1395w–4(i)(1)(C)) is amended to read as follows:

''(C) the determination of conversion factors under subsection (d), including without limitation a prospective redetermination of the sustainable growth rates for any or all previous fiscal years,''.

Amend the title so as to read as follows: ''An Act to make technical amendments to the Social Security Act and related Acts.''.

The SPEAKER pro tempore. Pursuant to House Resolution 609, the gentleman from California (Mr. THOMAS) and the gentleman from California (Mr. STARK) each will control 30 minutes.

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that the time allotted be 30 minutes in its entirety, divided equally between myself and the gentleman from California (Mr. STARK).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The gentleman from California (Mr. THOMAS)

and the gentleman from California (Mr. STARK) each will control 15 minutes.

The Chair recognizes the gentleman from California (Mr. THOMAS).

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume. I want to thank the gentleman from California for the courtesy so that we can expeditiously examine this very modest bill. As we discussed under the rule earlier, there are three provisions in the bill: one, to correct a flaw dealing with the continuation of TANF, or welfare; secondly, to make sure that the unemployment program, in a modest way, continues until the House reconvenes in the 108th Congress; and the third is to provide the administration with some legal protection if they decide to make some decisions which would allow some adjustments in the Medicare program.

Mr. Speaker, I reserve the balance of my time.

Mr. STARK. Mr. Speaker, I yield myself such time as I may consume.

(Mr. STARK asked and was given permission to revise and extend his remarks.)

Mr. STARK. Mr. Speaker, I suspect that many people will vote for this bill, but it cannot go unnoticed that the bill does not do nearly enough. It is a day late and a dollar short. It does not really improve Medicare and deal with many of the providers. It merely gives the administration, hopefully, the right to correct a glitch in the way physicians are reimbursed. There is some great discussion going on that they may already have that. The fight seems to be that correcting the physician glitch will cost 43 billion bucks and the question is, Do we get billed again for that or does the administration? And does it fit, or increase the deficit or does it not? So there is no guarantee that your physician friends will get their problem corrected. There is some guarantee that the hospitals, nursing homes, rural hospitals, teaching hospitals and the uninsured will absolutely get nothing.

As to the welfare reform bill, there may be a lot of blame as to why we have not reauthorized it; but in any event, since 1996, the day it was passed, the funding for welfare reform, or welfare payments in this country has dropped by 11 percent. We are not doing anything to increase it and that is tragic. Welfare reform is more than a benefit check. It is child care and job training; it is education, the very foundations of self-sufficiency.

It is too bad now, particularly that we do not worry about PAYGO anymore, that we cannot at least deal with the millions of poor families even a tenth as well as we deal with the very rich in the tax cuts that we have given them. Fourteen million families eligible for child care assistance do not receive it and millions of Americans out of work are struggling. We are not doing an adequate job in unemployment, where this bill really falls down. I will turn soon to my colleague from Maryland, the ranking member of the Subcommittee on Human Resources, to explain that to you. We have spent trillions of dollars in tax cuts for the rich and we are tonight going to talk about a mere billion dollars to extend unemployment benefits for only a small portion of the Americans who are struggling. Again, it is not fair and it is not adequate.

There was a time when we in Congress could hold up our heads high and say that we took care of all Americans who were unable to fend for themselves. We are not even doing that. I think that it is tragic that here we are in the last hours of this Congress and we are attending to something that I do not think any bill at this time could correct all the problems. It is kind of a sad commentary that we have come this far and left so many people impoverished and unaided by a government that has given so much to the wealthy.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS. Mr. Speaker it is my pleasure to yield 1 minute to the gentleman from California (Mr. HERGER), the chairman of the Subcommittee on Human Resources of the Committee on Ways and Means.

Mr. HERGER. Mr. Speaker, I rise in support of H.R. 5063, as amended. This bill would temporarily extend unemployment benefits for an additional 5 weeks. It also will extend the funding and rules for the Nation's welfare reform program through March 31, 2003, allowing us additional time to reauthorize the historic 1996 law.

Mr. Speaker, we must keep the pressure on to reauthorize welfare reform for 5 years as quickly as possible. This will be our goal in the next Congress, and we look forward to working with both Republicans and Democrats to get this job done.

I urge my colleagues to support this bill.

Mr. STARK. Mr. Speaker, I am pleased to yield 3 minutes to the distinguished gentleman from Maryland (Mr. CARDIN), the ranking member of the Subcommittee on Human Resources.

Mr. CARDIN. Mr. Speaker, let me thank the gentleman from California for yielding me this time. As the chairman of the Committee on Ways and Means has said, this is a modest bill that moves forward in three areas in a very modest way. It is the last train out of the station, and I would urge my colleagues to support the bill.

Mr. Speaker, it does deal, as the chairman of the Subcommittee on Human Resources said, with a 3-month extension of TANF. That is better than what was in the continuing resolution. It guarantees that our States will receive at least their first quarter payments. That is important. But I know we are all disappointed that we were unable in this Congress to reauthorize the program for 5 years. Certainly we wanted to reauthorize it for more than 3 months.

Secondly, the gentleman from California (Mr. STARK) has already commented on the Medicare provisions. We hope that the provisions here will help the physician reimbursement system. But we are all disappointed that we were unable to complete the structure changes for skilled nursing facilities, rehabilitation therapists, hospitals, home health. There were provisions in here that were noncontroversial for our military. None of that was able to get accomplished in this Congress, and I think we are all very disappointed that we were unable to do that.

But, Mr. Speaker, I want to talk about the third area, unemployment insurance. Yes, there is a modest improvement in the underlying legislation, but I think we should be very disappointed that we have done nothing at all to help the 1.8 million Americans who will have exhausted their unemployment insurance benefits before we will have an opportunity to revisit this program again next year. That is particularly disappointing when you recognize the fact that in every prior recession, in a bipartisan way, we have extended Federal unemployment insurance benefits as a safety net to those who are hurt through the recession through no fault of their own.

We have $25 billion in the Federal unemployment trust account. The money is there. The number of people suffering from long-term unemployment has doubled over the last year. We know that if we provide assistance that money will get back into the economy quickly and help us in the recovery. That is why in every prior recession, we have been very clear in providing additional help through the Federal unemployment insurance system. Yet in this recession we have failed. I think that is extremely disappointing, and I would hope that we could have done better.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 2 minutes to the gentleman from Pennsylvania (Mr. ENGLISH), a member of the Committee on Ways and Means.

Mr. ENGLISH. Mr. Speaker, more than 800,000 unemployed workers throughout the U.S. and over 35,000 in Pennsylvania alone are faced with the grim reality that their unemployment benefits will end just 3 days after Christmas. With the economy in such bad straits and so many working families suffering, we cannot stand by and let the Grinch steal Christmas from the unemployed whose holidays are already constrained by an extended period of unemployment. This cutoff is hanging like a sword of Damocles, like a Grinch, over these families; and we need to act today.

This bill removes the December 28 cutoff on benefits. It allows more than 800,000 unemployed workers nationwide who will already be receiving extended benefits to temporarily continue receiving benefits when the current program expires. This bill extends federally funded benefits by up to 5 weeks

per individual. This bill continues through January 2003 the current availability of additional weeks of federally funded extended benefits in certain high-unemployment States. As a longtime supporter of this issue, I feel it critical that we move now to provide extended unemployment benefits to these families.

I urge my colleagues to join me in standing up to the Grinch and making sure that America's unemployed continue to receive benefits after Christmas.

Mr. STARK. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. LEVIN), who understands that while the opposition is willing to spend over a trillion dollars in tax cuts to the wealthy, they are unwilling to make good on their earlier promise to spend a thousandth of that amount to insure nursing home patients.

(Mr. LEVIN asked and was given permission to revise and extend his remarks.)

□ 2045

Mr. LEVIN. Mr. Speaker, first on unemployment comp, the gentleman from Pennsylvania (Mr. ENGLISH), about 35,000 will be benefitted, at the most, 5 weeks. More than twice that will face Christmas having exhausted their benefits and get no help through extended benefits because of the failure of this Congress to act more than twice. So this is not really a modest program. It is really a flawed program and an inferior one because 800,000 will get several weeks. Over 1,800,000 who will exhausted their benefits will get zero, and it will be simply because of the accident of when they exhausted their benefits. If they exhausted them earlier or later, they come up with zero, and that is not the way this country should respond to the needs of people who are unemployed through no fault of their own.

Let me just finish by saying something about this approach in terms of physicians. We needed to do something, but what you are doing is essentially more appearance than it is reality in terms of the cost. You do not come forth here with a proposal that addresses this directly, which will cost $20 to $60 billion over 10 years. You do not want CBO to score it. So you come forth and give carte blanche to the administration to do what they say they cannot do anyway, and because it would be done administratively it would not be scored, but it will come out of the budget and will add $20 to $80 billion in the deficit over 10 years, and it will not address the other needs of other providers. That really is one modest approach. It is a flawed and inferior approach. It forces us perhaps to vote yes, but realizing the terrible, terrible shortcomings of this approach.

Mr. THOMAS. Mr. Speaker, I yield 1 minute to the gentlewoman from Washington (Ms. DUNN), a member of the Committee on Ways and Means.

(Ms. DUNN asked and was given permission to revise and extend her remarks.)

Ms. DUNN. Mr. Speaker, as we all know, the extended unemployment benefits we passed last year are due to expire on December 28. Without an extension thousands of dislocated workers will lose the unemployment benefits they need to make ends meet as they search for a job. The problem is extenuated in areas like Washington State, where unemployment rates continue to be high and jobs are very tough to find.

Extending the Federal unemployment benefits for an additional 5 weeks will help about 45,400 dislocated workers living in Washington State alone. It is the least that we in Congress can do before adjourning for the year to ensure that every family has a happy holiday season. This bill is a targeted approach to help individuals who need it the most. It is a step toward providing temporary assistance at a time when our country is getting back on the track to recovery.

I urge my colleagues to vote for this important bill, and I hope that the other body will adopt this bill before leaving for the year.

Mr. STARK. Mr. Speaker, I yield 3 minutes to the gentleman from Washington (Mr. MCDERMOTT).

Mr. MCDERMOTT. Mr. Speaker, this is a really interesting bill because it really kind of lays it out coldbloodedly. The President, or the White House, has had 2 million jobs lost since they came into office, and they do not care. When the White House announced their special interests for this session, they said we want homeland security, we want Federal judges and we want terrorism insurance. Not one single word about the economy.

I come from a State where there is 7 percent unemployment. The Northwest is the highest in the country. And anybody who exhausts their benefits before January 1 gets nothing. Oh, excuse me. They get 5 weeks after the first of the year. That is all they get is 5 weeks. As the gentleman from Maryland (Mr. CARDIN) has already said, we have $25 billion sitting in a fund to deal with this, and you come out here with a 5-week plan. I mean Merry Christmas, folks. Are you going to send turkeys around at Thanksgiving also as part of this program? Why can you not ever admit that you fouled up the economy and the people you have put out of work you are unwilling to take care of when you have the money sitting there? It is sitting there. I cannot understand how you are going to go home to people and say, well, we are sorry, we will be back in on January 7 and we will pass something real quick; so do not worry, do not worry, do not worry. I mean you are saying at Christmas time to people you are not going to take care of them.

Our unemployment in this country, we have gone up 25 percent in long-term unemployment in the last 6 months, and there is no question between now and February an estimated 1.8 million people are going to lose their unemployment insurance, and you are not doing anything for them, just a little tiny Band-Aid. And it is pretty clear where your priorities are. You are willing in the last bill to take off all the financial controls to spend on defense, to go $100 billion, $200 billion into debt in Iraq, but you will not give anything but 5 weeks of unemployment to the people who have lost their jobs in this mess you have created.

I think that we will be back in January, we will all vote for this. We know it is inadequate, but that is what you are offering them, and we are not going to say no. We are not fools. But the fact is you are going to come back in here in January and you are going to hear the same speech from me because I am going to say to you why are you only taking it 3 months or you will go 6 months? You will not recognize what you have created here, and you have long-term unemployment that is going up in this country and you just cannot seem to face it. So we will vote on this inadequate piece.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

I appreciate the gentleman's argument that we are giving someone 5 weeks. That is like saying we picked up a hitchhiker on the West Coast and drove him within three blocks of the Statue of Liberty and he is complaining because we did not drop him right at the door. As a matter of fact, we did not wait until he finished his business and then took him back to California. Because the facts are, and the gentleman is from Washington State so let us use Washington State, there are people in Washington State who have received more than 1 year of unemployment benefits. They have received 26 weeks, an additional 26 weeks, and the 5 weeks the gentleman from Washington (Mr. MCDERMOTT) was talking about was part of, on top of all of those months, an additional 13 weeks which was a 50/50 match between the State and the Federal Government. And of course States have their own programs in which they can continue to extend it.

So for the gentleman to take the time to create the impression that all we are doing is 5 weeks is to say that at the very least that is 5 weeks on top of 26 weeks, on top of 26 weeks, on top of an additional 7. So when you really look at it in terms of the way in which the benefits have been provided, a short way of saying it is there are people who have received unemployment benefits for better than a year.

Mr. Speaker, I reserve the balance of my time.

Mr. STARK. Mr. Speaker, I yield myself such time as I may consume.

I guess that the distinguished chairman of the Committee on Ways and Means and the gentlewoman from Washington State (Ms. DUNN), the previous speaker, said it all. It is the least we can do, and it is a modest bill. We could do better. We should do better.

We have never had a modest tax cut coming from the other side of the aisle. It is only modest when we try to help the least fortunate among us. So while one never looks a gift horse in the mouth, I am sure that the few people it does help will be happy. I intend to support the bill. I only wish that we could have had the leadership to do better for more people in this country.

Mr. KUCINICH. Mr. Speaker, last month's New York Times predicted that if there is to be an economic recovery in our future, it will be a ''jobless recovery.'' I would submit that for the 8.2 million Americans who are unemployed, an economic recovery that does not provide more jobs is no recovery at all. And of course, as consumer confidence plunged to a nine year low in October, any economic recovery—with or without more job openings—seems strongly in doubt.

For this reason, H.R. 5063's plan to extend the Temporary Emergency Unemployment Compensation (TEUC) program, which is presently scheduled to expire on December 28, 2002, is woefully inadequate and provides an extremely limited amount of additional unemployment relief.

According to the Center on Budget and Policy Priorities, between now and February 2, 2003, 1.8 million jobless workers in need of assistance would fail to receive it under this plan. Only three states, Arkansas, Oregon, and Washington, are eligible for the five-week extension of the TEUC program authorized by this bill.

And when one considers that the number of long-term unemployed who are looking for work after 27 weeks almost doubled over the last year, that the Economic Policy Institute has reported there are 2.7 unemployed workers for every job opening, and that the Congressional Budget Office expects the unemployment rate to remain near 6 percent until the second half of 2003, it is clear to me that American workers deserve a better and more comprehensive unemployment plan.

In fact, the bill's proposal represents an enormous missed opportunity. The failure to provide additional weeks of benefits to those who have already exhausted their federal benefits is a missed opportunity to provide a dose of immediate, well-targeted economic stimulus.

In addition, the federal unemployment trust funds will have an estimated surplus of $24 billion at the end of this year. And yet, the Republican proposal is estimated to cost less than $1 billion, leaving $23 billion unused, helping no one. This approach seems inconsistent with the basic purpose of the trust funds: to build large resources when work is plentiful in order to provide relief to unemployed workers when they need it most. I think that time is now.

It is unfortunate that no alternative to the proposal contained in H.R. 5063 was allowed by the majority's rule. An effective alternative proposal would have recognized that American workers from the heart of this nation, and that Federal unemployment insurance was intended for those workers during tough times like toady. An effective alternative proposal would have also recognized that the number of unemployed Americans is as high today as it was when the original and comprehensive Federal extended benefits program was enacted in March. This time, workers may receive much less.

In a so-called ''jobless recovery'', millions of Americans will remain jobless. Under today's so-called unemployment plan, 1.8 million Americans will also be without unemployment compensation. We can do better for American workers.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I will be voting for this bill, reluctantly. I feel it is a feeble attempt to run away from the challenges that face us, and to shirk our responsibilities to the American people. But because it is the only legislation the Majority is giving us the opportunity to vote on, and because it will get a modicum of temporary help to some struggling people, I'll support it.

Everyday, I receive a deluge of letters and calls from my constitutents—doctors, hospitals, patient-advocacy groups, and nursing homes—letting me know that they are in trouble. Jobless rates are up. The October 1 Medicare Cliff passed us by, and we did almost nothing to mitigate the damages. Doctor reimbursements have been slashed, we are short of nurses and have lost funds to bring in new ones. Our long-term care facilities are on the brink of financial ruin. If we do not provide appropriate funds for vital services, these services could be lost. Reimbursement rates are so low in some sectors that medical facilities lose money by treating patients, so Medicare patients may soon be denied care in some areas. People will suffer.

I understand that emergencies do happen. Sometimes, we need to bend and maneuver the rules of the House to get issues handled expeditiously. But, we have seen these problems on the horizon for months. We all knew it. I, with, many like-minded colleagues have been pushing hard for real change—bold steps to take care of the challenges that face our constituents and our health care system. But good bills have been languishing here in the House. There was always an excuse for inaction. We have run out of excuses though.

I and my Democratic colleagues have consistently supported a package with provisions that would improve reimbursements to doctors and hospitals serving Medicare patients, would eliminate the 15 percent reduction in home health payments, would strengthen Medicare+Choice programs, and would help rural providers. But, unfortunately, these provisions were defeated.

Instead, the Majority has gutted an excellent bill from the other body that would have helped our men and women serving in the military receive fair tax relief, and would have stopped the horrible practice of some wealthy individuals who renounce their U.S. citizenship in order to avoid their responsibilities to pay taxes. In a time of war, what kind of a signal are we sending to our people in uniform, by sacrificing their needs, in order to play politics, and benefit the worst tax-evaders?

What we have before us today is a mockery of what good legislation can be. It is a band-aid approach to bypass surgery. It is a token for few, but an insult to the many health care providers who are struggling to meet the needs of our nation's sick. If it gets past the Senate, it will provide a brief extension for welfare recipients in programs such as Temporary Assistance for Needy Families (TANF), and child assistance, It extends, for a short time, unemployment benefits for people who are now receiving benefits and who live in a few selected states. Those in other states, and those 1 million workers whose benefits have expired, but who are still struggling in our flailing economy to find work, receive no help.

I will vote for this bill, because it is better than nothing. But, I feel the Republican leadership has squandered an opportunity to do good. They should have brought us this bill as it passed the other body, so we could show our support to the people in our military. They should have worked with the Senate to get real relief to the unemployed, which would have provided a stimulus to our economy, rather than giving a free pass to tax dodgers overseas. They should have worked with Democrats to ensure adequate reimbursements to our health providers, so that services will be there for the people on Medicare.

Instead, we have a bill that will go nowhere once it leaves the House. I hope we will do more for the American people in the 108th Congress.

Mr. DINGELL. Mr. Speaker, I support the provision in this bill that extends the welfare program and the related Temporary Medical Assistance (TMA) program through the end of March. TMA allows families leaving welfare for work to keep their Medicaid insurance coverage. My only question is why my Republican colleagues would extend such an important program for one quarter when it would make much more sense to extend it for one year, two years, or more.

Similarly, I support the effort in this bill to prevent payment cuts to physicians in Medicare. However, I regret that the bill does not accomplish nearly enough.

We do need to help physicians under Medicare, but we also need to help other providers. Hospitals, home health agencies, and nursing homes are in a similar situation. I hear from my constituents on these issues nearly every day. We cannot turn a blind eye to their problems because, like physicians, their role in caring for Medicare beneficiaries is critical.

This bill also neglects to provide States with any Medicaid fiscal relief, which is urgently needed to prevent hundreds of thousands of working Americans from losing their health insurance coverage. States are already cutting back on coverage—and as a result, pregnant women and children, senior citizens in nursing homes, working disabled, and women with breast or cervical cancer all across the country may soon find themselves without health insurance.

Ultimately, I will support this bill, because doing something is better than doing nothing. Yet it seems callous for the House Republican Leadership to let Congress leave without addressing these critical issues. We should be preventing millions of Americans from losing their health insurance and protecting the Medicare program for America's seniors.

Mr. STARK. Mr. Speaker, I yield back the balance of my time.

Mr. THOMAS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SIMPSON). All time for debate has expired.

Pursuant to House Resolution 609, the previous question is ordered.

The question is on the motion offered by the gentleman from California (Mr. THOMAS).

The motion was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 3210, TERRORISM RISK PROTECTION ACT

Mr. OXLEY. Mr. Speaker, pursuant to House Resolution 607, I call up the conference report on the bill (H.R. 3210) to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism.

The clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of November 13, 2002, at page H8722).

The SPEAKER pro tempore. The gentleman from Ohio (Mr. OXLEY) and the gentleman from New York (Mr. LAFALCE) each will control 30 minutes.

The Chair recognizes the gentleman from Ohio (Mr. OXLEY).

GENERAL LEAVE

Mr. OXLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the conference report.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. OXLEY. Mr. Speaker, I yield myself 6 minutes.

September 11, 2001, will go down in history as one of the most tragic days in American history as a foreign terrorist network unleashed a devastating attack against our Nation, killing or injuring thousands and causing greater insured losses than all recent natural disasters combined. This attack not only destroyed the lives of innumerable innocent people from all corners of the world, but it was also intended to disrupt the very center of America's financial infrastructure.

Fortunately, the American people and our economy proved stronger and more resilient than anyone could have imagined. Under the leadership of our President, we have fought back, destroyed the terrorist launching pad, and fortified our borders and financial infrastructure security. We absorbed the terrorists' best hit, and our financial system and our will remain as strong as ever.

In the insurance industry not a single American firm was rendered insolvent and insurers were able to expedite claims payments to rush aid to those most in need.

The one weak link in our comeback has been the foreign reinsurance market, which since 9/11 has been understandably uncomfortable with providing further coverage for terrorist attacks. An effective insurance industry relies on spreading risk as broadly as possible, in the case of reinsurance across the entire globe. American insurers rely on foreign reinsurance to protect their solvency against truly catastrophic events. Insurers simply cannot responsibly provide protection for American businesses without some sort of financial backstop, and where the foreign private sector can no longer fill that role we must step in to protect our economy against the threat of future attacks.

A recent Real Estate Roundtable survey cited more than $15 billion in real estate projects across the U.S. being delayed or canceled because of their terrorism exposure. If the building projects do not go forward, it means that the architects, engineers, construction workers, and realtors do not work. Our economy will continue to be impaired and thousands of American jobs will continue to be lost. We cannot afford to allow the terrorists this victory. We must act.

Another survey found that 84 percent of responding American businesses do not believe their companies have sufficient coverage in the face of another terrorist attack and 71 percent find it difficult or impossible to obtain adequate coverage. We survived 9/11, but without a reinsurance backstop for terrorism, another attack could force thousands of companies into bankruptcy with no protection or recourse. At a time when we are preparing for war in the Middle East and facing repeated terrorism security warnings in the United States, we cannot afford not to have a Federal backstop in place.

President Bush immediately realized the significance of this economic problem and called on the Congress to pass legislation soon after 9/11 and has been tirelessly pressing Congress for legislation ever since. The House quickly answered this call with passage of legislation last November 1 a year ago and now stands ready to deliver. We have worked closely with the President and the Senate to draft strong bipartisan legislation that is pro-consumer, pro-taxpayer and pro-business. This legislation, the Terrorism Risk Insurance Act, will provide a Federal backstop for Americans to protect against future catastrophic terrorist attacks. We provide American businesses with immediate protection upon enactment while long-term contracts are being negotiated. The Federal backstop then phases out over time with insurers paying a steadily increasing deductible of 7 to 15 percent of their premiums before the Federal catastrophic protection kicks in.

□ 2100

As the reinsurance market flows back in, the Federal involvement would phase out in 3 years.

We also provide full protection for the American taxpayers. The conference report provides for full payback of any Federal assistance, with the first 10 to $15 billion of losses required to ultimately be borne by the insurance industry as mandatory retention and payback. The remainder will be recouped based on economic conditions.

Consumers are provided with mandatory availability of terrorism coverage and with a significant disclosure to improve their competitive options.

This bill is absolutely necessary to the well-being of the American economy to protect U.S. jobs and against future terrorist attacks. We need this backstop in place now.

I would be remiss if I did not point out the considerable contributions made by my colleague and subcommittee chairman, the gentleman from Louisiana (Mr. BAKER). Without his hard work and dedication, this legislation would not have been possible. Also I recognize the important contributions to protect Americans by our full committee ranking member, the gentleman from New York (Mr. LAFALCE), and our subcommittee ranking member, the gentleman from Pennsylvania (Mr. KANJORSKI), here in the House, as well as Senators DODD, SARBANES and GRAMM.

Our House conference report was signed by every single conferee on our committee, and its bipartisan support is a testament to the work of the President and these Members.

I just want to take this opportunity to thank my good friend, JOHN LAFALCE. I think he is probably handling his last bill in his role as ranking member on the committee. But I want to personally thank him for his dedication and service to our Nation, and particularly his hard work on this very, very important legislation on terrorism insurance. We have worked continuously for the last 2 years, and I just cannot say enough about his dedication and hard work. We are going to miss you, John, and all of the opportunities we have had to work together on numerous issues; and we wish you the very best in your retirement.

Mr. LAFALCE. Mr. Speaker, I yield myself such time as I may consume.

(Mr. LAFALCE asked and was given permission to revise and extend his remarks.)

Mr. LAFALCE. Mr. Speaker, I thank the gentleman from Ohio very, very much for his very kind comments. It, too, has been a pleasure working with him, especially the past 2 years during his chairmanship of the Committee on Financial Services.

Mr. Speaker, after very many fits and starts, the terrorism reinsurance package will finally become a reality, despite persistent opposition by many in this body who stalled passage of this bill for almost a year by seeking to unfairly limit the rights of victims resulting from a terrorist attack.

Our Nation has been faced with numerous economic dislocations as a result of the September 11 attacks as it continues to prepare for the specter of future attacks. A case in point is the legitimate concern raised that the market relating to terrorism coverage has evaporated, forcing primary insurers to increase prices or withdraw coverage, so we have had both an unavailability and an unaffordability problem.

This is not an insurance industry problem, because if the insurance industry cannot reinsure the risk of future terrorist attacks, or will not, it

will either not offer terrorism coverage or will price it out of the reach of most consumers and leave areas of the country particularly susceptible to terrorist attacks without coverage, and, most importantly, stall or scuttle future building projects. The consequences of such action for our economy and for consumers, should this continue, could be devastating.

The conference report achieves what I believe is an acceptable balance. The bill makes insurance available by constructing a short-term Federal backstop with minimal government intrusion into the insurance market by ending 3 years after a private sector mechanism emerges. In addition, it requires significant contributions by industry that keeps industry on the hook for substantial losses, thereby protecting the American taxpayer.

More importantly, the bill also avoids making this important economic package a Trojan horse for tort reform, a favorite of many in this body and many in the White House, some of whom worked long and hard for over a year to derail this bill in order to advance what I consider to be an ideological agenda at the expense of economic growth and the protection of American businesses.

Rather, the bill before us tonight provides for prudent measures that protect the interests of taxpayers and maintains the legitimate rights of victims by, one, creating an exclusive Federal cause of action governed by applicable state law for all suits for property loss, personal injury or death arising out of a terrorist event; secondly, consolidating claims into a single Federal district court; and, third, ensuring that the Federal Government will not be directly or indirectly responsible in its role as a reinsurer for any punitive damages.

I support this important response to mitigate the economic fallout from the threat of future attacks on this Nation, and I urge my colleagues to support this conference report, as I have and all the Democratic conferees have, and then I would urge the President to sign it into law swiftly.

Mr. Speaker, I reserve the balance of my time.

Mr. OXLEY. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from New Jersey (Mr. FERGUSON), a valuable member of the committee, as well as the conference committee.

Mr. FERGUSON. Mr. Speaker, I thank the chairman for yielding me time.

Mr. Speaker, I rise today in strong support of this terrorism insurance legislation that is crucial to our economic security in this Nation. This year alone the lack of terrorism insurance has terminated or delayed billions of dollars' worth of commercial property financing. Across this country we have seen hospitals, office buildings, malls, stadiums and museums among the many facilities that are having difficulty finding terrorism coverage.

With commercial development stalling, workers are also missing out on jobs. That is why it is imperative that we pass this terrorism insurance legislation to protect American jobs and strengthen our economy as we protect ourselves against future terrorist attacks.

Without coverage, the economic impact of another terrorist attack would indeed be devastating. The U.S. could face a string of bankruptcies, loan defaults and layoffs that would intensify the blow of the attack. As a conferee on this legislation, I am proud to say that we have produced legislation that is a direct response to the uncertainty in the insurance market that is hindering the economy and costing American jobs.

Under this legislation, private insurance would pay for damages up to a certain amount, and the Federal Government would guarantee against catastrophic losses. By establishing a temporary risk-spreading program to shore up the insurance market, it will help provide much-needed confidence and certainty, while also minimizing government regulation, which would only go into effect if a terrorist attack occurred. It will also effectively limit market disruptions, encourage economic stabilization, and facilitate the transition to a viable private market for terrorism risk insurance.

Most importantly, we have carefully crafted a package with much-needed taxpayer protections, including mandatory payback and recoupment. This ensures the availability and affordability of terrorism insurance in the market, while also maintaining the flexibility to protect taxpayers and policyholders.

I applaud President Bush and the gentleman from Ohio (Chairman OXLEY) for their determination and leadership in moving this legislation that will strengthen our economic security. I urge my colleagues to support this terrorism insurance legislation to help create jobs, strengthen economic growth, and reduce the impact of any future terrorist attack.

Mr. LAFALCE. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania (Mr. KANJORSKI), the distinguished ranking member of the Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises responsible for the terrorist insurance bill.

Mr. KANJORSKI. Mr. Speaker, I rise in support of the conference report on the Terrorism Risk Insurance Act. We need this economic stabilization to provide an inoculation for our ailing economy.

Since last year's terrorist attacks, insurance rates for businesses have risen significantly across the country. One recent report by the Insurance Information Institute found that insurance rates have increased by 30 percent or more after last year's terrorist attacks. One of the primarily factors contributing to these dramatic increases is the lack of terrorism insurance.

The failure to create a Federal terrorism insurance backstop has also had serious implications for our economy. As the report of the Joint Economic Committee found, the problems associated with terrorism reinsurance pose a significant threat to sustained economic growth. The Real Estate Roundtable found that the lack of terrorism insurance availability for commercial properties has resulted in the cancellation or delay of $15 billion in real estate deals, resulting in the loss of potentially 300,000 fewer good-paying construction jobs.

Terrorism insurance is critical to protecting jobs and promoting America's economic security, whether in Wilkes-Barre, Scranton, or Hazleton, Pennsylvania, or in New York City. The issue of terrorism insurance may also affect our national economy more immediately and more drastically than any tax or spending issue that Congress has considered in recent years. Without Federal intervention in the insurance marketplace, our already-sluggish economy will likely experience increased instability in the near future.

The conference report before us today is workable; it is an effective compromise, one that provides substantial financial protection. I am pleased that the conference report contains a number of provisions which I advocated. For example, the legislation designates the Secretary of the Treasury as the administrator of the program and clearly authorizes auditing powers and penalties.

Additionally, I worked to ensure that this conference report allows the Treasury Secretary to consider the effect of payback surcharges on urban, smaller commercial, and rural areas and on different lines of insurance. These considerations are important because they will ensure that the individual policyholders will be treated fairly and a small business, a farmer or other rural policy holder will not be asked to disproportionately subsidize losses associated with national symbols like a skyscraper or large manufacturing plant.

Moreover, through the process of considering this bill, I have worked to adapt the simplest, cleanest bill to get us through the period of uncertainty until the private sector can price the terrorism reinsurance.

Mr. Speaker, this bill should have been before the Congress a year ago. We worked diligently in the subcommittee; and if the report of the subcommittee had been presented to this floor a year ago, I am convinced in my own mind there would have been well over 420 votes to support it. Unfortunately, as the ranking member of the committee indicated, this got caught up in ideology and other factors, trying to make it a locomotive, if you will, to handle tort reform.

I think this is a perfect example of how we could start the new year and the new Congress in recognizing that partisanship and special interests or

ideologies should not be made part of public policy. We can start by looking at this case as a case in chief as to how legislation can be accomplished and how it cannot be accomplished and why 1 year lost of construction time and investment is not worth the attempt to win some political point or political benefit.

I compliment the chairman of the committee and the chairman of my subcommittee; and particularly I want to compliment, pay respect to, the ranking member from western New York. Without his diligence and without their diligence, we probably could be arguing until the cows come home.

Fortunately, everybody realized that America needs this bill. The insurance industry, which is probably the least likely industry that wants Federal involvement, recognized that this is a role government should play. But most of all, Mr. Speaker, the American people and the American economy need this bill.

I urge my colleagues to support this conference report to their fullest extent.

Mr. OXLEY. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Texas (Mr. DELAY), the majority whip, soon to be majority leader.

Mr. DELAY. Mr. Speaker, I thank the chairman for yielding me time.

Mr. Speaker, the chairman has done a lot of hard work on this bill, and I rise today to support the terrorism insurance legislation before us and to highlight the important work still to be done on this issue.

I had my doubts about this legislation from the very beginning. The most accurate assessment of the risk to Americans is developed by the private marketplace, free from government interference. However, terrorism insurance is not always available, and sometimes it is available only at prices people cannot pay. But the most troubling aspect of this bill is the flaw that leaves American taxpayers holding the bag and trial lawyers running away with the loot.

□ 2115

The House passed a bill containing strong liability protections. The most important was an outright ban on punitive damages. We now have a conference report that lacks this ban.

Mr. Speaker, President Bush's top four economic advisers explained it best in a June 10 letter. They said very directly, ''Punitive damages are designed to punish criminal or near criminal wrongdoing. American companies that are attacked by terrorists should not be subject to predatory lawsuits. The availability of punitive damages in terrorism cases would result in inequitable relief for injured parties, and threaten bankruptcies for American companies.''

I wish these were the only problems with this bill. But the most troublesome aspect is the prospect that taxpayer dollars may be negotiated away in an out of court settlement. There is no sufficient mechanism in this bill to protect a raid on the Treasury by predatory trial lawyers.

Unfortunately, there is an industry in America today that profits from tragedy and suffering. Businesses and property owners and victims who have lost their lives are innocent bystanders in terrorist attacks. My concern is that we are handing this industry additional tools to take advantage and compound these tragedies.

President Bush repeatedly said during this election that we need to stand with the ''hard hats'' and not the trial lawyers, and I agree with that.

However, this bill falls very short of the President's intent. The Wall Street Journal described its weaknesses as a ''bonanza for trial lawyers.''

I raised these concerns with President Bush. He agreed that there is more work left to protect victims of terrorism and the Federal Treasury, and he pledged to work with us next year to resolve these flaws.

I want to thank President Bush for that pledge to protect the taxpayers.

As long as I have been in Congress I have guarded the taxpayers, and we are working to fix the problems with this bill.

We are going to lock the doors of the Federal Treasury against trial lawyers who would exploit flaws in this new law to soak the taxpayers.

I am going to stand with hard-working Americans. I am going to stand with those ''hard hats,'' and I am going to oppose anyone who seeks to plunder the Federal Treasury.

Mr. LAFALCE. Mr. Speaker, I yield 4 minutes to the distinguished gentlewoman from Manhattan (Mrs. MALONEY).

Mrs. MALONEY of New York. Mr. Speaker, I thank the gentleman for yielding me this time and for his fine leadership on this committee and on this legislation.

I rise in strong support of the conference report for the Terrorism Risk Protection Act, which provides a Federal safety net in the form of a loan program to the insurance industry in the event of another terrorist attack.

September 11 cost the insurance industry more than $40 billion and many insurers have since dropped terror insurance completely or hiked premiums to extreme levels.

The lack of comprehensive and affordable terrorism insurance has blocked billions in development deals, halting construction and costing jobs.

The bill provides loans to insurers for 90 percent of damages over a deductible and can apply to terrorist events over $5 million. Very importantly, it sunsets 3 years after passage.

This is an economic stimulus bill for New York City and the country.

Cathy Wylde of New York City Partnership estimates that passage of this bill will add 1 percent to the GDP of New York City, and some economists believe it will have the same impact for the Nation. It is extremely important to get our economy moving again. It is about jobs, putting people to work, and not letting terrorists cut off credit.

One example of the impact of the lack of terror insurance is the situation facing the managers of the Conde Nast building in Times Square. This 48-story property is a New York City landmark that houses a publishing empire and the famous NASDAQ market site from which the TV networks broadcast updates on the stock market.

While the building's owners have always carried insurance to cover the $430 million mortgage, after September 11 terrorism coverage insurance alone for the building skyrocketed to $5 million a year. The building's owners were unable to pay this high amount while the bank holding the mortgage demanded that they carry full coverage. As my colleagues might expect, this situation has led to prolonged litigation.

Passage of this legislation will resolve the situation for the Conde Nast building and for many other properties like it across the Nation.

Importantly, this is not just a New York City or New York State problem.

According to a recent report by the Mortgage Bankers Association, the lack of terrorist insurance has led to downgrades by the rating agencies of commercial real estate property around the country. The MBA alone believes the downgrades have cost its industry $8 billion in canceled or delayed projects.

I am very pleased that today's bill contains a compromise on the tort reform issue.

Finally, I want to thank the chairman of the committee, and to the Democratic leader of the Committee on Financial Services, I want to thank very much the gentleman from New York (Mr. LAFALCE) for his tireless work on this issue and so many others. He stood for principle throughout consideration of the debate on this bill and, I would say, all legislation before the committee. We will truly miss his contributions to the Committee on Financial Services and to this Congress. I believe this will probably be the last bill that the gentleman will manage on the floor and we appreciate very much the gentleman's wonderful leadership and all of his fine work for his district, New York State, and I would say for the country.

Mr. OXLEY. Mr. Speaker, I am pleased to yield 4 minutes to the gentleman from Louisiana (Mr. BAKER), the chairman of the Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises.

Mr. BAKER. Mr. Speaker, I appreciate the chairman yielding me this time and certainly want to compliment his leadership on this most important matter, and certainly the gentleman from New York (Mr. LAFALCE) and the

gentleman from Pennsylvania (Mr. KANJORSKI), who have worked tirelessly with us to propound a resolution to this most difficult problem.

The important point I wish to speak to tonight is the significance of the mechanism by which we assist the industry while requiring repayment of taxpayer dollars. When one of these tragic events occurs, certainly the most important thing we can do is to keep our economy working and not have the tragic event of terrorism which takes the lives of innocent human beings, which causes the destruction of properties, to extend into the workforce and cause people to lose their employment by the loss of construction jobs or other opportunities. Without the passage of this act, should there be another unfortunate event, which all of us hope never occurs, we would face very uncertain times.

The industry was able to respond, gratefully, to the horrific events in New York, but capital is depleted and we do not know what ability they may have if we suffer an event on such a grand scale again.

Tonight we are responding to those eventualities by saying yes, we will help industry, we will help you in times of short-term liquidity, when your bank account is low, when you have paid out the claims and you cannot meet the next obligation, but we are going to require that industry to put their money up first; we do not go to the taxpayer as the first stop. But then we say to those companies, here is the taxpayer loan and it is in fact a loan where we are going to enable you to continue to operate by extending credit to you during this time of crisis, but we are going to expect you to pay it back.

That is a unique standard. This House has acted in other areas of concern relating to business operation in times of terrorist attack and we have not required the extension of taxpayer funds to be repaid. Tonight, we establish a new standard. Yes, we are willing to help big business; yes, we are willing to do what is necessary to keep our economy going, but when the economy returns and the industry is enjoying a profit, we are going to expect to get our money back. I think that is not only entirely appropriate, but the highest standard of conduct for this committee to have exercised. We should not ever open the taxpayer checkbook to industry of any sort without demanding a high standard of conduct. Tonight we are setting it: You are going to give us the money back.

Now, the Secretary of the Treasury does have the discretion, should we be in desperate economic circumstance where the imposition of the repayment would not be wise, meaning it would raise the premiums on homeowners, on business owners, or that the industry simply could not generate the resources to pay the money back. So we have a balanced approach. We say yes, we will help in times of crisis and we expect you to pay us back, but if economic conditions do not warrant it, the Secretary of the Treasury shall report to this Congress why he believes that the repayment should not occur. I think this is an excellent balance utilizing common sense and taxpayer resources to do that which we all are driven to do: to ensure that our economy functions, that terrorists do not win, that innocent working people are not harmed, and that at the end of the day our economic interests are protected.

I wish to commend all of the parties who have contributed mightily to this effort and say, job well done.

With regard to those issues concerning punitive damages, I agree with our whip. I do believe that we should be very careful in opening the doors to allow those who choose to file unwarranted litigation and suits and take 30 or 40 or 50 percent of the award that is granted, particularly in the area of punitive damages, for no apparent public policy reason, and I hope it is an area that with the President's leadership we can return to next year and resolve in the favor of the American taxpayer.

Mr. LAFALCE. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. BENTSEN), a departing Member of Congress and a very distinguished representative who is here with his lovely daughter to witness what I think will probably be his final remarks in Congress.

Mr. BENTSEN. Mr. Speaker, I thank the gentleman for yielding me this time, and I want to say at the outset what a pleasure it has been to serve with the gentleman from New York (Mr. LAFALCE) on the Committee on Financial Services.

I rise in strong support of the conference report. I want to echo the comments of my colleague from Louisiana, because I think he does understand the prudent nature of this legislation. I for one have been one who is concerned about the extension of government credit where markets already exist which can provide for that. What we learned in the aftermath of the despicable attacks of September 11 was that in addition to the human carnage there was also an economic fallout, particularly as it related to the insurance market. In effect, the insurance market for terrorism which heretofore had been a very narrow and inexpensive market basically was unpriceable. One could not buy it at any price. And as such, not only were existing loans on commercial structures out of compliance with their loan documents, but innumerable new projects were halted because lenders were not able to, or were not comfortable to provide credit where the risk of terrorism would not be covered by the insurance market.

So it became necessary for the Congress to act.

We started looking at this issue shortly after September 11, 2001, and as the gentleman from New York and the gentlemen from Ohio and Louisiana will recall, we had a number of issues that were thrown on the table. We had the reinsurers who were here, hat in hand, and wanted a program much like what Great Britain has done with the City of London and expanded across the entire nation; we had the Treasury Secretary and the administration that was here with a proposal which, quite frankly, would have put the taxpayers I think, and I think the majority of the committee felt, a little bit too much on the hook than we felt was the appropriate way to go. Actually, over time, a pretty sensible bill was crafted, bipartisan bill was crafted, primarily with the leadership of the gentleman from Ohio and the gentleman from Louisiana, and I was proud to join them on that legislation, along with the senior Senator from the State of Maryland.

As we went forward, the principle that the gentleman from Louisiana espoused became very clear, and it was that the government would provide a backstop using the credit of the American taxpayer, but that we would not do it forever, that it would have a sunset, and that there would have to be some payback mechanism; that if we were going to extend the credit, we needed a way that we could recoup the losses to the taxpayer.

□ 2130

As the gentleman said, that was a rather unprecedented approach. It has survived in this legislation, and it was not supported across the board by a number of Republicans and Democrats, but it did survive. I think a lot of credit goes particularly to the gentleman from Louisiana (Mr. BAKER), because he was quite adamant in that regard.

In addition, I want to address the question of tort, because we discussed that in the committee when we first moved the bill on this side of the street. I have to take issue with the comments of my dear colleague, the gentleman from Texas (Mr. DELAY), my neighbor in Texas, the majority whip, soon to be majority leader. As I see the final conference report, there are a number of changes that are designed to protect the taxpayers from excessive litigation: number one, all tort claims are consolidated; number two, they are all Federal claims and not State claims; number three, if I read it properly, no claims can be made against Federal taxpayer dollars.

There are some who, unfortunately, sought to use this bill as a proxy for the issue of tort reform. Yet I do not think that was what the gentleman from Ohio, the chairman, wanted to do; and quite frankly I do not think that is what the gentleman from Louisiana wanted to do, because they understood what the core problem was.

Over the last year and a half, almost, that we have been working on this legislation, I have yet to meet one business leader, one commercial developer, one insurance person who has said that the tort issue is an issue that must be

addressed. The concern they had was that there was no insurance market available and that development had come to a screeching halt.

Tonight, we finally have a product which is prudent for the American taxpayer, which sets a very fine precedent going forward for future Congresses as they look at the extension of Federal credit. I hope our colleagues will adopt this package. I wish we could have done it sooner, but thank goodness we are doing it now. I commend the chairman and the chairman of the subcommittee, and my colleague, the gentleman from New York, and the ranking member for the work they have done.

Mr. OXLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me recognize my good friend, the gentleman from Texas (Mr. EDWARDS), who also is involved in his last bill on the floor, at least for a while. He has been a principled member of our committee and has provided reasoned judgment throughout a number of the issues that the committee has dealt with over the last 2 years. I want him to know he has my personal thanks and recognition for his excellent work.

Mr. Speaker, I yield 3 minutes to the gentlewoman from New York (Mrs. KELLY), chairman of the Subcommittee on Oversight and Investigations.

Mrs. KELLY. Mr. Speaker, I thank the gentleman from Ohio for yielding time to me.

Mr. Speaker, on September 11, our world fundamentally changed with the cowardly act of a handful of terrorists. Passage of this bill represents another significant step in our efforts to address the new realities we confront.

This bill addresses the fact that one of the key objectives of the terrorist networks is to disrupt our economy. The losses of September 11 and the continued terrorist threat demonstrate that we must provide basic protections for our economy.

The September 11 attacks resulted in the largest single hit to our insurance industry in history. Since then, businesses and insurance markets have faced a new reality. Insurers are being asked to insure terrorism risk when they have no realistic way to determine the fair price for that risk, or, in the vast majority of cases, being able to obtain any reinsurance for it.

Moreover, no one can presently calculate the proper odds for where or when the next attack will occur. We do know, however, that our government officials believe that we should expect additional attacks. Consequently, the vast majority of insurers have been reluctant to cover terrorism, especially for major buildings, factories, or gathering places.

Where terrorism insurance is available or is required by law, insurers are now charging high premiums for it and offering very limited capacity to protect against the risk of insolvency. I believe that the GAO put it best when they testified before my oversight committee that ''large companies, businesses of any size perceived to be in or near a target location, or those with some concentration of personnel or facilities, are unlikely to be able to obtain a meaningful level of terrorism coverage at an economically viable price.''

Hospitals have been especially hard hit by this terrorism insurance crisis. Representatives of some of the New York hospitals testified before my subcommittee that they have seen a 256 percent increase in their coverage of their insurance rates for only one-third of the previous coverage. It is only one example of the crisis. I have many, many more and will insert letters into the RECORD which demonstrate this.

It is clear that the current lack of terrorism coverage acts as a chill factor, restraining our economy. We heard that businesses, particularly in cities and near potential targets, wanting to build are being required to carry terrorism insurance. However, there is little or no terrorism coverage available, so some new construction is being stopped before it can even start. This is causing the loss of new jobs at a time when creating jobs should be one of our highest priorities.

In short, the failure to act quickly on terrorism insurance legislation is imposing a fear tax on America, costing real jobs when the country is trying to pull out of a recession.

In addition, the administration says that another terrorist attack is extremely likely, and we must plan now for how the government should react to an attack; now, not after another attack. We have learned countless lessons from September 11 on homeland security, and the need for this legislation is one of them.

This conference report is a good solution to the problem and deserves our full support. I ask my colleagues on both sides of the aisle to join me in support of jobs by voting for this conference report.

I thank the gentleman from Ohio (Chairman OXLEY) for his leadership, and I thank his wonderful staff for their work on this issue.

Mr. Speaker, I include for the RECORD the following letters regarding terrorism insurance:

JULY 8, 2002.

Hon. SUE KELLY,
House of Representatives, Longworth House Office Building, Washington, DC.

DEAR CONGRESSWOMAN KELLY: Our members, the owners, institutional investors and others in real estate in New York City, appreciate the leadership you have provided in dealing with the critical problem of the absence of adequate terrorism insurance coverage.

I understand from a recent conversation with one of our members, Douglas Durst, that you are interested in having some specific examples of the problems the absence of terrorism insurance coverage has created. Those examples follow:

4 Times Square, also known as the Conde Nast building, is in litigation with its lender due to the absence of terrorism insurance coverage. The lender, La Salle Bank and CIGNA has threatened to invade the ''lock box'' into which rents are deposited in order to buy $430 million in terrorism insurance, the amount of the mortgage. The insurer for the portfolio held by the owners of 4 Times Square has refused to write coverage for this building claiming it is ''high profile.'' The owners have recently obtained $100 million in terrorism insurance but without no coverage for biological or chemical events. As for the remaining $330 million dollars in coverage the lenders require, the courts will resolve whether the money to buy such coverage, if available, can be claimed from the cash flow of the property. Should the courts determine that the cash flow can be invaded for this purpose, the full interest due to the investors holding certificates will not be paid, the rating services will downgrade the securities which are already on the Moody's watchlist, and the individuals who invested will see their investment eroded. Meanwhile, the owner-builder of 4 Times Square has equity of $450 million invested in this $880 million building and no coverage. That owner, who typically would be investing in the construction of a new building is stymied.

A lending officer at HypoVereinsbank, the major construction lender in the nation, has advised us that at least 5 major construction projects in his portfolio are not going forward until the terrorism insurance situation is resolved. HypoVereinsbank wants full terrorism coverage including biological and chemical causes as well as certainty that for the duration of construction the insurance will be available. Four of these projects are in New York, the fifth in Chicago. Andy Veith, the lending officer will try to reach you later this week either by phone or e-mail.

Downtown, a one million square foot office building owner could not obtain refinancing for the underlying mortgage of approximately $200 million because terrorism insurance was unavailable. Finally, a lender agreed to go forward if the owner committed to pay $41 per square foot for stand alone terrorism insurance coverage. At the same time that the owner faced that $1 million additional drain on the cash flow of the building, he also had to absorb an increase of from $110,000 to $550,00 over the prior year's cost of insurance. This additional cost, in addition to excluding terrorism risk, does not cover mold or biological, nuclear or chemical events whether terrorist generated or otherwise. The owner now has $1,440,000 additional insurance expenses with less comprehensive coverage on the environmental risk side than before, and has to self-insure for the equity that he has invested in the property.

A REIT portfolio, which includes major office complexes in Boston, San Francisco, D.C. as well as a trophy midtown Manhattan building, can get only $250 million in terrorism coverage for the entire portfolio worth several billion. If there is one more terrorism incident, it is likely that even this limited coverage will be lost given its not uncommon 30-day cancellation clause.

Other examples from across the country, including hospitals, stadiums, major transportation centers and other vital private and public investments that are not covered by terrorism insurance, along with a vivid description of the ripple effect this problem is having on the overall economy, appear in the May 23rd Joint Economic Committee report to Congress.

It is most important that enactment of some form of government temporary back up for terrorism insurance coverage occur quickly.

We appreciate your efforts to resolve this critical problem.

Sincerely,

DEBORAH B. BECK,
Executive Vice President.

WIEN & MALKIN LLP,
New York, NY, July 9, 2002.

Re insurance.

Hon. SUSAN KELLY,
Longworth House Office Building,
Washington, DC.

DEAR CONGRESSWOMAN KELLY: Thank you for your efforts to date to highlight the extremely difficult insurance market for commercial real estate owners and developers in New York City and other major cities across the United States.

Our firm represents a portfolio of over 8,000,000 square feet of office space located in Manhattan, including the Empire State Building that as a result of the events of September 11th, is once again the tallest building in New York City. I feel that our recent experience trying to renew the insurance for these buildings underscores the problems that Congress needs to address.

The maximum amount of property insurance that we have been able to obtain at any price is $200 million dollars for this portfolio, less than half of our coverage of the $550 million maintained for the past 12 months. This level of insurance is significantly below replacement cost of any one of our properties, leaving our investors with significant risk.

Of even greater concern, this $200 million dollar program does not cover any loss between $75 million and $100 million. This ''hole'' in coverage further places our investors at risk and limits our ability to obtain future financing.

The program outlined above specifically excludes any act of terrorism. We have only managed to secure a $25 million dollar terrorism program because of insurance providers' general unwillingness to issue coverage in New York City. We also found it necessary to purchase a $50 million pollution liability program in the event of a chemical or biological attack because such an attack is excluded from the terrorism program noted above. Despite the drastic reduction of coverage, the premium for this program has increased an astonishing 500%.

In summary, it is clear that the insurance industry has opted to limit its exposure in major cities, resulting in reduced capacity, limited competition, and exorbitant pricing. The insurance industry's unwillingness to provide adequate levels of coverage at reasonable rates will translate into higher rents for tenants (to whom increased operating expenses are generally passed under typical lease clauses), fewer new construction projects and a general depression in the real estate market as the inability to shift certain risks historically assumed by the insurance industry drives people from the market.

I hope this information will help you in your continuing efforts to persuade your colleagues to rectify this situation.

Very truly yours,

PETER L. MALKIN.

Mr. LAFALCE. Mr. Speaker, I reserve the balance of my time.

Mr. OXLEY. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from California (Mr. COX).

Mr. COX. Mr. Speaker, I thank the gentleman for yielding time to me.

I rise in support of this legislation, which is urgently needed and has been urgently needed since September 11, and particularly since November of 2001, when this House first passed it.

By backstopping the market's provision of terrorism insurance, this legislation will be a boon for new construction everywhere in America. But construction cannot get completed in America because financing is not available, and the reason financing is not available is that terrorism insurance is not available. This bill will fix that. By taking a huge, unquantifiable risk out of the equation, we will make writing terrorism insurance feasible again and will help Americans get back to work and start growing the economy.

We are dealing with this bill much later than we should be, many months after it should have been completed, because there has been a disagreement about protections against abusive litigation. This bill that we are voting on tonight is imperfect in that respect. Several of the protections of taxpayers' interests and the national interest that were built into this legislation in the original House-passed version have been deleted. These differences are not minor.

From the original House bill, we have eliminated a prohibition on punitive damages. We have eliminated fair-share liability for noneconomic damages, such as pain and suffering, and a requirement that attorneys' fees be reasonable. I do not believe that any of these provisions should be eliminated; but in the very brief time that I have remaining, Mr. Speaker, I will address just one of them: fair-share liability for noneconomic damages.

When the U.S. Government certifies that the terrorists were responsible, it should not be possible for lawyers to come in and assert, because of 1 percent liability found or prospectively that might be found for another party, that 100 percent of the obligation should rest there, particularly when we are talking about noneconomic damages; that is to say, completely notional damages like pain and suffering, things that lawyers can gin up by asserting it, merely by asserting it in a complaint. In each of these circumstances, the taxpayers will be made liable.

Mr. Speaker, we need to fix these flaws in the bill immediately when the 108th Congress convenes. On that understanding, I am supporting this bill because it is so desperately needed to put America back to work.

Mr. OXLEY. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Connecticut (Mr. SHAYS), a valuable member of the committee and a member of the conference committee.

Mr. SHAYS. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, following the terrorist attacks of September 11, the Committee on Financial Services moved quickly to study the lack of availability of terrorism insurance. Under the leadership of the gentleman from Ohio (Chairman OXLEY) and the subcommittee chairman, the gentleman from Louisiana (Mr. BAKER), we held hearings, met with financial experts, and alternately passed legislation to create a Federal insurance backstop to cover losses in the event of future terrorist attacks.

The legislation we are considering today is consistent with the bill passed by the House last November. Like its predecessor, it addresses the availability and affordability of terrorism insurance while protecting taxpayers and policyholders. It gives insurance companies the assistance they sought without giving them a blank check.

Mr. Speaker, the economy may be growing, but it sure does not feel that way. This bill is truly one of the keys to getting our economy back on track, spurring development, and creating jobs. I urge all of my colleagues to approve this measure and send it to the President, because it is not a question of if but when, where, and what magnitude we will face a terrorist attack using conventional weapons or, just as likely, weapons of mass destruction. The casualties could be large and the liability beyond comprehension.

Mr. LAFALCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support this bill; and I encourage everyone to vote for it. It is a shame we were not able to pass it a year ago, about the time we reported our bill out of committee and passed it on the floor of the House; but I do think this is a much better bill now than the one we passed earlier.

Mr. Speaker, I yield back the balance of my time.

Mr. OXLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this, as I indicated in my opening remarks, is a very, very important piece of legislation. It is critical that the Congress act. The President has called for us to act.

Let me cite from an article today in The Washington Post regarding the threat of attack that ''terrorist groups may be planning a new wave of attacks on Western targets. Even before the purported bin Laden tape surfaced on the al-Jazeera satellite network on Tuesday, the CIA, FBI, and National Security Agency had detected a significant spike in intelligence chatter over the previous 10 days that strongly indicated new assaults are being planned, officials in U.S. intelligence agencies said.''

In congressional testimony last month, CIA Director George Tenet warned that recent attacks in Yemen, Kuwait, and Bali signal an escalation in terrorist activity which he characterized as ''as bad as it was last summer, before the airliner hijacking assaults on the World Trade Center and the Pentagon.''

''That threat environment level was high then and it has not lessened,'' a senior administration official said yesterday. ''Bin Laden's appearances have always been carefully orchestrated, and unfortunately, they have often presaged a major al Qaeda attack or development.''

Mr. Speaker, it is time that this Congress act. I appreciate the strong bipartisan support that this legislation has

entertained over the last several months. This is a good example of Congress at its best, but it is even more important that we provide this framework for protection of the American economy. This bill does exactly that. I ask my colleagues for strong support for this conference report.

Ms. JACKSON-LEE of Texas. Mr. Speaker, the September 11 terrorist attacks have devastated many industries and sectors changing the landscape of the American economy, including the insurance industry.

The legislation before us today, H.R. 3210, is a reasonable piece of legislation and I am particularly pleased that the majority has shown the wisdom of removing the tort liability limitation provisions of the legislation. I joined my colleagues on the Judiciary Committee and those on the Financial Services Committee who worked hard to eliminate Section 15, a tort reform provision, which would effectively have banned punitive damages in terrorism-related cases. This provision was absolutely unnecessary.

This passage of this measure is important because the insurance industry has stated that, while it will be able to cover the estimated $40 billion in claims resulting from the Sept. 11 terrorist attacks, any new and renewed policies will not cover terrorist-inflicted damage unless the government helps cover that unknown liability. This is an issue of great concern to Congress and to the nation.

This legislation can make a great difference. Earlier this year, we acted swiftly and deliberately assisting the Airlines industry in the amount of $15 billion to save this important industry which was so severely devastated by the September 11 attacks. I am glad that we have come to an agreement that will allow us to act with bi-partisan sensibility to help this important sector of our economy as well.

This is not just an insurance industry problem. Rather, it is a national issue because if the insurance industry cannot reinsure the risk of further terrorist attacks, it will either increase premiums to the detriment of consumers, or simply stop offering terrorism coverage altogether. Furthermore, without adequate insurance coverage, lenders will not be able to lend and new investments will not be made, creating a credit crunch that could further devastate our economy.

Under this bill ''each insurer will be responsible for paying out a certain amount in claims a deductible—before Federal assistance becomes available. This deductible is based on a percentage of direct earned premiums from the previous calendar year, and rises from 7 percent during the first year to 10 in year 2 and 15 percent in year 3. For losses above an insurer's deductible, the Federal government will cover 90 percent, while the company pays 10 percent.''

''If the Federal government pays for insured losses during the course of a year, the Treasury Secretary will be required to recoup the difference between total industry costs (individual insurers' losses up to their deductibles, plus the industry's 10 percent cost share above the deductibles) and the following fixed dollar amounts per year: $10 billion for year 1, plus the last few months of 2002; $12.5 billion for year 2; and $15 billion for year 3. The recoupment will be accomplished through a surcharge on policyholders. The Secretary has discretion on the timing of the surcharge, but the surcharge cannot be more than 3 percent of the premium paid for a policy in a given year. Losses covered by the program will be capped at $100 billion; above this amount, Congress is to determine the procedures for and the source of any payments. The Secretary may assess civil penalties on participating insurance companies for submission of false or misleading information or failure to repay the Secretary for any amount required to be repaid.''

I lend my support to this bill. Congress can and must act to protect the most vulnerable sectors of our economy, and those who most need assistance. The underlying bill holds the promise of protecting the insurance industry and the millions of Americans dependent on it. The version of the bill before us today goes a long way toward restoring confidence to our nations lenders and should help bolster our struggling economy. As such, I urge my colleagues to support the measure before us tonight.

Mr. NEY. Mr. Speaker, I just want to take a quick moment to comment on an important part of this legislation, group life insurance. H.R. 3210 contains a study of group life insurance and I would like to clarify that it was the intent of the House that the term ''group life insurance,'' as it appears in the text, is used in it's typical and customary sense to mean ''an insurance contract that provides life insurance coverage, accidental death coverage, or a combination of both for a number of persons under a single contract and that provides such coverage on the basis of a group selection of risks.''

Mr. BEREUTER. Mr. Speaker, this Member rises today to express his support for the conference report of the Terrorism Risk Protection Act (H.R. 3210). This conference report will help ensure that businesses are able to acquire property and casualty insurance while still providing taxpayer protection against terrorist losses. This Member is pleased that the House and Senate conferees have reached an agreement on terrorism insurance which President President George W. Bush is expected to sign. This Member is a cosponsor of H.R. 3210, which the House first passed on November 29, 2001, by a vote of 227–193.

This Member would first like to thank the distinguished gentleman from Ohio (Mr. OXLEY), the Chairman of the House Financial Services committee, for both introducing this legislation and for his efforts in bringing this conference report to the House Floor. Additional appreciation is expressed to the distinguished gentleman from Louisiana (Mr. BAKER) who also played a crucial role in crafting the conference report on H.R. 3210. Moreover, this Member would also like to thank the distinguished gentleman from New York (Mr. LAFALCE), the Ranking Minority Member of the Financial Services Committee, for his bipartisan cooperation and assistance on this conference report.

The uncertainty caused by the terrorist events on September 11, 2001, has resulted in the possibility of serious problems for the insurance industry and the insured from additional severe terrorist attacks. To illustrate this, reinsurance companies provide insure against massive losses for insurance companies. Since this terrorist attack, many primary companies, because they cannot receive reinsurance, have sent notice cancellations to businesses indicating that they will not receive coverage for losses caused by terrorist activities. If both small and large businesses continue to be unable to receive insurance, it will contribute to the further instability of the American economy. Insurance provides a very important element of the stability needed by businesses to continue functioning and investing and for bankers to continue lending to businesses.

As a Member of the House Financial Services Committee, which has jurisdiction over the important elements of the limited Federal role in commercial insurance, this Member supports this conference report for the following two reasons. First, obviously it helps ensure that commercial insurance continues to be available for businesses—and available at affordable costs. Second, it provides necessary taxpayer protections against possible severe terrorist losses to businesses.

Under this conference report, a temporary Federal terrorism insurance program would be established within the Treasury Department. Under this program, Federal funds would be provided to property and casualty insurance companies when losses reach the ''trigger'' level. In particular, Federal funds would pay 90 percent of the terrorism-related losses of insurance companies that exceed 7 percent of the company's premiums in 2003; 10 percent of a company's premiums in 2004; and 15 percent of a company's premiums in 2005. Each insurance company would pay for 100 percent of insured losses up to those thresholds and 10 percent of the losses above those levels. This Federal terrorism insurance program would cover industry-wide losses up to $100 billion per year.

It is also very important to note that this conference report provides for the mandatory repayment of some of the Federal funds used to cover insured losses. Under this conference report, for 2003, the insurance industry must repay the Federal assistance which is the difference between the sum of all insured losses paid by the industry and $10 billion. For 2004 and 2005, these repayments would be made for the difference between the sum of all insured losses and $12.5 billion and $15 billion, respectively. These repayments would be collected through a surcharge on the policies of all commercial insurance policyholders. Therefore, this conference report is not an insurance company bailout; it protects the American taxpayer against a big hit while continuing to maintain insurability against terrorist attacks.

Furthermore, this conference report also provides taxpayer protection from punitive damages in lawsuits which claim terror-related losses or injuries. To illustrate this, this conference report requires all terror-related lawsuits to be considered in Federal court, rather than in state courts. Moreover, this conference report does not set a Federal standard for awarding punitive damages in terror-related lawsuits. However, it instead allows the state law in which the terrorist act occurred to prevail with respect to punitive damages. Most importantly, the conference report requires that punitive damages awarded through these lawsuits will not be paid for by Federal funds used to cover losses from terrorism. For my Nebraska constituents, it is important to note that punitive damages are not allowed under Nebraska state law in Nebraska state courts.

In conclusion, Mr. Speaker, this conference report balances the need of businesses to continue to receive commercial insurance

against terrorist acts at affordable costs, with taxpayer liability protection. As a result, this Member urges his colleagues to support the conference report of H.R. 3210.

Mr. OXLEY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SIMPSON). Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill, H.R. 3758.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nevada?

There was no objection.

CONFERENCE REPORT ON H.R. 4628, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2003

Mr. GIBBONS submitted the conference report and statement on the bill (H.R. 4628) to authorize appropriations for the fiscal year 2003 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

□ 2145

CONFERENCE REPORT ON S. 1214, MARITIME TRANSPORTATION SECURITY ACT OF 2002

Mr. LOBIONDO. Pursuant to House Resolution 605, I call up the conference report on the Senate bill (S. 1214) to amend the Merchant Marine Act, 1936, to establish a program to ensure greater security for United States seaports, and for other purposes, and ask for its consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 605, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of November 13, 2002, at page H8561.)

The SPEAKER pro tempore. The gentleman from New Jersey (Mr. LOBIONDO) and the gentlewoman from Florida (Ms. BROWN) each will control 30 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. LOBIONDO).

Mr. LOBIONDO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of the Maritime Transportation Security Act of 2002. I would first like to thank the members of the conference committee who have provided the leadership and vision to create this landmark legislation, especially the gentleman from Alaska (Chairman YOUNG), the ranking member, the gentleman from Minnesota (Mr. OBERSTAR), Senator HOLLINGS, and Senator MCCAIN and Senator LOTT.

The Maritime Transportation Security Act of 2002 establishes a comprehensive national system to increase transportation security for our ports and waterways. This legislation was developed to prevent a terrorist attack along our Nation's largest and perhaps most vulnerable border, consisting of 95,000 miles of coastline with hundreds of ports. The United States maritime industry contributes $742 billion to the gross domestic product each year, and a ripple effect of an attack on an American port would be absolutely devastating.

The goal of S. 1214 is to deter terrorist attacks against ocean shipping without adversely affecting the flow of U.S. commerce through our ports. Striking this balance has been a key and essential element of my approach to this issue, and I believe that this bill achieves this goal.

S. 1214 requires the Coast Guard to conduct vulnerability assessments of our United States ports. The results of the assessments will be used to implement a national maritime transportation security planning system, consisting of a comprehensive national plan, specific area plans, and local vessel and marine facility plans.

S. 1214 also establishes a requirement for the Coast Guard to assess the effectiveness of security systems in certain foreign ports and to deny entry to vessels from ports that do not maintain effective security. Under S. 1214 individuals who enter secure areas on vessels or facilities will be required to have background checks and transportation security cards that will be issued by the Federal Government.

The Maritime Transportation Security Act authorizes grants for enhanced facilities security at U.S. ports for the next 6 fiscal years. These grants will help cover the costs of port security improvements and fund research and development projects to determine which technologies will best improve port security.

I have personally visited ports located in and around my home State of New Jersey and have seen the security challenges facing these facilities. Securing our ports is a critical Federal responsibility and the grant program is helping ports around America increase security and deter any would-be attackers.

Shipping containers are particularly adaptable to use by a terrorist, and S. 1214 contains several provisions to improve the securities of our containers. The bill requires the Secretary of the Department in which the Coast Guard is operating to maintain a cargo tracking, identification and screening system for shipping containers shipped to and from the United States.

Finally, the bill requires the establishment of performance standards to enhance the physical security of shipping containers, including standards for container seals and locks.

Mr. Speaker, this bill contains other important security enhancements concerning enhanced vessel crew member identification, Coast Guard sea marshals and vessel transponders to track the movement of vessels in United States waters.

Equally significant, the bill contains several additional security enhancements and other Coast Guard provisions previously passed by the House. The Coast Guard, as one of the Nation's five armed services, has a key role in homeland security, particularly as it relates to port security and defense readiness. These provisions strengthen the authority of the Coast Guard to confront the terrorist threat facing us today. Strong maritime homeland security requires a strong Coast Guard with the resources it needs to protect the country from a terrorist attack.

During my chairmanship of the Subcommittee on Coast Guard and Maritime Transportation, I have long said that the Coast Guard needs three things, essentially, to be successful: More money, more manpower, and more modern assets. Fortunately, this measure addresses all three needs and will help the Coast Guard to keep serving America both proudly and successfully. The bill authorizes expenditures for the United States Coast Guard for fiscal year 2003. Title V of the bill authorizes approximately $6 billion for Coast Guard programs and operations for fiscal year 2003. The bill funds the Coast Guard at levels requested by the President of the United States. An injection of $550 million in additional operating resources will also allow the Coast Guard to address chronic budget shortfalls. The bill fully embraces the President's call for an additional 2,000 Coast Guard personnel.

Many of the Coast Guard's most urgent needs are similar to those experienced by the Department of Defense, including spare parts shortages and personnel training deficits. Title V authorizes $725 million for Coast Guard acquisitions. This funding will help support the recapitalization of the Coast Guard's vital assets, especially the Coast Guard's deep water program, which is so long overdue.

Immediately following the events of September 11, 2001, the Coast Guard launched the largest home port security operation since World War II. And as part of operation Noble Eagle and Operation Enduring Freedom, the Coast Guard established ports and coast line patrols with 55 cutters, 42 aircraft, and hundreds of small boats. Over 2,800 Coast Guard reservists were called to active duty to support maritime homeland security operations in 350 of our Nation's ports. The Coast

Guard enforced over 118 Maritime security zones around Navy vessels, cruise ships, nuclear power plants and other facilities.

The Coast Guard now requires a 96-hour advance notice for all ships entering U.S. ports. I want to commend the Coast Guard for their rapid response to the September 11 attacks and thank them for their tremendous service to our Nation. Fortunately, we have already provided the Coast Guard with broad legal authorities to implement the necessary security measures within U.S. ports. However, without substantial additional Coast Guard resources, we are not going to be able to significantly enhance maritime security.

Mr. Speaker, I want to take this opportunity to commend the men and women of the Coast Guard who, as I said before, have done such an exceptional job in service to their country. America benefits from a small Coast Guard that is equipped to stop terrorists and drug smugglers and support the country's defense to respond to national emergencies. We must now act to put the Coast Guard on a sound financial footing to be ready to respond to increasing homeland security demands and to carry out other critical missions.

Finally, Mr. Speaker, I would like to take this opportunity to thank the hard working House staff members who really have made this bill possible. Both from the House and Senate side the staff members worked extremely hard with long hours on this bill. An accomplishment of this magnitude is in large part due to their efforts.

I would like to single out one person in particular, Rebecca Dye, who I have had the pleasure of working with as my tenure as chairman of the Subcommittee on Coast Guard and Maritime Transportation, who has worked tirelessly throughout the 2 years that I have been chair and especially worked tirelessly on this bill. She will be leaving us shortly, and I want to take the opportunity to say what is our loss will be the gain for the United States of America. I thank Rebecca very much for her service to this committee, and I wish her the best of luck in the future.

Mr. Speaker, I urge all Members to support this conference report.

Mr. Speaker, I reserve the balance of my time.

Ms. BROWN of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in strong support of the conference report on S. 1214, the Maritime Transportation Security Act of 2002.

The events of September 11, 2001 has changed America forever. Every Member of Congress has examined the programs and policies within their committee to determine what they need to do to help protect the people of the United States from terrorists. The conference report we are considering today will provide the framework to secure our seaports and coastal communities from terrorist actions.

Each year 95 percent of the U.S. imports and exports are moved by ships. U.S. consumers are dependent upon foreign oil for the gas they use in their cars. U.S. manufacturers are dependent upon the just-in-time delivery system of the container ships to resupply their manufacturing line.

We have recently seen the impact that a shutdown of the marine transportation system can cause when the West Coast waterfront employees locked out the longshoremen from unloading ships in port. A terrorist attack in our ports could have had an even more devastating impact on our Nation's economy.

Each year thousands of Americans enjoy cruises out of Florida ports. Cruise terminals and ships must ensure that cruises are not just enjoyable but also safe. The cruise ship industry is already working closely with the Coast Guard to protect the vacationing public. This legislation will help make the working relationship even closer.

On October 3, 2001, I introduced H.R. 3013, the Ports and Maritime Security Act of 2001. This legislation is very similar to the conference report we are considering today. They both require port vulnerability assessments of our Nation's ports, they both require terminal security plans, and they both establish a new grant system to help ports and terminal operators pay for security improvement. I believe that S. 1214 will lead to major improvements in securing the international maritime transportation system from threats of terrorists and from being used to deliver a weapon of mass destruction to the United States.

Section 70105 restricts access to secure areas of terminals to individuals that have a biometric security card that have passed a background investigation. Only those individuals that have unescorted access to a secure area, such as those people that have access to open containers or cargo manifests, will need a card.

Two provisions in S. 1214 are in particular interest to my home Port of Jacksonville and the 12 other ports throughout the Nation that have tremendous importance in times of war. In awarding the security grants established under Section 70107, the Secretary is directed to make it a priority for ports that have great defense importance, such as the Port of Jacksonville, to receive funds. Without securing these military load center ports, our troops that are deployed overseas may not receive the vital supplies they need.

We are contemplating military action in Iraq. Funding for these specific ports is vital, not only for the security of the soldiers protecting our freedom, but for the citizens and communities who proudly support these important ports.

The second provision ensures that the Secretary can award grants to ports for securing measures they have already taken since September 11, 2001.

In addition, S. 1214 contains the text of H.R. 3507, the Coast Guard Authorization Act for Fiscal Year 2003. This act contains many provisions to improve housing for Coast Guard personnel, to provide compensated leave for Coast Guard personnel that are in isolated duty locations, and to improve maritime safety.

I would like to thank the gentleman from Alaska (Chairman YOUNG), the gentleman from New Jersey (Mr. LOBIONDO), and the ranking member, the gentleman from Minnesota (Mr. OBERSTAR) for the bipartisan effort they have used to develop this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. LOBIONDO. Mr. Speaker, I yield such time as he may consume to the gentleman from Alaska (Mr. YOUNG), the chair of our full committee, who has done such a great job in helping pull this together.

(Mr. YOUNG of Alaska asked and was given permission to revise and extend his remarks.)

Mr. YOUNG of Alaska. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I want to thank the gentleman from New Jersey (Mr. LOBIONDO) for his great work as chairman of the subcommittee. I run my committee a little different than most of the other chairmen. I like to have my subcommittee chairmen that handle the bill to do the work, and I deeply appreciate what an outstanding job he has done with the Coast Guard. And he has Coast Guard facilities in his district and represents the Coast Guard quite well and the ports, which is something that I think this bill will help take care of.

We have a serious problem, which I think we have met in this bill, and that is the importation of product without screening. We do that. We really think that this will make sure that something cannot, it could happen, but cannot readily happen because of the passage of this legislation, product damaging to the Nation through our ports, and we will be ability to make sure that does not occur. Of course, the Coast Guard plays an immense role in that.

□ 2200

Mr. Speaker, I know that the gentleman from New Jersey (Mr. LOBIONDO) has done this before; but I, too, would like to acknowledge Rebecca Dye, who has not only been a staffer for me for many, many years on the committee, her husband worked for the government; and even better, Rebecca is going to move on. This is her last presentation. She has been nominated by the President to serve as a commissioner on the Federal Maritime Commission, and I expect her nomination to be approved by the Senate very shortly. I am very proud of her actions

and ability to go forth and serve in an industry that I deeply respect, and that is the maritime industry. She has been a great professional, has done an outstanding job, and formerly served in the Coast Guard as a Reservist. She knows what she is doing.

I would also like to thank Patty Seeman for her hard work, and Ed Lee for his hard work, and of course Liz Megginson, chief of staff.

This bill has been a long time coming. We had to work with Senator HOLLINGS, and I love him to death; but working with Senator HOLLINGS can sometimes be difficult. Working with Senators always is difficult, and I know that I am not supposed to say that. The next rule change, we will be able to do that.

Mr. Speaker, I think this is a good piece of legislation. I know the hour is late and this is a so-called lame duck session; but this is one part of this lame-duck session we should be proud of. It protects our Nation, supports the Coast Guard, and helps our ports. I am extremely proud of this legislation. I urge my colleagues to vote for this legislation, if we have a recorded vote. I thank all Members who have worked together on a bipartisan basis, particularly the gentleman from Minnesota (Mr. OBERSTAR), the ranking member. We have done a good job on this legislation.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. WHITFIELD). The Chair reminds Members to avoid improper references to the Senate.

Ms. BROWN of Florida. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT. Mr. Speaker, I rise in support of the bill, which I believe will go a long way towards securing our ports against potential terrorist threats.

The events of 9–11, as devastating as they were, exposed our vulnerability to terrorist attacks. None of us believe future threats will be restricted to the tools of war used on that day, so it is important for all of us to closely examine all of our security issues, particularly our port security.

My district includes the port of the Hampton Roads, the second busiest port on the eastern seaboard. There is military and commercial presence in the port. It is the home of the Navy's Atlantic fleet, and the port is used for numerous maneuvers and military exercises. It is also one of the largest commercial container ports in the United States. Almost 800,000 containers moved through the port last year. Keeping this area secure from terrorist attacks is important to all of us, so we went to work.

Along with other Members, I toured the West Coast and local ports, including the one in Richmond, Virginia, and convened the First Responders and Homeland Security Task Forces in my district to seek advice. The Democratic Homeland Security Task Force also came up with recommendations. This legislation contains many of the ideas and recommendations from those efforts.

For example, the legislation requires the new Department of Homeland Security to perform vulnerability assessments on all of our U.S. ports. It requires the development of national, area, and individual port facility anti-terrorism plans. Individual vessels and shore facilities that may be targets of terrorist attacks are required to prepare individual anti-terrorist security plans. This legislation also requires the new Department of Homeland Security to develop and maintain an antiterrorism cargo identification, tracking and screening system for containerized cargo shipped through the United States ports, and to develop performance standards for the physical security of shipping containers. And it establishes a matching grant program so the Federal Government can help share the costs of increased security.

The port of Hampton Roads has already adopted many initiatives to address the potential threats, and the bill will make additional improvements possible.

Many of these ideas originated with our local first responders, and I thank them for participating in this process. This bill is a vital step in making certain that our country's ports and those who live and work nearby are kept safe from terrorism. I urge my colleagues to support the bill.

Mr. LOBIONDO. Mr. Speaker, I reserve the balance of my time.

Ms. BROWN of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have a good bill with lots of important provisions, including new matching grants to improve port security, a national security card for port workers and truck drivers, antiterrorism response teams and sea marshals, and Coast Guard authority to block ships for nonsecure ports.

We still have a lot of work to do, but this is a great start; and I strongly urge my colleagues to support the passage of the conference report of Senate 1214, the Maritime Transportation Security Act of 2002.

I also want to thank staff, and in particular John Cullatner. Against all odds, they did an excellent job.

Mr. Speaker, I yield back the balance of my time.

Mr. LOBIONDO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to thank the gentleman from Alaska (Mr. YOUNG), who has led us in this effort, the gentleman from Minnesota (Mr. OBERSTAR), the gentlewoman from Florida (Ms. BROWN), and our entire staff.

We have outlined why this is such a critical and important bill, and I would like to take a moment to reemphasize the job that the Coast Guard is doing for the Nation.

On September 10, 2001, the Coast Guard was dedicating about 2 percent of its resources to port and homeland security. On September 12, 2001, that percentage rose to 60 percent. They have been doing a magnificent job in protecting our ports and deploying for homeland security. Many Members have expressed their strong support for the Coast Guard and the job that they have done, but it is time for us to recognize by more than words and saying thank you, that they need more operational dollars, more acquisition dollars, and more personnel.

With the provisions outlined in this piece of legislation for authorization of almost $6 billion, honoring the request of the President of the United States, we are taking a large step towards making sure that the Coast Guard will have the assets that they need to continue to do a great job.]

Mr. HORTON. Mr. Speaker, I rise today in support of S. 1214, the Port and Maritime Security Act of 2002 Conference Report. As many of you know, I have been privileged to represent the Ports of Los Angeles and Long Beach for the past 10 years. Each day these ports receive cargo from points around the globe. The San Pedro Bay port complex is the third largest seaport in the world. These ports are responsible for over 30 percent of all U.S. waterborne trade with an estimated value of $162 billion a year. The bulk of these imports arrive in 20- or 40-foot containers aboard some of the world's largest cargo ships. Additionally, our ports handle millions of cruise passengers annually. Insuring the safety of containers and passengers entering and exiting the ports of this country is a daunting task. Currently, only about 2 percent of the shipping containers entering the country are inspected. This simply will not do. Passing this comprehensive port security legislation will insure that more containers are inspected and that our ports are properly protected.

I am particularly pleased that section 203 of this legislation incorporates a bill that I introduced in the 106th Congress. This section authorizes the Secretary of Transportation to make grants to the American Merchant Marine Veterans Memorial Committee to construct an addition to the American Merchant Marine Memorial Wall of Honor in San Pedro, California. Thus far, the Committee has already raised well over $500,000 to begin construction on the second phase of this memorial. Plans for the addition to the memorial call for panels to list the names of those who died while serving in the U.S. Merchant Marine.

Since 1775, the maritime community has played a critical role in gaining and preserving American freedom. The Merchant Marine served as our first Navy and defeated the British Navy in our fight for independence. We owe much to the brave mariners past and present who have served in the Merchant Marine. The American Merchant Marine Memorial Wall of Honor located in San Pedro, California, is a symbol of the debt we owe those who have served so bravely.

Many of my colleagues will remember how the Merchant Marine secured its place in American history during the Second World War. During that conflict, the 250,000 men and women in the U.S. merchant fleet made enormous contributions to the eventual winning of the war, keeping the lifeline of freedom open to our troops overseas and to our allies.

This fleet was truly the ''Fourth Arm of Defense'' as it was called by President Franklin D. Roosevelt and other military leaders.

The members of the U.S. Merchant Marine faced danger from submarines, mines, armed raiders, destroyers, aircraft, ''kamikaze,'' and the elements. At least 6,800 mariners were killed at sea and more than 11,000 were wounded at sea. Of those injured, at least 1,100 later died from their wounds. More than 600 men and women were taken prisoner by our enemies. In fact, one in 32 mariners serving aboard merchant ships in the Second World War died in the line of duty, suffering a greater percentage of war-related deaths than all other U.S. services.

Since that time, the U.S. Merchant Marine has continued to serve our nation, promoting freedom and meeting the high ideals of its past members. It is fitting to honor the past and present members of the U.S. Merchant Marine. This is why I introduced legislation in the previous Congress that would provide additional federal funding for the memorial wall in San Pedro. Twice the House has approved legislation authorizing funds for this worthy memorial, today I am pleased that the House and Senate are moving to approve this authorization in the port security conference report.

Throughout the development of the conference report, I have sought to provide the greatest protection for ports and the communities that surround them against terrorist attacks. I am pleased that the conferees have included port security grants and research and development grants that will encourage the development and use of state-of-the-art technology. Like the conferees, I believe it is important to encourage the private sector to continually advance the state of the art as a means of enhancing detection capabilities and thus enhancing deterrence over time.

When he is reviewing project proposals and awarding grants, I encourage the Secretary of Transportation to give preference to those projects that incorporate technologies that are capable of automatically detecting shielded nuclear weapons, liquid and other explosives, and chemical and biological agents weapons in fully loaded cargo containers without the need for humans to open the containers to manually inspect them. Based on testimony received by the Congress, it would appear that pulsed fast neutron technology is capable today of meeting this need. As a result, I hope that this technology and other technologies will be identified, developed, and installed in our ports as part of the ongoing process of enhancing port security through this legislation.

Long Beach State's Center for the Commercial Deployment of Transportation Technologies (CCDoTT) has been developing maritime technology for many years, and has recently turned their attention to port security technology as well. In the FY03 Defense Appropriations bill CCDoTT was granted $4.3 million for continuation of their important work to develop more efficient cargo handling in ports, high-speed ship designs, and port security research. This funding will allow the center to continue assessing cargo inspection technologies that can help meet the needs of agencies such as the U.S. Customs Service and the Coast Guard.

Section 70107 of the accompanying report authorizes an additional $15 million for fiscal years 2003 through 2008 for research and development grants for port security. I am pleased that report language for the Port and Maritime Security Act of 2002 particularly notes the importance of the research being done at Long Beach State's Center for the Commercial Deployment of Transportation Technologies. This language encourages the Secretary of Transportation and the Secretary of Defense to obligate any current and prior year appropriations under the continuing cooperative agreement. The Center is sponsored by the U.S. Martitime Administration and U.S. Department of Defense and I am certain it will continue to provide invaluable research for America's maritime interests. Again, I am pleased with, and strongly support, this timely port security legislation.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise to support S. 1214, Maritime Transportation Antiterrorism Act. Commercial vessels continued to experience an increased threat of criminal attack. Vessels seem to bear the brunt of these attacks which manifest themselves in the form of sea robbery, hijacking, terrorism, and piracy.

A complex set of security issues threaten the maritime industry and the movement of cargo in international trade. Those threats include terrorism, piracy, smuggling of stowaways and drugs, cargo theft and fraud, bribery and extortion. Enacting requisite port security measures and coordination, cooperation, and communication with government and maritime industry components are necessary.

In my home District, the Port of Houston Authority is a dynamic port that has helped to fuel the Houston area's development as a center of international business and trade. Companies that do business internationally also find Houston attractive because of its well-developed industrial and financial infrastructure; skilled work force; and diverse population. Ample space and favorable conditions for industrial development, as well as for cargo handling, makes the Port of Houston an excellent choice location for industry.

Port security is an essential part for a safe, secure, and competitive operation of the maritime transportation system. It promotes the development of commerce and is an essential element in maritime trade competitiveness, which cannot be achieved merely by modernizing port infrastructure and increasing operating productivity.

Consequently, port security can surface as a significant issue in trade negotiations and government and industry courses of action should be coordinated to facilitate effective solutions. Port authorities should develop the means for exchanging current information on port security issues and for the dissemination of intelligence to the commercial industry. We must protect our ports from criminal attacks and allow them to maintain their trade and commerce.

S. 1214 helps to protect our ports, such as the Port of Houston. This bill directs the Secretary of Transportation to (1) assess port vulnerability; (2) prepare a National Maritime Transportation Antiterrorism Plan [the Plan] for deterring catastrophic emergencies; and (3) review and approve Area, vessel, and facility antiterrorism plans.

Further, S. 1214 requires that the Plan to (1) coordinate Federal, State, and local efforts, including Coast Guard maritime antiterrorism teams and Federal Maritime Antiterrorism Coordinators; (2) identify security resources; and (3) include a system of surveillance and notice to ensure earliest possible identification of emergencies. The bill requires the Secretary to establish a system of antiterrorism response plans for vessels in coordination with the Federal Emergency Management Agency. The bill requires that there be transportation security cards for entry to any antiterrorism secure area of a vessel or facility. The bill requires the Under Secretary of Transportation for Security to develop and maintain an antiterrorism cargo identification and screening system, including performance standards for seals and locks of shipping containers.

Moreover, S. 1214 requires that Federal Maritime Antiterrorism Coordinators develop, update, and integrate Area Maritime Transportation Antiterrorism Plans, as needed. The bill also requires owners or operators of vessels or facilities to prepare an antiterrorism plan for deterring a catastrophic emergency, including the identification of the plan implementor, the availability of antiterrorism measures, training and drills.

S. 1214 directs the Secretary to establish maritime antiterrorism teams to protect vessels, ports, facilities, and cargo in U.S waters. Also, S. 1213 directs the Secretary to assess the effectiveness of antiterrorism measures maintained at specified foreign ports and make recommendations for improvements, if necessary.

The bill authorizes the Secretary to prescribe conditions of entry for or to deny entry into the United States to vessels arriving from foreign ports with ineffective antiterrorism measures. In addition, S. 1214 requires the advance electronic transmission of passenger and crew manifests from commercial vessels arriving in the United States from a foreign port.

The increasing nature and international scope of the maritime security issues, which threatens our port, requires participation and response from all levels of government. The lack of a secure trade corridor can hamper the economic growth of a port and possibly the country itself. A viable maritime security program is good business. A much bigger economic interdependency exists within the entire transportation network. Ports are committed to developing effective maritime security programs based on the recognition of ports as interchange hubs of commerce, critical to international trade.

In addition to the benefits that this bill will bring to the security of nation's ports, this measure also makes important changes to our nations maritime policy that will help us compete in the global marketplace and gives needed resources and flexibility to the Coast Guard and the men and women that make up this great agency, allowing it to better protect our nation's shores. I strongly support S. 1214. This bill is good for the Port of Houston and good for American ports. Therefore, I strongly urge my fellow members to support this bill.

Mr. OBERSTAR. Mr. Speaker, I rise today in strong support of the Conference Report on S. 1214, the ''Maritime Transportation Security Act of 2002''. Last year, Congress enacted landmark legislation to help protect the aviation industry from terrorist attacks. Today, we finalize legislation to help secure U.S. ports, vessels, and our intermodal transportation system from terrorist attack.

More than six million containers arrive in the United States each year from foreign ports

carrying goods that are vital for consumers and manufacturers. Virtually all of the oil imported into the United States arrives by ship. We are a nation dependent upon international shipping.

Yet this transportation system can also be used as a means of delivering a weapon of mass destruction to the heartland of America. It is far easier for a country to put a nuclear bomb in a container and ship it to the United States and have it detonated by a Global Positioning System receiver than it is to build a missile system to deliver a nuclear warhead.

Securing America's seaports and the cargo we import from being used by a terrorist is a daunting task. There are more than 95,000 miles of coastline in the United States. One only has to look at the volume of drugs imported each year by sea to see just how porous our borders are. However, it is a challenge we must address.

The Conference Report on S. 1214 is modeled after the successful Oil Pollution Act of 1990 (OPA). OPA established a strong command and control system—and clarified that the Coast Guard has the ultimate authority to determine how best to clean up an oil spill. S. 1214 establishes a similar system to develop and implement plans to deter terrorist attacks on our ports and on vessels operating in and out of our ports. The system includes development of national plans, area security plans, facility security plans, and vessel security plans.

To help ports, local governments, and facility operators pay for these security improvements, S. 1214 establishes a port security grant program to provide a 75 percent matching grant for security measures that are implemented to address vulnerabilities identified by the Coast Guard. Many ports and facilities in the United States have made security improvements since September 11, 2001. S. 1214 allows the Secretary to make grants to reimburse these entities for any security improvements they have made since that date that are consistent with their facility security plans.

However, protecting the United States must begin overseas. By the time that a weapon of mass destruction in a containership reaches a U.S. port, it is too late. S. 1214 requires the Secretary to review security standards in foreign ports and intermodal transportation systems. If foreign governments do not address their vulnerabilities and provide adequate security for cargoes that are being shipped to the United States, the Secretary may prevent ships from those countries from entering the U.S.

S. 1214 also helps protect our marine terminals by establishing a transportation security card system for those individuals that have ''unescorted access'' to secure areas of marine facilities (e.g., areas with open containers or areas where individuals have access to cargo manifests). The Department of Transportation currently envisions four levels of security access that can be granted by the card. For example, Level 1 Access identifies a person as someone who has unescorted access to the unsecure areas of a terminal. A Level 4 Access means that person has had a security background check to ensure that he or she is not a ''terrorist security threat'' and may have access to areas in a terminal that could cause a transportation security incident. On vessels such as a passenger vessel, the bridge and engine room areas may be designated as secure areas to ensure that passengers do not try to take over the control of the vessel.

Other security provisions in S. 1214 include:

Directing the Secretary to develop enhanced standards for identifying crewmembers on foreign-flag vessels entering the United States and urging the Secretary to undertake the negotiation of a new international agreement on seafarer identification.

Directing the Secretary to implement a new system to collect, integrate, and analyze maritime intelligence concerning vessels operating on or bound for U.S. waters.

Requiring all self-propelled commercial vessels more than 65 feet in length to carry position-indicating transponders and electronic charts to make it easier to track their movements in U.S. waters.

Authorizing the Secretary to develop a long-range vessel tracking system using the satellite communication system on all ships.

Expanding the Deepwater Port Act to allow for the licensing offshore facilities for offloading of Liquefield Natural Gas (LNG). This provision will help ensure that new LNG offloading facilities are built offshore—not in coastal cities such as Boston and Charleston.

Allowing Coast Guard personnel to be assigned as sea marshals on vessels that pose a risk to U.S. communities such as tankers.

Establishing a port security training program at the U.S. Maritime Academy, the six state maritime academies, and the Appalachian Transportation Institute to help provide training and standards for maritime security professionals.

Requiring the Secretary to develop and maintain security standards related to cargo identification, tracking, screening, and the physical security of containers including standards for seals and locks.

S. 1214 also contains the Coast Guard Authorization Act for Fiscal Year 2003.

After a three-year struggle, we have reached agreement with the Other Body to reauthorize the Coast Guard and enact many changes to improve maritime safety and the quality of life for the men and women who serve in the Coast Guard.

These changes include:

Extending Coast Guard Housing Authorities from 2001 to 2007.

Allowing the Secretary to grant extra leave to Coast Guard personnel serving at isolated duty stations.

Allowing for the accelerated promotion of officers when a selection board finds to be of particular merit.

Increasing the amount that the Coast Guard may borrow from the Oil Spill Liability Trust Fund to pay for the removal cost of removing oil from a spill from $50 million to $100 million.

Requiring tug boats escorting vessels though facilities owned by the U.S. Government to be U.S.-flag vessels.

Establishing standards for working conditions and hours-of-service limitations for Coast Guard personnel working in Search and Rescue Centers.

Requiring the Commandant to ensure that all Coast Guard personnel are equipped with adequate safety equipment, including hypothermia protective clothing, when performing search and rescue missions.

Allowing mortgages and other financial instruments used to finance ships to be filed with the Coast Guard electronically.

Establishing whistle-blower protection for seamen on board vessels when the seaman believes that a serious injury may occur if he performs his duties as ordered by his employer.

Extending the period of time during which the Coast Guard can issue a recall for a recreational vessel from five years after the date of construction to ten years after that date.

Requiring the Coast Guard to publish on the internet all major marine casualty reports immediately and all other casualty reports within two years.

Allowing the Secretary to suspend the payment of retired pay of former Coast Guard personnel if the person has left the United States to avoid criminal prosecution or civil liability.

As I mentioned earlier, Mr. Speaker, S. 1214 establishes a new transportation worker biometric security card system including background checks, an appeals process, and protection of an individual's private information from his or her employer. Many of these security enhancement and worker protection provisions were not included last year in the USA Patriot Act that requires all commercial truck drivers who haul hazardous materials to undergo a criminal background check before receiving their Commercial Drivers License hazmat endorsement. Because the provisions enacted in the Patriot Act leave behind a vague and confusing regime, many states have not begun to implement the requirements. Even the U.S. Department of Transportation has acknowledged that a problem exists in Section 1012 of the USA Patriot Act and has advised state motor vehicle departments that these provisions ''cannot be implemented without rulemaking by DOT.''

I believe that the provisions in S. 1214 that provide an individual with the right to appeal the denial of a security card and the protection of information collected during that person's background investigation should be extended to commercial truck drivers that are subject to the Patriot Act. These standards have been developed on a bipartisan basis with the support of labor and employers. If the Department of Transportation fails to include these standards in the regulations they prescribe to implement the Patriot Act by the end of the year, we should move forward with legislation to correct these problems early next year.

Finally, I would like to thank Chairman YOUNG, Mr. LOBIONDO, and Ms. BROWN for the cooperative effort that they have put forth to develop this bipartisan port security legislation. Together, we have succeeded crafting meaningful legislation to improve the security of the marine transportation system against terrorist acts.

I urge my colleagues to support the Conference Report on S. 1214.

Mr. SHAW. Mr. Speaker, I rise in support of this legislation, which represents the next crucial step in improving America's transportation security. This bill coordinates various federal law enforcement efforts with local port authorities, develops uniform standards, and helps pay for technology upgrades and other security infrastructure at our ports. I am very pleased that this bill authorizes $6 billion for the Coast Guard, an agency that is severely overworked and underfunded.

This legislation is of particular importance to the State of Florida and its 14 publicly owned deepwater seaports, including Port Everglades, Port of Palm Beach and Port of Miami

in South Florida. The challenge of protecting against potential threats to security in Florida is unique due to the state's extensive coastline, vigorous international trade, and passenger cruise activities. Our geography dictates that we must be prepared as a front-line homeland defense point against terrorism, as well as illegal immigration and drug trafficking.

Florida seaports represent some of the busiest bulk cargo and container ports in the nation, and improved security at our seaports is critical for protection of the state's citizens and millions of visitors, as well as the state's continued economic vitality.

The treat of terrorism and other crimes to Florida seaports is well documented. A 1999 state-commissioned study found that the Florida port are highly vulnerable and recommended comprehensive security plans at each Florida seaport. In 2002, the State of Florida enacted legislation mandating that such action be undertaken.

As the Chairman of the Florida Congressional Delegation, I am pleased that this bill does not penalize the Florida ports that have been pro-active in taking the necessary steps to improve security. A shining example of such a port is Port Everglades in my district. Even before September 11, Port Everglades has laid out a comprehensive security improvement plan. Since that day, the port has expedited its efforts, turning a 48 month plan to improve security into an impressive, 18 month, $37 million plan that is now near completion. I commend the Broward County Board of County Commissioners for their foresight. The fine work they've done should serve as a model for ports around the nation.

As one of the first Members of Congress to introduce comprehensive seaport security legislation, along with my friend and colleague Senator BOB GRAHAM, I am gratified that we are finally completing our work on this most important issue. It is overdue.

Mr. BORSKI. Mr. Speaker, I rise today to support the U.S. Coast Guard's Armed Drug Interdiction (HITRON) Mission. The HITRON Mission is a unique and important weapon in the arsenal against illegal drugs and counterterrorism. The MH–68A armed helicopter, which was designed, assembled and maintained in Philadelphia, Pennsylvania, is an integral part of the HITRON mission. I thank the gentleman from North Carolina, Mr. COBLE, for his leadership on this matter. The gentleman from North Carolina and I have been deeply concerned that the short-term lease for the MH–68A expires in January of 2003, potentially jeopardizing the HITRON mission if the lease is not extended in a timely fashion. The Integrated Coast Guard Systems Group (ICGS—led by Lockheed Martin-Northup Grumman) has recommended the Coast Guard fashion a permanent Deep Water airborne use of force (AUF) program and test a heavier multipurpose helicopter for the drug and terrorist intervention mission. While this is certainly a reasonably approach, there must be no interruption in the program before a permanent fleet is fully deployed. I am pleased that the Coast Guard has agreed that there must be no interruption and is executing the lease extension. I join in congratulating the Coast Guard on a successful program.

Mr. LOBIONDO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LOBIONDO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the conference report on S. 1214.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 10 o'clock and 8 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 2310

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. WHITFIELD) at 11 o'clock and 10 minutes p.m.

CONFERENCE REPORT ON H.R. 4628, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2003

Mr. GOSS. Mr. Speaker, I ask unanimous consent that it be in order at any time to consider the conference report to accompany H.R. 4628; that all points of order against the conference report and against its consideration be waived; and that the conference report be considered as read.

The SPEAKER pro tempore (Mr. WHITFIELD). Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. GOSS. Mr. Speaker, pursuant to the unanimous consent request, I call up the conference report on the bill (H.R. 4628) to authorize appropriations for fiscal year 2003 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the order of the House of today, the conference report is considered as read.

(For conference report and statement, see prior proceedings of the House of today.)

The SPEAKER pro tempore. The gentleman from Florida (Mr. GOSS) and the gentlewoman from California (Ms. PELOSI) each will control 30 minutes.

The Chair recognizes the gentleman from Florida (Mr. GOSS).

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today to present the conference report for the fiscal year 2003 intelligence authorization bill. I believe that hard work and careful deliberation have produced a comprehensive bill that funds the critically important work of our intelligence community.

Mr. Speaker, the events over the past year remind us just how critical the intelligence community work is. As has been the longstanding custom of the Permanent Select Committee on Intelligence, this conference report is a bipartisan product which reflects admirably on our committee's members and its highly professional staff. I want to thank all involved. Because of the late hour of the evening, I am not going to enumerate all of the staffers and members, but I think all of them will take satisfaction in knowing that we have had a good year.

At this point, I would like to mention one other important issue. With the conclusion of this conference, the committee will lose the talents of several valued members: the gentleman from Georgia (Mr. CHAMBLISS), who led our Subcommittee on Terrorism and Homeland Security, and put out actually the first report on the counterterrorism situation; the gentleman from Delaware (Mr. CASTLE), who led our Subcommittee on Technical and Tactical Intelligence and has dealt with some of the more challenging problems that confront the Committee on Intelligence; the gentleman from California (Mr. CONDIT) and the gentleman from Indiana (Mr. ROEMER) on the minority side, who have been heavily involved in some of the issues we will be talking about later; and in particular, the gentlewoman from California (Ms. PELOSI), our esteemed ranking member.

She will graduate, I am told, to ex officio status. It will be a fine graduation. We know she is nearby when we need her. The gentlewoman from California (Ms. PELOSI) has made a significant contribution to the Permanent Select Committee on Intelligence work during her 10 years of service on the committee. Most notable, however, has been her determination to work collectively to rebuild and reenergize our Nation's intelligence capabilities after the September 11 attacks. She has been willing to work energetically and efficiently in a fashion that puts national security first before politics or partisanship. I say to the gentlewoman from California (Ms. PELOSI), or Madam Leader, soon to be, we thank her very much for her efforts.

This conference report authorizes funds for fiscal year 2003 intelligence-related activities, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System.

I want to take a very short moment to highlight several provisions of the

report for the consideration of the Members. First, the bill includes several provisions designed to strengthen our Nation's fight against international terrorism, including a cross-agency foreign terrorist asset-tracking center to identify and disrupt terrorist financial support networks. I am pleased to report we have had some success at disruption, and I look forward to more.

It also establishes an ongoing notification procedure to assure timely congressional oversight of national security-related financial enforcement actions by the executive branch, something that we have had a lot of discussion about.

Other initiatives of note are several provisions intended to enhance the language-training capacity within intelligence and defense agencies to combat our language shortfalls; again, something that has been a pet project of our committee for a number of years. The bill will enhance the training capacity by establishing a flagship language initiative within the National Security Education Program.

The third area of focus is to strengthen the capacity of the national counterterrorism executive within the Office of the Directorate of the CIA. Several recent espionage cases, most notably the Aldrich Ames case, the Robert Hanssen case, the Ana Montes case, require that we place greater efforts in assessing our counterterrorism vulnerabilities with respect to hostile intelligence services, let alone terrorist-type activity that affect our men and women in the service, even on our own shores, as we are reminded tonight with the matter involving Mir Aimal Kasi.

This legislation recognizes the concern that insufficient attention has been given to the area of counterterrorism.

Finally, I wanted to commend all involved for their diligent work on reaching a compromise on the creation of an independent commission. It shows the American people that we can work together to reach consensus. Sometimes it takes a little longer than we hoped, but usually we get there.

Mr. Speaker, I barely scratched the surface regarding the many issues and investments contained in this bill that go toward protecting our national interests. As we all know, much of it is classified. The only way to be ready to address the diverse threats to our security, both at home and abroad, is by having a vibrant first line of defense, as the President has said, that provides indications and warning. This first line of defense has to start with our intelligence community, and we have to give them the support and the oversight necessary to do that job. This conference report directly helps to strengthen our capabilities, put them on target, and ensures the protection of our rights and liberties, now and in the future.

Mr. Speaker, I reserve the balance of my time.

Ms. PELOSI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report and thank the gentleman from Florida (Mr. GOSS), our distinguished chairman of the Permanent Select Committee on Intelligence, for his very kind words of farewell to me as I leave the committee after 10 years of service there. It has been a privilege to serve on the Permanent Select Committee on Intelligence; and as the gentleman said, we always put national security first, so our work there is generally conducted in a bipartisan way, and never more so than under the leadership of our chairman, who has been very bipartisan in his approach and given us the opportunity to air our differences, which largely are not partisan, but just differences of opinion that Republicans and Democrats may share.

In any case, the tenor of his leadership has been one that has been conducive to a very bipartisan atmosphere which is very wholesome for the work that we do, and that work is vital to our country.

So, Mr. Speaker, I thank him for his kind remarks. I congratulate the gentleman on his excellent leadership. It has been an honor to serve with the gentleman, and I look forward to working with the gentleman from the perspective of the Democratic leader.

Mr. Speaker, this is the last bill I will manage from appropriations or from the Permanent Select Committee on Intelligence; and I, too, want to join the chairman in thanking our other departing members on the Democratic side, the gentleman from California (Mr. CONDIT) and the gentleman from Indiana (Mr. ROEMER), for their distinguished leadership on the committee.

We will all benefit from the work of the gentleman from Indiana (Mr. ROEMER) tonight when we discuss the independent commission, which is in this bill thanks to his relentless leadership, and also bid adieu to the gentleman from Delaware (Mr. CASTLE) and the gentleman from Georgia (Mr. CHAMBLISS), who is going on to other work.

When I joined the committee 10 years ago, the Gulf War had been recently concluded. As I leave as a voting member, the threat of war has returned to the Gulf region. One of the primary purposes of intelligence is to enable U.S. military forces to wage any campaign successfully, with a minimum of casualties. Force protection is our primary responsibility.

Great progress has been made since the Gulf War in using intelligence to improve the accuracy and effectiveness of weapons and in hastening the flow of intelligence to military commanders. Those efforts are sustained appropriately in this conference report.

Equal in importance to the role of intelligence in making certain that wars are won is its role in preventing wars from being fought; some might even say, and I agree, even more important. The conference report, particularly in the emphasis it places on strengthening the intelligence analytic function, should improve the quality of information policymakers and diplomats need to anticipate and resolve problems before they lead to armed confrontation.

The committee's work this year has been influenced greatly by the events of September 11, 2001. Our Subcommittee on Terrorism and Homeland Security, chaired by the gentleman from Georgia (Mr. CHAMBLISS) and the ranking member, the gentlewoman from California (Ms. HARMAN), has been at the forefront of efforts to draw lessons from those events and fashion corrective measures which lessen the chances for successful future attacks.

□ 2320

The conference report has counterterrorism at its highest funding priority. Next year, I expect that with the benefit of the recommendations to be made in the report of the joint September 11 inquiry the committee and its Senate counterpart are conducting, significant changes will be proposed in the way in which the intelligence community conducts its antiterrorism activities.

As thorough as the work of the joint inquiry has been, the dimensions of the September 11 attacks demands an additional kind of review. I am pleased that the conference report will establish a commission to take a comprehensive, independent, I hope, look across the agencies of government at the preparation for, and response to, those horrific events.

I expect that the commission, which I mentioned is in this bill because of the leadership of the gentleman from Indiana (Mr. ROEMER), will benefit greatly from the work of the joint inquiry and the Subcommittee on Terrorism and Homeland Security as it undertakes its critical assignment.

The brave and dedicated men and women of the intelligence community perform an invaluable service for our country, and I want them to know how impressed we have all been by the work they do under frequently dangerous and demanding conditions. They deserve our appreciation. The conference report should assist them particularly in the area of language training in ways which will improve their effectiveness in years to come.

Given the uncertainties and complexities of the threats we face, especially those posed by international terrorists and proliferators of weapons of mass destruction, it is imperative that the ranks of intelligence officers be as diverse as possible. Not enough progress has been made in this area despite repeated expressions of interest by members of the committee. I hope greater attention will be paid to this matter in the future.

Mr. Speaker, as I said, I went on the committee 10 years ago. My interest there centered around stopping the

proliferation of weapons of mass destruction, protecting our civil liberties as we try to gain as much intelligence as possible around the world to protect our forces, and also the prevention of war, as well as protecting us from terrorism. I hope that as we go forward with homeland security, which is essential to our country's security, that we will recall that each one of us takes an oath to protect and defend the Constitution of the United States, and as we protect and defend our country we must honor our oath to protect the Constitution and the civil liberties contained therein.

I am very pleased that President Bush has made stopping the proliferation of weapons of mass destruction a high priority. It is a pervasive problem, not only in Iraq but in other places in the world and it must have our attention. The United States must have a policy which is consistent to stop that proliferation.

Mr. Speaker, the capability to acquire intelligence is integral to the security of the American people. The conference report makes an important contribution to maintaining that capability. I commend the chairman for his leadership in putting this bill together and I urge its adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. GOSS. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Nebraska (Mr. BEREUTER), the vice chairman of the committee and the chairman of the subcommittee that fuses capability and policy, a very challenging job these days.

(Mr. BEREUTER asked and was given permission to revise and extend his remarks.)

Mr. BEREUTER. Mr. Speaker, I rise in strong support of the conference report.

Mr. Speaker, the conference report addresses a number of pressing intelligence needs. This Member will focus his remarks on only two.

First, the legislation takes important steps to strengthen the intelligence community's analytical core. In recent years certain circumstances have demanded that we focus on terrorists, proliferators and drug traffickers. These are far more difficult targets to track then was the old Soviet Union. Frankly, the intelligence community took far too long to adapt to these new threats. It did not reach out aggressively to recruit human intelligence sources that could have provided us invaluable information.

The community lost far too many skilled analysts whose job it is to provide early warning. This legislation provides much needed funding to build a dynamic, wide-ranging global analytical capability.

A second important component of the intelligence authorization relates to terrorist finances. One of the major intelligence initiatives in the wake of 9/11 has been an attack on the financial assets of terrorist organizations and their supporters.

Terrorist networks such as al Qaeda obviously cannot function without significant financing. And al Qaeda, for example, is supported by, one, a shadowy network of fund-raisers, money lenders, and shakedown artists; two, businesses and charities serving as front organizations; and, three, unscrupulous facilitators and middlemen. However, with the decision of the executive branch to fully exploit the existing authorities to target terrorist finances and with the granting of additional authorities under the U.S. PATRIOT Act, we are now aggressively attacking the money flow. To date over $100 million of suspected terrorist money has been seized or frozen by the United States and its allies and that is just the beginning.

Mr. Speaker, this is an important and powerful tool in the war on terrorism. In order to maintain responsible legislative oversight over this effort, the Intelligence Authorization Act will require semi-annual reports on the number of assets seized, as well as the number of entities or individuals found to have engaged in financial support for terrorism.

It will also require information on the total number of requests for asset seizures that have been granted, denied or modified. This important oversight will ensure the war against terrorism financing remains on track.

In closing, this Member would congratulate the distinguished chairman of the committee, the gentleman from Florida (Mr. GOSS) and the distinguished gentlewoman from California (Ms. PELOSI) for the leadership they have demonstrated in bringing forth a genuinely bipartisan product. I will say in her existing capacity we will certainly miss the gentlewoman's long and very important experience and contributions on the Permanent Select Committee on Intelligence.

The conference report is a very serious effort. Each and every member of the committee dedicated long hours to the drafting of the legislation. Each member recognizes the importance of our action. This body can justifiably be proud of our efforts of the HPSCI, I believe, and particularly the leadership of the gentleman from Florida (Mr. GOSS) and the gentlewoman from California (Ms. PELOSI).

Finally, and of crucial importance, the staff of the committee is truly excellent in their knowledge and commitment to our oversight and our authorization responsibilities.

Mr. Speaker, this Member strongly urges adoption of the conference report of H.R. 4628.

Ms. PELOSI. Mr. Speaker, I yield 5 minutes to the gentleman from Georgia (Mr. BISHOP), a distinguished member of the committee and the ranking member of the Subcommittee on Technical and Tactical Intelligence of the Permanent Select Committee on Intelligence.

Mr. BISHOP. Mr. Speaker, I thank the gentlewoman for yielding me time.

Mr. Speaker, I rise in support of this conference report, but before I get started I want to express my own personal gratitude to the leadership of this committee, and most especially to the leadership of our ranking member, the gentlewoman from California (Ms. PELOSI), for the hard work she has done in leading the Democrats on this committee and the contributions that she has made to the committee as a whole.

I believe very strongly that her leadership has worked through the Permanent Select Committee on Intelligence to make the world and our country a little more of hope, a little less of fear and a little better because she traveled here, and we are very grateful for her leadership and we will miss her very much. Although she has gone on to more responsibility and we expect equally great things from her there, I do want to say that we certainly are appreciative of her hard work, and we will miss her, and it has meant a tremendous amount to our country and our intelligence community.

The committee worked hard to provide the resources that our military forces and our intelligence community require to prevail in the war on terrorism and to safeguard all of our other national security interests. The gentleman from Florida (Mr. GOSS) and the ranking member, the gentlewoman from California (Ms. PELOSI), my counterpart on the Subcommittee on Technical and Tactical Intelligence of the Permanent Select Committee on Intelligence, the gentleman from Delaware (Mr. CASTLE) and all of the other committee members deserve great credit for this important bipartisan authorization act.

In addition, this conference report adds substantial funds to the budget of the National Imagery and Mapping Agency to enable NIMA to award a contract for a major modernization program. I remain very concerned that the administration failed to budget enough funds for this effort despite the large budget increases following September 11.

□ 2330

The capabilities that this modernization effort will provide are essential for the kind of flexible military operations on display in Afghanistan.

When our bill was being debated in the House earlier this year, I indicated my concern about the Department of Defense's apparent neglect of the communications and exploitation infrastructure needed to support the large fleet of unmanned aerial vehicles that the Department intends to procure over the next several years. These drones performed magnificently in Afghanistan, but this potential will never be realized without a larger investment in the means to get the data back from the aircraft and get it exploited. I had hoped the administration would signal its intention to fix these problems, but

this has not happened. Congress must address this matter next year if the administration fails to do so in the fiscal year 2004 budget request.

This conference report also requires that some changes and initiatives be undertaken to correct problems with respect to the sharing of information within and between the intelligence and law enforcement communities. There is more work to be done in this area, but the direction in this conference report, if implemented faithfully, should help. We understand the importance of protecting sources and methods, but believe that this can be done within a much more expansive information-sharing paradigm.

Finally, I wanted to speak to the implementation of the proposed compensation reform plan. Section 402 of the bill is similar to section 402 of the House bill. The Senate amendment had no similar provision. Section 402 delays implementation of the Central Intelligence Agency's proposed compensation reform plan until February 1, 2004. Prior to that date, the director of Central Intelligence may conduct a pilot project to assess the efficacy and fairness of a revised personnel compensation plan and report to the Permanent Select Committee on Intelligence 45 days after completion of the pilot project. Section 402 includes a sense of the Congress that an employee personnel evaluation mechanism with evaluation training for managers and employees of the CIA and the National Security Agency should be phased in first and then followed by introduction of a new compensation plan.

Mr. Speaker, this was a concern that was raised by the employees that has contributed to a great deal of consternation and perhaps some problems that we might anticipate if it were implemented, and I am happy that the conference report reflects the concerns raised on this issue, and that we will first, before having an en mass, grand-scale implementation, first have the pilot program instituted so any kinks or problems can be worked out.

With that, I think it is a good conference report. I think we have done good work, and I urge my colleagues to support it.

Mr. GOSS. Mr. Speaker, I reserve the balance of my time.

Ms. PELOSI. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. HARMAN), the ranking member of the Subcommittee on Terrorism and Homeland Security, and acknowledge the valuable contribution that subcommittee has made to our national security.

Ms. HARMAN. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, During this term of Congress, much of my time and passion has been devoted to the activities of this committee and the contents of this conference report. It is a great committee with great bipartisan leadership, membership, and staff. It is with relief, pride and some sadness that I stand here at midnight to urge passage of the conference report.

My special appreciation goes to our ranking member, the esteemed gentlewoman from California (Ms. PELOSI), who today achieved an historic first, and who over all of the years that I have served with her on this committee, has distinguished herself with fairness, probity, intelligence, and leadership skills. We will miss her, and we will welcome her back as an ex officio member.

I would also like to use my last statement of the 107th Congress to state my respect and praise for the gentleman from Indiana (Mr. ROEMER), another departing member. It is fitting that one of the last votes of this Congress will fulfill his promise to the families of the 9–11 victims. The gentleman from Indiana (Mr. ROEMER) has worked tirelessly and passionately to enact an independent commission to investigate the 9–11 attacks. That commission will be part of this conference report. In fact, the bold actions of the gentlewoman from California (Ms. PELOSI) and the gentleman from Indiana (Mr. ROEMER) saved the commission, saved the bipartisan tradition of the committee, and reflects the vote a majority of this House took some months ago.

I would finally like to recognize that other colleagues are departing: the gentleman from Delaware (Mr. CASTLE), the gentleman from California (Mr. CONDIT), and especially the gentleman from Georgia (Mr. CHAMBLISS), who is moving to the other body where he will serve on its intelligence committee. I would advise the gentleman if he gets lonely over there, he can come home for advice and counsel.

Mr. Speaker, this is our first real chance after 9–11 to set new directions in the intelligence community, and we do that. We provide substantially more funding, more training, and more support to penetrate, prevent and disrupt the plans of terrorist organizations.

I would say that the Department of Homeland Security legislation that we passed yesterday provides for an integrated strategy to protect the homeland, but that strategy must be built on world-class intelligence. This bill provides that critical base. I urge its passage.

Ms. PELOSI. Mr. Speaker, I yield 4 minutes to the gentleman from Indiana (Mr. ROEMER), a departing member of the Permanent Select Committee on Intelligence, yet one who has demonstrated leadership right up to the last day of the Congress to ensure that we have an independent commission and that it would be one that will make our country safer.

Mr. ROEMER. Mr. Speaker, I thank the gentlewoman from California (Ms. PELOSI) for those kind and generous words.

Abraham Lincoln, when he went from Springfield, Illinois, to Washington, D.C. to take on a new job that he was elected to by the people of the United States, stood on a platform in Springfield, Illinois, and looked out at his hometown people and said to these people and their kindness, ''I owe everything.''

To the people of Indiana that I have served for the last 12 years in this distinguished body, I owe them everything, for the privilege and the humble responsibility of casting votes on their behalf with common sense and dignity, as we have and will tonight, to try to make this a more secure Nation and a Nation that works together in a bipartisan way to accomplish things.

When I talk about people, I want to commend the gentleman from Florida (Mr. GOSS), the chairman of the committee, for his distinguished leadership to bring this bill to the floor tonight in a most dangerous and precarious world.

I want to especially congratulate the gentlewoman from California (Ms. PELOSI), my good friend and our leader. I have two buttons in my pocket tonight with the gentlewoman's name on them that I will give to my 5-year-old daughter, Sarah, and my 2-year-old daughter, Grace. I think the talent and the dreams of women and people around the world are boundless tonight because of what example she has set. It is not just getting elected, and not only being a woman; it is being a leader and bringing a bill to the floor and keeping this body working into the night to get these things accomplished, like an independent commission.

We do live in a dangerous world where planes can wreak devastation, and a vial of smallpox that can fit in a pocket can kill millions. Therefore, this bill tonight, as the last bill of the 107th Congress, is indeed vital for our Nation's security.

We outline new language, training and proficiency programs in this bill which are funded at higher levels. We improve information sharing to decrease the problems of communication and stove-piping between the FBI and the CIA, and we put more emphasis on human intelligence, which is the most important work that we could do, not just relying on satellites in the sky.

□ 2340

Finally, a great big embrace and thanks for the idealism and effectiveness and hope to the families of the victims of 9–11 who have worked so hard and been such a great example to me of how grassroots work can make this body function better. These families, led by people like Stephen Push and Kristin Breitweiser, have really led us to tonight's success on the creation of this independent commission. It is not everything, it is not perfect, but it has come a long way from opposition and dead-on-arrival predictions that it would go nowhere. We have that in a bipartisan way in this bill tonight.

It still has a lot of challenges, Mr. Speaker, and one is the subpoena power. The linchpin for me of an effective investigative body and a truly

independent commission is the ability for this commission to have subpoena power, to threaten the subpoena, to ultimately deliver on it and to get depositions and to pry open doors that want to remain closed. We have that in this bill, especially if Senator MCCAIN and Senator SHELBY can have the one appointment that has been promised to them out of the five Republican appointments and that helps us get to this level of six votes that can trigger subpoenas. That is crucial in this. I hope that that colloquy and that gentlemen's agreement and that codified promise is in this bill and in the legislation's intent.

I also hope that we will follow the good path of the joint inquiry. Led by that staff and this great staff here on the floor tonight, we have uncovered a lot of questions, we have a lot of suggestions and recommendations for fixing the problems that led to 9–11, but we have so much more to do in front of us, which this independent commission in a seamless way can undertake and make recommendations for.

In summing up, Mr. Speaker, there is a Shakespeare play where one character says to the other in a bragging way, ''I can call spirits from the deep,'' and the other character says, ''Well, anybody can do that, but will they come?'' Will they come? I hope and I pray for this most distinguished people's House that we will call forth the very best in us and bring forth the very best ideas and challenge these people in this great country to vote in the next 2 years on great ideas put forward by Republicans and Democrats and some in bipartisan ways to keep this country strong, to move us in a positive direction and do it in the spirit of the founders of this great Nation.

I appreciate the service to this country and wish good things for the people of this body. Thank you very much and Godspeed.

Mr. GOSS. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Illinois (Mr. LAHOOD), a very valued member of our committee and well known to the Members of this body.

Mr. LAHOOD. I thank the gentleman for yielding me this time.

Mr. Speaker, I do not think there are two other people in the Chamber that I have more regard for than the chairman of the committee and the ranking member. Both people are very, very hardworking people. They have done extraordinary work for the country. The leadership of Chairman GOSS and our ranking member, the gentlewoman from California (Ms. PELOSI), has just been extraordinary, particularly given what happened after 9–11 and particularly given the events that we have been through in the House and as members of the joint committee studying what happened prior to 9–11. I have really enjoyed the opportunity for the last 4 years to serve with both of these people. I want to say a word about my friend from Indiana (Mr. ROEMER) because I know he will be leaving and his service has been valued very much by all the members of the committee. I know that you will be missed, Tim, and I know that it will be a great loss to our committee. And also to you, Madam Leader, you will also be missed and thank you for your service to the committee.

I rise in very, very reluctant opposition to the conference report. As those people on the committee know, I have objected very strenuously to the idea of a commission. Almost from the very first day that this idea has been proposed, I thought it was a bad idea. I have thought it was a bad idea because what is going to happen is you are going to have people with little or no experience, and many of us on the committee have tried to gain experience over the years and tried to gain knowledge in terms of what the community is about, the intelligence-gathering community and how they do their work and what the failures are, and to have some kind of a concept of a so-called blue ribbon committee, I think, really is going to fall far short of what people's expectations are.

I know that some people think this commission is going to provide a lot of answers and provide a lot of opportunity to assuage the feelings of the family members of the victims. I think we are holding out a real, real big false hope for the family members. I have always felt that. Many of us on the committee have tried to become experts. It is difficult to do. But there are people who are experts. I consider Chairman GOSS and I consider Ranking Member PELOSI experts because of the time that they have devoted. I think the gentleman from Indiana (Mr. ROEMER) is an expert because of the time he has devoted. But to try and get 10 people from the outside to come in and understand all of this in such a short period of time I think holds out a very big false hope. It just does not make sense.

I really think this is a mistake. I want people to understand that this is a good bill, it is a good conference report in every other regard except for the idea of holding out a false hope to the families that are left behind of the victims, that somehow this blue ribbon commission is going to be the panacea, that is going to answer all the questions, that is going to lay the blame where it needs to be laid. You know I have characterized this as the blame game commission and I know you do not like to hear me say that, but that is how I feel about it. There are people here that want to try and find blame within the government, whether it is in the CIA or the FBI or within the administration. I characterize this as no more than that, an opportunity for 10 citizens to try and come together and understand something that is so complicated and so complex that it makes little sense to try and hold out hope to people that this will really give the answers to the families that have been left behind. It will not. It simply will not. I think that hopefully our joint committee can offer some answers out of the kind of work that we have done for the last year and will continue to do until the final report is written.

The idea that this is a blue ribbon commission where people are going to be paid, I think, detracts from what kind of a blue ribbon commission is it. It is right in the bill that there are going to be people who are going to be paid for this. Why do we have to pay people to serve on a blue ribbon commission? I wish I would have had an opportunity to at least strike that out of the bill, but we do not have an opportunity to strike these kinds of things out of conference reports. I think the idea of compensation is nonsense. It degrades the commission; it degrades the idea that it is a blue ribbon commission.

The final thing that I would say to my friends here in the House and to colleagues is that this really is an opportunity, I think, for people just prior really to a political election to lay on the table some kind of a report to try and lay blame at the foot of an administration. That is how I see it. This report will come out maybe a few days or a month or two before the next Presidential election. I have no idea what the report will say, but I know there are people out there that want to find blame. I have the feeling that that is what this commission will be out to do, to look for those who made mistakes, to look for those, to find fault with institutions in our government that probably in some ways did not serve the interest the way they should have.

As one Member, and I hate to do it because I know a lot of work has gone into this bill, into this conference report, but I intend to vote against it. I think this is a terrible mistake. It sends a terrible message. I do not want the families out there to think that when this report comes in from some so-called blue ribbon commission, it is going to answer. It is not going to answer.

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Some of these things are unanswerable and those of us that have served on the joint committee know that some of these things are unanswerable. So I thank the chairman for the opportunity to speak, and in no way do I want to be degrade any member of the committee, any member who supports this. I just think it is a bad idea, it is a bad time to do it, it does not make sense, and it is going to hold out a false hope that we are never ever going to be able to meet.

Ms. PELOSI. Mr. Speaker, I yield 3½ minutes to the distinguished gentleman from Iowa (Mr. BOSWELL), who is the ranking member on the Subcommittee of Human Intelligence, Analysis and Counterintelligence.

(Mr. BOSWELL asked and was given permission to revise and extend his remarks.)

Mr. BOSWELL. Mr. Speaker, I want to make the gentleman from Illinois

(Mr. LAHOOD), my good friend, feel better. I have tremendous respect for him, and he knows that and I think he does for me. But as I reflect on the time it takes for the efforts gone forth, and I want to commend, as the rest of my colleagues have, our chairman and ranking member for their efforts and the efforts of the staff, but as I have observed the time necessary to go into this kind of depth, I think the blue ribbon commission is very necessary to get the answers that we ought to be able to get. So we reflect on the joint committee and the ability of Members, all the other things that demand our time and so on. I think it becomes pretty clear that we need this extra assistance to give the country and to give those families the information that they need, and they will not be satisfied with anything less.

So I tonight rise in appreciation to support this conference report because its time has come, and the people in this country ought to know that this committee under this leadership, the gentleman from Florida (Mr. GOSS), the gentlewoman from California (Ms. PELOSI), have done everything that they can possibly do to protect our country to be sure that one of their principles of safety, principles of war and principles of safety, is to have good reliable intelligence and to be timely and to be accurate.

So I am very happy to support this conference report. I think it supports the global efforts to counterterrorism and other threats to international security, and the conference report, like the House bill passed in July, reflects a commitment of this committee to invest in the people of the intelligence community and intelligence disciplines across the board, especially human intelligence. The conference reports includes the provisions on language training and proficiency maintenance found in the House bill. The conference report unfortunately delays the effective date of the provisions found in the House bill, setting forth a new authorization for the innovative language training program known as the National Flagship Initiative under the National Security Education Program, NSEP. Although disappointing, it should be noted that both the House and Senate have endorsed the National Flagship Initiative and the conference report includes a provision to ensure that the delay does not affect the ongoing NSEP pilot to fund programs to develop competency at the superior level in languages critical to national security.

Over the last few months, the House and Senate intelligence committees have made significant progress in the joint investigation they have been conducting into the circumstances surrounding the terrorist attacks of September 11. The inquiry, however, has focused on U.S. intelligence agencies and must soon conclude its work. So I support the establishment of the independent commission. I have been disappointed in how long it has taken for the agreement to be reached on whether a commission would be established and how it would be structured, but we are there.

While the final language on the commission may not be satisfactory to everyone, I believe it is important that a commission with a broad mandate and independent authorities be established by statute. I will follow with great interest its work, especially with respect to its investigation beyond the topics addressed by the joint inquiry. I urge the support of this report.

Ms. PELOSI. Mr. Speaker, I yield 3½ minutes to the very distinguished gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK. Mr. Speaker, I congratulate the members of this committee for the product and the way in which they have done it. I was particularly impressed by the very gracious remarks of the chairman of this committee about his opposite, the ranking minority member, and frankly at a time when there is some political sniping going on that seems to me wholly inaccurate, having him so generously acknowledge the important role the gentlewoman from California (Ms. PELOSI) has played on the single most important national security issue now before this Congress is a very impressive act, and I appreciate his doing that. I should underline that what we have here is the gentlewoman from California in her role on this committee having played a wholly responsible constructive role at the center of national policy. I would ask people to contrast that with some of the silly political assassination efforts that are going on.

Speaking of silly, I want to talk about an amendment we need. We have had a policy for driving gay people out of the military lest gay men and women be allowed to help defend this country, and it has been called the policy of Don't Ask, Don't Tell. We have a new name for it. It is called Don't Ask, Don't Tell, Don't Translate, because the Army in its wisdom pursuant to a dictate given to it by this body in its wisdom has just thrown out over the past year nine linguistic specialists, six of whom were studying Arabic. Apparently the Army feels that worrying about what people do in their private lives is more important than enhancing our ability to translate from Arabic. As the gentleman from Wisconsin (Mr. OBEY), the ranking member of the Committee on Appropriations said, it is a good thing for Lawrence Arabia they were not around when he was getting involved in the Middle East. The notion that they would take people who were studying Arabic, one member of this group had completed 30 weeks of training, he was getting very good marks, he trying to learn Arabic, in the process of learning Arabic, no, we do not want him because he is gay. I understand that anti-gay prejudice gets a certain leeway here. I have been fighting against that, but to put it ahead of national security seems to me excessive. We have been told that we have a problem because we do not have enough skillful linguists. So when they kick out six Arabic speakers, two Korean speakers, and someone who speaks Mandarin Chinese, I am appalled. And let us be clear that while there is a policy on the books of which I do not approve, it is not self-executing. The military has the discretion not to apply it in some cases, and to expel from the military American citizens who are motivated by the most profound patriotism and are in the process of learning Arabic at a time when that is essential to national security, to kick them out because they are gay is preposterous, and while it is late in the session and late in the evening, too late I hope for my colleagues to bring up that bankruptcy bill they were playing with, I hope when we return next year we will look at this Don't Ask, Don't Tell, Don't Translate policy, and the notion that the Federal Government at this time should deprive itself of skillful people who want to work for national security in translating from Arabic into English and from Chinese and Korean into English, the notion that we would deny ourselves this greatly needed asset because some people do not like people like me is as silly as I can think. We are not here talking about trivia. We are not talking about anything superficial. We are talking about prejudice being elevated over national security.

Mr. Speaker, I include in the RECORD at this point an article from the AP by Margie Mason and an article from the New Republic by Nathaniel Frank which document this particular piece of stupidity.

[From the Associated Press]

MILITARY DISMISSES 6 GAY ARABIC LINGUISTS AMID SHORTAGE OF TRANSLATORS

(By Margie Mason)

SAN FRANCISCO.—Nine Army linguists, including six trained to speak Arabic, have been dismissed from the military because they are gay.

The soldiers' dismissals come at a time when the military is facing a critical shortage of translators and interpreters for the war on terrorism.

Seven of the soldiers were discharged after telling superiors they are gay, and the two others got in trouble when they were caught together after curfew, said Steve Ralls, spokesman for the Servicemembers Legal Defense Network, a group that defends homosexuals in the military.

Six were specializing in Arabic, two were studying Korean and one was studying Mandarin Chinese. All were at the Defense Language Institute in Monterey, the military's primary language training center.

The government has aggressively recruited Arabic speakers since the Sept. 11 attacks.

''We face a drastic shortage of linguists, and the direct impact of Arabic speakers is a particular problem,'' said Donald R. Hamilton, who documented the need for more linguists in a report to Congress as part of the National Commission on Terrorism.

One of the discharged linguists said the military's policy on gays is hurting its cause.

''It's not a gay-rights issue. I'm arguing military proficiency issues they're throwing out good, quality people,'' said Alastair Gamble, a former Army specialist.

Harvey Perritt, spokesman for the Army Training and Doctrine Command at Fort Monroe in Tidewater, Va., confirmed the dismissals occurred between October 2001 and September 2002, but declined to comment further on the cases.

He said 516 linguists enrolled in the Arabic course this year at the Monterey institute and 365 graduated.

The military's ''don't ask, don't tell'' policy allows gays to serve provided they keep quiet about their sexual orientation.

Gamble and former Pfc. Robert Hicks were discovered in Gamble's room during a surprise inspection in April, Gamble said.

After their discharges, Gamble and Hicks applied for other federal jobs where they could use their language skills in the war on terrorism, but neither was hired, Gamble said.

[From the New Republic, Nov. 18, 2002]

''DON'T ASK, DON'T TELL'' V. THE WAR ON TERRORISM

(By Nathaniel Frank)

On October 25, one week after CIA Director George Tenet warned that the United States now faces a terrorist threat every bit as grave as it did the summer before the September 11 attacks, the Council on Foreign Relations issued the most sobering report to date: ''America remains dangerously unprepared to prevent and respond to a catastrophic terrorist attack. In all likelihood, the next attack will result in even greater casualties and widespread disruption to American lives and the economy.''

The key to preventing that kind of calamity, most experts agree, is intelligence. And one of the basic requirements of good intelligence about the Arab world is the ability to speak its language. Unfortunately, study after study has indicated that the U.S. government faces a severe shortage of Arabic speakers. Less than one month after September 11, 2001, a House Intelligence Committee report criticized the FBI, CIA, and National Security Agency (NSA) for relying on ''intelligence generalists'' rather than linguists with expertise in a specific foreign language, culture, and geographical area. The report concluded that ''at the NSA and CIA, thousands of pieces of data are never analyzed, or are analyzed 'after the fact' because there are too few analysts; even fewer with the necessary language skills. Written materials can sit for months, and sometimes years, before a linguist with proper security clearances and skills can begin a translation.'' According to a Government Accounting Office (GAO) study released in January 2002, in 2001, the U.S. Army, FBI, and State and Commerce Departments failed to fill all their jobs that required expertise in Arabic, Chinese, Korean, Farsi, or Russian. The GAO study concluded that staff shortages at these agencies ''have adversely affected agency operations and compromised U.S. military, law enforcement, intelligence, counterterrorism and diplomatic efforts.'' As recently as last month, the Associated Press reported that the Army faces such a critical shortage of Arabic speakers that it is considering recruiting non-Americans from Middle Eastern countries into its Special Forces teams.

Which makes it all the more shocking that, in a two-month period this fall, the Defense Language Institute (DLI)—an elite training school for military linguists in Monterey, California—discharged seven fully competent Arabic linguists. The reason? They were discovered to be gay.

DLI is a language-training center run by the Army, but soldiers from all major military branches study there. Because of its battery of entrances tests and the intensity of its courses, DLI is reputed to attract students who are older and more skilled than most enlisted personnel. Its Northern California location also, it seems, attracts a large share of gay students. ''There were way too many gay people at DLI for anybody to fear the 'don't ask, don't tell' policy,'' says one gay former student who arrived at DLI in 2001. While there, he was out to all his gay peers and to any enlisted personnel who seemed gay-friendly. ''Nobody cared,'' he explains. ''I knew someone who was a flaming queen in a uniform, and nobody cared. Sometimes we lived on halls that were more than 50 percent homosexual. ...I never even got a sideways glance.''

Still, this tolerant atmosphere does not extend to commanders, who, when a soldier's homosexuality is clearly discovered, are forced by federal law to pursue and expel him. This includes highly trained linguists like Alastair Gamble, an Emory University-educated Army specialist fired from DLI this August after completing more than 30 weeks of intensive Arabic. (DLI's Arabic course requires 63 weeks for a basic knowledge, compared with only 25 weeks for Spanish, French, Italian, or Portuguese, and only the strongest students are selected to take it.) Gamble was a human-intelligence collector, a position the GAO report cited as one of the Army's ''greatest foreign language needs.'' And Gamble was a catch for DLI in other ways, too. He had studied German for seven years in high school and continued in college, where he also studied Latin and linguistics. Once in the Army, he completed interrogation training, a nine-week intelligence course that trains a small number of soldiers to collect information through direct questioning techniques. He then spent six weeks working for the Foreign Area Officer program, which trains officers to work with U.S. allies, where his performance won him a Certificate of Commendation from his commander. He entered DLI in June 2001 to study Arabic and earned a perfect 300 on his physical fitness test. Gamble reports that his grades placed him at the top of his class and that several teachers told him they thought he was the strongest student in the class.

In April, Gamble was finishing his second semester of the Arabic basic course at DLI when, during a surprise ''health and welfare'' inspection at 3:30 a.m., he was caught in his room with his boyfriend, also an army language specialist. (In eight months of dating, the two men say they had never before broken visitation policies. But Gamble's boyfriend was nearing the end of his course and preparing to relocate to Goodfellow Air Force Base in Texas. As their separation approached, they decided they could risk one night of sleeping side by side.) After the two men were found in bed, nearly a dozen people searched the room while Gamble was escorted to his First Sergeant's office. Gamble says he was not yet thinking about being discharged. ''I was just absolutely embarrassed,'' he recalls. ''There's really nothing like having someone who's your age, but a slight rank above you, discussing whether or not lube is sufficient evidence to prove homosexuality. It's like getting felt up; it's horrible.'' The searched turned up a gay-themed, non-pornographic film, photographs showing affectionate, but not sexual, behavior between Gamble and his boyfriend, and several gift cards expressing romantic sentiments. Two weeks later, Gamble was officially notified that his unit was initiating an investigation into his sexual orientation. He was pulled from class and honorably discharged on August 2. About eight weeks later, his boyfriend was discharged as well.

Gamble and his boyfriend are no alone. The Servicemembers Legal Defense Network (SLDN), a legal aid and advocacy organization that assists men and women harmed by ''don't ask, don't tell,'' announced in its latest quarterly report that it had assisted six other Arabic speakers recently discharged from DLI for being gay. Though only two chose to speak publicly, SLDN reports that all seven soldiers were fired while in the midst of, or having completed, the intensive DLI Arabic training course.

The army has cast the firings as routine enforcement of Army regulations. Harvey Perritt, a spokesman for U.S. Army Training and Doctrine Command, says the expulsions of competent Arabic linguists are ''not relevant'' to the nation's current war against largely Arabic-speaking terrorists. He insists that discharges resulting from ''don't ask, don't tell'' are consistent with those for other violations of Army regulations. ''If someone is enrolled somewhere and they don't pass the P.T. [physical training] standards,'' he says, by way of comparison, ''they'll be discharged. There are policies and they are always in effect.''

But, regardless of what you believe about gays in the military, that's just not true. Both during the Gulf war and after the September 11 attacks, the Pentagon authorized ''stop-loss'' orders, allowing branch secretaries to retain soldiers who would otherwise be discharged for committing petty crimes, minor physical shortcomings, or other reasons. What's more, the military even has a history of suspending personnel policies regarding gays and lesbians during wartime, when it needs maximum retention of soldiers. In 1991, The Wall Street Journal reported that the Pentagon had allowed homosexuals to serve in the Persian Gulf, despite a ban on all gay service, and only moved to discharge several gay veterans after the war ended. For his best-selling 1993 book, Conduct Unbecoming, the late San Francisco Chronicle reporter Randy Shilts interviewed two Arab-language specialists fired from the Army for being gay. According to Shilts, the NSA contacted the two when the Gulf war began, begging them to return to service to help the war effort. (The two men declined.)

In other words, the military implicitly acknowledges that, during wartime, the gay ban may undermine national security rather than protect it. And since its leaders have consistently argued that national security should be the only criterion for determining whether gays should serve, it may be time for a new look at an ''interim'' policy formulated nearly ten years ago. Today's war on terrorism is less about squadrons and battalions than about deciphering the behavior of a shadowy enemy who attacks in secret. For national security's sake, let's hope our leaders are finally ready to acknowledge in public what they're admitted privately for quite some time: It is this enemy that threatens our nation's freedoms and survival, not the open homosexuality of patriotic Americans standing ready to serve.

Ms. PELOSI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to associate myself with the concerns expressed by the gentleman from Massachusetts (Mr. FRANK) regarding putting national security second to anything. It is our first priority to protect the American people. It is in the Preamble to the Constitution first to provide for the common defense and we really must revisit this idea, especially at the time of such tremendous need for linguistic skills, especially in the languages expressed by the gentleman from Massachusetts (Mr. FRANK).

Mr. Speaker, I am pleased to thank so many people who made this bill possible, my distinguished chairman for sure, all of the members of the committee acting in bipartisan fashion, and I want to commend the wonderful staff that we have. I want to acknowledge on the Democratic side our counsel Mike Sheehy who heads up the Democratic staff. We do not really think in terms of Democrat and Republican. It just somehow breaks down that way.

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But we act in a very bipartisan way, members and staff. Chris Healey, Beth Larson, Ilene Romack, Wyndee Parker, Carolyn Bartholomew, Bob Emmett, Kirk McConnell, Marcel Lettre and, again, Mike Sheehy, who heads up our side. I want to commend Tim Sample, who is the major honcho staff person of the Committee, Chris Bartow, Mike Meermans and all of the other members of the staff for all of their hard work.

Mr. Speaker, I want to just respond briefly, because the hour is late, very briefly, to the very serious concerns and the sincerity in which they were expressed by the gentleman from Illinois (Mr. LAHOOD). The purpose of the commission is not to assign blame; it is to find out why and how 9–11 happened. I agree with the gentleman, if the purpose is to assign blame, we should not have the commission. That would not be constructive. But we must try our very best to make sure that a 9–11 or anything like it does not happen again; and in order to do that, we have to get to the bottom of it.

This commission will build on the work of the Joint Inquiry, in which this committee and the Senate committee have been engaged, and we are very pleased with the work of our staff director, Eleanor Hill, and the very, very able staff of the inquiry. It will build on that.

But this commission, the purpose of it is to have fresh eyes take a new fresh look at what happened and also to go beyond those agencies of government that the inquiry has looked at, to look at every agency of government that had any responsibility for protecting the American people from terrorism.

So with that, Mr. Speaker, I would just say as we go into this commission, we are walking on hallowed ground. There is no place for politics or assigning blame here, but we do have a responsibility to reduce risk to the American people, to find answers as to why 9–11 happened, to prevent it from happening again, to provide comfort to the families who have been a source of strength. We try to console them. They are an inspiration and a source of strength to us, as the gentleman from Indiana (Mr. ROEMER) indicated.

Whatever we do, we must bring honor to the memory of those who lost their lives on September 11. I think our work in the Joint Inquiry is an excellent product, will be an excellent product when the report comes out, and that this work of the independent commission will bring honor to the memory of those who died as well.

Mr. Speaker, I urge our colleagues to support the conference report.

Mr. Speaker, I yield back the balance of my time.

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to point out that we always have in the intelligence community many options and many things to consider; and while we do it on a bipartisan basis, we do not always agree on what are the best ways to proceed when you are dealing with some very complex questions of national security. Part of the richness of the judgment of our committee, I think, is we do have many perspectives, and we have heard some of them here tonight. I think that bodes well for our institution.

I would also, in addition to thanking the gentleman from Indiana (Mr. ROEMER) for his persistence and commitment to the idea of where we go next from the Joint Committee with our review process, like to underscore that other Members have been very helpful in the breakthrough. Certainly Members of the other body as well, but I want to thank the gentleman from Georgia (Mr. CHAMBLISS) in particular, who has been referred to already as the gentleman who led with the gentlewoman from California (Ms. HARMAN) the Subcommittee on Terrorism and Homeland Security effort, which was very important and a landmark piece for our work. The gentleman from Georgia (Mr. CHAMBLISS) was also a man who was instrumental in the breakthrough on the compromise that we came through on the independent commission. So I think that he is owed a special thanks for that.

For the family groups, the survivors of 9–11, Stephen Push and Kristin Breitweiser and so forth, we referred to them and spent hours talking to them, I suppose, collectively between all of us.

We all know that we have a responsibility, and I totally agree with my distinguished ranking member about the hallowed ground involved. I do not suppose a day has gone by since 9–11 that I and other members of our committee and perhaps all of us in the room have not thought, is there something we missed? Should we have known? Did we fail in our oversight? Did something go wrong? Was there a smoking gun? Did we somehow fail the American people? Were we derelict in our duty? I can honestly look Kristin Breitweiser and Stephen Push or anybody else in the eye and say I know of no such failure. I know of collectively a lot of things we could have done better, but I see nothing yet that leads me to a smoking gun.

This year we have joined with the other body in doing a very intense review of the 9–11 event. It is not over. We will be issuing a report and that will lead to further efforts. That is appropriate. We will see where that takes us.

The question still needs to be asked and will continue to need to be asked, did we miss something? Did we do our oversight right? I hope the next commission on oversight, on the 9–11 review, will in fact come back to the congressional oversight and find out if we did our job properly.

I think we are accountable on these committees. I am certainly prepared for that, and I would love the opportunity to answer questions and give the point of view of the committee, because I am very proud of the effort that our committee has put into that. But it does not mean we have all the wisdom or judgment in the world.

Besides that review, we have tried very hard to make sure we understand the nature of the threat we are fighting in the war on terrorism and anthrax and propaganda and all the other miscreants that we deal with now on the basis of whether they are terrorists or violators of law. We are not quite sure, but they need to be stopped in their tracks. So we are fighting a global war, and we have got men and women out there taking risks, taking chances, doing hard work and sometimes, sadly, getting killed. Those people we owe a responsibility to.

The oversight and the advocacy role of our committee is on their behalf as well, to make sure they have the tools, the training, the capabilities they need to do their job, to protect all of us and to make sure in this very specialized area of intelligence they are operating in bounds, because we have promised the American people, our constituency, that we will make sure that we never violate our pledge to the American people that we will not spy on the American people. We will preserve our liberty. So we take that very seriously as well.

Then I think we come to the next question, and that is the question of catching the perpetrators of 9–11. Certainly we have not got them all, and certainly we have learned in the past 48 hours or so that Osama bin Laden himself may still be alive. This is ongoing. It will require patience, and it will require commitment. I would thank the members of the committee, the members of the staff and all who have helped us in that commitment, because that commitment remains before this body.

On behalf of the American people, I urge support for this very important bill.

Mr. GIBBONS. Mr. Speaker, I rise in support of the Intelligence Authorization bill, and I thank my friend and colleague from Florida for yielding me this time.

This is a very good bill. It addresses intelligence needs that were identified in past years by the Intelligence Committee. But only in the past year, after the deaths of innocent Americans, and innocent citizens of other countries,

are these needs getting the broad attention they deserve.

Throughout much of the 1990's, after the end of the Cold War, there was a debate about whether America really needed to spend so much money on defense. As for intelligence, some people even said there was no longer any need for the CIA. I believe that debate is now over.

The bill before you today will help the intelligence agencies increase and sharpen their effectiveness—especially against terrorist groups.

If you want to know the plans and intentions of terrorist groups you have to have HUMINT—''human intelligence''. This is the information you get from human sources—also known as ''assets'' or ''agents'' or simply ''spies''. I want to emphasize that this year's intelligence authorization bill does a great deal to strengthen our HUMINT capability. For one thing, there is money to hire more CIA operations officers.

CIA's operations officers are doing a great job, but they are few and far between. We need more, and this bill will help ensure that there will be more. This bill also provides money to hire more intelligence analysts and linguists. Likewise, there is money for more foreign language training. It is not hard to understand that if your operations officers and analysts have not learned the language of your enemy, you will not succeed in learning his plans and intentions.

These HUMINT and foreign language-related items are just some of the good provisions of this Intelligence Authorization bill. They are long overdue.

The clock is ticking, and America's enemies continue with their planning. I urge your support for our intelligence professionals, and I urge your support for this bill.

Mr. GOSS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mr. WHITFIELD). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LAHOOD. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 366, nays 3, not voting 62, as follows:

[Roll No. 483]

YEAS—366

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldwin
Barrett
Bartlett
Barton
Bass
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blumenauer
Blunt
Boehlert
Bonilla
Bono
Boozman
Boswell
Boucher
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clayton
Clyburn
Coble
Collins
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Gekas
Gephardt
Gibbons
Gilchrest
Gonzalez
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Gutierrez
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Horn
Hostettler
Hoyer
Hulshof
Hunter
Inslee
Isakson
Israel
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
Lampson
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McIntyre
McKeon
McNulty
Meehan
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, George
Miller, Jeff
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Pallone
Pastor
Payne
Pelosi
Pence
Peterson (MN)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Smith (MI)
Smith (NJ)
Snyder
Solis
Souder
Spratt
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watts (OK)
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Young (AK)

NAYS—3

Kerns
LaHood
Paul

NOT VOTING—62

Baldacci
Ballenger
Barcia
Barr
Becerra
Blagojevich
Boehner
Bonior
Borski
Boyd
Callahan
Clay
Clement
Combest
Condit
Conyers
Cooksey
Diaz-Balart
Doolittle
Ehrlich
Ford
Ganske
Gillmor
Gilman
Gordon
Greenwood
Grucci
Hastings (FL)
Hooley
Houghton
Hyde
Issa
Keller
King (NY)
Lantos
Lipinski
Markey
McInnis
McKinney
Meek (FL)
Miller, Gary
Murtha
Oberstar
Oxley
Pascrell
Peterson (PA)
Rangel
Roukema
Sawyer
Sensenbrenner
Slaughter
Smith (TX)
Smith (WA)
Stark
Stearns
Stump
Sununu
Toomey
Watt (NC)
Waxman
Wynn
Young (FL)

□ 0042

Mr. KERNS changed his vote from ''yea'' to ''nay.''

Mr. ALLEN changed his vote from ''nay'' to ''yea.''

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. PASCRELL. Mr. Speaker, on rollcall No. 483, I was unavoidably absent. Had I been present, I would have voted ''yea.''

GENERAL LEAVE

Mr. GOSS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4628 and the conference report just considered and passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

TRIBUTE TO TERRY MORRIS

(Mr. TOM DAVIS of Virginia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise to honor our friend, my neighbor, Terry Morris, the Tally Clerk of the House, who is going to retire this December after 33 years of service to the House of Representatives.

Mr. Speaker, Terry accepted a position as Assistant Tally Clerk 33 years ago, and 16 years later he took over the helm as the Chief Tally Clerk, responsible for all votes in the House of Representatives. At the time of his retirement, Terry will have served longer in the House than all but 5 of the 435 currently serving Members.

During Terry Morris' tenure, the House has voted on the Gulf War, giving 18-year-olds the right to vote, impeachment, on antiterrorism measures in the wake of the attacks on September 11, and on authorizing the President to use military force against the threat of weapons of mass destruction from Iraq.

Terry's professional objectivity and down-to-earth style have made him many friends among Members on both sides of the aisle, particularly among new Members, whom he assists in familiarizing themselves with voting procedures. Terry's service has spanned both Democratic and Republican majorities, during which time his goal has always been to serve the whole House of Representatives, regardless of party.

Perhaps Terry's most unusual and important day as Tally Clerk came on December 19, 1998, when the House took four votes over a period of 2 hours on four separate articles of impeachment, two of which passed and two of which failed. Terry has been quoted as saying, ''Of the thousands of votes I had taken in my career, I knew this would be the most significant.''

Terry is originally from Madison, Wisconsin, where he majored in political science at the University of Wisconsin at Madison. Terry and his wife, Barbara, have two sons, Tim, a senior at Mary Washington College in Fredericksburg, Virginia, and Christopher, a sophomore at Bishop O'Connell High School in Arlington, Virginia. Terry is an avid golfer and tennis player, and one of the founders of the Capitol Hill Tennis Club. In his retirement, Terry intends to spend more time golfing, playing tennis and visiting friends around the country.

So we wish you Godspeed, Terry. We thank you for everything that you have given of yourself to this institution. We are the better for having known you, and the poorer for your leaving. We will not forget you.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. TOM DAVIS of Virginia. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, let me simply say in addition to being educated at the University of Wisconsin, where he did receive a degree in political science, I would point out that I knew him before he worked here when he was a page in the Wisconsin Legislature, when he looked just a little bit younger than both he and I look tonight.

I just want to say that I know that every day the American people look in on this institution on C-SPAN and they see these faces at the desk, they have no idea who these people are and what they do. They have no idea the contribution they make to the Republic. Terry has done everything except the one thing which is impossible: It has been impossible for him to make us look better than we deserve, and so we are going to have to let it go at that.

Terry, we wish you luck in retirement.

Ms. WATERS. Mr. Speaker, will the gentleman yield?

Mr. TOM DAVIS of Virginia. I yield to the gentlewoman from California.

Ms. WATERS. Mr. Speaker, I would just like to take a moment to add to the words of my colleagues about a most unusual man.

Terry Morris sits at that desk, impeccable in his dress, never a hair out of place, a smile on his face, serving day in and day out. He goes so far as to remind Members they have not voted by looking for them in every imaginable way, connecting with his eyes, reminding Members they have voted twice and they should not do that. He is perhaps one of the friendliest clerks and assistant that we have in this House. He helps Members regardless of party, and he has made friends on both sides of the aisle.

One of my joys in this House is coming in and seeing his face, speaking with him, exchanging a few words and just knowing he is going to be there for me and all of us. I am sorry to see him leave. He is one of those persons we would like to have stay forever; but after 33 years he deserves to retire. I wish him well.

Mr. MORAN of Virginia. Mr. Speaker, will the gentleman yield?

Mr. TOM DAVIS of Virginia. I yield to the gentleman from Virginia.

Mr. MORAN of Virginia. Mr. Speaker, as the gentleman from Virginia (Mr. TOM DAVIS) has mentioned all of the specifics of Terry Morris' life, I would just add that he is a constituent of mine. I am proud that is the case. But in so many ways, he is a constituent of this entire United States Congress. This is where he chose to spend most of his life, 33 years. Imagine, he has been up there for 33 years, 16 years as Assistant Clerk, and the last 17 as the Chief Tally Clerk.

As our colleague just stated, we take it for granted, every time we pass in that vote, Terry is smiling. He is looking professional. He is even looking alert. Here it is after midnight, and he is still smiling and looking alert. I do not know that we can do it. He does it day in and day out in such a way that we take it for granted. That is the kind of professionalism that the American public counts on.

□ 0050

When they have seen him on C–SPAN, I know he has just been sort of part of the institution, but the people listening in and who may one day read the CONGRESSIONAL RECORD ought to know that in many ways there is no more prized servant of the American people than Terry Morris has proven himself to be.

And so for the person you are and for what you have contributed to this institution, Terry, we will forever be grateful. Thank you.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I yield to the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Speaker, I thank the distinguished gentleman from Virginia for yielding. I rise today to pay tribute to Terry Morris, who is retiring after 33 years of distinguished service to this House of Representatives. He has served as an assistant tally clerk and has fulfilled the duties of chief tally clerk for the past 16 years and more with great distinction. He is one of those who quietly and in an unassuming fashion makes this House of Representatives work.

In a body which is characterized by high levels of partisanship and by strong feelings, I would note that he has not only served with distinction but with fairness, and he has served well. He is known for his professional and friendly personality and for the fact that he has carried out his responsibilities with dignity, with respect for the institution, and with good faith towards all of the Members of this body. He has been an officer of this House for 33 years. He has seen history made. He has worked on many difficult and complex issues with fairness and impartiality. His service has spanned the careers of five Democratic Speakers and two Republican Speakers of this House. I speak not only on my own behalf but on behalf of his many friends in this institution when I commend him for his work and for his effort.

All of us here offer our best wishes and gratitude to him for his service and to his wife, Barbara. We wish them great happiness and the best of all things as they embark on a new chapter in their lives. All of us say to Terry Morris, not only thank you, but well done, Terry. We are grateful for what you have done for us.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I yield to the gentleman from Wisconsin (Mr. KIND).

Mr. KIND. I thank my friend for yielding. As someone who hails from our neck of the woods and whose family is still sprinkled in many of our congressional districts, it is with special pride that we are here to honor you and to thank you for your many years of service in this great House, Terry. I was just 5 years old when you started your career here. Not to date you, but you have lived through eight administrations and seven separate Speakers of the House of Representatives. So I think it is safe to say that you are a great repository of a lot of the institutional memory that exists in this place. Besides you and Charlie, I think you two are the only two who probably recall the Members whose names we are honoring on courthouses and post offices throughout this country virtually every week out here. But I also want to thank you for what you mean for our government.

There is a lot of cynicism in regards to our political system today, and a lot of times that is because the only thing people back home see is the partisan clashes and the heated debates that we have. I feel it is part of our obligation to go home and report to people who do not see what we get to see how well our government functions and the fact that we have thousands of employees, in the Federal agencies, in our offices, in this House who wake up every morning with the sole goal of trying to improve this great country of ours. You do it with honor, you do it with integrity, and you do it with a lot of style and a lot of class. That is why I, after my third term, am even more hopeful and optimistic about this great government of ours, because of people like you.

I just have one request before you do leave, and that is to make sure that you download all the information that is in your brain and make sure it is all written so that we do not have to recreate the wheel. I will never forget the story you told me that after one of the late tally votes, which is seldom held around here anymore, someone asked you where the written procedure is for the tally vote, and you looked at them with a blank expression and said, ''There is no written procedure. It's right here.'' Everyone was shocked and horrified that you were going to go home that night being the only one with the knowledge on how to do this type of work. So you sat down before you went home and actually wrote out what the procedure is like.

Again, we thank you for your great service. I personally thank you for all the conversations and the advice that you have given me. We wish you and Barbara and the two boys all the best in your retirement. Thank you very much.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I yield to the gentleman from Michigan (Mr. KILDEE).

Mr. KILDEE. Mr. Speaker, a very loyal and distinguished member of the House staff is retiring after 33 years. I personally owe much to him for helping me preserve my longtime voting record. More than once he has advised the Speaker that I had not yet arrived. I am grateful to him for that. Terry's service has spanned five Democratic Speakers and two Republican Speakers of the House. Many people can spend 33 years here and never have to vote on the awesome question of war or impeachment. He has experienced both of those awesome questions here in his responsibility.

Terry and his wife, Barbara, have two sons: Tim, a senior at Mary Washington College in Fredericksburg, Virginia, and Christopher, a sophomore at Bishop O'Connell High School in Arlington, Virginia.

Terry will be greatly missed. He is a friend of this House. He is a personal friend of mine. I am a better person because of Terry Morris.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I yield to the gentlewoman from Wisconsin (Ms. BALDWIN).

Ms. BALDWIN. Terry, as a fellow Madisonian and a fellow Wisconsinite, you have made us very proud. Terry reminds me of what is great about the people of Wisconsin. We are actively involved in our democracy and government, and we have an outstanding work ethic. Wisconsinites understand what it means to serve their country; and Terry Morris has done so impeccably, in both his capacity as assistant tally clerk and as chief tally clerk. He has been a good friend to me in our frequent reminiscences about Wisconsin and Madison. I will miss you very much. Terry, thank you so very much for your service to this House and this Nation. You make Wisconsin proud. You make all of us proud. Best wishes in your retirement.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I yield to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Terry, your service has been recalled and set before us. All of us appreciate your service, that is clear. I think you are emblematic of the fine service that is given by those of you who do not get to speak on this floor, those of you whose names do not scroll across the screen, those of you who work anonymously but so effectively on behalf of the American public. Terry, I wanted to add my thanks and the thanks of all the Members of this side of the aisle, along with TOM on behalf of all the Members on that side of the aisle, because you work not in a partisan sense but you work for this institution to ensure that the people's House functions as the people would like. As TOM DAVIS said, we will miss you. You have served your country well. God bless you.

CONFERENCE REPORT ON H.R. 333, BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2002

Mr. GEKAS. Mr. Speaker, I call up the conference report to accompany the bill (H.R. 333) to amend title 11, United States Code, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. SIMPSON). Pursuant to clause 8, subsection C of rule XXII, the conference report is considered read.

POINT OF ORDER

Mr. BLUNT. Mr. Speaker, I make a point of order under clause 9 of rule XXII that the conference report includes matter outside the scope of the differences between the two Houses that were committed to the conference committee for resolution. I specifically cite section 331 of the conference report which is described in the joint explanatory statement of the managers as having no counterpart in either the House bill or the Senate amendment.

The SPEAKER pro tempore. Does any other Member wish to be heard on the point of order?

Mr. FRANK. Mr. Speaker, I wish to be heard on the point of order.

Mr. Speaker, I gather that this point of order is being lodged by the leadership of the House against the very bill that the leadership of the House was trying to persuade Members to vote for a couple of hours ago. So my concern is, how did a bill that was perfectly in order at about 8 o'clock fall out of order?

□ 0100

And I am concerned that we have a situation in which the leadership of this House apparently consciously brought forward a bill that they knew to be violative of the rules of the House, sought to pass it, and when not enough arms could be twisted, they now have become late converts to the rules.

PARLIAMENTARY INQUIRY

Mr. FRANK. So, Mr. Speaker, I do have a parliamentary inquiry. I am sorry the gentlemen do not want to hear this flip-flop, but I did not bring it up. I have a parliamentary inquiry, Mr. Speaker, which I believe is regular order. You might want to explain to a few of them over there. I understand on that side knowledge and commitment to the rules is a sometime thing, but a parliamentary inquiry is in order.

Is this bill against which the point of order has been lodged exactly the same bill that the leadership was trying to get people to vote for a few hours ago?

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman has not raised a parliamentary inquiry.

Mr. FRANK. The parliamentary inquiry is, is this the same piece of legislation on which we voted a couple of hours ago? I think a parliamentary inquiry is relevant when we ask about what is in fact before the House. I have not had a chance to read it. Is this the same bill that the House was voting on a few hours ago?

The SPEAKER pro tempore. The conference report called up by the gentleman from Pennsylvania (Mr. GEKAS) that is the object of the pending point of order was earlier the object of House Resolution 606, which the House rejected. The gentleman from Pennsylvania (Mr. GEKAS) may make a motion after the Chair rules. He has not made that and it is not pending before the House now.

Mr. FRANK. Pardon me, Mr. Speaker, but the gentleman from Missouri (Mr. BLUNT) has made a point of order against something. I guess that is the question. The parliamentary inquiry is against what it is that the gentleman from Missouri has lodged a point of order? You said does anyone want to be heard on the point of order. He made a point of order. Against what vehicle did he make a point of order, then?

The SPEAKER pro tempore. The point of order is against the conference report against which no points of order have been waived.

Mr. FRANK. So the point of order is against the very conference report that this leadership which is now making the point of order tried to pass. I have

heard about being born again in some context, but born again parliamentarian is a new concept to me, and I think it ought to be clear. I want to be heard on the point of order, and I want to say that I want to defend the House leadership. If you sustain this point of order, you will be ruling that the very bill this House leadership tried to get majority Members to vote for a few hours ago was out of order. I do not think we ought to have the ruling calling into question the fealty of the House Republican leadership to the Rules of the House.

The SPEAKER pro tempore. Does any other Member wish to be heard on the point of order?

If not, for the reasons stated by the gentleman from Missouri (Mr. BLUNT) the point of order is sustained and the conference report is vitiated.

CONCURRING IN SENATE AMENDMENT, WITH AN AMENDMENT, TO H.R. 333, BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2001

Mr. GEKAS. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. GEKAS moves that the House recede from disagreement to the Senate amendment and concur therein with the following amendment:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the matter after the enacting clause in H.R. 5745 as introduced on November 14, 2002.

The text of H.R. 5745 is as follows:

H.R. 5745

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

SECTION 1. SHORT TITLE; REFERENCES; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Bankruptcy Abuse Prevention and Consumer Protection Act of 2002''.

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

Sec. 1. Short title; references; table of contents.

TITLE I—NEEDS-BASED BANKRUPTCY

Sec. 101. Conversion.
Sec. 102. Dismissal or conversion.
Sec. 103. Sense of Congress and study.
Sec. 104. Notice of alternatives.
Sec. 105. Debtor financial management training test program.
Sec. 106. Credit counseling.
Sec. 107. Schedules of reasonable and necessary expenses.

TITLE II—ENHANCED CONSUMER PROTECTION

Subtitle A—Penalties for Abusive Creditor Practices

Sec. 201. Promotion of alternative dispute resolution.
Sec. 202. Effect of discharge.
Sec. 203. Discouraging abuse of reaffirmation practices.
Sec. 204. Preservation of claims and defenses upon sale of predatory loans.
Sec. 205. GAO study and report on reaffirmation process.

Subtitle B—Priority Child Support

Sec. 211. Definition of domestic support obligation.
Sec. 212. Priorities for claims for domestic support obligations.
Sec. 213. Requirements to obtain confirmation and discharge in cases involving domestic support obligations.
Sec. 214. Exceptions to automatic stay in domestic support obligation proceedings.
Sec. 215. Nondischargeability of certain debts for alimony, maintenance, and support.
Sec. 216. Continued liability of property.
Sec. 217. Protection of domestic support claims against preferential transfer motions.
Sec. 218. Disposable income defined.
Sec. 219. Collection of child support.
Sec. 220. Nondischargeability of certain educational benefits and loans.

Subtitle C—Other Consumer Protections

Sec. 221. Amendments to discourage abusive bankruptcy filings.
Sec. 222. Sense of Congress.
Sec. 223. Additional amendments to title 11, United States Code.
Sec. 224. Protection of retirement savings in bankruptcy.
Sec. 225. Protection of education savings in bankruptcy.
Sec. 226. Definitions.
Sec. 227. Restrictions on debt relief agencies.
Sec. 228. Disclosures.
Sec. 229. Requirements for debt relief agencies.
Sec. 230. GAO study.
Sec. 231. Protection of personally identifiable information.
Sec. 232. Consumer privacy ombudsman.
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TITLE I—NEEDS-BASED BANKRUPTCY

SEC. 101. CONVERSION.

Section 706(c) of title 11, United States Code, is amended by inserting ''or consents to'' after ''requests''.

SEC. 102. DISMISSAL OR CONVERSION.

(a) IN GENERAL.—Section 707 of title 11, United States Code, is amended—

(1) by striking the section heading and inserting the following:

''§ 707. Dismissal of a case or conversion to a case under chapter 11 or 13'';

and

(2) in subsection (b)—

(A) by inserting ''(1)'' after ''(b)'';

(B) in paragraph (1), as so redesignated by subparagraph (A) of this paragraph—

(i) in the first sentence—

(I) by striking ''but not at the request or suggestion of'' and inserting ''trustee, bankruptcy administrator, or'';

(II) by inserting '', or, with the debtor's consent, convert such a case to a case under chapter 11 or 13 of this title,'' after ''consumer debts''; and

(III) by striking ''a substantial abuse'' and inserting ''an abuse''; and

(ii) by striking the next to last sentence; and

(C) by adding at the end the following:

''(2)(A)(i) In considering under paragraph (1) whether the granting of relief would be an abuse of the provisions of this chapter, the court shall presume abuse exists if the debtor's current monthly income reduced by the amounts determined under clauses (ii), (iii), and (iv), and multiplied by 60 is not less than the lesser of—

''(I) 25 percent of the debtor's nonpriority unsecured claims in the case, or $6,000, whichever is greater; or

''(II) $10,000.

''(ii)(I) The debtor's monthly expenses shall be the debtor's applicable monthly expense amounts specified under the National Standards and Local Standards, and the debtor's actual monthly expenses for the categories specified as Other Necessary Expenses issued by the Internal Revenue Service for the area in which the debtor resides, as in effect on the date of the entry of the order for relief, for the debtor, the dependents of the debtor, and the spouse of the debtor in a joint case, if the spouse is not otherwise a dependent. Notwithstanding any other provision of this clause, the monthly expenses of the debtor shall not include any payments for debts. In addition, the debtor's monthly expenses shall include the debtor's reasonably necessary expenses incurred to maintain the safety of the debtor and the family of the debtor from family violence as identified under section 309 of the Family Violence Prevention and Services Act, or other applicable Federal law. The expenses included in the debtor's monthly expenses described in the preceding sentence shall be kept confidential by the court. In addition, if it is demonstrated that it is reasonable and necessary, the debtor's monthly expenses may also include an additional allowance for food and clothing of up to 5 percent of the food and clothing categories as specified by the National Standards issued by the Internal Revenue Service.

''(II) In addition, the debtor's monthly expenses may include, if applicable, the continuation of actual expenses paid by the debtor that are reasonable and necessary for care and support of an elderly, chronically ill, or disabled household member or member of the debtor's immediate family (including

parents, grandparents, siblings, children, and grandchildren of the debtor, the dependents of the debtor, and the spouse of the debtor in a joint case who is not a dependent) and who is unable to pay for such reasonable and necessary expenses.

''(III) In addition, for a debtor eligible for chapter 13, the debtor's monthly expenses may include the actual administrative expenses of administering a chapter 13 plan for the district in which the debtor resides, up to an amount of 10 percent of the projected plan payments, as determined under schedules issued by the Executive Office for United States Trustees.

''(IV) In addition, the debtor's monthly expenses may include the actual expenses for each dependent child less than 18 years of age, not to exceed $1,500 per year per child, to attend a private or public elementary or secondary school if the debtor provides documentation of such expenses and a detailed explanation of why such expenses are reasonable and necessary, and why such expenses are not already accounted for in the National Standards, Local Standards, or Other Necessary Expenses referred to in subclause (I)

''(V) In addition, the debtor's monthly expenses may include an allowance for housing and utilities, in excess of the allowance specified by the Local Standards for housing and utilities issued by the Internal Revenue Service, based on the actual expenses for home energy costs if the debtor provides documentation of such actual expenses and demonstrates that such actual expenses are reasonable and necessary.

''(iii) The debtor's average monthly payments on account of secured debts shall be calculated as the sum of—

''(I) the total of all amounts scheduled as contractually due to secured creditors in each month of the 60 months following the date of the petition; and

''(II) any additional payments to secured creditors necessary for the debtor, in filing a plan under chapter 13 of this title, to maintain possession of the debtor's primary residence, motor vehicle, or other property necessary for the support of the debtor and the debtor's dependents, that serves as collateral for secured debts;

divided by 60.

''(iv) The debtor's expenses for payment of all priority claims (including priority child support and alimony claims) shall be calculated as the total amount of debts entitled to priority, divided by 60.

''(B)(i) In any proceeding brought under this subsection, the presumption of abuse may only be rebutted by demonstrating special circumstances that justify additional expenses or adjustments of current monthly income for which there is no reasonable alternative.

''(ii) In order to establish special circumstances, the debtor shall be required to itemize each additional expense or adjustment of income and to provide—

''(I) documentation for such expense or adjustment to income; and

''(II) a detailed explanation of the special circumstances that make such expenses or adjustment to income necessary and reasonable.

''(iii) The debtor shall attest under oath to the accuracy of any information provided to demonstrate that additional expenses or adjustments to income are required.

''(iv) The presumption of abuse may only be rebutted if the additional expenses or adjustments to income referred to in clause (i) cause the product of the debtor's current monthly income reduced by the amounts determined under clauses (ii), (iii), and (iv) of subparagraph (A) when multiplied by 60 to be less than the lesser of—

''(I) 25 percent of the debtor's nonpriority unsecured claims, or $6,000, whichever is greater; or

''(II) $10,000.

''(C) As part of the schedule of current income and expenditures required under section 521, the debtor shall include a statement of the debtor's current monthly income, and the calculations that determine whether a presumption arises under subparagraph (A)(i), that shows how each such amount is calculated.

''(3) In considering under paragraph (1) whether the granting of relief would be an abuse of the provisions of this chapter in a case in which the presumption in subparagraph (A)(i) of such paragraph does not apply or has been rebutted, the court shall consider—

''(A) whether the debtor filed the petition in bad faith; or

''(B) the totality of the circumstances (including whether the debtor seeks to reject a personal services contract and the financial need for such rejection as sought by the debtor) of the debtor's financial situation demonstrates abuse.

''(4)(A) The court, on its own initiative or on the motion of a party in interest, in accordance with the procedures described in rule 9011 of the Federal Rules of Bankruptcy Procedure, may order the attorney for the debtor to reimburse the trustee for all reasonable costs in prosecuting a motion filed under section 707(b), including reasonable attorneys' fees, if—

''(i) a trustee files a motion for dismissal or conversion under this subsection; and

''(ii) the court—

''(I) grants such motion; and

''(II) finds that the action of the attorney for the debtor in filing under this chapter violated rule 9011 of the Federal Rules of Bankruptcy Procedure.

''(B) If the court finds that the attorney for the debtor violated rule 9011 of the Federal Rules of Bankruptcy Procedure, the court, on its own initiative or on the motion of a party in interest, in accordance with such procedures, may order—

''(i) the assessment of an appropriate civil penalty against the attorney for the debtor; and

''(ii) the payment of such civil penalty to the trustee, the United States trustee, or the bankruptcy administrator.

''(C) In the case of a petition, pleading, or written motion, the signature of an attorney shall constitute a certification that the attorney has—

''(i) performed a reasonable investigation into the circumstances that gave rise to the petition, pleading, or written motion; and

''(ii) determined that the petition, pleading, or written motion—

''(I) is well grounded in fact; and

''(II) is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law and does not constitute an abuse under paragraph (1).

''(D) The signature of an attorney on the petition shall constitute a certification that the attorney has no knowledge after an inquiry that the information in the schedules filed with such petition is incorrect.

''(5)(A) Except as provided in subparagraph (B) and subject to paragraph (6), the court, on its own initiative or on the motion of a party in interest, in accordance with the procedures described in rule 9011 of the Federal Rules of Bankruptcy Procedure, may award a debtor all reasonable costs (including reasonable attorneys' fees) in contesting a motion filed by a party in interest (other than a trustee, United States trustee, or bankruptcy administrator) under this subsection if—

''(i) the court does not grant the motion; and

''(ii) the court finds that—

''(I) the position of the party that filed the motion violated rule 9011 of the Federal Rules of Bankruptcy Procedure; or

''(II) the attorney (if any) who filed the motion did not comply with the requirements of clauses (i) and (ii) of paragraph (4)(C), and the motion was made solely for the purpose of coercing a debtor into waiving a right guaranteed to the debtor under this title.

''(B) A small business that has a claim of an aggregate amount less than $1,000 shall not be subject to subparagraph (A)(ii)(I).

''(C) For purposes of this paragraph—

''(i) the term 'small business' means an unincorporated business, partnership, corporation, association, or organization that—

''(I) has fewer than 25 full-time employees as determined on the date on which the motion is filed; and

''(II) is engaged in commercial or business activity; and

''(ii) the number of employees of a wholly owned subsidiary of a corporation includes the employees of—

''(I) a parent corporation; and

''(II) any other subsidiary corporation of the parent corporation.

''(6) Only the judge, United States trustee, or bankruptcy administrator may file a motion under section 707(b), if the current monthly income of the debtor, or in a joint case, the debtor and the debtor's spouse, as of the date of the order for relief, when multiplied by 12, is equal to or less than—

''(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

''(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or

''(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals, plus $525 per month for each individual in excess of 4.

''(7)(A) No judge, United States trustee, trustee, bankruptcy administrator, or other party in interest may file a motion under paragraph (2) if the current monthly income of the debtor and the debtor's spouse combined, as of the date of the order for relief when multiplied by 12, is equal to or less than—

''(i) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

''(ii) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or

''(iii) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals , plus $525 per month for each individual in excess of 4.

''(B) In a case that is not a joint case, current monthly income of the debtor's spouse shall not be considered for purposes of subparagraph (A) if—

''(i)(I) the debtor and the debtor's spouse are separated under applicable nonbankruptcy law; or

''(II) the debtor and the debtor's spouse are living separate and apart, other than for the purpose of evading subparagraph (A); and

''(ii) the debtor files a statement under penalty of perjury—

''(I) specifying that the debtor meets the requirement of subclause (I) or (II) of clause (i); and

''(II) disclosing the aggregate, or best estimate of the aggregate, amount of any cash

or money payments received from the debtor's spouse attributed to the debtor's current monthly income.''.

(b) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (10) the following:

''(10A) 'current monthly income'—

''(A) means the average monthly income from all sources that the debtor receives (or in a joint case the debtor and the debtor's spouse receive) without regard to whether such income is taxable income, derived during the 6-month period ending on—

''(i) the last day of the calendar month immediately preceding the date of the commencement of the case if the debtor files the schedule of current income required by section 521(a)(1)(B)(ii); or

''(ii) the date on which current income is determined by the court for purposes of this title if the debtor does not file the schedule of current income required by section 521(a)(1)(B)(ii); and

''(B) includes any amount paid by any entity other than the debtor (or in a joint case the debtor and the debtor's spouse), on a regular basis for the household expenses of the debtor or the debtor's dependents (and in a joint case the debtor's spouse if not otherwise a dependent), but excludes benefits received under the Social Security Act, payments to victims of war crimes or crimes against humanity on account of their status as victims of such crimes, and payments to victims of international terrorism (as defined in section 2331 of title 18) or domestic terrorism (as defined in section 2331 of title 18) on account of their status as victims of such terrorism;''.

(c) UNITED STATES TRUSTEE AND BANKRUPTCY ADMINISTRATOR DUTIES.—Section 704 of title 11, United States Code, is amended—

(1) by inserting ''(a)'' before ''The trustee shall—''; and

(2) by adding at the end the following:

''(b)(1) With respect to a debtor who is an individual in a case under this chapter—

''(A) the United States trustee or bankruptcy administrator shall review all materials filed by the debtor and, not later than 10 days after the date of the first meeting of creditors, file with the court a statement as to whether the debtor's case would be presumed to be an abuse under section 707(b); and

''(B) not later than 5 days after receiving a statement under subparagraph (A), the court shall provide a copy of the statement to all creditors.

''(2) The United States trustee or bankruptcy administrator shall, not later than 30 days after the date of filing a statement under paragraph (1), either file a motion to dismiss or convert under section 707(b) or file a statement setting forth the reasons the United States trustee or bankruptcy administrator does not believe that such a motion would be appropriate, if the United States trustee or bankruptcy administrator determines that the debtor's case should be presumed to be an abuse under section 707(b) and the product of the debtor's current monthly income, multiplied by 12 is not less than—

''(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner; or

''(B) in the case of a debtor in a household of 2 or more individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals .''.

(d) NOTICE.—Section 342 of title 11, United States Code, is amended by adding at the end the following:

''(d) In a case under chapter 7 of this title in which the debtor is an individual and in which the presumption of abuse is triggered under section 707(b), the clerk shall give written notice to all creditors not later than 10 days after the date of the filing of the petition that the presumption of abuse has been triggered.''.

(e) NONLIMITATION OF INFORMATION.—Nothing in this title shall limit the ability of a creditor to provide information to a judge (except for information communicated ex parte, unless otherwise permitted by applicable law), United States trustee, bankruptcy administrator or trustee.

(f) DISMISSAL FOR CERTAIN CRIMES.—Section 707 of title 11, United States Code, is amended by adding at the end the following:

''(c)(1) In this subsection—

''(A) the term 'crime of violence' has the meaning given such term in section 16 of title 18; and

''(B) the term 'drug trafficking crime' has the meaning given such term in section 924(c)(2) of title 18.

''(2) Except as provided in paragraph (3), after notice and a hearing, the court, on a motion by the victim of a crime of violence or a drug trafficking crime, may when it is in the best interest of the victim dismiss a voluntary case filed under this chapter by a debtor who is an individual if such individual was convicted of such crime.

''(3) The court may not dismiss a case under paragraph (2) if the debtor establishes by a preponderance of the evidence that the filing of a case under this chapter is necessary to satisfy a claim for a domestic support obligation.''.

(g) CONFIRMATION OF PLAN.—Section 1325(a) of title 11, United States Code, is amended—

(1) in paragraph (5), by striking ''and'' at the end;

(2) in paragraph (6), by striking the period and inserting a semicolon; and

(3) by inserting after paragraph (6) the following:

''(7) the action of the debtor in filing the petition was in good faith;''.

(h) APPLICABILITY OF MEANS TEST TO CHAPTER 13.—Section 1325(b) of title 11, United States Code, is amended—

(1) in paragraph (1)(B), by inserting ''to unsecured creditors'' after ''to make payments''; and

(2) by striking paragraph (2) and inserting the following:

''(2) For purposes of this subsection, the term 'disposable income' means current monthly income received by the debtor (other than child support payments, foster care payments, or disability payments for a dependent child made in accordance with applicable nonbankruptcy law to the extent reasonably necessary to be expended for such child) less amounts reasonably necessary to be expended—

''(A) for the maintenance or support of the debtor or a dependent of the debtor or for a domestic support obligation that first becomes payable after the date the petition is filed and for charitable contributions (that meet the definition of 'charitable contribution' under section 548(d)(3) to a qualified religious or charitable entity or organization (as defined in section 548(d)(4)) in an amount not to exceed 15 percent of gross income of the debtor for the year in which the contributions are made; and

''(B) if the debtor is engaged in business, for the payment of expenditures necessary for the continuation, preservation, and operation of such business.

''(3) Amounts reasonably necessary to be expended under paragraph (2) shall be determined in accordance with subparagraphs (A) and (B) of section 707(b)(2), if the debtor has current monthly income, when multiplied by 12, greater than—

''(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

''(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or

''(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals , plus $525 per month for each individual in excess of 4.''.

(i) SPECIAL ALLOWANCE FOR HEALTH INSURANCE.—Section 1329(a) of title 11, United States Code, is amended—

(1) in paragraph (2) by striking ''or'' at the end;

(2) in paragraph (3) by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(4) reduce amounts to be paid under the plan by the actual amount expended by the debtor to purchase health insurance for the debtor (and for any dependent of the debtor if such dependent does not otherwise have health insurance coverage) if the debtor documents the cost of such insurance and demonstrates that—

''(A) such expenses are reasonable and necessary;

''(B)(i) if the debtor previously paid for health insurance, the amount is not materially larger than the cost the debtor previously paid or the cost necessary to maintain the lapsed policy; or

''(ii) if the debtor did not have health insurance, the amount is not materially larger than the reasonable cost that would be incurred by a debtor who purchases health insurance, who has similar income, expenses, age, and health status, and who lives in the same geographical location with the same number of dependents who do not otherwise have health insurance coverage; and

''(C) the amount is not otherwise allowed for purposes of determining disposable income under section 1325(b) of this title;

and upon request of any party in interest, files proof that a health insurance policy was purchased.''.

(j) ADJUSTMENT OF DOLLAR AMOUNTS.—Section 104(b) of title 11, United States Code, is amended by striking ''and 523(a)(2)(C)'' each place it appears and inserting ''523(a)(2)(C), 707(b), and 1325(b)(3)''.

(k) DEFINITION OF 'MEDIAN FAMILY INCOME'.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (39) the following:

''(39A) 'median family income' means for any year—

''(A) the median family income both calculated and reported by the Bureau of the Census in the then most recent year; and

''(B) if not so calculated and reported in the then current year, adjusted annually after such most recent year until the next year in which median family income is both calculated and reported by the Bureau of the Census, to reflect the percentage change in the Consumer Price Index for All Urban Consumers during the period of years occurring after such most recent year and before such current year;''.

(k) CLERICAL AMENDMENT.—The table of sections for chapter 7 of title 11, United States Code, is amended by striking the item relating to section 707 and inserting the following:

''707. Dismissal of a case or conversion to a case under chapter 11 or 13.''.

SEC. 103. SENSE OF CONGRESS AND STUDY.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of the Treasury has the authority to alter the Internal Revenue Service standards established to set guidelines for repayment plans as needed to accommodate their use under section 707(b) of title 11, United States Code.

(b) STUDY.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Director of the Executive Office for United States Trustees shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives containing the findings of the Director regarding the utilization of Internal Revenue Service standards for determining—

(A) the current monthly expenses of a debtor under section 707(b) of title 11, United States Code; and

(B) the impact that the application of such standards has had on debtors and on the bankruptcy courts.

(2) RECOMMENDATION.—The report under paragraph (1) may include recommendations for amendments to title 11, United States Code, that are consistent with the findings of the Director under paragraph (1).

SEC. 104. NOTICE OF ALTERNATIVES.

Section 342(b) of title 11, United States Code, is amended to read as follows:

''(b) Before the commencement of a case under this title by an individual whose debts are primarily consumer debts, the clerk shall give to such individual written notice containing—

''(1) a brief description of—

''(A) chapters 7, 11, 12, and 13 and the general purpose, benefits, and costs of proceeding under each of those chapters; and

''(B) the types of services available from credit counseling agencies; and

''(2) statements specifying that—

''(A) a person who knowingly and fraudulently conceals assets or makes a false oath or statement under penalty of perjury in connection with a bankruptcy case shall be subject to fine, imprisonment, or both; and

''(B) all information supplied by a debtor in connection with a bankruptcy case is subject to examination by the Attorney General.''.

SEC. 105. DEBTOR FINANCIAL MANAGEMENT TRAINING TEST PROGRAM.

(a) DEVELOPMENT OF FINANCIAL MANAGEMENT AND TRAINING CURRICULUM AND MATERIALS.—The Director of the Executive Office for United States Trustees (in this section referred to as the ''Director'') shall consult with a wide range of individuals who are experts in the field of debtor education, including trustees who serve in cases under chapter 13 of title 11, United States Code, and who operate financial management education programs for debtors, and shall develop a financial management training curriculum and materials that can be used to educate debtors who are individuals on how to better manage their finances.

(b) TEST.—

(1) SELECTION OF DISTRICTS.—The Director shall select 6 judicial districts of the United States in which to test the effectiveness of the financial management training curriculum and materials developed under subsection (a).

(2) USE.—For an 18-month period beginning not later than 270 days after the date of enactment of this Act, such curriculum and materials shall be, for the 6 judicial districts selected under paragraph (1), used as the instructional course concerning personal financial management for purposes of section 111 of title 11, United States Code.

(c) EVALUATION.—

(1) IN GENERAL.—During the 18-month period referred to in subsection (b), the Director shall evaluate the effectiveness of—

(A) the financial management training curriculum and materials developed under subsection (a); and

(B) a sample of existing consumer education programs such as those described in the Report of the National Bankruptcy Review Commission (October 20, 1997) that are representative of consumer education programs carried out by the credit industry, by trustees serving under chapter 13 of title 11, United States Code, and by consumer counseling groups.

(2) REPORT.—Not later than 3 months after concluding such evaluation, the Director shall submit a report to the Speaker of the House of Representatives and the President pro tempore of the Senate, for referral to the appropriate committees of the Congress, containing the findings of the Director regarding the effectiveness of such curriculum, such materials, and such programs and their costs.

SEC. 106. CREDIT COUNSELING.

(a) WHO MAY BE A DEBTOR.—Section 109 of title 11, United States Code, is amended by adding at the end the following:

''(h)(1) Subject to paragraphs (2) and (3), and notwithstanding any other provision of this section, an individual may not be a debtor under this title unless that individual has, during the 180-day period preceding the date of filing of the petition of that individual, received from an approved nonprofit budget and credit counseling agency described in section 111(a) an individual or group briefing (including a briefing conducted by telephone or on the Internet) that outlined the opportunities for available credit counseling and assisted that individual in performing a related budget analysis.

''(2)(A) Paragraph (1) shall not apply with respect to a debtor who resides in a district for which the United States trustee or bankruptcy administrator of the bankruptcy court of that district determines that the approved nonprofit budget and credit counseling agencies for that district are not reasonably able to provide adequate services to the additional individuals who would otherwise seek credit counseling from that agency by reason of the requirements of paragraph (1).

''(B) Each United States trustee or bankruptcy administrator that makes a determination described in subparagraph (A) shall review that determination not later than 1 year after the date of that determination, and not less frequently than every year thereafter. Notwithstanding the preceding sentence, a nonprofit budget and credit counseling agency may be disapproved by the United States trustee or bankruptcy administrator at any time.

''(3)(A) Subject to subparagraph (B), the requirements of paragraph (1) shall not apply with respect to a debtor who submits to the court a certification that—

''(i) describes exigent circumstances that merit a waiver of the requirements of paragraph (1);

''(ii) states that the debtor requested credit counseling services from an approved nonprofit budget and credit counseling agency, but was unable to obtain the services referred to in paragraph (1) during the 5-day period beginning on the date on which the debtor made that request; and

''(iii) is satisfactory to the court.

''(B) With respect to a debtor, an exemption under subparagraph (A) shall cease to apply to that debtor on the date on which the debtor meets the requirements of paragraph (1), but in no case may the exemption apply to that debtor after the date that is 30 days after the debtor files a petition, except that the court, for cause, may order an additional 15 days.''.

(b) CHAPTER 7 DISCHARGE.—Section 727(a) of title 11, United States Code, is amended—

(1) in paragraph (9), by striking ''or'' at the end;

(2) in paragraph (10), by striking the period and inserting ''; or''; and

(3) by adding at the end the following:

''(11) after the filing of the petition, the debtor failed to complete an instructional course concerning personal financial management described in section 111, except that this paragraph shall not apply with respect to a debtor who resides in a district for which the United States trustee or bankruptcy administrator of such district determines that the approved instructional courses are not adequate to service the additional individuals required to complete such instructional courses under this section (Each United States trustee or bankruptcy administrator who makes a determination described in this paragraph shall review such determination not later than 1 year after the date of such determination, and not less frequently than annually thereafter.).''.

(c) CHAPTER 13 DISCHARGE.—Section 1328 of title 11, United States Code, is amended by adding at the end the following:

''(g)(1) The court shall not grant a discharge under this section to a debtor unless after filing a petition the debtor has completed an instructional course concerning personal financial management described in section 111.

''(2) Paragraph (1) shall not apply with respect to a debtor who resides in a district for which the United States trustee or bankruptcy administrator of such district determines that the approved instructional courses are not adequate to service the additional individuals who would be required to complete such instructional course by reason of the requirements of this section.

''(3) Each United States trustee or bankruptcy administrator who makes a determination described in paragraph (2) shall review such determination not later than 1 year after the date of such determination, and not less frequently than annually thereafter.''.

(c) CHAPTER 13 DISCHARGE.—Section 1328 of title 11, United States Code, is amended by adding at the end the following:

''(g) The court shall not grant a discharge under this section to a debtor, unless after filing a petition the debtor has completed an instructional course concerning personal financial management described in section 111.

''(h) Subsection (g) shall not apply with respect to a debtor who resides in a district for which the United States trustee or bankruptcy administrator of the bankruptcy court of that district determines that the approved instructional courses are not adequate to service the additional individuals who would be required to complete the instructional course by reason of the requirements of this section.

''(i) Each United States trustee or bankruptcy administrator that makes a determination described in subsection (h) shall review that determination not later than 1 year after the date of that determination, and not less frequently than every year thereafter.''.

(d) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, is amended—

(1) by inserting ''(a)'' before ''The debtor shall—''; and

(2) by adding at the end the following:

''(b) In addition to the requirements under subsection (a), a debtor who is an individual shall file with the court—

''(1) a certificate from the approved nonprofit budget and credit counseling agency that provided the debtor services under section 109(h) describing the services provided to the debtor; and

''(2) a copy of the debt repayment plan, if any, developed under section 109(h) through the approved nonprofit budget and credit counseling agency referred to in paragraph (1).''.

(e) GENERAL PROVISIONS.—

(1) IN GENERAL.—Chapter 1 of title 11, United States Code, is amended by adding at the end the following:

"§ 111. Credit counseling agencies; financial management instructional courses

''(a) The clerk shall maintain a publicly available list of—

''(1) credit counseling agencies that provide 1 or more programs described in section 109(h) currently approved by the United States trustee or the bankruptcy administrator for the district, as applicable; and

''(2) instructional courses concerning personal financial management currently approved by the United States trustee or the bankruptcy administrator for the district, as applicable.

''(b) The United States trustee or bankruptcy administrator shall only approve a credit counseling agency or instructional course concerning personal financial management as follows:

''(1) The United States trustee or bankruptcy administrator shall have thoroughly reviewed the qualifications of the credit counseling agency or of the provider of the instructional course under the standards set forth in this section, and the programs or instructional courses which will be offered by such agency or provider, and may require an agency or provider of an instructional course which has sought approval to provide information with respect to such review.

''(2) The United States trustee or bankruptcy administrator shall have determined that the credit counseling agency or instructional course fully satisfies the applicable standards set forth in this section.

''(3) When an agency or instructional course is initially approved, such approval shall be for a probationary period not to exceed 6 months. An agency or instructional course is initially approved if it did not appear on the approved list for the district under subsection (a) immediately prior to approval.

''(4) At the conclusion of the probationary period under paragraph (3), the United States trustee or bankruptcy administrator may only approve for an additional 1-year period, and for successive 1-year periods thereafter, any agency or instructional course which has demonstrated during the probationary or subsequent period that such agency or instructional course—

''(A) has met the standards set forth under this section during such period; and

''(B) can satisfy such standards in the future.

''(5) Not later than 30 days after any final decision under paragraph (4), that occurs either after the expiration of the initial probationary period, or after any 2-year period thereafter, an interested person may seek judicial review of such decision in the appropriate district court of the United States.

''(c)(1) The United States trustee or bankruptcy administrator shall only approve a credit counseling agency that demonstrates that it will provide qualified counselors, maintain adequate provision for safekeeping and payment of client funds, provide adequate counseling with respect to client credit problems, and deal responsibly and effectively with other matters as relate to the quality, effectiveness, and financial security of such programs.

''(2) To be approved by the United States trustee or bankruptcy administrator, a credit counseling agency shall, at a minimum—

''(A) be a nonprofit budget and credit counseling agency, the majority of the board of directors of which—

''(i) are not employed by the agency; and

''(ii) will not directly or indirectly benefit financially from the outcome of a credit counseling session;

''(B) if a fee is charged for counseling services, charge a reasonable fee, and provide services without regard to ability to pay the fee;

''(C) provide for safekeeping and payment of client funds, including an annual audit of the trust accounts and appropriate employee bonding;

''(D) provide full disclosures to clients, including funding sources, counselor qualifications, possible impact on credit reports, and any costs of such program that will be paid by the debtor and how such costs will be paid;

''(E) provide adequate counseling with respect to client credit problems that includes an analysis of their current situation, what brought them to that financial status, and how they can develop a plan to handle the problem without incurring negative amortization of their debts;

''(F) provide trained counselors who receive no commissions or bonuses based on the counseling session outcome, and who have adequate experience, and have been adequately trained to provide counseling services to individuals in financial difficulty, including the matters described in subparagraph (E);

''(G) demonstrate adequate experience and background in providing credit counseling; and

''(H) have adequate financial resources to provide continuing support services for budgeting plans over the life of any repayment plan.

''(d) The United States trustee or bankruptcy administrator shall only approve an instructional course concerning personal financial management—

''(1) for an initial probationary period under subsection (b)(3) if the course will provide at a minimum—

''(A) trained personnel with adequate experience and training in providing effective instruction and services;

''(B) learning materials and teaching methodologies designed to assist debtors in understanding personal financial management and that are consistent with stated objectives directly related to the goals of such instructional course;

''(C) adequate facilities situated in reasonably convenient locations at which such instructional course is offered, except that such facilities may include the provision of such instructional course or program by telephone or through the Internet, if such instructional course or program is effective; and

''(D) the preparation and retention of reasonable records (which shall include the debtor's bankruptcy case number) to permit evaluation of the effectiveness of such instructional course or program, including any evaluation of satisfaction of instructional course or program requirements for each debtor attending such instructional course or program, which shall be available for inspection and evaluation by the Executive Office for United States Trustees, the United States trustee, bankruptcy administrator, or chief bankruptcy judge for the district in which such instructional course or program is offered; and

''(2) for any 1-year period if the provider thereof has demonstrated that the course meets the standards of paragraph (1) and, in addition—

''(A) has been effective in assisting a substantial number of debtors to understand personal financial management; and

''(B) is otherwise likely to increase substantially debtor understanding of personal financial management.

''(e) The district court may, at any time, investigate the qualifications of a credit counseling agency referred to in subsection (a), and request production of documents to ensure the integrity and effectiveness of such credit counseling agencies. The district court may, at any time, remove from the approved list under subsection (a) a credit counseling agency upon finding such agency does not meet the qualifications of subsection (b).

''(f) The United States trustee or bankruptcy administrator shall notify the clerk that a credit counseling agency or an instructional course is no longer approved, in which case the clerk shall remove it from the list maintained under subsection (a).

''(g)(1) No credit counseling agency may provide to a credit reporting agency information concerning whether a debtor who has received or sought instruction concerning personal financial management from the credit counseling agency.

''(2) A credit counseling agency that willfully or negligently fails to comply with any requirement under this title with respect to a debtor shall be liable for damages in an amount equal to the sum of—

''(A) any actual damages sustained by the debtor as a result of the violation; and

''(B) any court costs or reasonable attorneys' fees (as determined by the court) incurred in an action to recover those damages.''.

(2) CLERICAL AMENDMENT.—The table of sections for chapter 1 of title 11, United States Code, is amended by adding at the end the following:

''111. Credit counseling agencies; financial management instructional courses.''.

(f) LIMITATION.—Section 362 of title 11, United States Code, is amended by adding at the end the following:

''(i) If a case commenced under chapter 7, 11, or 13 is dismissed due to the creation of a debt repayment plan, for purposes of subsection (c)(3), any subsequent case commenced by the debtor under any such chapter shall not be presumed to be filed not in good faith.

''(j) On request of a party in interest, the court shall issue an order under subsection (c) confirming that the automatic stay has been terminated.''.

SEC. 107. SCHEDULES OF REASONABLE AND NECESSARY EXPENSES.

For purposes of section 707(b) of title 11, United States Code, as amended by this Act, the Director of the Executive Office for United States Trustees shall, not later than 180 days after the date of enactment of this Act, issue schedules of reasonable and necessary administrative expenses of administering a chapter 13 plan for each judicial district of the United States.

TITLE II—ENHANCED CONSUMER PROTECTION

Subtitle A—Penalties for Abusive Creditor Practices

SEC. 201. PROMOTION OF ALTERNATIVE DISPUTE RESOLUTION.

(a) REDUCTION OF CLAIM.—Section 502 of title 11, United States Code, is amended by adding at the end the following:

''(k)(1) The court, on the motion of the debtor and after a hearing, may reduce a claim filed under this section based in whole on an unsecured consumer debt by not more than 20 percent of the claim, if—

''(A) the claim was filed by a creditor who unreasonably refused to negotiate a reasonable alternative repayment schedule proposed by an approved credit counseling agency described in section 111 acting on behalf of the debtor;

''(B) the offer of the debtor under subparagraph (A)—

''(i) was made at least 60 days before the filing of the petition; and

''(ii) provided for payment of at least 60 percent of the amount of the debt over a period not to exceed the repayment period of the loan, or a reasonable extension thereof; and

''(C) no part of the debt under the alternative repayment schedule is nondischargeable.

''(2) The debtor shall have the burden of proving, by clear and convincing evidence, that—

''(A) the creditor unreasonably refused to consider the debtor's proposal; and

''(B) the proposed alternative repayment schedule was made prior to expiration of the 60-day period specified in paragraph (1)(B)(i).''.

(b) LIMITATION ON AVOIDABILITY.—Section 547 of title 11, United States Code, is amended by adding at the end the following:

''(h) The trustee may not avoid a transfer if such transfer was made as a part of an alternative repayment plan between the debtor and any creditor of the debtor created by an approved credit counseling agency.''.

SEC. 202. EFFECT OF DISCHARGE.

Section 524 of title 11, United States Code, is amended by adding at the end the following:

''(i) The willful failure of a creditor to credit payments received under a plan confirmed under this title, unless the order confirming the plan is revoked, the plan is in default, or the creditor has not received payments required to be made under the plan in the manner required by the plan (including crediting the amounts required under the plan), shall constitute a violation of an injunction under subsection (a)(2) if the act of the creditor to collect and failure to credit payments in the manner required by the plan caused material injury to the debtor.

''(j) Subsection (a)(2) does not operate as an injunction against an act by a creditor that is the holder of a secured claim, if—

''(1) such creditor retains a security interest in real property that is the principal residence of the debtor;

''(2) such act is in the ordinary course of business between the creditor and the debtor; and

''(3) such act is limited to seeking or obtaining periodic payments associated with a valid security interest in lieu of pursuit of in rem relief to enforce the lien.''.

SEC. 203. DISCOURAGING ABUSE OF REAFFIRMATION PRACTICES.

(a) IN GENERAL.—Section 524 of title 11, United States Code, as amended section 202, is amended—

(1) in subsection (c), by striking paragraph (2) and inserting the following:

''(2) the debtor received the disclosures described in subsection (k) at or before the time at which the debtor signed the agreement;''; and

(2) by adding at the end the following:

''(k)(1) The disclosures required under subsection (c)(2) shall consist of the disclosure statement described in paragraph (3), completed as required in that paragraph, together with the agreement, statement, declaration, motion and order described, respectively, in paragraphs (4) through (8), and shall be the only disclosures required in connection with the reaffirmation.

''(2) Disclosures made under paragraph (1) shall be made clearly and conspicuously and in writing. The terms 'Amount Reaffirmed' and 'Annual Percentage Rate' shall be disclosed more conspicuously than other terms, data or information provided in connection with this disclosure, except that the phrases 'Before agreeing to reaffirm a debt, review these important disclosures' and 'Summary of Reaffirmation Agreement' may be equally conspicuous. Disclosures may be made in a different order and may use terminology different from that set forth in paragraphs (2) through (8), except that the terms 'Amount Reaffirmed' and 'Annual Percentage Rate' must be used where indicated.

''(3) The disclosure statement required under this paragraph shall consist of the following:

''(A) The statement: 'Part A: Before agreeing to reaffirm a debt, review these important disclosures:';

''(B) Under the heading 'Summary of Reaffirmation Agreement', the statement: 'This Summary is made pursuant to the requirements of the Bankruptcy Code';

''(C) The 'Amount Reaffirmed', using that term, which shall be—

''(i) the total amount which the debtor agrees to reaffirm, and

''(ii) the total of any other fees or cost accrued as of the date of the disclosure statement.

''(D) In conjunction with the disclosure of the 'Amount Reaffirmed', the statements—

''(i) 'The amount of debt you have agreed to reaffirm'; and

''(ii) 'Your credit agreement may obligate you to pay additional amounts which may come due after the date of this disclosure. Consult your credit agreement.'.

''(E) The 'Annual Percentage Rate', using that term, which shall be disclosed as—

''(i) if, at the time the petition is filed, the debt is an extension of credit under an open end credit plan, as the terms 'credit' and 'open end credit plan' are defined in section 103 of the Truth in Lending Act, then—

''(I) the annual percentage rate determined under paragraphs (5) and (6) of section 127(b) of the Truth in Lending Act, as applicable, as disclosed to the debtor in the most recent periodic statement prior to the agreement or, if no such periodic statement has been given to the debtor during the prior 6 months, the annual percentage rate as it would have been so disclosed at the time the disclosure statement is given to the debtor, or to the extent this annual percentage rate is not readily available or not applicable, then

''(II) the simple interest rate applicable to the amount reaffirmed as of the date the disclosure statement is given to the debtor, or if different simple interest rates apply to different balances, the simple interest rate applicable to each such balance, identifying the amount of each such balance included in the amount reaffirmed, or

''(III) if the entity making the disclosure elects, to disclose the annual percentage rate under subclause (I) and the simple interest rate under subclause (II);

''(ii) if, at the time the petition is filed, the debt is an extension of credit other than under an open end credit plan, as the terms 'credit' and 'open end credit plan' are defined in section 103 of the Truth in Lending Act, then—

''(I) the annual percentage rate under section 128(a)(4) of the Truth in Lending Act, as disclosed to the debtor in the most recent disclosure statement given to the debtor prior to the reaffirmation agreement with respect to the debt, or, if no such disclosure statement was given to the debtor, the annual percentage rate as it would have been so disclosed at the time the disclosure statement is given to the debtor, or to the extent this annual percentage rate is not readily available or not applicable, then

''(II) the simple interest rate applicable to the amount reaffirmed as of the date the disclosure statement is given to the debtor, or if different simple interest rates apply to different balances, the simple interest rate applicable to each such balance, identifying the amount of such balance included in the amount reaffirmed, or

''(III) if the entity making the disclosure elects, to disclose the annual percentage rate under (I) and the simple interest rate under (II).

''(F) If the underlying debt transaction was disclosed as a variable rate transaction on the most recent disclosure given under the Truth in Lending Act, by stating 'The interest rate on your loan may be a variable interest rate which changes from time to time, so that the annual percentage rate disclosed here may be higher or lower.'.

''(G) If the debt is secured by a security interest which has not been waived in whole or in part or determined to be void by a final order of the court at the time of the disclosure, by disclosing that a security interest or lien in goods or property is asserted over some or all of the obligations the debtor is reaffirming and listing the items and their original purchase price that are subject to the asserted security interest, or if not a purchase-money security interest then listing by items or types and the original amount of the loan.

''(H) At the election of the creditor, a statement of the repayment schedule using 1 or a combination of the following—

''(i) by making the statement: 'Your first payment in the amount of $_____ is due on _____ but the future payment amount may be different. Consult your reaffirmation or credit agreement, as applicable.', and stating the amount of the first payment and the due date of that payment in the places provided;

''(ii) by making the statement: 'Your payment schedule will be:', and describing the repayment schedule with the number, amount and due dates or period of payments scheduled to repay the obligations reaffirmed to the extent then known by the disclosing party; or

''(iii) by describing the debtor's repayment obligations with reasonable specificity to the extent then known by the disclosing party.

''(I) The following statement: 'Note: When this disclosure refers to what a creditor ''may'' do, it does not use the word ''may'' to give the creditor specific permission. The word ''may'' is used to tell you what might occur if the law permits the creditor to take the action. If you have questions about your reaffirmation or what the law requires, talk to the attorney who helped you negotiate this agreement. If you don't have an attorney helping you, the judge will explain the effect of your reaffirmation when the reaffirmation hearing is held.'.

''(J)(i) The following additional statements:

'' 'Reaffirming a debt is a serious financial decision. The law requires you to take certain steps to make sure the decision is in your best interest. If these steps are not completed, the reaffirmation agreement is not effective, even though you have signed it.

'' '1. Read the disclosures in this Part A carefully. Consider the decision to reaffirm carefully. Then, if you want to reaffirm, sign the reaffirmation agreement in Part B (or you may use a separate agreement you and your creditor agree on).

'' '2. Complete and sign Part D and be sure you can afford to make the payments you are agreeing to make and have received a copy of the disclosure statement and a completed and signed reaffirmation agreement.

'' '3. If you were represented by an attorney during the negotiation of the reaffirmation agreement, the attorney must have signed the certification in Part C.

'' '4. If you were not represented by an attorney during the negotiation of the reaffirmation agreement, you must have completed and signed Part E.

''5. The original of this disclosure must be filed with the court by you or your creditor. If a separate reaffirmation agreement (other than the one in Part B) has been signed, it must be attached.

''6. If you were represented by an attorney during the negotiation of the reaffirmation agreement, your reaffirmation agreement becomes effective upon filing with the court unless the reaffirmation is presumed to be an undue hardship as explained in Part D.

''7. If you were not represented by an attorney during the negotiation of the reaffirmation agreement, it will not be effective unless the court approves it. The court will notify you of the hearing on your reaffirmation agreement. You must attend this hearing in bankruptcy court where the judge will review your agreement. The bankruptcy court must approve the agreement as consistent with your best interests, except that no court approval is required if the agreement is for a consumer debt secured by a mortgage, deed of trust, security deed or other lien on your real property, like your home.

''Your right to rescind a reaffirmation. You may rescind (cancel) your reaffirmation at any time before the bankruptcy court enters a discharge order or within 60 days after the agreement is filed with the court, whichever is longer. To rescind or cancel, you must notify the creditor that the agreement is canceled.

''What are your obligations if you reaffirm the debt? A reaffirmed debt remains your personal legal obligation. It is not discharged in your bankruptcy. That means that if you default on your reaffirmed debt after your bankruptcy is over, your creditor may be able to take your property or your wages. Otherwise, your obligations will be determined by the reaffirmation agreement which may have changed the terms of the original agreement. For example, if you are reaffirming an open end credit agreement, the creditor may be permitted by that agreement or applicable law to change the terms of the agreement in the future under certain conditions.

''Are you required to enter into a reaffirmation agreement by any law? No, you are not required to reaffirm a debt by any law. Only agree to reaffirm a debt if it is in your best interest. Be sure you can afford the payments you agree to make.

''What if your creditor has a security interest or lien? Your bankruptcy discharge does not eliminate any lien on your property. A ''lien'' is often referred to as a security interest, deed of trust, mortgage or security deed. Even if you do not reaffirm and your personal liability on the debt is discharged, because of the lien your creditor may still have the right to take the security property if you do not pay the debt or default on it. If the lien is on an item of personal property that is exempt under your State's law or that the trustee has abandoned, you may be able to redeem the item rather than reaffirm the debt. To redeem, you make a single payment to the creditor equal to the current value of the security property, as agreed by the parties or determined by the court.'.

''(ii) In the case of a reaffirmation under subsection (m)(2), numbered paragraph 6 in the disclosures required by clause (i) of this subparagraph shall read as follows:

''6. If you were represented by an attorney during the negotiation of the reaffirmation agreement, your reaffirmation agreement becomes effective upon filing with the court.'.

''(4) The form of reaffirmation agreement required under this paragraph shall consist of the following:

''Part B: Reaffirmation Agreement. I/we agree to reaffirm the obligations arising under the credit agreement described below.

''Brief description of credit agreement:

''Description of any changes to the credit agreement made as part of this reaffirmation agreement:

''Signature: Date:

''Borrower:

''Co-borrower, if also reaffirming:

''Accepted by creditor:

''Date of creditor acceptance:'.

''(5)(A) The declaration shall consist of the following:

''Part C: Certification by Debtor's Attorney (If Any).

''I hereby certify that (1) this agreement represents a fully informed and voluntary agreement by the debtor(s); (2) this agreement does not impose an undue hardship on the debtor or any dependent of the debtor; and (3) I have fully advised the debtor of the legal effect and consequences of this agreement and any default under this agreement.

''Signature of Debtor's Attorney: Date:'.

''(B) In the case of reaffirmations in which a presumption of undue hardship has been established, the certification shall state that in the opinion of the attorney, the debtor is able to make the payment.

''(C) In the case of a reaffirmation agreement under subsection (m)(2), subparagraph (B) is not applicable.

''(6)(A) The statement in support of reaffirmation agreement, which the debtor shall sign and date prior to filing with the court, shall consist of the following:

''Part D: Debtor's Statement in Support of Reaffirmation Agreement.

''1. I believe this agreement will not impose an undue hardship on my dependents or me. I can afford to make the payments on the reaffirmed debt because my monthly income (take home pay plus any other income received) is $_____, and my actual current monthly expenses including monthly payments on post-bankruptcy debt and other reaffirmation agreements total $_____, leaving $_____ to make the required payments on this reaffirmed debt. I understand that if my income less my monthly expenses does not leave enough to make the payments, this reaffirmation agreement is presumed to be an undue hardship on me and must be reviewed by the court. However, this presumption may be overcome if I explain to the satisfaction of the court how I can afford to make the payments here: _____.

''2. I received a copy of the Reaffirmation Disclosure Statement in Part A and a completed and signed reaffirmation agreement.'.

''(B) Where the debtor is represented by an attorney and is reaffirming a debt owed to a creditor defined in section 19(b)(1)(A)(iv) of the Federal Reserve Act, the statement of support of the reaffirmation agreement, which the debtor shall sign and date prior to filing with the court, shall consist of the following:

''I believe this agreement is in my financial interest. I can afford to make the payments on the reaffirmed debt. I received a copy of the Reaffirmation Disclosure Statement in Part A and a completed and signed reaffirmation agreement.'.

''(7) The motion, which may be used if approval of the agreement by the court is required in order for it to be effective and shall be signed and dated by the moving party, shall consist of the following:

''Part E: Motion for Court Approval (To be completed only where debtor is not represented by an attorney.). I (we), the debtor, affirm the following to be true and correct:

''I am not represented by an attorney in connection with this reaffirmation agreement.

''I believe this agreement is in my best interest based on the income and expenses I have disclosed in my Statement in Support of this reaffirmation agreement above, and because (provide any additional relevant reasons the court should consider):

''Therefore, I ask the court for an order approving this reaffirmation agreement.'.

''(8) The court order, which may be used to approve a reaffirmation, shall consist of the following:

''Court Order: The court grants the debtor's motion and approves the reaffirmation agreement described above.'.

''(l) Notwithstanding any other provision of this title the following shall apply:

''(1) A creditor may accept payments from a debtor before and after the filing of a reaffirmation agreement with the court.

''(2) A creditor may accept payments from a debtor under a reaffirmation agreement which the creditor believes in good faith to be effective.

''(3) The requirements of subsections (c)(2) and (k) shall be satisfied if disclosures required under those subsections are given in good faith.

''(m)(1) Until 60 days after a reaffirmation agreement is filed with the court (or such additional period as the court, after notice and a hearing and for cause, orders before the expiration of such period), it shall be presumed that the reaffirmation agreement is an undue hardship on the debtor if the debtor's monthly income less the debtor's monthly expenses as shown on the debtor's completed and signed statement in support of the reaffirmation agreement required under subsection (k)(6)(A) is less than the scheduled payments on the reaffirmed debt. This presumption shall be reviewed by the court. The presumption may be rebutted in writing by the debtor if the statement includes an explanation which identifies additional sources of funds to make the payments as agreed upon under the terms of the reaffirmation agreement. If the presumption is not rebutted to the satisfaction of the court, the court may disapprove the agreement. No agreement shall be disapproved without notice and a hearing to the debtor and creditor and such hearing shall be concluded before the entry of the debtor's discharge.

''(2) This subsection does not apply to reaffirmation agreements where the creditor is a credit union, as defined in section 19(b)(1)(A)(iv) of the Federal Reserve Act.''.

(b) LAW ENFORCEMENT.—

(1) IN GENERAL.—Chapter 9 of title 18, United States Code, is amended by adding at the end the following:

''§ 158. Designation of United States attorneys and agents of the Federal Bureau of Investigation to address abusive reaffirmations of debt and materially fraudulent statements in bankruptcy schedules

''(a) IN GENERAL.—The Attorney General of the United States shall designate the individuals described in subsection (b) to have primary responsibility in carrying out enforcement activities in addressing violations of section 152 or 157 relating to abusive reaffirmations of debt. In addition to addressing the violations referred to in the preceding sentence, the individuals described under subsection (b) shall address violations of section 152 or 157 relating to materially fraudulent statements in bankruptcy schedules that are intentionally false or intentionally misleading.

''(b) UNITED STATES ATTORNEYS AND AGENTS OF THE FEDERAL BUREAU OF INVESTIGATION.—The individuals referred to in subsection (a) are—

''(1) a United States attorney for each judicial district of the United States; and

''(2) an agent of the Federal Bureau of Investigation (within the meaning of section

3107) for each field office of the Federal Bureau of Investigation.

''(c) BANKRUPTCY INVESTIGATIONS.—Each United States attorney designated under this section shall, in addition to any other responsibilities, have primary responsibility for carrying out the duties of a United States attorney under section 3057.

''(d) BANKRUPTCY PROCEDURES.—The bankruptcy courts shall establish procedures for referring any case which may contain a materially fraudulent statement in a bankruptcy schedule to the individuals designated under this section.''.

(2) CLERICAL AMENDMENT.—The analysis for chapter 9 of title 18, United States Code, is amended by adding at the end the following:

''158. Designation of United States attorneys and agents of the Federal Bureau of Investigation to address abusive reaffirmations of debt and materially fraudulent statements in bankruptcy schedules.''.

SEC. 204. PRESERVATION OF CLAIMS AND DEFENSES UPON SALE OF PREDATORY LOANS.

Section 363 of title 11, United States Code, is amended—

(1) by redesignating subsection (o) as subsection (p), and

(2) by inserting after subsection (n) the following:

''(o) Notwithstanding subsection (f), if a person purchases any interest in a consumer credit transaction that is subject to the Truth in Lending Act or any interest in a consumer credit contract (as defined in section 433.1 of title 16 of the Code of Federal Regulations (January 1, 2001), as amended from time to time), and if such interest is purchased through a sale under this section, then such person shall remain subject to all claims and defenses that are related to such consumer credit transaction or such consumer credit contract, to the same extent as such person would be subject to such claims and defenses of the consumer had such interest been purchased at a sale not under this section.''.

SEC. 205. GAO STUDY AND REPORT ON REAFFIRMATION PROCESS.

(a) STUDY.—The Comptroller General of the United States shall conduct a study of the reaffirmation process that occurs under title 11 of the United States Code, to determine the overall treatment of consumers within the context of such process, and shall include in such study consideration of—

(1) the policies and activities of creditors with respect to reaffirmation; and

(2) whether consumers are fully, fairly, and consistently informed of their rights pursuant to such title.

(b) REPORT TO THE CONGRESS.—Not later than 18 months after the date of enactment of this Act, the Comptroller General shall submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report on the results of the study conducted under subsection (a), together with recommendations for legislation (if any) to address any abusive or coercive tactics found in connection with the reaffirmation process that occurs under title 11 of the United States Code.

Subtitle B—Priority Child Support

SEC. 211. DEFINITION OF DOMESTIC SUPPORT OBLIGATION.

Section 101 of title 11, United States Code, is amended—

(1) by striking paragraph (12A); and

(2) by inserting after paragraph (14) the following:

''(14A) 'domestic support obligation' means a debt that accrues before or after the entry of an order for relief under this title, including interest that accrues on that debt as provided under applicable nonbankruptcy law notwithstanding any other provision of this title, that is—

''(A) owed to or recoverable by—

''(i) a spouse, former spouse, or child of the debtor or such child's parent, legal guardian, or responsible relative; or

''(ii) a governmental unit;

''(B) in the nature of alimony, maintenance, or support (including assistance provided by a governmental unit) of such spouse, former spouse, or child of the debtor or such child's parent, without regard to whether such debt is expressly so designated;

''(C) established or subject to establishment before or after entry of an order for relief under this title, by reason of applicable provisions of—

''(i) a separation agreement, divorce decree, or property settlement agreement;

''(ii) an order of a court of record; or

''(iii) a determination made in accordance with applicable nonbankruptcy law by a governmental unit; and

''(D) not assigned to a nongovernmental entity, unless that obligation is assigned voluntarily by the spouse, former spouse, child, or parent, legal guardian, or responsible relative of the child for the purpose of collecting the debt;''.

SEC. 212. PRIORITIES FOR CLAIMS FOR DOMESTIC SUPPORT OBLIGATIONS.

Section 507(a) of title 11, United States Code, is amended—

(1) by striking paragraph (7);

(2) by redesignating paragraphs (1) through (6) as paragraphs (2) through (7), respectively;

(3) in paragraph (2), as so redesignated, by striking ''First'' and inserting ''Second'';

(4) in paragraph (3), as so redesignated, by striking ''Second'' and inserting ''Third'';

(5) in paragraph (4), as so redesignated—

(A) by striking ''Third'' and inserting ''Fourth''; and

(B) by striking the semicolon at the end and inserting a period;

(6) in paragraph (5), as so redesignated, by striking ''Fourth'' and inserting ''Fifth'';

(7) in paragraph (6), as so redesignated, by striking ''Fifth'' and inserting ''Sixth'';

(8) in paragraph (7), as so redesignated, by striking ''Sixth'' and inserting ''Seventh''; and

(9) by inserting before paragraph (2), as so redesignated, the following:

''(1) First:

''(A) Allowed unsecured claims for domestic support obligations that, as of the date of the filing of the petition, are owed to or recoverable by a spouse, former spouse, or child of the debtor, or the parent, legal guardian, or responsible relative of such child, without regard to whether the claim is filed by such person or is filed by a governmental unit on behalf of that person, on the condition that funds received under this paragraph by a governmental unit under this title after the date of the filing of the petition shall be applied and distributed in accordance with applicable nonbankruptcy law.

''(B) Subject to claims under subparagraph (A), allowed unsecured claims for domestic support obligations that, as of the date the petition was filed are assigned by a spouse, former spouse, child of the debtor, or such child's parent, legal guardian, or responsible relative to a governmental unit (unless such obligation is assigned voluntarily by the spouse, former spouse, child, parent, legal guardian, or responsible relative of the child for the purpose of collecting the debt) or are owed directly to or recoverable by a governmental unit under applicable nonbankruptcy law, on the condition that funds received under this paragraph by a governmental unit under this title after the date of the filing of the petition be applied and distributed in accordance with applicable nonbankruptcy law.

''(C) If a trustee is appointed or elected under section 701, 702, 703, 1104, 1202, or 1302, the administrative expenses of the trustee allowed under paragraphs (1)(A), (2), and (6) of section 503(b) shall be paid before payment of claims under subparagraphs (A) and (B), to the extent that the trustee administers assets that are otherwise available for the payment of such claims.''.

SEC. 213. REQUIREMENTS TO OBTAIN CONFIRMATION AND DISCHARGE IN CASES INVOLVING DOMESTIC SUPPORT OBLIGATIONS.

Title 11, United States Code, is amended—

(1) in section 1129(a), by adding at the end the following:

''(14) If the debtor is required by a judicial or administrative order or statute to pay a domestic support obligation, the debtor has paid all amounts payable under such order or statute for such obligation that first become payable after the date on which the petition is filed.'';

(2) in section 1208(c)—

(A) in paragraph (8), by striking ''or'' at the end;

(B) in paragraph (9), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(10) failure of the debtor to pay any domestic support obligation that first becomes payable after the date on which the petition is filed.'';

(3) in section 1222(a)—

(A) in paragraph (2), by striking ''and'' at the end;

(B) in paragraph (3), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(4) notwithstanding any other provision of this section, a plan may provide for less than full payment of all amounts owed for a claim entitled to priority under section 507(a)(1)(B) only if the plan provides that all of the debtor's projected disposable income for a 5-year period, beginning on the date that the first payment is due under the plan, will be applied to make payments under the plan.'';

(4) in section 1222(b)—

(A) by redesignating paragraph (11) as paragraph (12); and

(B) by inserting after paragraph (10) the following:

''(11) provide for the payment of interest accruing after the date of the filing of the petition on unsecured claims that are nondischargeable under section 1228(a), except that such interest may be paid only to the extent that the debtor has disposable income available to pay such interest after making provision for full payment of all allowed claims;'';

(5) in section 1225(a)—

(A) in paragraph (5), by striking ''and'' at the end;

(B) in paragraph (6), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(7) if the debtor is required by a judicial or administrative order or statute to pay a domestic support obligation, the debtor has paid all amounts payable under such order for such obligation that first become payable after the date on which the petition is filed.'';

(6) in section 1228(a), in the matter preceding paragraph (1), by inserting '', and in the case of a debtor who is required by a judicial or administrative order to pay a domestic support obligation, after such debtor certifies that all amounts payable under such order or statute that are due on or before the date of the certification (including

amounts due before the petition was filed, but only to the extent provided for by the plan) have been paid'' after ''completion by the debtor of all payments under the plan'';

(7) in section 1307(c)—

(A) in paragraph (9), by striking ''or'' at the end;

(B) in paragraph (10), by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(11) failure of the debtor to pay any domestic support obligation that first becomes payable after the date on which the petition is filed.'';

(8) in section 1322(a)—

(A) in paragraph (2), by striking ''and'' at the end;

(B) in paragraph (3), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(4) notwithstanding any other provision of this section, a plan may provide for less than full payment of all amounts owed for a claim entitled to priority under section 507(a)(1)(B) only if the plan provides that all of the debtor's projected disposable income for a 5-year period beginning on the date that the first payment is due under the plan will be applied to make payments under the plan.'';

(9) in section 1322(b)—

(A) in paragraph (9), by striking ''; and'' and inserting a semicolon;

(B) by redesignating paragraph (10) as paragraph (11); and

(C) inserting after paragraph (9) the following:

''(10) provide for the payment of interest accruing after the date of the filing of the petition on unsecured claims that are nondischargeable under section 1328(a), except that such interest may be paid only to the extent that the debtor has disposable income available to pay such interest after making provision for full payment of all allowed claims; and'';

(10) in section 1325(a), as amended by section 102, by inserting after paragraph (7) the following:

''(8) the debtor is required by a judicial or administrative order or statute to pay a domestic support obligation, the debtor has paid all amounts payable under such order or statute for such obligation that first becomes payable after the date on which the petition is filed; and'';

(11) in section 1328(a), in the matter preceding paragraph (1), by inserting '', and in the case of a debtor who is required by a judicial or administrative order to pay a domestic support obligation, after such debtor certifies that all amounts payable under such order or statute that are due on or before the date of the certification (including amounts due before the petition was filed, but only to the extent provided for by the plan) have been paid'' after ''completion by the debtor of all payments under the plan''.

SEC. 214. EXCEPTIONS TO AUTOMATIC STAY IN DOMESTIC SUPPORT OBLIGATION PROCEEDINGS.

Section 362(b) of title 11, United States Code, is amended by striking paragraph (2) and inserting the following:

''(2) under subsection (a)—

''(A) of the commencement or continuation of a civil action or proceeding—

''(i) for the establishment of paternity;

''(ii) for the establishment or modification of an order for domestic support obligations;

''(iii) concerning child custody or visitation;

''(iv) for the dissolution of a marriage, except to the extent that such proceeding seeks to determine the division of property that is property of the estate; or

''(v) regarding domestic violence;

''(B) of the collection of a domestic support obligation from property that is not property of the estate;

''(C) with respect to the withholding of income that is property of the estate or property of the debtor for payment of a domestic support obligation under a judicial or administrative order;

''(D) of the withholding, suspension, or restriction of drivers' licenses, professional and occupational licenses, and recreational licenses under State law, as specified in section 466(a)(16) of the Social Security Act;

''(E) of the reporting of overdue support owed by a parent to any consumer reporting agency as specified in section 466(a)(7) of the Social Security Act;

''(F) of the interception of tax refunds, as specified in sections 464 and 466(a)(3) of the Social Security Act or under an analogous State law; or

''(G) of the enforcement of medical obligations as specified under title IV of the Social Security Act;''.

SEC. 215. NONDISCHARGEABILITY OF CERTAIN DEBTS FOR ALIMONY, MAINTENANCE, AND SUPPORT.

Section 523 of title 11, United States Code, is amended—

(1) in subsection (a)—

(A) by striking paragraph (5) and inserting the following:

''(5) for a domestic support obligation;''; and

(B) by striking paragraph (18);

(2) in subsection (c), by striking ''(6), or (15)'' each place it appears and inserting ''or (6)''; and

(3) in paragraph (15), as added by Public Law 103–394 (108 Stat. 4133)—

(A) by inserting ''to a spouse, former spouse, or child of the debtor and'' before ''not of the kind'';

(B) by inserting ''or'' after ''court of record,''; and

(C) by striking ''unless—'' and all that follows through the end of the paragraph and inserting a semicolon.

SEC. 216. CONTINUED LIABILITY OF PROPERTY.

Section 522 of title 11, United States Code, is amended—

(1) in subsection (c), by striking paragraph (1) and inserting the following:

''(1) a debt of a kind specified in paragraph (1) or (5) of section 523(a) (in which case, notwithstanding any provision of applicable nonbankruptcy law to the contrary, such property shall be liable for a debt of a kind specified in section 523(a)(5));'';

(2) in subsection (f)(1)(A), by striking the dash and all that follows through the end of the subparagraph and inserting ''of a kind that is specified in section 523(a)(5); or''; and

(3) in subsection (g)(2), by striking ''subsection (f)(2)'' and inserting ''subsection (f)(1)(B)''.

SEC. 217. PROTECTION OF DOMESTIC SUPPORT CLAIMS AGAINST PREFERENTIAL TRANSFER MOTIONS.

Section 547(c)(7) of title 11, United States Code, is amended to read as follows:

''(7) to the extent such transfer was a bona fide payment of a debt for a domestic support obligation;''.

SEC. 218. DISPOSABLE INCOME DEFINED.

Section 1225(b)(2)(A) of title 11, United States Code, is amended by inserting ''or for a domestic support obligation that first becomes payable after the date on which the petition is filed'' after ''dependent of the debtor''.

SEC. 219. COLLECTION OF CHILD SUPPORT.

(a) DUTIES OF TRUSTEE UNDER CHAPTER 7.—Section 704 of title 11, United States Code, as amended by section 102, is amended—

(1) in subsection (a)—

(A) in paragraph (8), by striking ''and'' at the end;

(B) in paragraph (9), by striking the period and inserting a semicolon; and

(C) by adding at the end the following:

''(10) if with respect to the debtor there is a claim for a domestic support obligation, provide the applicable notice specified in subsection (c); and''; and

(2) by adding at the end the following:

''(c)(1) In a case described in subsection (a)(10) to which subsection (a)(10) applies, the trustee shall—

''(A)(i) provide written notice to the holder of the claim described in subsection (a)(10) of such claim and of the right of such holder to use the services of the State child support enforcement agency established under sections 464 and 466 of the Social Security Act for the State in which such holder resides, for assistance in collecting child support during and after the case under this title;

''(ii) include in the notice provided under clause (i) the address and telephone number of such State child support enforcement agency; and

''(iii) include in the notice provided under clause (i) an explanation of the rights of such holder to payment of such claim under this chapter;

''(B)(i) provide written notice to such State child support enforcement agency of such claim; and

''(ii) include in the notice provided under clause (i) the name, address, and telephone number of such holder; and

''(C) at such time as the debtor is granted a discharge under section 727, provide written notice to such holder and to such State child support enforcement agency of—

''(i) the granting of the discharge;

''(ii) the last recent known address of the debtor;

''(iii) the last recent known name and address of the debtor's employer; and

''(iv) the name of each creditor that holds a claim that—

''(I) is not discharged under paragraph (2), (4), or (14A) of section 523(a); or

''(II) was reaffirmed by the debtor under section 524 (c).

''(2)(A) The holder of a claim described in subsection (a)(10) or the State child support enforcement agency of the State in which such holder resides may request from a creditor described in paragraph (1)(C)(iv) the last known address of the debtor.

''(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable by reason of making such disclosure.''.

(b) DUTIES OF TRUSTEE UNDER CHAPTER 11.—Section 1106 of title 11, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (6), by striking ''and'' at the end;

(B) in paragraph (7), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(8) if with respect to the debtor there is a claim for a domestic support obligation, provide the applicable notice specified in subsection (c).''; and

(2) by adding at the end the following:

''(c)(1) In a case described in subsection (a)(8) to which subsection (a)(8) applies, the trustee shall—

''(A)(i) provide written notice to the holder of the claim described in subsection (a)(8) of such claim and of the right of such holder to use the services of the State child support enforcement agency established under sections 464 and 466 of the Social Security Act for the State in which such holder resides, for assistance in collecting child support during and after the case under this title; and

''(ii) include in the notice required by clause (i) the address and telephone number of such State child support enforcement agency;

''(B)(i) provide written notice to such State child support enforcement agency of such claim; and

''(ii) include in the notice required by clause (i) the name, address, and telephone number of such holder; and

''(C) at such time as the debtor is granted a discharge under section 1141, provide written notice to such holder of such claim and to such State child support enforcement agency of—

''(i) the granting of the discharge;

''(ii) the last recent known address of the debtor;

''(iii) the last recent known name and address of the debtor's employer; and

''(iv) the name of each creditor that holds a claim that—

''(I) is not discharged under paragraph (2), (3), or (14A) of section 523(a); or

''(II) was reaffirmed by the debtor under section 524(c).

''(2)(A) The holder of a claim described in subsection (a)(8) or the State child enforcement support agency of the State in which such holder resides may request from a creditor described in paragraph (1)(C)(iv) the last known address of the debtor.

''(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable by reason of making such disclosure.''.

(c) DUTIES OF TRUSTEE UNDER CHAPTER 12.—Section 1202 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (4), by striking ''and'' at the end;

(B) in paragraph (5), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(6) if with respect to the debtor there is a claim for a domestic support obligation, provide the applicable notice specified in subsection (c).''; and

(2) by adding at the end the following:

''(c)(1) In a case described in subsection (b)(6) to which subsection (b)(6) applies, the trustee shall—

''(A)(i) provide written notice to the holder of the claim described in subsection (b)(6) of such claim and of the right of such holder to use the services of the State child support enforcement agency established under sections 464 and 466 of the Social Security Act for the State in which such holder resides, for assistance in collecting child support during and after the case under this title; and

''(ii) include in the notice provided under clause (i) the address and telephone number of such State child support enforcement agency;

''(B)(i) provide written notice to such State child support enforcement agency of such claim; and

''(ii) include in the notice provided under clause (i) the name, address, and telephone number of such holder; and

''(C) at such time as the debtor is granted a discharge under section 1228, provide written notice to such holder and to such State child support enforcement agency of—

''(i) the granting of the discharge;

''(ii) the last recent known address of the debtor;

''(iii) the last recent known name and address of the debtor's employer; and

''(iv) the name of each creditor that holds a claim that—

''(I) is not discharged under paragraph (2), (4), or (14A) of section 523(a); or

''(II) was reaffirmed by the debtor under section 524(c).

''(2)(A) The holder of a claim described in subsection (b)(6) or the State child support enforcement agency of the State in which such holder resides may request from a creditor described in paragraph (1)(C)(iv) the last known address of the debtor.

''(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable by reason of making that disclosure.''.

(d) DUTIES OF TRUSTEE UNDER CHAPTER 13.—Section 1302 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (4), by striking ''and'' at the end;

(B) in paragraph (5), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(6) if with respect to the debtor there is a claim for a domestic support obligation, provide the applicable notice specified in subsection (d).''; and

(2) by adding at the end the following:

''(d)(1) In a case described in subsection (b)(6) to which subsection (b)(6) applies, the trustee shall—

''(A)(i) provide written notice to the holder of the claim described in subsection (b)(6) of such claim and of the right of such holder to use the services of the State child support enforcement agency established under sections 464 and 466 of the Social Security Act for the State in which such holder resides, for assistance in collecting child support during and after the case under this title; and

''(ii) include in the notice provided under clause (i) the address and telephone number of such State child support enforcement agency;

''(B)(i) provide written notice to such State child support enforcement agency of such claim; and

''(ii) include in the notice provided under clause (i) the name, address, and telephone number of such holder; and

''(C) at such time as the debtor is granted a discharge under section 1328, provide written notice to such holder and to such State child support enforcement agency of—

''(i) the granting of the discharge;

''(ii) the last recent known address of the debtor;

''(iii) the last recent known name and address of the debtor's employer; and

''(iv) the name of each creditor that holds a claim that—

''(I) is not discharged under paragraph (2) or (4) of section 523(a); or

''(II) was reaffirmed by the debtor under section 524(c).

''(2)(A) The holder of a claim described in subsection (b)(6) or the State child support enforcement agency of the State in which such holder resides may request from a creditor described in paragraph (1)(C)(iv) the last known address of the debtor.

''(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable by reason of making that disclosure.''.

SEC. 220. NONDISCHARGEABILITY OF CERTAIN EDUCATIONAL BENEFITS AND LOANS.

Section 523(a) of title 11, United States Code, is amended by striking paragraph (8) and inserting the following:

''(8) unless excepting such debt from discharge under this paragraph would impose an undue hardship on the debtor and the debtor's dependents, for—

''(A)(i) an educational benefit overpayment or loan made, insured, or guaranteed by a governmental unit, or made under any program funded in whole or in part by a governmental unit or nonprofit institution; or

''(ii) an obligation to repay funds received as an educational benefit, scholarship, or stipend; or

''(B) any other educational loan that is a qualified education loan, as defined in section 221(d)(1) of the Internal Revenue Code of 1986, incurred by a debtor who is an individual;''.

Subtitle C—Other Consumer Protections

SEC. 221. AMENDMENTS TO DISCOURAGE ABUSIVE BANKRUPTCY FILINGS.

Section 110 of title 11, United States Code, is amended—

(1) in subsection (a)(1), by striking ''or an employee of an attorney'' and inserting ''for the debtor or an employee of such attorney under the direct supervision of such attorney'';

(2) in subsection (b)—

(A) in paragraph (1), by adding at the end the following: ''If a bankruptcy petition preparer is not an individual, then an officer, principal, responsible person, or partner of the preparer shall be required to—

''(A) sign the document for filing; and

''(B) print on the document the name and address of that officer, principal, responsible person or partner.''; and

(B) by striking paragraph (2) and inserting the following:

''(2)(A) Before preparing any document for filing or accepting any fees from a debtor, the bankruptcy petition preparer shall provide to the debtor a written notice to debtors concerning bankruptcy petition preparers, which shall be on an official form issued by the Judicial Conference of the United States.

''(B) The notice under subparagraph (A)—

''(i) shall inform the debtor in simple language that a bankruptcy petition preparer is not an attorney and may not practice law or give legal advice;

''(ii) may contain a description of examples of legal advice that a bankruptcy petition preparer is not authorized to give, in addition to any advice that the preparer may not give by reason of subsection (e)(2); and

''(iii) shall—

''(I) be signed by the debtor and, under penalty of perjury, by the bankruptcy petition preparer; and

''(II) be filed with any document for filing.'';

(3) in subsection (c)—

(A) in paragraph (2)—

(i) by striking ''(2) For purposes'' and inserting ''(2)(A) Subject to subparagraph (B), for purposes''; and

(ii) by adding at the end the following:

''(B) If a bankruptcy petition preparer is not an individual, the identifying number of the bankruptcy petition preparer shall be the Social Security account number of the officer, principal, responsible person, or partner of the preparer.''; and

(B) by striking paragraph (3);

(4) in subsection (d)—

(A) by striking ''(d)(1)'' and inserting ''(d)''; and

(B) by striking paragraph (2);

(5) in subsection (e)—

(A) by striking paragraph (2); and

(B) by adding at the end the following:

''(2)(A) A bankruptcy petition preparer may not offer a potential bankruptcy debtor any legal advice, including any legal advice described in subparagraph (B).

''(B) The legal advice referred to in subparagraph (A) includes advising the debtor—

''(i) whether—

''(I) to file a petition under this title; or

''(II) commencing a case under chapter 7, 11, 12, or 13 is appropriate;

''(ii) whether the debtor's debts will be eliminated or discharged in a case under this title;

''(iii) whether the debtor will be able to retain the debtor's home, car, or other property after commencing a case under this title;

''(iv) concerning—

''(I) the tax consequences of a case brought under this title; or

''(II) the dischargeability of tax claims;

''(v) whether the debtor may or should promise to repay debts to a creditor or enter into a reaffirmation agreement with a creditor to reaffirm a debt;

''(vi) concerning how to characterize the nature of the debtor's interests in property or the debtor's debts; or

''(vii) concerning bankruptcy procedures and rights.'';

(6) in subsection (f)—

(A) by striking ''(f)(1)'' and inserting ''(f)''; and

(B) by striking paragraph (2);

(7) in subsection (g)—

(A) by striking ''(g)(1)'' and inserting ''(g)''; and

(B) by striking paragraph (2);

(8) in subsection (h)—

(A) by redesignating paragraphs (1) through (4) as paragraphs (2) through (5), respectively;

(B) by inserting before paragraph (2), as so redesignated, the following:

''(1) The Supreme Court may promulgate rules under section 2075 of title 28, or the Judicial Conference of the United States may prescribe guidelines, for setting a maximum allowable fee chargeable by a bankruptcy petition preparer. A bankruptcy petition preparer shall notify the debtor of any such maximum amount before preparing any document for filing for a debtor or accepting any fee from the debtor.'';

(C) in paragraph (2), as so redesignated—

(i) by striking ''Within 10 days after the date of filing a petition, a bankruptcy petition preparer shall file a'' and inserting ''A'';

(ii) by inserting ''by the bankruptcy petition preparer shall be filed together with the petition,'' after ''perjury''; and

(iii) by adding at the end the following: ''If rules or guidelines setting a maximum fee for services have been promulgated or prescribed under paragraph (1), the declaration under this paragraph shall include a certification that the bankruptcy petition preparer complied with the notification requirement under paragraph (1).'';

(D) by striking paragraph (3), as so redesignated, and inserting the following:

''(3)(A) The court shall disallow and order the immediate turnover to the bankruptcy trustee any fee referred to in paragraph (2) found to be in excess of the value of any services—

''(i) rendered by the preparer during the 12-month period immediately preceding the date of filing of the petition; or

''(ii) found to be in violation of any rule or guideline promulgated or prescribed under paragraph (1).

''(B) All fees charged by a bankruptcy petition preparer may be forfeited in any case in which the bankruptcy petition preparer fails to comply with this subsection or subsection (b), (c), (d), (e), (f), or (g).

''(C) An individual may exempt any funds recovered under this paragraph under section 522(b).''; and

(E) in paragraph (4), as so redesignated, by striking ''or the United States trustee'' and inserting ''the United States trustee, the bankruptcy administrator, or the court, on the initiative of the court,'';

(9) in subsection (i)(1), by striking the matter preceding subparagraph (A) and inserting the following:

''(i)(1) If a bankruptcy petition preparer violates this section or commits any act that the court finds to be fraudulent, unfair, or deceptive, on the motion of the debtor, trustee, United States trustee, or bankruptcy administrator, and after the court holds a hearing with respect to that violation or act, the court shall order the bankruptcy petition preparer to pay to the debtor—'';

(10) in subsection (j)—

(A) in paragraph (2)—

(i) in subparagraph (A)(i)(I), by striking ''a violation of which subjects a person to criminal penalty'';

(ii) in subparagraph (B)—

(I) by striking ''or has not paid a penalty'' and inserting ''has not paid a penalty''; and

(II) by inserting ''or failed to disgorge all fees ordered by the court'' after ''a penalty imposed under this section,'';

(B) by redesignating paragraph (3) as paragraph (4); and

(C) by inserting after paragraph (2) the following:

''(3) The court, as part of its contempt power, may enjoin a bankruptcy petition preparer that has failed to comply with a previous order issued under this section. The injunction under this paragraph may be issued on the motion of the court, the trustee, the United States trustee, or the bankruptcy administrator.''; and

(11) by adding at the end the following:

''(l)(1) A bankruptcy petition preparer who fails to comply with any provision of subsection (b), (c), (d), (e), (f), (g), or (h) may be fined not more than $500 for each such failure.

''(2) The court shall triple the amount of a fine assessed under paragraph (1) in any case in which the court finds that a bankruptcy petition preparer—

''(A) advised the debtor to exclude assets or income that should have been included on applicable schedules;

''(B) advised the debtor to use a false Social Security account number;

''(C) failed to inform the debtor that the debtor was filing for relief under this title; or

''(D) prepared a document for filing in a manner that failed to disclose the identity of the preparer.

''(3) The debtor, the trustee, a creditor, the United States trustee, or the bankruptcy administrator may file a motion for an order imposing a fine on the bankruptcy petition preparer for each violation of this section.

''(4)(A) Fines imposed under this subsection in judicial districts served by United States trustees shall be paid to the United States trustee, who shall deposit an amount equal to such fines in a special account of the United States Trustee System Fund referred to in section 586(e)(2) of title 28. Amounts deposited under this subparagraph shall be available to fund the enforcement of this section on a national basis.

''(B) Fines imposed under this subsection in judicial districts served by bankruptcy administrators shall be deposited as offsetting receipts to the fund established under section 1931 of title 28, and shall remain available until expended to reimburse any appropriation for the amount paid out of such appropriation for expenses of the operation and maintenance of the courts of the United States.''.

SEC. 222. SENSE OF CONGRESS.

It is the sense of Congress that States should develop curricula relating to the subject of personal finance, designed for use in elementary and secondary schools.

SEC. 223. ADDITIONAL AMENDMENTS TO TITLE 11, UNITED STATES CODE.

Section 507(a) of title 11, United States Code, is amended by inserting after paragraph (9) the following:

''(10) Tenth, allowed claims for death or personal injuries resulting from the operation of a motor vehicle or vessel if such operation was unlawful because the debtor was intoxicated from using alcohol, a drug, or another substance.''.

SEC. 224. PROTECTION OF RETIREMENT SAVINGS IN BANKRUPTCY.

(a) IN GENERAL.—Section 522 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (2)—

(i) in subparagraph (A), by striking ''and'' at the end;

(ii) in subparagraph (B), by striking the period at the end and inserting ''; and'';

(iii) by adding at the end the following:

''(C) retirement funds to the extent that those funds are in a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986.''; and

(iv) by striking ''(2)(A) any property'' and inserting:

''(3) Property listed in this paragraph is—

''(A) any property'';

(B) by striking paragraph (1) and inserting:

''(2) Property listed in this paragraph is property that is specified under subsection (d), unless the State law that is applicable to the debtor under paragraph (3)(A) specifically does not so authorize.'';

(C) by striking ''(b) Notwithstanding'' and inserting ''(b)(1) Notwithstanding'';

(D) by striking ''paragraph (2)'' each place it appears and inserting ''paragraph (3)'';

(E) by striking ''paragraph (1)'' each place it appears and inserting ''paragraph (2)'';

(F) by striking ''Such property is—''; and

(G) by adding at the end the following:

''(4) For purposes of paragraph (3)(C) and subsection (d)(12), the following shall apply:

''(A) If the retirement funds are in a retirement fund that has received a favorable determination under section 7805 of the Internal Revenue Code of 1986, and that determination is in effect as of the date of the commencement of the case under section 301, 302, or 303 of this title, those funds shall be presumed to be exempt from the estate.

''(B) If the retirement funds are in a retirement fund that has not received a favorable determination under such section 7805, those funds are exempt from the estate if the debtor demonstrates that—

''(i) no prior determination to the contrary has been made by a court or the Internal Revenue Service; and

''(ii)(I) the retirement fund is in substantial compliance with the applicable requirements of the Internal Revenue Code of 1986; or

''(II) the retirement fund fails to be in substantial compliance with the applicable requirements of the Internal Revenue Code of 1986 and the debtor is not materially responsible for that failure.

''(C) A direct transfer of retirement funds from 1 fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986, under section 401(a)(31) of the Internal Revenue Code of 1986, or otherwise, shall not cease to qualify for exemption under paragraph (3)(C) or subsection (d)(12) by reason of that direct transfer.

''(D)(i) Any distribution that qualifies as an eligible rollover distribution within the meaning of section 402(c) of the Internal Revenue Code of 1986 or that is described in clause (ii) shall not cease to qualify for exemption under paragraph (3)(C) or subsection (d)(12) by reason of that distribution.

''(ii) A distribution described in this clause is an amount that—

''(I) has been distributed from a fund or account that is exempt from taxation under

section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986; and

''(II) to the extent allowed by law, is deposited in such a fund or account not later than 60 days after the distribution of that amount.''; and

(2) in subsection (d)—

(A) in the matter preceding paragraph (1), by striking ''subsection (b)(1)'' and inserting ''subsection (b)(2)''; and

(B) by adding at the end the following:

''(12) Retirement funds to the extent that those funds are in a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986.''.

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, is amended—

(1) in paragraph (17), by striking ''or'' at the end;

(2) in paragraph (18), by striking the period and inserting a semicolon; and

(3) by inserting after paragraph (18) the following:

''(19) under subsection (a), of withholding of income from a debtor's wages and collection of amounts withheld, under the debtor's agreement authorizing that withholding and collection for the benefit of a pension, profit-sharing, stock bonus, or other plan established under section 401, 403, 408, 408A, 414, 457, or 501(c) of the Internal Revenue Code of 1986, that is sponsored by the employer of the debtor, or an affiliate, successor, or predecessor of such employer—

''(A) to the extent that the amounts withheld and collected are used solely for payments relating to a loan from a plan that satisfies the requirements of section 408(b)(1) of the Employee Retirement Income Security Act of 1974 or is subject to section 72(p) of the Internal Revenue Code of 1986; or

''(B) in the case of a loan from a thrift savings plan described in subchapter III of chapter 84 of title 5, that satisfies the requirements of section 8433(g) of such title;

but this paragraph may not be construed to provide that any loan made under a governmental plan under section 414(d), or a contract or account under section 403(b) of the Internal Revenue Code of 1986 constitutes a claim or a debt under this title;''.

(c) EXCEPTIONS TO DISCHARGE.—Section 523(a) of title 11, United States Code, as amended by section 215, is amended by adding at the end the following:

''(18) owed to a pension, profit-sharing, stock bonus, or other plan established under section 401, 403, 408, 408A, 414, 457, or 501(c) of the Internal Revenue Code of 1986, under—

''(A) a loan permitted under section 408(b)(1) of the Employee Retirement Income Security Act of 1974, or subject to section 72(p) of the Internal Revenue Code of 1986; or

''(B) a loan from the thrift savings plan described in subchapter III of chapter 84 of title 5, that satisfies the requirements of section 8433(g) of such title;

but nothing in this paragraph may be construed to provide that any loan made under a governmental plan under section 414(d), or a contract or account under section 403(b), of the Internal Revenue Code of 1986 constitutes a claim or a debt under this title.''.

(d) PLAN CONTENTS.—Section 1322 of title 11, United States Code, is amended by adding at the end the following:

''(f) A plan may not materially alter the terms of a loan described in section 362(b)(19) and any amounts required to repay such loan shall not constitute 'disposable income' under section 1325.''.

(e) ASSET LIMITATION.—

(1) LIMITATION.—Section 522 of title 11, United States Code, is amended by adding at the end the following:

''(n) For assets in individual retirement accounts described in section 408 or 408A of the Internal Revenue Code of 1986, other than a simplified employee pension under section 408(k) of that Code or a simple retirement account under section 408(p) of that Code, the aggregate value of such assets exempted under this section, without regard to amounts attributable to rollover contributions under section 402(c), 402(e)(6), 403(a)(4), 403(a)(5), and 403(b)(8) of the Internal Revenue Code of 1986, and earnings thereon, shall not exceed $1,000,000 in a case filed by a debtor who is an individual, except that such amount may be increased if the interests of justice so require.''.

(2) ADJUSTMENT OF DOLLAR AMOUNTS.—Paragraphs (1) and (2) of section 104(b) of title 11, United States Code, are amended by inserting ''522(n),'' after ''522(d),''.

SEC. 225. PROTECTION OF EDUCATION SAVINGS IN BANKRUPTCY.

(a) EXCLUSIONS.—Section 541 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (4), by striking ''or'' at the end;

(B) by redesignating paragraph (5) as paragraph (9); and

(C) by inserting after paragraph (4) the following:

''(5) funds placed in an education individual retirement account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986) not later than 365 days before the date of filing of the petition, but—

''(A) only if the designated beneficiary of such account was a son, daughter, stepson, stepdaughter, grandchild, or step-grandchild of the debtor for the taxable year for which funds were placed in such account;

''(B) only to the extent that such funds—

''(i) are not pledged or promised to any entity in connection with any extension of credit; and

''(ii) are not excess contributions (as described in section 4973(e) of the Internal Revenue Code of 1986); and

''(C) in the case of funds placed in all such accounts having the same designated beneficiary not earlier than 720 days nor later than 365 days before such date, only so much of such funds as does not exceed $5,000;

''(6) funds used to purchase a tuition credit or certificate or contributed to an account in accordance with section 529(b)(1)(A) of the Internal Revenue Code of 1986 under a qualified State tuition program (as defined in section 529(b)(1) of such Code) not later than 365 days before the date of filing of the petition, but—

''(A) only if the designated beneficiary of the amounts paid or contributed to such tuition program was a son, daughter, stepson, stepdaughter, grandchild, or step-grandchild of the debtor for the taxable year for which funds were paid or contributed;

''(B) with respect to the aggregate amount paid or contributed to such program having the same designated beneficiary, only so much of such amount as does not exceed the total contributions permitted under section 529(b)(7) of such Code with respect to such beneficiary, as adjusted beginning on the date of the filing of the petition by the annual increase or decrease (rounded to the nearest tenth of 1 percent) in the education expenditure category of the Consumer Price Index prepared by the Department of Labor; and

''(C) in the case of funds paid or contributed to such program having the same designated beneficiary not earlier than 720 days nor later than 365 days before such date, only so much of such funds as does not exceed $5,000;''; and

(2) by adding at the end the following:

''(e) In determining whether any of the relationships specified in paragraph (5)(A) or (6)(A) of subsection (b) exists, a legally adopted child of an individual (and a child who is a member of an individual's household, if placed with such individual by an authorized placement agency for legal adoption by such individual), or a foster child of an individual (if such child has as the child's principal place of abode the home of the debtor and is a member of the debtor's household) shall be treated as a child of such individual by blood.''.

(b) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, as amended by section 106, is amended by adding at the end the following:

''(c) In addition to meeting the requirements under subsection (a), a debtor shall file with the court a record of any interest that a debtor has in an education individual retirement account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986) or under a qualified State tuition program (as defined in section 529(b)(1) of such Code).''.

SEC. 226. DEFINITIONS.

(a) DEFINITIONS.—Section 101 of title 11, United States Code, is amended—

(1) by inserting after paragraph (2) the following:

''(3) 'assisted person' means any person whose debts consist primarily of consumer debts and the value of whose nonexempt property is less than $150,000;'';

(2) by inserting after paragraph (4) the following:

''(4A) 'bankruptcy assistance' means any goods or services sold or otherwise provided to an assisted person with the express or implied purpose of providing information, advice, counsel, document preparation, or filing, or attendance at a creditors' meeting or appearing in a proceeding on behalf of another or providing legal representation with respect to a case or proceeding under this title;''; and

(3) by inserting after paragraph (12) the following:

''(12A) 'debt relief agency' means any person who provides any bankruptcy assistance to an assisted person in return for the payment of money or other valuable consideration, or who is a bankruptcy petition preparer under section 110, but does not include—

''(A) any person that is an officer, director, employee, or agent of a person who provides such assistance or of such preparer;

''(B) a nonprofit organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986;

''(C) a creditor of such assisted person, to the extent that the creditor is assisting such assisted person to restructure any debt owed by such assisted person to the creditor;

''(D) a depository institution (as defined in section 3 of the Federal Deposit Insurance Act) or any Federal credit union or State credit union (as those terms are defined in section 101 of the Federal Credit Union Act), or any affiliate or subsidiary of such depository institution or credit union; or

''(E) an author, publisher, distributor, or seller of works subject to copyright protection under title 17, when acting in such capacity.''.

(b) CONFORMING AMENDMENT.—Section 104(b) of title 11, United States Code, is amended by inserting ''101(3),'' after ''sections'' each place it appears.

SEC. 227. RESTRICTIONS ON DEBT RELIEF AGENCIES.

(a) ENFORCEMENT.—Subchapter II of chapter 5 of title 11, United States Code, is amended by adding at the end the following:

''§ 526. Restrictions on debt relief agencies

''(a) A debt relief agency shall not—

''(1) fail to perform any service that such agency informed an assisted person or prospective assisted person it would provide in

connection with a case or proceeding under this title;

''(2) make any statement, or counsel or advise any assisted person or prospective assisted person to make a statement in a document filed in a case or proceeding under this title, that is untrue and misleading, or that upon the exercise of reasonable care, should have been known by such agency to be untrue or misleading;

''(3) misrepresent to any assisted person or prospective assisted person, directly or indirectly, affirmatively or by material omission, with respect to—

''(i) the services that such agency will provide to such person; or

''(ii) the benefits and risks that may result if such person becomes a debtor in a case under this title; or

''(4) advise an assisted person or prospective assisted person to incur more debt in contemplation of such person filing a case under this title or to pay an attorney or bankruptcy petition preparer fee or charge for services performed as part of preparing for or representing a debtor in a case under this title.

''(b) Any waiver by any assisted person of any protection or right provided under this section shall not be enforceable against the debtor by any Federal or State court or any other person, but may be enforced against a debt relief agency.

''(c)(1) Any contract for bankruptcy assistance between a debt relief agency and an assisted person that does not comply with the material requirements of this section, section 527, or section 528 shall be void and may not be enforced by any Federal or State court or by any other person, other than such assisted person.

''(2) Any debt relief agency shall be liable to an assisted person in the amount of any fees or charges in connection with providing bankruptcy assistance to such person that such debt relief agency has received, for actual damages, and for reasonable attorneys' fees and costs if such agency is found, after notice and a hearing, to have—

''(A) intentionally or negligently failed to comply with any provision of this section, section 527, or section 528 with respect to a case or proceeding under this title for such assisted person;

''(B) provided bankruptcy assistance to an assisted person in a case or proceeding under this title that is dismissed or converted to a case under another chapter of this title because of such agency's intentional or negligent failure to file any required document including those specified in section 521; or

''(C) intentionally or negligently disregarded the material requirements of this title or the Federal Rules of Bankruptcy Procedure applicable to such agency.

''(3) In addition to such other remedies as are provided under State law, whenever the chief law enforcement officer of a State, or an official or agency designated by a State, has reason to believe that any person has violated or is violating this section, the State—

''(A) may bring an action to enjoin such violation;

''(B) may bring an action on behalf of its residents to recover the actual damages of assisted persons arising from such violation, including any liability under paragraph (2); and

''(C) in the case of any successful action under subparagraph (A) or (B), shall be awarded the costs of the action and reasonable attorney fees as determined by the court.

''(4) The district court of the United States for any district located in the State shall have concurrent jurisdiction of any action under subparagraph (A) or (B) of paragraph (3).

''(5) Notwithstanding any other provision of Federal law and in addition to any other remedy provided under Federal or State law, if the court, on its own motion or on the motion of the United States trustee or the debtor, finds that a person intentionally violated this section, or engaged in a clear and consistent pattern or practice of violating this section, the court may—

''(A) enjoin the violation of such section; or

''(B) impose an appropriate civil penalty against such person.

''(d) No provision of this section, section 527, or section 528 shall—

''(1) annul, alter, affect, or exempt any person subject to such sections from complying with any law of any State except to the extent that such law is inconsistent with those sections, and then only to the extent of the inconsistency; or

''(2) be deemed to limit or curtail the authority or ability—

''(A) of a State or subdivision or instrumentality thereof, to determine and enforce qualifications for the practice of law under the laws of that State; or

''(B) of a Federal court to determine and enforce the qualifications for the practice of law before that court.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, is amended by inserting after the item relating to section 525, the following:

''526. Restrictions on debt relief agencies.''.

SEC. 228. DISCLOSURES.

(a) DISCLOSURES.—Subchapter II of chapter 5 of title 11, United States Code, as amended by section 227, is amended by adding at the end the following:

''§ 527. Disclosures

''(a) A debt relief agency providing bankruptcy assistance to an assisted person shall provide—

''(1) the written notice required under section 342(b)(1) of this title; and

''(2) to the extent not covered in the written notice described in paragraph (1), and not later than 3 business days after the first date on which a debt relief agency first offers to provide any bankruptcy assistance services to an assisted person, a clear and conspicuous written notice advising assisted persons that—

''(A) all information that the assisted person is required to provide with a petition and thereafter during a case under this title is required to be complete, accurate, and truthful;

''(B) all assets and all liabilities are required to be completely and accurately disclosed in the documents filed to commence the case, and the replacement value of each asset as defined in section 506 of this title must be stated in those documents where requested after reasonable inquiry to establish such value;

''(C) current monthly income, the amounts specified in section 707(b)(2), and, in a case under chapter 13, disposable income (determined in accordance with section 707(b)(2), are required to be stated after reasonable inquiry; and

''(D) information that an assisted person provides during their case may be audited pursuant to this title, and that failure to provide such information may result in dismissal of the case under this title or other sanction including, in some instances, criminal sanctions.

''(b) A debt relief agency providing bankruptcy assistance to an assisted person shall provide each assisted person at the same time as the notices required under subsection (a)(1) with the following statement, to the extent applicable, or one substantially similar. The statement shall be clear and conspicuous and shall be in a single document separate from other documents or notices provided to the assisted person:

''''IMPORTANT INFORMATION ABOUT BANKRUPTCY ASSISTANCE SERVICES FROM AN ATTORNEY OR BANKRUPTCY PETITION PREPARER.

''''If you decide to seek bankruptcy relief, you can represent yourself, you can hire an attorney to represent you, or you can get help in some localities from a bankruptcy petition preparer who is not an attorney. THE LAW REQUIRES AN ATTORNEY OR BANKRUPTCY PETITION PREPARER TO GIVE YOU A WRITTEN CONTRACT SPECIFYING WHAT THE ATTORNEY OR BANKRUPTCY PETITION PREPARER WILL DO FOR YOU AND HOW MUCH IT WILL COST. Ask to see the contract before you hire anyone.

''''The following information helps you understand what must be done in a routine bankruptcy case to help you evaluate how much service you need. Although bankruptcy can be complex, many cases are routine.

''''Before filing a bankruptcy case, either you or your attorney should analyze your eligibility for different forms of debt relief made available by the Bankruptcy Code and which form of relief is most likely to be beneficial for you. Be sure you understand the relief you can obtain and its limitations. To file a bankruptcy case, documents called a Petition, Schedules and Statement of Financial Affairs, as well as in some cases a Statement of Intention need to be prepared correctly and filed with the bankruptcy court. You will have to pay a filing fee to the bankruptcy court. Once your case starts, you will have to attend the required first meeting of creditors where you may be questioned by a court official called a 'trustee' and by creditors.

''''If you choose to file a chapter 7 case, you may be asked by a creditor to reaffirm a debt. You may want help deciding whether to do so and a creditor is not permitted to coerce you into reaffirming your debts.

''''If you choose to file a chapter 13 case in which you repay your creditors what you can afford over 3 to 5 years, you may also want help with preparing your chapter 13 plan and with the confirmation hearing on your plan which will be before a bankruptcy judge.

''''If you select another type of relief under the Bankruptcy Code other than chapter 7 or chapter 13, you will want to find out what needs to be done from someone familiar with that type of relief.

''''Your bankruptcy case may also involve litigation. You are generally permitted to represent yourself in litigation in bankruptcy court, but only attorneys, not bankruptcy petition preparers, can give you legal advice.'.

''(c) Except to the extent the debt relief agency provides the required information itself after reasonably diligent inquiry of the assisted person or others so as to obtain such information reasonably accurately for inclusion on the petition, schedules or statement of financial affairs, a debt relief agency providing bankruptcy assistance to an assisted person, to the extent permitted by nonbankruptcy law, shall provide each assisted person at the time required for the notice required under subsection (a)(1) reasonably sufficient information (which shall be provided in a clear and conspicuous writing) to the assisted person on how to provide all the information the assisted person is required to provide under this title pursuant to section 521, including—

''(1) how to value assets at replacement value, determine current monthly income, the amounts specified in section 707(b)(2)

and, in a chapter 13 case, how to determine disposable income in accordance with section 707(b)(2) and related calculations;

''(2) how to complete the list of creditors, including how to determine what amount is owed and what address for the creditor should be shown; and

''(3) how to determine what property is exempt and how to value exempt property at replacement value as defined in section 506 of this title.

''(d) A debt relief agency shall maintain a copy of the notices required under subsection (a) of this section for 2 years after the date on which the notice is given the assisted person.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, as amended by section 227, is amended by inserting after the item relating to section 526 the following:

''527. Disclosures.''.

SEC. 229. REQUIREMENTS FOR DEBT RELIEF AGENCIES.

(a) ENFORCEMENT.—Subchapter II of chapter 5 of title 11, United States Code, as amended by sections 227 and 228, is amended by adding at the end the following:

''§ 528. Requirements for debt relief agencies

''(a) A debt relief agency shall—

''(1) not later than 5 business days after the first date on which such agency provides any bankruptcy assistance services to an assisted person, but prior to such assisted person's petition under this title being filed, execute a written contract with such assisted person that explains clearly and conspicuously—

''(A) the services such agency will provide to such assisted person; and

''(B) the fees or charges for such services, and the terms of payment;

''(2) provide the assisted person with a copy of the fully executed and completed contract;

''(3) clearly and conspicuously disclose in any advertisement of bankruptcy assistance services or of the benefits of bankruptcy directed to the general public (whether in general media, seminars or specific mailings, telephonic or electronic messages, or otherwise) that the services or benefits are with respect to bankruptcy relief under this title; and

''(4) clearly and conspicuously use the following statement in such advertisement: 'We are a debt relief agency. We help people file for bankruptcy relief under the Bankruptcy Code.' or a substantially similar statement.

''(b)(1) An advertisement of bankruptcy assistance services or of the benefits of bankruptcy directed to the general public includes—

''(A) descriptions of bankruptcy assistance in connection with a chapter 13 plan whether or not chapter 13 is specifically mentioned in such advertisement; and

''(B) statements such as 'federally supervised repayment plan' or 'Federal debt restructuring help' or other similar statements that could lead a reasonable consumer to believe that debt counseling was being offered when in fact the services were directed to providing bankruptcy assistance with a chapter 13 plan or other form of bankruptcy relief under this title.

''(2) An advertisement, directed to the general public, indicating that the debt relief agency provides assistance with respect to credit defaults, mortgage foreclosures, eviction proceedings, excessive debt, debt collection pressure, or inability to pay any consumer debt shall—

''(A) disclose clearly and conspicuously in such advertisement that the assistance may involve bankruptcy relief under this title; and

''(B) include the following statement: 'We are a debt relief agency. We help people file for bankruptcy relief under the Bankruptcy Code.' or a substantially similar statement.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, as amended by section 227 and 228, is amended by inserting after the item relating to section 527, the following:

''528. Requirements for debt relief agencies.''.

SEC. 230. GAO STUDY.

(a) STUDY.—Not later than 270 days after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study of the feasibility, effectiveness, and cost of requiring trustees appointed under title 11, United States Code, or the bankruptcy courts, to provide to the Office of Child Support Enforcement promptly after the commencement of cases by debtors who are individuals under such title, the names and social security numbers of such debtors for the purposes of allowing such Office to determine whether such debtors have outstanding obligations for child support (as determined on the basis of information in the Federal Case Registry or other national database).

(b) REPORT.—Not later than 300 days after the date of enactment of this Act, the Comptroller General shall submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report containing the results of the study required by subsection (a).

SEC. 231. PROTECTION OF PERSONALLY IDENTIFIABLE INFORMATION.

(a) LIMITATION.—Section 363(b)(1) of title 11, United States Code, is amended by striking the period at the end and inserting the following:

'', except that if the debtor in connection with offering a product or a service discloses to an individual a policy prohibiting the transfer of personally identifiable information about individuals to persons that are not affiliated with the debtor and if such policy is in effect on the date of the commencement of the case, then the trustee may not sell or lease personally identifiable information to any person unless—

''(A) such sale or such lease is consistent with such policy; or

''(B) after appointment of a consumer privacy ombudsman in accordance with section 332, and after notice and a hearing, the court approves such sale or such lease—

''(i) giving due consideration to the facts, circumstances, and conditions of such sale or such lease; and

''(ii) finding that no showing was made that such sale or such lease would violate applicable nonbankruptcy law.''.

(b) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (41) the following:

''(41A) 'personally identifiable information' means—

''(A) if provided by an individual to the debtor in connection with obtaining a product or a service from the debtor primarily for personal, family, or household purposes—

''(i) the first name (or initial) and last name of such individual, whether given at birth or time of adoption, or resulting from a lawful change of name;

''(ii) the geographical address of a physical place of residence of such individual;

''(iii) an electronic address (including an e-mail address) of such individual;

''(iv) a telephone number dedicated to contacting such individual at such physical place of residence;

''(v) a social security account number issued to such individual; or

''(vi) the account number of a credit card issued to such individual; or

''(B) if identified in connection with 1 or more of the items of information specified in subparagraph (A)—

''(i) a birth date, the number of a certificate of birth or adoption, or a place of birth; or

''(ii) any other information concerning an identified individual that, if disclosed, will result in contacting or identifying such individual physically or electronically;''.

SEC. 232. CONSUMER PRIVACY OMBUDSMAN.

(a) CONSUMER PRIVACY OMBUDSMAN.—Title 11 of the United States Code is amended by inserting after section 331 the following:

''§ 332. Consumer privacy ombudsman

''(a) If a hearing is required under section 363(b)(1)(B) of this title, the court shall order the United States trustee to appoint, not later than 5 days before the commencement of the hearing, 1 disinterested person (other than the United States trustee) to serve as the consumer privacy ombudsman in the case and shall require that notice of such hearing be timely given to such ombudsman.

''(b) The consumer privacy ombudsman may appear and be heard at such hearing and shall provide to the court information to assist the court in its consideration of the facts, circumstances, and conditions of the proposed sale or lease of personally identifiable information under section 363(b)(1)(B) of this title. Such information may include presentation of—

''(1) the debtor's privacy policy;

''(2) the potential losses or gains of privacy to consumers if such sale or such lease is approved by the court;

''(3) the potential costs or benefits to consumers if such sale or such lease is approved by the court; and

''(4) the potential alternatives that would mitigate potential privacy losses or potential costs to consumers.

''(c) A consumer privacy ombudsman shall not disclose any personally identifiable information obtained by the ombudsman under this title.''.

(b) COMPENSATION OF CONSUMER PRIVACY OMBUDSMAN.—Section 330(a)(1) of title 11, United States Code, is amended in the matter preceding subparagraph (A), by inserting ''a consumer privacy ombudsman appointed under section 332,'' before ''an examiner''.

(c) CONFORMING AMENDMENT.—The table of sections for subchapter II of chapter 3 of title 11, United States Code, is amended by adding at the end the following:

''332. Consumer privacy ombudsman.''.

SEC. 233. PROHIBITION ON DISCLOSURE OF NAME OF MINOR CHILDREN.

(a) PROHIBITION.—Title 11 of the United States Code, as amended by section 106, is amended by inserting after section 111 the following:

''§ 112. Prohibition on disclosure of name of minor children

''The debtor may be required to provide information regarding a minor child involved in matters under this title but may not be required to disclose in the public records in the case the name of such minor child. The debtor may be required to disclose the name of such minor child in a nonpublic record that is maintained by the court and made available by the court for examination by the United States trustee, the trustee, and the auditor (if any) appointed under section 586(f) of title 28, in the case. The court, the United States trustee, the trustee, and such auditor shall not disclose the name of such minor child maintained in such nonpublic record.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 1 of title 11, United States Code, as amended by section 106, is amended by inserting after the item relating to section 111 the following:

''112. Prohibition on disclosure of name of minor children.''.

(c) CONFORMING AMENDMENT.—Section 107(a) of title 11, United States Code, is amended by inserting ''and subject to section 112 of this title'' after ''section''.

TITLE III—DISCOURAGING BANKRUPTCY ABUSE

SEC. 301. REINFORCEMENT OF THE FRESH START.

Section 523(a)(17) of title 11, United States Code, is amended—

(1) by striking ''by a court'' and inserting ''on a prisoner by any court'';

(2) by striking ''section 1915(b) or (f)'' and inserting ''subsection (b) or (f)(2) of section 1915''; and

(3) by inserting ''(or a similar non-Federal law)'' after ''title 28'' each place it appears.

SEC. 302. DISCOURAGING BAD FAITH REPEAT FILINGS.

Section 362(c) of title 11, United States Code, is amended—

(1) in paragraph (1), by striking ''and'' at the end;

(2) in paragraph (2), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(3) if a single or joint case is filed by or against debtor who is an individual in a case under chapter 7, 11, or 13, and if a single or joint case of the debtor was pending within the preceding 1-year period but was dismissed, other than a case refiled under a chapter other than chapter 7 after dismissal under section 707(b)—

''(A) the stay under subsection (a) with respect to any action taken with respect to a debt or property securing such debt or with respect to any lease shall terminate with respect to the debtor on the 30th day after the filing of the later case;

''(B) on the motion of a party in interest for continuation of the automatic stay and upon notice and a hearing, the court may extend the stay in particular cases as to any or all creditors (subject to such conditions or limitations as the court may then impose) after notice and a hearing completed before the expiration of the 30-day period only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed; and

''(C) for purposes of subparagraph (B), a case is presumptively filed not in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)—

''(i) as to all creditors, if—

''(I) more than 1 previous case under any of chapters 7, 11, and 13 in which the individual was a debtor was pending within the preceding 1-year period;

''(II) a previous case under any of chapters 7, 11, and 13 in which the individual was a debtor was dismissed within such 1-year period, after the debtor failed to—

''(aa) file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be a substantial excuse unless the dismissal was caused by the negligence of the debtor's attorney);

''(bb) provide adequate protection as ordered by the court; or

''(cc) perform the terms of a plan confirmed by the court; or

''(III) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under chapter 7, 11, or 13 or any other reason to conclude that the later case will be concluded—

''(aa) if a case under chapter 7, with a discharge; or

''(bb) if a case under chapter 11 or 13, with a confirmed plan that will be fully performed; and

''(ii) as to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor if, as of the date of dismissal of such case, that action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to actions of such creditor; and

''(4)(A)(i) if a single or joint case is filed by or against a debtor who is an individual under this title, and if 2 or more single or joint cases of the debtor were pending within the previous year but were dismissed, other than a case refiled under section 707(b), the stay under subsection (a) shall not go into effect upon the filing of the later case; and

''(ii) on request of a party in interest, the court shall promptly enter an order confirming that no stay is in effect;

''(B) if, within 30 days after the filing of the later case, a party in interest requests the court may order the stay to take effect in the case as to any or all creditors (subject to such conditions or limitations as the court may impose), after notice and a hearing, only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed;

''(C) a stay imposed under subparagraph (B) shall be effective on the date of entry of the order allowing the stay to go into effect; and

''(D) for purposes of subparagraph (B), a case is presumptively not filed in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)—

''(i) as to all creditors if—

''(I) 2 or more previous cases under this title in which the individual was a debtor were pending within the 1-year period;

''(II) a previous case under this title in which the individual was a debtor was dismissed within the time period stated in this paragraph after the debtor failed to file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be substantial excuse unless the dismissal was caused by the negligence of the debtor's attorney), failed to provide adequate protection as ordered by the court, or failed to perform the terms of a plan confirmed by the court; or

''(III) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under this title, or any other reason to conclude that the later case will not be concluded, if a case under chapter 7, with a discharge, and if a case under chapter 11 or 13, with a confirmed plan that will be fully performed; or

''(ii) as to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor if, as of the date of dismissal of such case, such action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to action of such creditor.''.

SEC. 303. CURBING ABUSIVE FILINGS.

(a) IN GENERAL.—Section 362(d) of title 11, United States Code, is amended—

(1) in paragraph (2), by striking ''or'' at the end;

(2) in paragraph (3), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(4) with respect to a stay of an act against real property under subsection (a), by a creditor whose claim is secured by an interest in such real estate, if the court finds that the filing of the bankruptcy petition was part of a scheme to delay, hinder, and defraud creditors that involved either—

''(A) transfer of all or part ownership of, or other interest in, the real property without the consent of the secured creditor or court approval; or

''(B) multiple bankruptcy filings affecting the real property.

If recorded in compliance with applicable State laws governing notices of interests or liens in real property, an order entered under this subsection shall be binding in any other case under this title purporting to affect the real property filed not later than 2 years after the date of entry of such order by the court, except that a debtor in a subsequent case may move for relief from such order based upon changed circumstances or for good cause shown, after notice and a hearing. Any Federal, State, or local governmental unit that accepts notices of interests or liens in real property shall accept any certified copy of an order described in this subsection for indexing and recording.''.

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, as amended by section 224, is amended by inserting after paragraph (19), the following:

''(20) under subsection (a), of any act to enforce any lien against or security interest in real property following the entry of an order under section 362(d)(4) as to that property in any prior bankruptcy case for a period of 2 years after entry of such an order, except that the debtor, in a subsequent case, may move the court for relief from such order based upon changed circumstances or for other good cause shown, after notice and a hearing;

''(21) under subsection (a), of any act to enforce any lien against or security interest in real property—

''(A) if the debtor is ineligible under section 109(g) to be a debtor in a bankruptcy case; or

''(B) if the bankruptcy case was filed in violation of a bankruptcy court order in a prior bankruptcy case prohibiting the debtor from being a debtor in another bankruptcy case;''.

SEC. 304. DEBTOR RETENTION OF PERSONAL PROPERTY SECURITY.

Title 11, United States Code, is amended—

(1) in section 521(a), as so designated by section 106—

(A) in paragraph (4), by striking '', and'' at the end and inserting a semicolon;

(B) in paragraph (5), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(6) in a case under chapter 7 of this title in which the debtor is an individual, not retain possession of personal property as to which a creditor has an allowed claim for the purchase price secured in whole or in part by an interest in that personal property unless the debtor, not later than 45 days after the first meeting of creditors under section 341(a), either—

''(A) enters into an agreement with the creditor pursuant to section 524(c) of this title with respect to the claim secured by such property; or

''(B) redeems such property from the security interest pursuant to section 722 of this title.

If the debtor fails to so act within the 45-day period referred to in paragraph (6), the stay under section 362(a) of this title is terminated with respect to the personal property of the estate or of the debtor which is affected, such property shall no longer be property of the estate, and the creditor may take whatever action as to such property as is permitted by applicable nonbankruptcy law, unless the court determines on the motion of the trustee filed before the expiration of such 45-day period, and after notice and a

hearing, that such property is of consequential value or benefit to the estate, orders appropriate adequate protection of the creditor's interest, and orders the debtor to deliver any collateral in the debtor's possession to the trustee.''; and

(2) in section 722, by inserting ''in full at the time of redemption'' before the period at the end.

SEC. 305. RELIEF FROM THE AUTOMATIC STAY WHEN THE DEBTOR DOES NOT COMPLETE INTENDED SURRENDER OF CONSUMER DEBT COLLATERAL.

Title 11, United States Code, is amended—

(1) in section 362, as amended by section 106—

(A) in subsection (c), by striking ''(e), and (f)'' and inserting ''(e), (f), and (h)'';

(B) by redesignating subsection (h) as subsection (k) and transferring such subsection so as to insert it after subjection (j) as added by section 106; and

(C) by inserting after subsection (g) the following:

''(h)(1) In a case in which the debtor is an individual, the stay provided by subsection (a) is terminated with respect to personal property of the estate or of the debtor securing in whole or in part a claim, or subject to an unexpired lease, and such personal property shall no longer be property of the estate if the debtor fails within the applicable time set by section 521(a)(2) of this title—

''(A) to file timely any statement of intention required under section 521(a)(2) of this title with respect to that property or to indicate in that statement that the debtor will either surrender the property or retain it and, if retaining it, either redeem the property pursuant to section 722 of this title, reaffirm the debt it secures pursuant to section 524(c) of this title, or assume the unexpired lease pursuant to section 365(p) of this title if the trustee does not do so, as applicable; and

''(B) to take timely the action specified in that statement of intention, as it may be amended before expiration of the period for taking action, unless the statement of intention specifies reaffirmation and the creditor refuses to reaffirm on the original contract terms.

''(2) Paragraph (1) does not apply if the court determines, on the motion of the trustee filed before the expiration of the applicable time set by section 521(a)(2), after notice and a hearing, that such property is of consequential value or benefit to the estate, and orders appropriate adequate protection of the creditor's interest, and orders the debtor to deliver any collateral in the debtor's possession to the trustee. If the court does not so determine, the stay provided by subsection (a) shall terminate upon the conclusion of the proceeding on the motion.''; and

(2) in section 521, as amended by sections 106 and 225—

(A) in subsection (a)(2) by striking ''consumer'';

(B) in subsection (a)(2)(B)—

(i) by striking ''forty-five days after the filing of a notice of intent under this section'' and inserting ''30 days after the first date set for the meeting of creditors under section 341(a) of this title''; and

(ii) by striking ''forty-five day'' and inserting ''30-day'';

(C) in subsection (a)(2)(C) by inserting '', except as provided in section 362(h) of this title'' before the semicolon; and

(D) by adding at the end the following:

''(d) If the debtor fails timely to take the action specified in subsection (a)(6) of this section, or in paragraphs (1) and (2) of section 362(h) of this title, with respect to property which a lessor or bailor owns and has leased, rented, or bailed to the debtor or as to which a creditor holds a security interest not otherwise voidable under section 522(f), 544, 545, 547, 548, or 549 of this title, nothing in this title shall prevent or limit the operation of a provision in the underlying lease or agreement which has the effect of placing the debtor in default under such lease or agreement by reason of the occurrence, pendency, or existence of a proceeding under this title or the insolvency of the debtor. Nothing in this subsection shall be deemed to justify limiting such a provision in any other circumstance.''.

SEC. 306. GIVING SECURED CREDITORS FAIR TREATMENT IN CHAPTER 13.

(a) IN GENERAL.—Section 1325(a)(5)(B)(i) of title 11, United States Code, is amended to read as follows:

''(i) the plan provides that—

''(I) the holder of such claim retain the lien securing such claim until the earlier of—

''(aa) the payment of the underlying debt determined under nonbankruptcy law; or

''(bb) discharge under section 1328; and

''(II) if the case under this chapter is dismissed or converted without completion of the plan, such lien shall also be retained by such holder to the extent recognized by applicable nonbankruptcy law; and''.

(b) RESTORING THE FOUNDATION FOR SECURED CREDIT.—Section 1325(a) of title 11, United States Code, is amended by adding at the end the following:

''For purposes of paragraph (5), section 506 shall not apply to a claim described in that paragraph if the creditor has a purchase money security interest securing the debt that is the subject of the claim, the debt was incurred within the 910-day preceding the filing of the petition, and the collateral for that debt consists of a motor vehicle (as defined in section 30102 of title 49) acquired for the personal use of the debtor, or if collateral for that debt consists of any other thing of value, if the debt was incurred during the 1-year period preceding that filing.''.

(c) DEFINITIONS.—Section 101 of title 11, United States Code, is amended—

(1) by inserting after paragraph (13) the following:

''(13A) 'debtor's principal residence'—

''(A) means a residential structure, including incidental property, without regard to whether that structure is attached to real property; and

''(B) includes an individual condominium or cooperative unit, a mobile or manufactured home, or trailer;''; and

(2) by inserting after paragraph (27), the following:

''(27A) 'incidental property' means, with respect to a debtor's principal residence—

''(A) property commonly conveyed with a principal residence in the area where the real estate is located;

''(B) all easements, rights, appurtenances, fixtures, rents, royalties, mineral rights, oil or gas rights or profits, water rights, escrow funds, or insurance proceeds; and

''(C) all replacements or additions;''.

SEC. 307. DOMICILIARY REQUIREMENTS FOR EXEMPTIONS.

Section 522(b)(3) of title 11, United States Code, as so designated by section 106, is amended—

(1) in subparagraph (A)—

(A) by striking ''180 days'' and inserting ''730 days''; and

(B) by striking '', or for a longer portion of such 180-day period than in any other place'' and inserting ''or if the debtor's domicile has not been located at a single State for such 730-day period, the place in which the debtor's domicile was located for 180 days immediately preceding the 730-day period or for a longer portion of such 180-day period than in any other place''; and

(2) by adding at the end the following:

''If the effect of the domiciliary requirement under subparagraph (A) is to render the debtor ineligible for any exemption, the debtor may elect to exempt property that is specified under subsection (d).''.

SEC. 308. REDUCTION OF HOMESTEAD EXEMPTION FOR FRAUD.

Section 522 of title 11, United States Code, as amended by section 224, is amended—

(1) in subsection (b)(3)(A), as so designated by this Act, by inserting ''subject to subsections (o) and (p),'' before ''any property''; and

(2) by adding at the end the following:

''(o) For purposes of subsection (b)(3)(A), and notwithstanding subsection (a), the value of an interest in—

''(1) real or personal property that the debtor or a dependent of the debtor uses as a residence;

''(2) a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence;

''(3) a burial plot for the debtor or a dependent of the debtor; or

''(4) real or personal property that the debtor or a dependent of the debtor claims as a homestead;

shall be reduced to the extent that such value is attributable to any portion of any property that the debtor disposed of in the 10-year period ending on the date of the filing of the petition with the intent to hinder, delay, or defraud a creditor and that the debtor could not exempt, or that portion that the debtor could not exempt, under subsection (b), if on such date the debtor had held the property so disposed of.''.

SEC. 309. PROTECTING SECURED CREDITORS IN CHAPTER 13 CASES.

(a) STOPPING ABUSIVE CONVERSIONS FROM CHAPTER 13.—Section 348(f)(1) of title 11, United States Code, is amended—

(1) in subparagraph (A), by striking ''and'' at the end;

(2) in subparagraph (B)—

(A) by striking ''in the converted case, with allowed secured claims'' and inserting ''only in a case converted to a case under chapter 11 or 12, but not in a case converted to a case under chapter 7, with allowed secured claims in cases under chapters 11 and 12''; and

(B) by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(C) with respect to cases converted from chapter 13—

''(i) the claim of any creditor holding security as of the date of the petition shall continue to be secured by that security unless the full amount of such claim determined under applicable nonbankruptcy law has been paid in full as of the date of conversion, notwithstanding any valuation or determination of the amount of an allowed secured claim made for the purposes of the case under chapter 13; and

''(ii) unless a prebankruptcy default has been fully cured under the plan at the time of conversion, in any proceeding under this title or otherwise, the default shall have the effect given under applicable nonbankruptcy law.''.

(b) GIVING DEBTORS THE ABILITY TO KEEP LEASED PERSONAL PROPERTY BY ASSUMPTION.—Section 365 of title 11, United States Code, is amended by adding at the end the following:

''(p)(1) If a lease of personal property is rejected or not timely assumed by the trustee under subsection (d), the leased property is no longer property of the estate and the stay under section 362(a) is automatically terminated.

''(2)(A) If the debtor in a case under chapter 7 is an individual, the debtor may notify

the creditor in writing that the debtor desires to assume the lease. Upon being so notified, the creditor may, at its option, notify the debtor that it is willing to have the lease assumed by the debtor and may condition such assumption on cure of any outstanding default on terms set by the contract.

''(B) If, not later than 30 days after notice is provided under subparagraph (A), the debtor notifies the lessor in writing that the lease is assumed, the liability under the lease will be assumed by the debtor and not by the estate.

''(C) The stay under section 362 and the injunction under section 524(a)(2) shall not be violated by notification of the debtor and negotiation of cure under this subsection.

''(3) In a case under chapter 11 in which the debtor is an individual and in a case under chapter 13, if the debtor is the lessee with respect to personal property and the lease is not assumed in the plan confirmed by the court, the lease is deemed rejected as of the conclusion of the hearing on confirmation. If the lease is rejected, the stay under section 362 and any stay under section 1301 is automatically terminated with respect to the property subject to the lease.''.

(c) ADEQUATE PROTECTION OF LESSORS AND PURCHASE MONEY SECURED CREDITORS.—

(1) CONFIRMATION OF PLAN.—Section 1325(a)(5)(B) of title 11, United States Code, as amended by section 306, is amended—

(A) in clause (i), by striking ''and'' at the end;

(B) in clause (ii), by striking ''or'' at the end and inserting ''and''; and

(C) by adding at the end the following:

''(iii) if—

''(I) property to be distributed pursuant to this subsection is in the form of periodic payments, such payments shall be in equal monthly amounts; and

''(II) the holder of the claim is secured by personal property, the amount of such payments shall not be less than an amount sufficient to provide to the holder of such claim adequate protection during the period of the plan; or''.

(2) PAYMENTS.—Section 1326(a) of title 11, United States Code, is amended to read as follows:

''(a)(1) Unless the court orders otherwise, the debtor shall commence making payments not later than 30 days after the date of the filing of the plan or the order for relief, whichever is earlier, in the amount—

''(A) proposed by the plan to the trustee;

''(B) scheduled in a lease of personal property directly to the lessor for that portion of the obligation that becomes due after the order for relief, reducing the payments under subparagraph (A) by the amount so paid and providing the trustee with evidence of such payment, including the amount and date of payment; and

''(C) that provides adequate protection directly to a creditor holding an allowed claim secured by personal property to the extent the claim is attributable to the purchase of such property by the debtor for that portion of the obligation that becomes due after the order for relief, reducing the payments under subparagraph (A) by the amount so paid and providing the trustee with evidence of such payment, including the amount and date of payment.

''(2) A payment made under paragraph (1)(A) shall be retained by the trustee until confirmation or denial of confirmation. If a plan is confirmed, the trustee shall distribute any such payment in accordance with the plan as soon as is practicable. If a plan is not confirmed, the trustee shall return any such payments not previously paid and not yet due and owing to creditors pursuant to paragraph (3) to the debtor, after deducting any unpaid claim allowed under section 503(b).

''(3) Subject to section 363, the court may, upon notice and a hearing, modify, increase, or reduce the payments required under this subsection pending confirmation of a plan.

''(4) Not later than 60 days after the date of filing of a case under this chapter, a debtor retaining possession of personal property subject to a lease or securing a claim attributable in whole or in part to the purchase price of such property shall provide the lessor or secured creditor reasonable evidence of the maintenance of any required insurance coverage with respect to the use or ownership of such property and continue to do so for so long as the debtor retains possession of such property.''.

SEC. 310. LIMITATION ON LUXURY GOODS.

Section 523(a)(2)(C) of title 11, United States Code, is amended to read as follows:

''(C)(i) for purposes of subparagraph (A)—

''(I) consumer debts owed to a single creditor and aggregating more than $500 for luxury goods or services incurred by an individual debtor on or within 90 days before the order for relief under this title are presumed to be nondischargeable; and

''(II) cash advances aggregating more than $750 that are extensions of consumer credit under an open end credit plan obtained by an individual debtor on or within 70 days before the order for relief under this title, are presumed to be nondischargeable; and

''(ii) for purposes of this subparagraph—

''(I) the terms 'consumer', 'credit', and 'open end credit plan' have the same meanings as in section 103 of the Truth in Lending Act; and

''(II) the term 'luxury goods or services' does not include goods or services reasonably necessary for the support or maintenance of the debtor or a dependent of the debtor.''.

SEC. 311. AUTOMATIC STAY.

(a) IN GENERAL.—Section 362(b) of title 11, United States Code, as amended by sections 224 and 303, is amended by inserting after paragraph (21), the following:

''(22) subject to subsection (n), under subsection (a)(3), of the continuation of any eviction, unlawful detainer action, or similar proceeding by a lessor against a debtor involving residential property in which the debtor resides as a tenant under a lease or rental agreement and with respect to which the lessor has obtained before the date of the filing of the bankruptcy petition, a judgment for possession of such property against the debtor;

''(23) subject to subsection (o), under subsection (a)(3), of an eviction action that seeks possession of the residential property in which the debtor resides as a tenant under a lease or rental agreement based on endangerment of such property or the illegal use of controlled substances on such property, but only if the lessor files with the court, and serves upon the debtor, a certification under penalty of perjury that such an eviction action has been filed, or that the debtor, during the 30-day period preceding the date of the filing of the certification, has endangered property or illegally used or allowed to be used a controlled substance on the property;

''(24) under subsection (a), of any transfer that is not avoidable under section 544 and that is not avoidable under section 549;''.

(b) LIMITATIONS.—Section 362 of title 11, United States Code, as amended by sections 106 and 305, is amended by adding at the end the following:

''(*l*)(1) Except as otherwise provided in this subsection, subsection (b)(22) shall apply on the date that is 30 days after the date on which the bankruptcy petition is filed, if the debtor files with the petition and serves upon the lessor a certification under penalty of perjury that—

''(A) under nonbankruptcy law applicable in the jurisdiction, there are circumstances under which the debtor would be permitted to cure the entire monetary default that gave rise to the judgment for possession, after that judgment for possession was entered; and

''(B) the debtor (or an adult dependent of the debtor) has deposited with the clerk of the court, any rent that would become due during the 30-day period after the filing of the bankruptcy petition.

''(2) If, within the 30-day period after the filing of the bankruptcy petition, the debtor (or an adult dependent of the debtor) complies with paragraph (1) and files with the court and serves upon the lessor a further certification under penalty of perjury that the debtor (or an adult dependent of the debtor) has cured, under nonbankrupcty law applicable in the jurisdiction, the entire monetary default that gave rise to the judgment under which possession is sought by the lessor, subsection (b)(22) shall not apply, unless ordered to apply by the court under paragraph (3).

''(3)(A) If the lessor files an objection to any certification filed by the debtor under paragraph (1) or (2), and serves such objection upon the debtor, the court shall hold a hearing within 10 days after the filing and service of such objection to determine if the certification filed by the debtor under paragraph (1) or (2) is true.

''(B) If the court upholds the objection of the lessor filed under subparagraph (A)—

''(i) subsection (b)(22) shall apply immediately and relief from the stay provided under subsection (a)(3) shall not be required to enable the lessor to complete the process to recover full possession of the property; and

''(ii) the clerk of the court shall immediately serve upon the lessor and the debtor a certified copy of the court's order upholding the lessor's objection.

''(4) If a debtor, in accordance with paragraph (5), indicates on the petition that there was a judgment for possession of the residential rental property in which the debtor resides and does not file a certification under paragraph (1) or (2)—

''(A) subsection (b)(22) shall apply immediately upon failure to file such certification, and relief from the stay provided under subsection (a)(3) shall not be required to enable the lessor to complete the process to recover full possession of the property; and

''(B) the clerk of the court shall immediately serve upon the lessor and the debtor a certified copy of the docket indicating the absence of a filed certification and the applicability of the exception to the stay under subsection (b)(22).

''(5)(A) Where a judgment for possession of residential property in which the debtor resides as a tenant under a lease or rental agreement has been obtained by the lessor, the debtor shall so indicate on the bankruptcy petition and shall provide the name and address of the lessor that obtained that pre-petition judgment on the petition and on any certification filed under this subsection.

''(B) The form of certification filed with the petition, as specified in this subsection, shall provide for the debtor to certify, and the debtor shall certify—

''(i) whether a judgment for possession of residential rental housing in which the debtor resides has been obtained against the debtor before the filing of the petition; and

''(ii) whether the debtor is claiming under paragraph (1) that under nonbankruptcy law applicable in the jurisdiction, there are circumstances under which the debtor would be permitted to cure the entire monetary default that gave rise to the judgment for possession, after that judgment of possession

was entered, and has made the appropriate deposit with the court.

''(C) The standard forms (electronic and otherwise) used in a bankruptcy proceeding shall be amended to reflect the requirements of this subsection.

''(D) The clerk of the court shall arrange for the prompt transmittal of the rent deposited in accordance with paragraph (1)(B) to the lessor.

''(m)(1) Except as otherwise provided in this subsection, subsection (b)(23) shall apply on the date that is 15 days after the date on which the lessor files and serves a certification described in subsection (b)(23).

''(2)(A) If the debtor files with the court an objection to the truth or legal sufficiency of the certification described in subsection (b)(23) and serves such objection upon the lessor, subsection (b)(23) shall not apply, unless ordered to apply by the court under this subsection.

''(B) If the debtor files and serves the objection under subparagraph (A), the court shall hold a hearing within 10 days after the filing and service of such objection to determine if the situation giving rise to the lessor's certification under paragraph (1) existed or has been remedied.

''(C) If the debtor can demonstrate to the satisfaction of the court that the situation giving rise to the lessor's certification under paragraph (1) did not exist or has been remedied, the stay provided under subsection (a)(3) shall remain in effect until the termination of the stay under this section.

''(D) If the debtor cannot demonstrate to the satisfaction of the court that the situation giving rise to the lessor's certification under paragraph (1) did not exist or has been remedied—

''(i) relief from the stay provided under subsection (a)(3) shall not be required to enable the lessor to proceed with the eviction; and

''(ii) the clerk of the court shall immediately serve upon the lessor and the debtor a certified copy of the court's order upholding the lessor's certification.

''(3) If the debtor fails to file, within 15 days, an objection under paragraph (2)(A)—

''(A) subsection (b)(23) shall apply immediately upon such failure and relief from the stay provided under subsection (a)(3) shall not be required to enable the lessor to complete the process to recover full possession of the property; and

''(B) the clerk of the court shall immediately serve upon the lessor and the debtor a certified copy of the docket indicating such failure.''.

SEC. 312. EXTENSION OF PERIOD BETWEEN BANKRUPTCY DISCHARGES.

Title 11, United States Code, is amended—

(1) in section 727(a)(8), by striking ''six'' and inserting ''8''; and

(2) in section 1328, by inserting after subsection (e) the following:

''(f) Notwithstanding subsections (a) and (b), the court shall not grant a discharge of all debts provided for in the plan or disallowed under section 502, if the debtor has received a discharge—

''(1) in a case filed under chapter 7, 11, or 12 of this title during the 4-year period preceding the date of the order for relief under this chapter, or

''(2) in a case filed under chapter 13 of this title during the 2-year period preceding the date of such order.''.

SEC. 313. DEFINITION OF HOUSEHOLD GOODS AND ANTIQUES.

(a) DEFINITION.—Section 522(f) of title 11, United States Code, is amended by adding at the end the following:

''(4)(A) Subject to subparagraph (B), for purposes of paragraph (1)(B), the term 'household goods' means—

''(i) clothing;

''(ii) furniture;

''(iii) appliances;

''(iv) 1 radio;

''(v) 1 television;

''(vi) 1 VCR;

''(vii) linens;

''(viii) china;

''(ix) crockery;

''(x) kitchenware;

''(xi) educational materials and educational equipment primarily for the use of minor dependent children of the debtor;

''(xii) medical equipment and supplies;

''(xiii) furniture exclusively for the use of minor children, or elderly or disabled dependents of the debtor;

''(xiv) personal effects (including the toys and hobby equipment of minor dependent children and wedding rings) of the debtor and the dependents of the debtor; and

''(xv) 1 personal computer and related equipment.

''(B) The term 'household goods' does not include—

''(i) works of art (unless by or of the debtor, or any relative of the debtor);

''(ii) electronic entertainment equipment with a fair market value of more than $500 in the aggregate (except 1 television, 1 radio, and 1 VCR);

''(iii) items acquired as antiques with a fair market value of more than $500 in the aggregate;

''(iv) jewelry with a fair market value of more than $500 in the aggregate (except wedding rings); and

''(v) a computer (except as otherwise provided for in this section), motor vehicle (including a tractor or lawn tractor), boat, or a motorized recreational device, conveyance, vehicle, watercraft, or aircraft.''.

(b) STUDY.—Not later than 2 years after the date of enactment of this Act, the Director of the Executive Office for United States Trustees shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives containing its findings regarding utilization of the definition of household goods, as defined in section 522(f)(4) of title 11, United States Code, as added by this section, with respect to the avoidance of nonpossessory, nonpurchase money security interests in household goods under section 522(f)(1)(B) of title 11, United States Code, and the impact that section 522(f)(4) of that title, as added by this section, has had on debtors and on the bankruptcy courts. Such report may include recommendations for amendments to section 522(f)(4) of title 11, United States Code, consistent with the Director's findings.

SEC. 314. DEBT INCURRED TO PAY NONDISCHARGEABLE DEBTS.

(a) IN GENERAL.—Section 523(a) of title 11, United States Code, is amended by inserting after paragraph (14) the following:

''(14A) incurred to pay a tax to a governmental unit, other than the United States, that would be nondischargeable under paragraph (1);''.

(b) DISCHARGE UNDER CHAPTER 13.—Section 1328(a) of title 11, United States Code, is amended by striking paragraphs (1) through (3) and inserting the following:

''(1) provided for under section 1322(b)(5);

''(2) of the kind specified in paragraph (2), (3), (4), (5), (8), or (9) of section 523(a);

''(3) for restitution, or a criminal fine, included in a sentence on the debtor's conviction of a crime; or

''(4) for restitution, or damages, awarded in a civil action against the debtor as a result of willful or malicious injury by the debtor that caused personal injury to an individual or the death of an individual.''.

SEC. 315. GIVING CREDITORS FAIR NOTICE IN CHAPTERS 7 AND 13 CASES.

(a) NOTICE.—Section 342 of title 11, United States Code, as amended by section 102, is amended—

(1) in subsection (c)—

(A) by inserting ''(1)'' after ''(c)'';

(B) by striking '', but the failure of such notice to contain such information shall not invalidate the legal effect of such notice''; and

(C) by adding at the end the following:

''(2)(A) If, within the 90 days before the commencement of a voluntary case, a creditor supplies the debtor in at least 2 communications sent to the debtor with the current account number of the debtor and the address at which such creditor requests to receive correspondence, then any notice required by this title to be sent by the debtor to such creditor shall be sent to such address and shall include such account number.

(B) If a creditor would be in violation of applicable nonbankruptcy law by sending any such communication within such 90-day period and if such creditor supplies the debtor in the last 2 communications with the current account number of the debtor and the address at which such creditor requests to receive correspondence, then any notice required by this title to be sent by the debtor to such creditor shall be sent to such address and shall include such account number; and

(2) by adding at the end the following:

''(e)(1) In a case under chapter 7 or 13 of this title of a debtor who is an individual, a creditor at any time may both file with the court and serve on the debtor a notice of address to be used to provide notice in such case to such creditor.

''(2) Any notice in such case required to be provided to such creditor by the debtor or the court later than 5 days after the court and the debtor receive such creditor's notice of address, shall be provided to such address.

''(f)(1) An entity may file with any bankruptcy court a notice of address to be used by all the bankruptcy courts or by particular bankruptcy courts, as so specified by such entity at the time such notice is filed, to provide notice to such entity in all cases under chapters 7 and 13 pending in the courts with respect to which such notice is filed, in which such entity is a creditor.

''(2) In any case filed under chapter 7 or 13, any notice required to be provided by a court with respect to which a notice is filed under paragraph (1), to such entity later than 30 days after the filing of such notice under paragraph (1) shall be provided to such address unless with respect to a particular case a different address is specified in a notice filed and served in accordance with subsection (e).

''(3) A notice filed under paragraph (1) may be withdrawn by such entity.

''(g)(1) Notice provided to a creditor by the debtor or the court other than in accordance with this section (excluding this subsection) shall not be effective notice until such notice is brought to the attention of such creditor. If such creditor designates a person or an organizational subdivision of such creditor to be responsible for receiving notices under this title and establishes reasonable procedures so that such notices receivable by such creditor are to be delivered to such person or such subdivision, then a notice provided to such creditor other than in accordance with this section (excluding this subsection) shall not be considered to have been brought to the attention of such creditor until such notice is received by such person or such subdivision.

''(2) A monetary penalty may not be imposed on a creditor for a violation of a stay in effect under section 362(a) of this title

(including a monetary penalty imposed under section 362(k) of this title) or for failure to comply with section 542 or 543 unless the conduct that is the basis of such violation or of such failure occurs after such creditor receives notice effective under this section of the order for relief.''.

(b) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, as amended by sections 106, 225, and 305, is amended—

(1) in subsection (a), as so designated by section 106, by amending paragraph (1) to read as follows:

''(1) file—

''(A) a list of creditors; and

''(B) unless the court orders otherwise—

''(i) a schedule of assets and liabilities;

''(ii) a schedule of current income and current expenditures;

''(iii) a statement of the debtor's financial affairs and, if section 342(b) applies, a certificate—

''(I) of an attorney whose name is indicated on the petition as the attorney for the debtor, or any bankruptcy petition preparer signing the petition under section 110(b)(1), indicating that such attorney or such bankruptcy petition preparer delivered to the debtor the notice required by section 342(b); or

''(II) if no attorney is so indicated, and no bankruptcy petition preparer signed the petition, of the debtor that such notice was received and read by the debtor;

''(iv) copies of all payment advices or other evidence of payment received within 60 days before the filing of the petition, by the debtor from any employer of the debtor;

''(v) a statement of the amount of monthly net income, itemized to show how the amount is calculated; and

''(vi) a statement disclosing any reasonably anticipated increase in income or expenditures over the 12-month period following the date of the filing of the petition;''; and

(2) by adding at the end the following:

''(e)(1) If the debtor in a case under chapter 7 or 13 is an individual and if a creditor files with the court at any time a request to receive a copy of the petition, schedules, and statement of financial affairs filed by the debtor, then the court shall make such petition, such schedules, and such statement available to such creditor.

''(2)(A) The debtor shall provide—

''(i) not later than 7 days before the date first set for the first meeting of creditors, to the trustee a copy of the Federal income tax return required under applicable law (or at the election of the debtor, a transcript of such return) for the most recent tax year ending immediately before the commencement of the case and for which a Federal income tax return was filed; and

''(ii) at the same time the debtor complies with clause (i), a copy of such return (or if elected under clause (i), such transcript) to any creditor that timely requests such copy.

''(B) If the debtor fails to comply with clause (i) or (ii) of subparagraph (A), the court shall dismiss the case unless the debtor demonstrates that the failure to so comply is due to circumstances beyond the control of the debtor.

''(C) If a creditor requests a copy of such tax return or such transcript and if the debtor fails to provide a copy of such tax return or such transcript to such creditor at the time the debtor provides such tax return or such transcript to the trustee, then the court shall dismiss the case unless the debtor demonstrates that the failure to provide a copy of such tax return or such transcript is due to circumstances beyond the control of the debtor.

''(3) If a creditor in a case under chapter 13 files with the court at any time a request to receive a copy of the plan filed by the debtor, then the court shall make available to such creditor a copy of such plan—

''(A) at a reasonable cost; and

''(B) not later than 5 days after such request is filed.

''(f) At the request of the court, the United States trustee, or any party in interest in a case under chapter 7, 11, or 13, a debtor who is an individual shall file with the court—

''(1) at the same time filed with the taxing authority, a copy of each Federal income tax return required under applicable law (or at the election of the debtor, a transcript of such tax return) with respect to each tax year of the debtor ending while the case is pending under such chapter;

''(2) at the same time filed with the taxing authority, each Federal income tax return required under applicable law (or at the election of the debtor, a transcript of such tax return) that had not been filed with such authority as of the date of the commencement of the case and that was subsequently filed for any tax year of the debtor ending in the 3-year period ending on the date of the commencement of the case;

''(3) a copy of each amendment to any Federal income tax return or transcript filed with the court under paragraph (1) or (2); and

''(4) in a case under chapter 13—

''(A) on the date that is either 90 days after the end of such tax year or 1 year after the date of the commencement of the case, whichever is later, if a plan is not confirmed before such later date; and

''(B) annually after the plan is confirmed and until the case is closed, not later than the date that is 45 days before the anniversary of the confirmation of such plan;

a statement, under penalty of perjury, of the income and expenditures of the debtor during the tax year of the debtor most recently concluded before such statement is filed under this paragraph, and of the monthly income of the debtor, that shows how income, expenditures, and monthly income are calculated.

''(g)(1) A statement referred to in subsection (f)(4) shall disclose—

''(A) the amount and sources of the income of the debtor;

''(B) the identity of any person responsible with the debtor for the support of any dependent of the debtor; and

''(C) the identity of any person who contributed, and the amount contributed, to the household in which the debtor resides.

''(2) The tax returns, amendments, and statement of income and expenditures described in subsections (e)(2)(A) and (f) shall be available to the United States trustee (or the bankruptcy administrator, if any), the trustee, and any party in interest for inspection and copying, subject to the requirements of subsection (h).

''(h)(1) Not later than 180 days after the date of the enactment of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2002, the Director of the Administrative Office of the United States Courts shall establish procedures for safeguarding the confidentiality of any tax information required to be provided under this section.

''(2) The procedures under paragraph (1) shall include restrictions on creditor access to tax information that is required to be provided under this section.

''(3) Not later than 540 days after the date of enactment of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2002, the Director of the Administrative Office of the United States Courts shall prepare and submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report that—

''(A) assesses the effectiveness of the procedures established under paragraph (1); and

''(B) if appropriate, includes proposed legislation to—

''(i) further protect the confidentiality of tax information; and

''(ii) provide penalties for the improper use by any person of the tax information required to be provided under this section.

''(i) If requested by the United States trustee or by the trustee, the debtor shall provide—

''(1) a document that establishes the identity of the debtor, including a driver's license, passport, or other document that contains a photograph of the debtor; or

''(2) such other personal identifying information relating to the debtor that establishes the identity of the debtor.''.

SEC. 316. DISMISSAL FOR FAILURE TO TIMELY FILE SCHEDULES OR PROVIDE REQUIRED INFORMATION.

Section 521 of title 11, United States Code, as amended by sections 106, 225, 305, and 315, is amended by adding at the end the following:

''(j)(1) Subject to paragraphs (2) and (4) and notwithstanding section 707(a), if an individual debtor in a voluntary case under chapter 7 or 13 fails to file all of the information required under subsection (a)(1) within 45 days after the filing of the petition commencing the case, the case shall be automatically dismissed effective on the 46th day after the filing of the petition.

''(2) Subject to paragraph (4) and with respect to a case described in paragraph (1), any party in interest may request the court to enter an order dismissing the case. If requested, the court shall enter an order of dismissal not later than 5 days after such request.

''(3) Subject to paragraph (4) and upon request of the debtor made within 45 days after the filing of the petition commencing a case described in paragraph (1), the court may allow the debtor an additional period of not to exceed 45 days to file the information required under subsection (a)(1) if the court finds justification for extending the period for the filing.

''(4) Notwithstanding any other provision of this subsection, on the motion of the trustee filed before the expiration of the applicable period of time specified in paragraph (1), (2), or (3), and after notice and a hearing, the court may decline to dismiss the case if the court finds that the debtor attempted in good faith to file all the information required by subsection (a)(1)(B)(iv) and that the best interests of creditors would be served by administration of the case.''.

SEC. 317. ADEQUATE TIME TO PREPARE FOR HEARING ON CONFIRMATION OF THE PLAN.

Section 1324 of title 11, United States Code, is amended—

(1) by striking ''After'' and inserting the following:

''(a) Except as provided in subsection (b) and after''; and

(2) by adding at the end the following:

''(b) The hearing on confirmation of the plan may be held not earlier than 20 days and not later than 45 days after the date of the meeting of creditors under section 341(a), unless the court determines that it would be in the best interests of the creditors and the estate to hold such hearing at an earlier date and there is no objection to such earlier date.''.

SEC. 318. CHAPTER 13 PLANS TO HAVE A 5-YEAR DURATION IN CERTAIN CASES.

Title 11, United States Code, is amended—

(1) by amending section 1322(d) to read as follows:

''(d)(1) If the current monthly income of the debtor and the debtor's spouse combined, when multiplied by 12, is not less than—

''(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

''(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or

''(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals, plus $525 per month for each individual in excess of 4,

the plan may not provide for payments over a period that is longer than 5 years.

''(2) If the current monthly income of the debtor and the debtor's spouse combined, when multiplied by 12, is less than—

''(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner last;

''(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or

''(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals , plus $525 per month for each individual in excess of 4,

the plan may not provide for payments over a period that is longer than 3 years, unless the court, for cause, approves a longer period, but the court may not approve a period that is longer than 5 years.'';

(2) in section 1325(b)(1)(B), by striking ''three-year period'' and inserting ''applicable commitment period''; and

(3) in section 1325(b), as amended by section 102, by adding at the end the following:

''(4) For purposes of this subsection, the 'applicable commitment period'—

''(A) subject to subparagraph (B), shall be—

''(i) 3 years; or

''(ii) not less than 5 years, if the current monthly income of the debtor and the debtor's spouse combined, when multiplied by 12, is not less than—

''(I) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

''(II) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or

''(III) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals , plus $525 per month for each individual in excess of 4; and

''(B) may be less than 3 or 5 years, whichever is applicable under subparagraph (A), but only if the plan provides for payment in full of all allowed unsecured claims over a shorter period.''; and

(4) in section 1329(c), by striking ''three years'' and inserting ''the applicable commitment period under section 1325(b)(1)(B)''.

SEC. 319. SENSE OF CONGRESS REGARDING EXPANSION OF RULE 9011 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE.

It is the sense of Congress that rule 9011 of the Federal Rules of Bankruptcy Procedure (11 U.S.C. App.) should be modified to include a requirement that all documents (including schedules), signed and unsigned, submitted to the court or to a trustee by debtors who represent themselves and debtors who are represented by attorneys be submitted only after the debtors or the debtors' attorneys have made reasonable inquiry to verify that the information contained in such documents is—

(1) well grounded in fact; and

(2) warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law.

SEC. 320. PROMPT RELIEF FROM STAY IN INDIVIDUAL CASES.

Section 362(e) of title 11, United States Code, is amended—

(1) by inserting ''(1)'' after ''(e)''; and

(2) by adding at the end the following:

''(2) Notwithstanding paragraph (1), in a case under chapter 7, 11, or 13 in which the debtor is an individual, the stay under subsection (a) shall terminate on the date that is 60 days after a request is made by a party in interest under subsection (d), unless—

''(A) a final decision is rendered by the court during the 60-day period beginning on the date of the request; or

''(B) that 60-day period is extended—

''(i) by agreement of all parties in interest; or

''(ii) by the court for such specific period of time as the court finds is required for good cause, as described in findings made by the court.''.

SEC. 321. CHAPTER 11 CASES FILED BY INDIVIDUALS.

(a) PROPERTY OF THE ESTATE.—

(1) IN GENERAL.—Subchapter I of chapter 11 of title 11, United States Code, is amended by adding at the end the following:

''§ 1115. Property of the estate

''(a) In a case concerning a debtor who is an individual, property of the estate includes, in addition to the property specified in section 541—

''(1) all property of the kind specified in section 541 that the debtor acquires after the commencement of the case but before the case is closed, dismissed, or converted to a case under chapter 7, 12, or 13, whichever occurs first; and

''(2) earnings from services performed by the debtor after the commencement of the case but before the case is closed, dismissed, or converted to a case under chapter 7, 12, or 13, whichever occurs first.''.

''(b) Except as provided in section 1104 or a confirmed plan or order confirming a plan, the debtor shall remain in possession of all property of the estate.''.

(2) CLERICAL AMENDMENT.—The table of sections for subchapter I of chapter 11 of title 11, United States Code, is amended by adding at the end the following:

''1115. Property of the estate.''.

(b) CONTENTS OF PLAN.—Section 1123(a) of title 11, United States Code, is amended—

(1) in paragraph (6), by striking ''and'' at the end;

(2) in paragraph (7), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(8) in a case in which the debtor is an individual, provide for the payment to creditors under the plan of all or such portion of earnings from personal services performed by the debtor after the commencement of the case or other future income of the debtor as is necessary for the execution of the plan.''.

(c) CONFIRMATION OF PLAN.—

(1) REQUIREMENTS RELATING TO VALUE OF PROPERTY.—Section 1129(a) of title 11, United States Code, as amended by section 213, is amended by adding at the end the following:

''(15) In a case in which the debtor is an individual and in which the holder of an allowed unsecured claim objects to the confirmation of the plan—

''(A) the value, as of the effective date of the plan, of the property to be distributed under the plan on account of such claim is not less than the amount of such claim; or

''(B) the value of the property to be distributed under the plan is not less than the projected disposable income of the debtor (as defined in section 1325(b)(2)) to be received during the 5-year period beginning on the date that the first payment is due under the plan, or during the period for which the plan provides payments, whichever is longer.''.

(2) REQUIREMENT RELATING TO INTERESTS IN PROPERTY.—Section 1129(b)(2)(B)(ii) of title 11, United States Code, is amended by inserting before the period at the end the following: '', except that in a case in which the debtor is an individual, the debtor may retain property included in the estate under section 1115, subject to the requirements of subsection (a)(14) of this section.''.

(d) EFFECT OF CONFIRMATION.—Section 1141(d) of title 11, United States Code, is amended—

(1) in paragraph (2), by striking ''The confirmation of a plan does not discharge an individual debtor'' and inserting ''A discharge under this chapter does not discharge a debtor who is an individual''; and

(2) by adding at the end the following:

''(5) In a case in which the debtor is an individual—

''(A) unless after notice and a hearing the court orders otherwise for cause, confirmation of the plan does not discharge any debt provided for in the plan until the court grants a discharge on completion of all payments under the plan;

''(B) at any time after the confirmation of the plan, and after notice and a hearing, the court may not grant a discharge to the debtor who has not completed payments under the plan unless—

''(i) for each allowed unsecured claim, the value, as of the effective date of the plan, of property actually distributed under the plan on account of that claim is not less than the amount that would have been paid on such claim if the estate of the debtor had been liquidated under chapter 7 of this title on such date; and

''(ii) modification of the plan under section 1127 of this title is not practicable; and''.

(e) MODIFICATION OF PLAN.—Section 1127 of title 11, United States Code, is amended by adding at the end the following:

''(e) If the debtor is an individual, the plan may be modified at any time after confirmation of the plan but before the completion of payments under the plan, whether or not the plan has been substantially consummated, upon request of the debtor, the trustee, the United States trustee, or the holder of an allowed unsecured claim, to—

''(1) increase or reduce the amount of payments on claims of a particular class provided for by the plan;

''(2) extend or reduce the time period for such payments; or

''(3) alter the amount of the distribution to a creditor whose claim is provided for by the plan to the extent necessary to take account of any payment of such claim made other than under the plan.

''(f)(1) Sections 1121 through 1128 of this title and the requirements of section 1129 of this title apply to any modification under subsection (a).

''(2) The plan, as modified, shall become the plan only after there has been disclosure under section 1125 as the court may direct, notice and a hearing, and such modification is approved.''.

SEC. 322. LIMITATIONS ON HOMESTEAD EXEMPTION.

(a) EXEMPTIONS.—Section 522 of title 11, United States Code, as amended by sections 224 and 308, is amended by adding at the end the following:

''(p)(1) Except as provided in paragraph (2) of this subsection and sections 544 and 548 of this title, as a result of electing under subsection (b)(3)(A) to exempt property under State or local law, a debtor may not exempt any amount of interest that was acquired by the debtor during the 1215-day period preceding the filing of the petition which exceeds in the aggregate $125,000 in value in—

''(A) real or personal property that the debtor or a dependent of the debtor uses as a residence;

''(B) a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence;

''(C) a burial plot for the debtor or a dependent of the debtor; or

''(D) real or personal property that the debtor or dependent of the debtor claims as a homestead.

''(2)(A) The limitation under paragraph (1) shall not apply to an exemption claimed under subsection (b)(3)(A) by a family farmer for the principal residence of that farmer.

''(B) For purposes of paragraph (1), any amount of such interest does not include any interest transferred from a debtor's previous principal residence (which was acquired prior to the beginning of such 1215-day period) into the debtor's current principal residence, if the debtor's previous and current residences are located in the same State.

''(q)(1) As a result of electing under subsection (b)(3)(A) to exempt property under State or local law, a debtor may not exempt any amount of an interest in property described in subparagraphs (A), (B), (C), and (D) of subsection (p)(1) which exceeds in the aggregate $125,000 if—

''(A) the court determines, after notice and a hearing, that the debtor has been convicted of a felony (as defined in section 3156 of title 18), which under the circumstances, demonstrates that the filing of the case was an abuse of the provisions of this title; or

''(B) the debtor owes a debt arising from—

''(i) any violation of the Federal securities laws (as defined in section 3(a)(47) of the Securities Exchange Act of 1934), any State securities laws, or any regulation or order issued under Federal securities laws or State securities laws;

''(ii) fraud, deceit, or manipulation in a fiduciary capacity or in connection with the purchase or sale of any security registered under section 12 or 15(d) of the Securities Exchange Act of 1934 or under section 6 of the Securities Act of 1933;

''(iii) any civil remedy under section 1964 of title 18, United States Code; or

''(iv) any criminal act, intentional tort, or willful or reckless misconduct that caused serious physical injury or death to another individual in the preceding 5 years.

''(2) Paragraph (1) shall not apply to the extent the amount of an interest in property described in subparagraphs (A), (B), (C), and (D) of subsection (p)(1) is reasonably necessary for the support of the debtor and any dependent of the debtor.''.

(b) ADJUSTMENT OF DOLLAR AMOUNTS.—Paragraphs (1) and (2) of section 104(b) of title 11, United States Code, as amended by section 224, are amended by inserting ''522(p), 522(q),'' after ''522(n),''.

SEC. 323. EXCLUDING EMPLOYEE BENEFIT PLAN PARTICIPANT CONTRIBUTIONS AND OTHER PROPERTY FROM THE ESTATE.

Section 541(b) of title 11, United States Code, as amended by section 225, is amended by adding at the end the following:

''(7) any amount—

''(A) withheld by an employer from the wages of employees for payment as contributions to—

''(i) an employee benefit plan subject to title I of the Employee Retirement Income Security Act of 1974 or under an employee benefit plan which is a governmental plan under section 414(d) of the Internal Revenue Code of 1986, a deferred compensation plan under section 457 of the Internal Revenue Code of 1986, or a tax-deferred annuity under section 403(b) of the Internal Revenue Code of 1986, except that such amount under this clause shall not constitute disposable income, as defined in section 1325(b)(2) of this title; or

''(ii) a health insurance plan regulated by State law whether or not subject to such title; or

''(B) received by the employer from employees for payment as contributions to—

''(i) an employee benefit plan subject to title I of the Employee Retirement Income Security Act of 1974 or under an employee benefit plan which is a governmental plan under section 414(d) of the Internal Revenue Code of 1986, a deferred compensation plan under section 457 of the Internal Revenue Code of 1986, or a tax-deferred annuity under section 403(b) of the Internal Revenue Code of 1986, except that such amount under this clause shall not constitute disposable income, as defined in section 1325(b)(2) of this title; or

''(ii) a health insurance plan regulated by State law whether or not subject to such title;''.

SEC. 324. EXCLUSIVE JURISDICTION IN MATTERS INVOLVING BANKRUPTCY PROFESSIONALS.

(a) IN GENERAL.—Section 1334 of title 28, United States Code, is amended—

(1) in subsection (b), by striking ''Notwithstanding'' and inserting ''Except as provided in subsection (e)(2), and notwithstanding''; and

(2) by striking subsection (e) and inserting the following:

''(e) The district court in which a case under title 11 is commenced or is pending shall have exclusive jurisdiction—

''(1) of all the property, wherever located, of the debtor as of the date of commencement of such case, and of property of the estate; and

''(2) over all claims or causes of action that involve construction of section 327 of title 11, United States Code, or rules relating to disclosure requirements under section 327.''.

(b) APPLICABILITY.—This section shall only apply to cases filed after the date of enactment of this Act.

SEC. 325. UNITED STATES TRUSTEE PROGRAM FILING FEE INCREASE.

(a) ACTIONS UNDER CHAPTER 7 OR 13 OF TITLE 11, UNITED STATES CODE.—Section 1930(a) of title 28, United States Code, is amended by striking paragraph (1) and inserting the following:

''(1) For a case commenced—

''(A) under chapter 7 of title 11, $160; or

''(B) under chapter 13 of title 11, $150.''.

(b) UNITED STATES TRUSTEE SYSTEM FUND.—Section 589a(b) of title 28, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following:

''(1)(A) 40.63 percent of the fees collected under section 1930(a)(1)(A) of this title in cases commenced under chapter 7 of title 11; and

''(B) 70.00 percent of the fees collected under section 1930(a)(1)(B) of this title in cases commenced under chapter 13 of title 11;'';

(2) in paragraph (2), by striking ''one-half'' and inserting ''three-fourths''; and

(3) in paragraph (4), by striking ''one-half'' and inserting ''100 percent''.

(c) COLLECTION AND DEPOSIT OF MISCELLANEOUS BANKRUPTCY FEES.—Section 406(b) of the Judiciary Appropriations Act, 1990 (28 U.S.C. 1931 note) is amended by striking ''pursuant to 28 U.S.C. section 1930(b) and 33.87 per centum of the fees hereafter collected under 28 U.S.C. section 1930(a)(1) and 25 percent of the fees hereafter collected under 28 U.S.C. section 1930(a)(3) shall be deposited as offsetting receipts to the fund established under 28 U.S.C. section 1931'' and inserting ''under section 1930(b) of title 28, United States Code, and 31.25 percent of the fees collected under section 1930(a)(1)(A) of that title, 30.00 percent of the fees collected under section 1930(a)(1)(B) of that title, and 25 percent of the fees collected under section 1930(a)(3) of that title shall be deposited as offsetting receipts to the fund established under section 1931 of that title''.

SEC. 326. SHARING OF COMPENSATION.

Section 504 of title 11, United States Code, is amended by adding at the end the following:

''(c) This section shall not apply with respect to sharing, or agreeing to share, compensation with a bona fide public service attorney referral program that operates in accordance with non-Federal law regulating attorney referral services and with rules of professional responsibility applicable to attorney acceptance of referrals.''.

SEC. 327. FAIR VALUATION OF COLLATERAL.

Section 506(a) of title 11, United States Code, is amended by—

(1) inserting ''(1)'' after ''(a)''; and

(2) by adding at the end the following:

''(2) If the debtor is an individual in a case under chapter 7 or 13, such value with respect to personal property securing an allowed claim shall be determined based on the replacement value of such property as of the date of filing the petition without deduction for costs of sale or marketing. With respect to property acquired for personal, family, or household purposes, replacement value shall mean the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined.''.

SEC. 328. DEFAULTS BASED ON NONMONETARY OBLIGATIONS.

(a) EXECUTORY CONTRACTS AND UNEXPIRED LEASES.—Section 365 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1)(A), by striking the semicolon at the end and inserting the following: ''other than a default that is a breach of a provision relating to the satisfaction of any provision (other than a penalty rate or penalty provision) relating to a default arising from any failure to perform nonmonetary obligations under an unexpired lease of real property, if it is impossible for the trustee to cure such default by performing nonmonetary acts at and after the time of assumption, except that if such default arises from a failure to operate in accordance with a nonresidential real property lease, then such default shall be cured by performance at and after the time of assumption in accordance with such lease, and pecuniary losses resulting from such default shall be compensated in accordance with the provisions of this paragraph;''; and

(B) in paragraph (2)(D), by striking ''penalty rate or provision'' and inserting ''penalty rate or penalty provision'';

(2) in subsection (c)—

(A) in paragraph (2), by inserting ''or'' at the end;

(B) in paragraph (3), by striking ''; or'' at the end and inserting a period; and

(C) by striking paragraph (4);

(3) in subsection (d)—

(A) by striking paragraphs (5) through (9); and

(B) by redesignating paragraph (10) as paragraph (5); and

(4) in subsection (f)(1) by striking ''; except that'' and all that follows through the end of the paragraph and inserting a period.

(b) IMPAIRMENT OF CLAIMS OR INTERESTS.—Section 1124(2) of title 11, United States Code, is amended—

(1) in subparagraph (A), by inserting ''or of a kind that section 365(b)(2) of this title expressly does not require to be cured'' before the semicolon at the end;

(2) in subparagraph (C), by striking ''and'' at the end;

(3) by redesignating subparagraph (D) as subparagraph (E); and

(4) by inserting after subparagraph (C) the following:

''(D) if such claim or such interest arises from any failure to perform a nonmonetary obligation, other than a default arising from failure to operate a nonresidential real property lease subject to section 365(b)(1)(A), compensates the holder of such claim or such interest (other than the debtor or an insider) for any actual pecuniary loss incurred by such holder as a result of such failure; and''.

SEC. 329. CLARIFICATION OF POSTPETITION WAGES AND BENEFITS.

Section 503(b)(1)(A) of title 11, United States Code, is amended to read as follows:

''(A) the actual, necessary costs and expenses of preserving the estate including—

''(i) wages, salaries, or commissions for services rendered after the commencement of the case; and

''(ii) wages and benefits awarded pursuant to a judicial proceeding or a proceeding of the National Labor Relations Board as back pay attributable to any period of time occurring after commencement of the case under this title, as a result of a violation of Federal or State law by the debtor, without regard to the time of the occurrence of unlawful conduct on which such award is based or to whether any services were rendered, if the court determines that payment of wages and benefits by reason of the operation of this clause will not substantially increase the probability of layoff or termination of current employees, or of nonpayment of domestic support obligations, during the case under this title;''.

SEC. 330. DELAY OF DISCHARGE DURING PENDENCY OF CERTAIN PROCEEDINGS.

(a) CHAPTER 7.—Section 727(a) of title 11, United States Code, as amended by section 106, is amended—

(1) in paragraph (10), by striking ''or'' at the end;

(2) in paragraph (11) by striking the period at the end and inserting ''; or''; and

(3) by inserting after paragraph (11) the following:

''(12) the court after notice and a hearing held not more than 10 days before the date of entry of the order granting the discharge finds that there is reasonable cause to believe that—

''(A) section 522(q)(1) may be applicable to the debtor; and

''(B) there is pending any proceeding in which the debtor may be found guilty of a felony of the kind described in section 522(q)(1)(A) or liable for a debt of the kind described in section 522(q)(1)(B); or''.

(b) CHAPTER 11.—Section 1141(d) of title 11, United States Code, as amended by section 321, is amended by adding at the end the following:

''(C) unless after notice and a hearing held not more than 10 days before the date of entry of the order granting the discharge, the court finds that there is no reasonable cause to believe that—

''(i) section 522(q)(1) may be applicable to the debtor; and

''(ii) there is pending any proceeding in which the debtor may be found guilty of a felony of the kind described in section 522(q)(1)(A) or liable for a debt of the kind described in section 522(q)(1)(B).''.

(c) CHAPTER 12.—Section 1228 of title 11, United States Code, is amended—

(1) in subsection (a) by striking ''As'' and inserting ''Subject to subsection (d), as'',

(2) in subsection (b) by striking ''At'' and inserting ''Subject to subsection (d), at'', and

(3) by adding at the end the following:

''(f) The court may not grant a discharge under this chapter unless the court after notice and a hearing held not more than 10 days before the date of entry of the order granting the discharge finds that there is no reasonable cause to believe that—

''(1) section 522(q)(1) may be applicable to the debtor; and

''(2) there is pending any proceeding in which the debtor may be found guilty of a felony of the kind described in section 522(q)(1)(A) or liable for a debt of the kind described in section 522(q)(1)(B).''.

(d) CHAPTER 13.—Section 1328 of title 11, United States Code, as amended by section 106, is amended—

(1) in subsection (a) by striking ''As'' and inserting ''Subject to subsection (d), as'',

(2) in subsection (b) by striking ''At'' and inserting ''Subject to subsection (d), at'', and

(3) by adding at the end the following:

''(h) The court may not grant a discharge under this chapter unless the court after notice and a hearing held not more than 10 days before the date of entry of the order granting the discharge finds that there is no reasonable cause to believe that—

''(1) section 522(q)(1) may be applicable to the debtor; and

''(2) there is pending any proceeding in which the debtor may be found guilty of a felony of the kind described in section 522(q)(1)(A) or liable for a debt of the kind described in section 522(q)(1)(B).''.

TITLE IV—GENERAL AND SMALL BUSINESS BANKRUPTCY PROVISIONS

Subtitle A—General Business Bankruptcy Provisions

SEC. 401. ADEQUATE PROTECTION FOR INVESTORS.

(a) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (48) the following:

''(48A) 'securities self regulatory organization' means either a securities association registered with the Securities and Exchange Commission under section 15A of the Securities Exchange Act of 1934 or a national securities exchange registered with the Securities and Exchange Commission under section 6 of the Securities Exchange Act of 1934;''.

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, as amended by sections 224, 303, and 311, is amended by inserting after paragraph (24) the following:

''(25) under subsection (a), of—

''(A) the commencement or continuation of an investigation or action by a securities self regulatory organization to enforce such organization's regulatory power;

''(B) the enforcement of an order or decision, other than for monetary sanctions, obtained in an action by the securities self regulatory organization to enforce such organization's regulatory power; or

''(C) any act taken by the securities self regulatory organization to delist, delete, or refuse to permit quotation of any stock that does not meet applicable regulatory requirements;''.

SEC. 402. MEETINGS OF CREDITORS AND EQUITY SECURITY HOLDERS.

Section 341 of title 11, United States Code, is amended by adding at the end the following:

''(e) Notwithstanding subsections (a) and (b), the court, on the request of a party in interest and after notice and a hearing, for cause may order that the United States trustee not convene a meeting of creditors or equity security holders if the debtor has filed a plan as to which the debtor solicited acceptances prior to the commencement of the case.''.

SEC. 403. PROTECTION OF REFINANCE OF SECURITY INTEREST.

Subparagraphs (A), (B), and (C) of section 547(e)(2) of title 11, United States Code, are each amended by striking ''10'' each place it appears and inserting ''30''.

SEC. 404. EXECUTORY CONTRACTS AND UNEXPIRED LEASES.

(a) IN GENERAL.—Section 365(d)(4) of title 11, United States Code, is amended to read as follows:

''(4)(A) Subject to subparagraph (B), an unexpired lease of nonresidential real property under which the debtor is the lessee shall be deemed rejected, and the trustee shall immediately surrender that nonresidential real property to the lessor, if the trustee does not assume or reject the unexpired lease by the earlier of—

''(i) the date that is 120 days after the date of the order for relief; or

''(ii) the date of the entry of an order confirming a plan.

''(B)(i) The court may extend the period determined under subparagraph (A), prior to the expiration of the 120-day period, for 90 days on the motion of the trustee or lessor for cause.

''(ii) If the court grants an extension under clause (i), the court may grant a subsequent extension only upon prior written consent of the lessor in each instance.''.

(b) EXCEPTION.—Section 365(f)(1) of title 11, United States Code, is amended by striking ''subsection'' the first place it appears and inserting ''subsections (b) and''.

SEC. 405. CREDITORS AND EQUITY SECURITY HOLDERS COMMITTEES.

(a) APPOINTMENT.—Section 1102(a) of title 11, United States Code, is amended by adding at the end the following:

''(4) On request of a party in interest and after notice and a hearing, the court may order the United States trustee to change the membership of a committee appointed under this subsection, if the court determines that the change is necessary to ensure adequate representation of creditors or equity security holders. The court may order the United States trustee to increase the number of members of a committee to include a creditor that is a small business concern (as described in section 3(a)(1) of the Small Business Act , if the court determines that the creditor holds claims (of the kind represented by the committee) the aggregate amount of which, in comparison to the annual gross revenue of that creditor, is disproportionately large.''.

(b) INFORMATION.—Section 1102(b) of title 11, United States Code, is amended by adding at the end the following:

''(3) A committee appointed under subsection (a) shall—

''(A) provide access to information for creditors who—

''(i) hold claims of the kind represented by that committee; and

''(ii) are not appointed to the committee;

''(B) solicit and receive comments from the creditors described in subparagraph (A); and

''(C) be subject to a court order that compels any additional report or disclosure to be made to the creditors described in subparagraph (A).''.

SEC. 406. AMENDMENT TO SECTION 546 OF TITLE 11, UNITED STATES CODE.

Section 546 of title 11, United States Code, is amended—

(1) by redesignating the second subsection (g) (as added by section 222(a) of Public Law 103–394) as subsection (i);

(2) in subsection (i), as so redesignated, by inserting ''and subject to the prior rights of holders of security interests in such goods or the proceeds of such goods'' after ''consent of a creditor''; and

(3) by adding at the end the following:

''(j)(1) Notwithstanding paragraphs (2) and (3) of section 545, the trustee may not avoid a warehouseman's lien for storage, transportation, or other costs incidental to the storage and handling of goods.

''(2) The prohibition under paragraph (1) shall be applied in a manner consistent with any State statute applicable to such lien that is similar to section 7–209 of the Uniform Commercial Code, as in effect on the date of enactment of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2002, or any successor to such section 7–209.''.

SEC. 407. AMENDMENTS TO SECTION 330(a) OF TITLE 11, UNITED STATES CODE.

Section 330(a) of title 11, United States Code, is amended—

(1) in paragraph (3)—

(A) by striking ''(A) In'' and inserting ''In''; and

(B) by inserting ''to an examiner, trustee under chapter 11, or professional person'' after ''awarded''; and

(2) by adding at the end the following:

''(7) In determining the amount of reasonable compensation to be awarded to a trustee, the court shall treat such compensation as a commission, based on section 326 of this title.''.

SEC. 408. POSTPETITION DISCLOSURE AND SOLICITATION.

Section 1125 of title 11, United States Code, is amended by adding at the end the following:

''(g) Notwithstanding subsection (b), an acceptance or rejection of the plan may be solicited from a holder of a claim or interest if such solicitation complies with applicable nonbankruptcy law and if such holder was solicited before the commencement of the case in a manner complying with applicable nonbankruptcy law.''.

SEC. 409. PREFERENCES.

Section 547(c) of title 11, United States Code, is amended—

(1) by striking paragraph (2) and inserting the following:

''(2) to the extent that such transfer was in payment of a debt incurred by the debtor in the ordinary course of business or financial affairs of the debtor and the transferee, and such transfer was—

''(A) made in the ordinary course of business or financial affairs of the debtor and the transferee; or

''(B) made according to ordinary business terms;'';

(2) in paragraph (8), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(9) if, in a case filed by a debtor whose debts are not primarily consumer debts, the aggregate value of all property that constitutes or is affected by such transfer is less than $5,000.''.

SEC. 410. VENUE OF CERTAIN PROCEEDINGS.

Section 1409(b) of title 28, United States Code, is amended by inserting '', or a nonconsumer debt against a noninsider of less than $10,000,'' after ''$5,000''.

SEC. 411. PERIOD FOR FILING PLAN UNDER CHAPTER 11.

Section 1121(d) of title 11, United States Code, is amended—

(1) by striking ''On'' and inserting ''(1) Subject to paragraph (2), on''; and

(2) by adding at the end the following:

''(2)(A) The 120-day period specified in paragraph (1) may not be extended beyond a date that is 18 months after the date of the order for relief under this chapter.

''(B) The 180-day period specified in paragraph (1) may not be extended beyond a date that is 20 months after the date of the order for relief under this chapter.''.

SEC. 412. FEES ARISING FROM CERTAIN OWNERSHIP INTERESTS.

Section 523(a)(16) of title 11, United States Code, is amended—

(1) by striking ''dwelling'' the first place it appears;

(2) by striking ''ownership or'' and inserting ''ownership,'';

(3) by striking ''housing'' the first place it appears; and

(4) by striking ''but only'' and all that follows through ''such period,'' and inserting ''or a lot in a homeowners association, for as long as the debtor or the trustee has a legal, equitable, or possessory ownership interest in such unit, such corporation, or such lot,''.

SEC. 413. CREDITOR REPRESENTATION AT FIRST MEETING OF CREDITORS.

Section 341(c) of title 11, United States Code, is amended by inserting at the end the following: ''Notwithstanding any local court rule, provision of a State constitution, any other Federal or State law that is not a bankruptcy law, or other requirement that representation at the meeting of creditors under subsection (a) be by an attorney, a creditor holding a consumer debt or any representative of the creditor (which may include an entity or an employee of an entity and may be a representative for more than 1 creditor) shall be permitted to appear at and participate in the meeting of creditors in a case under chapter 7 or 13, either alone or in conjunction with an attorney for the creditor. Nothing in this subsection shall be construed to require any creditor to be represented by an attorney at any meeting of creditors.''.

SEC. 414. DEFINITION OF DISINTERESTED PERSON.

Section 101(14) of title 11, United States Code, is amended to read as follows:

''(14) 'disinterested person' means a person that—

''(A) is not a creditor, an equity security holder, or an insider;

''(B) is not and was not, within 2 years before the date of the filing of the petition, a director, officer, or employee of the debtor; and

''(C) does not have an interest materially adverse to the interest of the estate or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the debtor, or for any other reason;''.

SEC. 415. FACTORS FOR COMPENSATION OF PROFESSIONAL PERSONS.

Section 330(a)(3) of title 11, United States Code, is amended—

(1) in subparagraph (D), by striking ''and'' at the end;

(2) by redesignating subparagraph (E) as subparagraph (F); and

(3) by inserting after subparagraph (D) the following:

''(E) with respect to a professional person, whether the person is board certified or otherwise has demonstrated skill and experience in the bankruptcy field; and''.

SEC. 416. APPOINTMENT OF ELECTED TRUSTEE.

Section 1104(b) of title 11, United States Code, is amended—

(1) by inserting ''(1)'' after ''(b)''; and

(2) by adding at the end the following:

''(2)(A) If an eligible, disinterested trustee is elected at a meeting of creditors under paragraph (1), the United States trustee shall file a report certifying that election.

''(B) Upon the filing of a report under subparagraph (A)—

''(i) the trustee elected under paragraph (1) shall be considered to have been selected and appointed for purposes of this section; and

''(ii) the service of any trustee appointed under subsection (d) shall terminate.

''(C) The court shall resolve any dispute arising out of an election described in subparagraph (A).''.

SEC. 417. UTILITY SERVICE.

Section 366 of title 11, United States Code, is amended—

(1) in subsection (a), by striking ''subsection (b)'' and inserting ''subsections (b) and (c)''; and

(2) by adding at the end the following:

''(c)(1)(A) For purposes of this subsection, the term 'assurance of payment' means—

''(i) a cash deposit;

''(ii) a letter of credit;

''(iii) a certificate of deposit;

''(iv) a surety bond;

''(v) a prepayment of utility consumption; or

''(vi) another form of security that is mutually agreed on between the utility and the debtor or the trustee.

''(B) For purposes of this subsection an administrative expense priority shall not constitute an assurance of payment.

''(2) Subject to paragraphs (3) and (4), with respect to a case filed under chapter 11, a utility referred to in subsection (a) may alter, refuse, or discontinue utility service, if during the 30-day period beginning on the date of filing of the petition, the utility does not receive from the debtor or the trustee adequate assurance of payment for utility service that is satisfactory to the utility.

''(3)(A) On request of a party in interest and after notice and a hearing, the court may order modification of the amount of an assurance of payment under paragraph (2).

''(B) In making a determination under this paragraph whether an assurance of payment is adequate, the court may not consider—

''(i) the absence of security before the date of filing of the petition;

''(ii) the payment by the debtor of charges for utility service in a timely manner before the date of filing of the petition; or

''(iii) the availability of an administrative expense priority.

''(4) Notwithstanding any other provision of law, with respect to a case subject to this subsection, a utility may recover or set off against a security deposit provided to the utility by the debtor before the date of filing of the petition without notice or order of the court.''.

SEC. 418. BANKRUPTCY FEES.

Section 1930 of title 28, United States Code, is amended—

(1) in subsection (a), by striking ''Notwithstanding section 1915 of this title, the'' and inserting ''The''; and

(2) by adding at the end the following:

''(f)(1) Under the procedures prescribed by the Judicial Conference of the United States, the district court or the bankruptcy court may waive the filing fee in a case under chapter 7 of title 11 for an individual if the court determines that such individual has income less than 150 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved and is unable to pay that fee in installments. For purposes of this paragraph, the term 'filing fee' means the filing required by subsection (a), or any other fee prescribed by the Judicial Conference under subsections (b) and (c) that is payable to the clerk upon the commencement of a case under chapter 7.

''(2) The district court or the bankruptcy court may waive for such debtors other fees prescribed under subsections (b) and (c).

''(3) This subsection does not restrict the district court or the bankruptcy court from waiving, in accordance with Judicial Conference policy, fees prescribed under this section for other debtors and creditors.''.

SEC. 419. MORE COMPLETE INFORMATION REGARDING ASSETS OF THE ESTATE.

(a) IN GENERAL.—

(1) DISCLOSURE.—The Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States, after consideration of the views of the Director of the Executive Office for United States Trustees,

shall propose for adoption amended Federal Rules of Bankruptcy Procedure and Official Bankruptcy Forms directing debtors under chapter 11 of title 11, United States Code, to disclose the information described in paragraph (2) by filing and serving periodic financial and other reports designed to provide such information.

(2) INFORMATION.—The information referred to in paragraph (1) is the value, operations, and profitability of any closely held corporation, partnership, or of any other entity in which the debtor holds a substantial or controlling interest.

(b) PURPOSE.—The purpose of the rules and reports under subsection (a) shall be to assist parties in interest taking steps to ensure that the debtor's interest in any entity referred to in subsection (a)(2) is used for the payment of allowed claims against debtor.

Subtitle B—Small Business Bankruptcy Provisions

SEC. 431. FLEXIBLE RULES FOR DISCLOSURE STATEMENT AND PLAN.

Section 1125 of title 11, United States Code, is amended—

(1) in subsection (a)(1), by inserting before the semicolon ''and in determining whether a disclosure statement provides adequate information, the court shall consider the complexity of the case, the benefit of additional information to creditors and other parties in interest, and the cost of providing additional information''; and

(2) by striking subsection (f), and inserting the following:

''(f) Notwithstanding subsection (b), in a small business case—

''(1) the court may determine that the plan itself provides adequate information and that a separate disclosure statement is not necessary;

''(2) the court may approve a disclosure statement submitted on standard forms approved by the court or adopted under section 2075 of title 28; and

''(3)(A) the court may conditionally approve a disclosure statement subject to final approval after notice and a hearing;

''(B) acceptances and rejections of a plan may be solicited based on a conditionally approved disclosure statement if the debtor provides adequate information to each holder of a claim or interest that is solicited, but a conditionally approved disclosure statement shall be mailed not later than 20 days before the date of the hearing on confirmation of the plan; and

''(C) the hearing on the disclosure statement may be combined with the hearing on confirmation of a plan.''.

SEC. 432. DEFINITIONS.

(a) DEFINITIONS.—Section 101 of title 11, United States Code, is amended by striking paragraph (51C) and inserting the following:

''(51C) 'small business case' means a case filed under chapter 11 of this title in which the debtor is a small business debtor;

''(51D) 'small business debtor'—

''(A) subject to subparagraph (B), means a person engaged in commercial or business activities (including any affiliate of such person that is also a debtor under this title and excluding a person whose primary activity is the business of owning or operating real property or activities incidental thereto) that has aggregate noncontingent, liquidated secured and unsecured debts as of the date of the petition or the order for relief in an amount not more than $2,000,000 (excluding debts owed to 1 or more affiliates or insiders) for a case in which the United States trustee has not appointed under section 1102(a)(1) a committee of unsecured creditors or where the court has determined that the committee of unsecured creditors is not sufficiently active and representative to provide effective oversight of the debtor; and

''(B) does not include any member of a group of affiliated debtors that has aggregate noncontingent liquidated secured and unsecured debts in an amount greater than $2,000,000 (excluding debt owed to 1 or more affiliates or insiders);''.

(b) CONFORMING AMENDMENT.—Section 1102(a)(3) of title 11, United States Code, is amended by inserting ''debtor'' after ''small business''.

(c) ADJUSTMENT OF DOLLAR AMOUNTS.—Section 104(b) of title 11, United States Code, as amended by section 226, is amended by inserting ''101(51D),'' after ''101(3),'' each place it appears.

SEC. 433. STANDARD FORM DISCLOSURE STATEMENT AND PLAN.

Within a reasonable period of time after the date of enactment of this Act, the Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States shall propose for adoption standard form disclosure statements and plans of reorganization for small business debtors (as defined in section 101 of title 11, United States Code, as amended by this Act), designed to achieve a practical balance between—

(1) the reasonable needs of the courts, the United States trustee, creditors, and other parties in interest for reasonably complete information; and

(2) economy and simplicity for debtors.

SEC. 434. UNIFORM NATIONAL REPORTING REQUIREMENTS.

(a) REPORTING REQUIRED.—

(1) IN GENERAL.—Chapter 3 of title 11, United States Code, is amended by inserting after section 307 the following:

''§ 308. Debtor reporting requirements

''(a) For purposes of this section, the term 'profitability' means, with respect to a debtor, the amount of money that the debtor has earned or lost during current and recent fiscal periods.

''(b) A small business debtor shall file periodic financial and other reports containing information including—

''(1) the debtor's profitability;

''(2) reasonable approximations of the debtor's projected cash receipts and cash disbursements over a reasonable period;

''(3) comparisons of actual cash receipts and disbursements with projections in prior reports;

''(4)(A) whether the debtor is—

''(i) in compliance in all material respects with postpetition requirements imposed by this title and the Federal Rules of Bankruptcy Procedure; and

''(ii) timely filing tax returns and other required government filings and paying taxes and other administrative expenses when due;

''(B) if the debtor is not in compliance with the requirements referred to in subparagraph (A)(i) or filing tax returns and other required government filings and making the payments referred to in subparagraph (A)(ii), what the failures are and how, at what cost, and when the debtor intends to remedy such failures; and

''(C) such other matters as are in the best interests of the debtor and creditors, and in the public interest in fair and efficient procedures under chapter 11 of this title.''.

(2) CLERICAL AMENDMENT.—The table of sections for chapter 3 of title 11, United States Code, is amended by inserting after the item relating to section 307 the following:

''308. Debtor reporting requirements.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect 60 days after the date on which rules are prescribed under section 2075 of title 28, United States Code, to establish forms to be used to comply with section 308 of title 11, United States Code, as added by subsection (a).

SEC. 435. UNIFORM REPORTING RULES AND FORMS FOR SMALL BUSINESS CASES.

(a) PROPOSAL OF RULES AND FORMS.—The Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States shall propose for adoption amended Federal Rules of Bankruptcy Procedure and Official Bankruptcy Forms to be used by small business debtors to file periodic financial and other reports containing information, including information relating to—

(1) the debtor's profitability;

(2) the debtor's cash receipts and disbursements; and

(3) whether the debtor is timely filing tax returns and paying taxes and other administrative expenses when due.

(b) PURPOSE.—The rules and forms proposed under subsection (a) shall be designed to achieve a practical balance among—

(1) the reasonable needs of the bankruptcy court, the United States trustee, creditors, and other parties in interest for reasonably complete information;

(2) the small business debtor's interest that required reports be easy and inexpensive to complete; and

(3) the interest of all parties that the required reports help the small business debtor to understand the small business debtor's financial condition and plan the small business debtor's future.

SEC. 436. DUTIES IN SMALL BUSINESS CASES.

(a) DUTIES IN CHAPTER 11 CASES.—Subchapter I of chapter 11 of title 11, United States Code, as amended by section 321, is amended by adding at the end the following:

''§ 1116. Duties of trustee or debtor in possession in small business cases

''In a small business case, a trustee or the debtor in possession, in addition to the duties provided in this title and as otherwise required by law, shall—

''(1) append to the voluntary petition or, in an involuntary case, file not later than 7 days after the date of the order for relief—

''(A) its most recent balance sheet, statement of operations, cash-flow statement, Federal income tax return; or

''(B) a statement made under penalty of perjury that no balance sheet, statement of operations, or cash-flow statement has been prepared and no Federal tax return has been filed;

''(2) attend, through its senior management personnel and counsel, meetings scheduled by the court or the United States trustee, including initial debtor interviews, scheduling conferences, and meetings of creditors convened under section 341 unless the court waives that requirement after notice and a hearing, upon a finding of extraordinary and compelling circumstances;

''(3) timely file all schedules and statements of financial affairs, unless the court, after notice and a hearing, grants an extension, which shall not extend such time period to a date later than 30 days after the date of the order for relief, absent extraordinary and compelling circumstances;

''(4) file all postpetition financial and other reports required by the Federal Rules of Bankruptcy Procedure or by local rule of the district court;

''(5) subject to section 363(c)(2), maintain insurance customary and appropriate to the industry;

''(6)(A) timely file tax returns and other required government filings; and

''(B) subject to section 363(c)(2), timely pay all taxes entitled to administrative expense priority except those being contested by appropriate proceedings being diligently prosecuted; and

''(7) allow the United States trustee, or a designated representative of the United

States trustee, to inspect the debtor's business premises, books, and records at reasonable times, after reasonable prior written notice, unless notice is waived by the debtor.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 11 of title 11, United States Code, as amended by section 321, is amended by inserting after the item relating to section 1115 the following:

''1116. Duties of trustee or debtor in possession in small business cases.''.

SEC. 437. PLAN FILING AND CONFIRMATION DEADLINES.

Section 1121 of title 11, United States Code, is amended by striking subsection (e) and inserting the following:

''(e) In a small business case—

''(1) only the debtor may file a plan until after 180 days after the date of the order for relief, unless that period is—

''(A) extended as provided by this subsection, after notice and a hearing; or

''(B) the court, for cause, orders otherwise;

''(2) the plan, and any necessary disclosure statement, shall be filed not later than 300 days after the date of the order for relief; and

''(3) the time periods specified in paragraphs (1) and (2), and the time fixed in section 1129(e) within which the plan shall be confirmed, may be extended only if—

''(A) the debtor, after providing notice to parties in interest (including the United States trustee), demonstrates by a preponderance of the evidence that it is more likely than not that the court will confirm a plan within a reasonable period of time;

''(B) a new deadline is imposed at the time the extension is granted; and

''(C) the order extending time is signed before the existing deadline has expired.''.

SEC. 438. PLAN CONFIRMATION DEADLINE.

Section 1129 of title 11, United States Code, is amended by adding at the end the following:

''(e) In a small business case, the court shall confirm a plan that complies with the applicable provisions of this title and that is filed in accordance with section 1121(e) not later than 45 days after such plan is filed unless the time for confirmation is extended in accordance with section 1121(e)(3).''.

SEC. 439. DUTIES OF THE UNITED STATES TRUSTEE.

Section 586(a) of title 28, United States Code, is amended—

(1) in paragraph (3)—

(A) in subparagraph (G), by striking ''and'' at the end;

(B) by redesignating subparagraph (H) as subparagraph (I); and

(C) by inserting after subparagraph (G) the following:

''(H) in small business cases (as defined in section 101 of title 11), performing the additional duties specified in title 11 pertaining to such cases; and'';

(2) in paragraph (5), by striking ''and'' at the end;

(3) in paragraph (6), by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following:

''(7) in each of such small business cases—

''(A) conduct an initial debtor interview as soon as practicable after the entry of order for relief but before the first meeting scheduled under section 341(a) of title 11, at which time the United States trustee shall—

''(i) begin to investigate the debtor's viability;

''(ii) inquire about the debtor's business plan;

''(iii) explain the debtor's obligations to file monthly operating reports and other required reports;

''(iv) attempt to develop an agreed scheduling order; and

''(v) inform the debtor of other obligations;

''(B) if determined to be appropriate and advisable, visit the appropriate business premises of the debtor and ascertain the state of the debtor's books and records and verify that the debtor has filed its tax returns; and

''(C) review and monitor diligently the debtor's activities, to identify as promptly as possible whether the debtor will be unable to confirm a plan; and

''(8) in any case in which the United States trustee finds material grounds for any relief under section 1112 of title 11, the United States trustee shall apply promptly after making that finding to the court for relief.''.

SEC. 440. SCHEDULING CONFERENCES.

Section 105(d) of title 11, United States Code, is amended—

(1) in the matter preceding paragraph (1), by striking '', may''; and

(2) by striking paragraph (1) and inserting the following:

''(1) shall hold such status conferences as are necessary to further the expeditious and economical resolution of the case; and''.

SEC. 441. SERIAL FILER PROVISIONS.

Section 362 of title 11, United States Code, as amended by sections 106, 305, and 311, is amended—

(1) in subsection (k), as so redesignated by section 305—

(A) by striking ''An'' and inserting ''(1) Except as provided in paragraph (2), an''; and

(B) by adding at the end the following:

''(2) If such violation is based on an action taken by an entity in the good faith belief that subsection (h) applies to the debtor, the recovery under paragraph (1) of this subsection against such entity shall be limited to actual damages.''; and

(2) by adding at the end the following:

''(n)(1) Except as provided in paragraph (2), subsection (a) does not apply in a case in which the debtor—

''(A) is a debtor in a small business case pending at the time the petition is filed;

''(B) was a debtor in a small business case that was dismissed for any reason by an order that became final in the 2-year period ending on the date of the order for relief entered with respect to the petition;

''(C) was a debtor in a small business case in which a plan was confirmed in the 2-year period ending on the date of the order for relief entered with respect to the petition; or

''(D) is an entity that has acquired substantially all of the assets or business of a small business debtor described in subparagraph (A), (B), or (C), unless such entity establishes by a preponderance of the evidence that such entity acquired substantially all of the assets or business of such small business debtor in good faith and not for the purpose of evading this paragraph.

''(2) Paragraph (1) does not apply—

''(A) to an involuntary case involving no collusion by the debtor with creditors; or

''(B) to the filing of a petition if—

''(i) the debtor proves by a preponderance of the evidence that the filing of that petition resulted from circumstances beyond the control of the debtor not foreseeable at the time the case then pending was filed; and

''(ii) it is more likely than not that the court will confirm a feasible plan, but not a liquidating plan, within a reasonable period of time.''.

SEC. 442. EXPANDED GROUNDS FOR DISMISSAL OR CONVERSION AND APPOINTMENT OF TRUSTEE.

(a) EXPANDED GROUNDS FOR DISMISSAL OR CONVERSION.—Section 1112 of title 11, United States Code, is amended by striking subsection (b) and inserting the following:

''(b)(1) Except as provided in paragraph (2) of this subsection, subsection (c) of this section, and section 1104(a)(3), on request of a party in interest, and after notice and a hearing, absent unusual circumstances specifically identified by the court that establish that the requested conversion or dismissal is not in the best interests of creditors and the estate, the court shall convert a case under this chapter to a case under chapter 7 or dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, if the movant establishes cause.

''(2) The relief provided in paragraph (1) shall not be granted absent unusual circumstances specifically identified by the court that establish that such relief is not in the best interests of creditors and the estate, if the debtor or another party in interest objects and establishes that—

''(A) there is a reasonable likelihood that a plan will be confirmed within the timeframes established in sections 1121(e) and 1129(e) of this title, or if such sections do not apply, within a reasonable period of time; and

''(B) the grounds for granting such relief include an act or omission of the debtor other than under paragraph (4)(A)—

''(i) for which there exists a reasonable justification for the act or omission; and

''(ii) that will be cured within a reasonable period of time fixed by the court.

''(3) The court shall commence the hearing on a motion under this subsection not later than 30 days after filing of the motion, and shall decide the motion not later than 15 days after commencement of such hearing, unless the movant expressly consents to a continuance for a specific period of time or compelling circumstances prevent the court from meeting the time limits established by this paragraph.

''(4) For purposes of this subsection, the term 'cause' includes—

''(A) substantial or continuing loss to or diminution of the estate and the absence of a reasonable likelihood of rehabilitation;

''(B) gross mismanagement of the estate;

''(C) failure to maintain appropriate insurance that poses a risk to the estate or to the public;

''(D) unauthorized use of cash collateral substantially harmful to 1 or more creditors;

''(E) failure to comply with an order of the court;

''(F) unexcused failure to satisfy timely any filing or reporting requirement established by this title or by any rule applicable to a case under this chapter;

''(G) failure to attend the meeting of creditors convened under section 341(a) or an examination ordered under rule 2004 of the Federal Rules of Bankruptcy Procedure without good cause shown by the debtor;

''(H) failure timely to provide information or attend meetings reasonably requested by the United States trustee or the bankruptcy administrator;

''(I) failure timely to pay taxes owed after the date of the order for relief or to file tax returns due after the order for relief;

''(J) failure to file a disclosure statement, or to file or confirm a plan, within the time fixed by this title or by order of the court;

''(K) failure to pay any fees or charges required under chapter 123 of title 28;

''(L) revocation of an order of confirmation under section 1144;

''(M) inability to effectuate substantial consummation of a confirmed plan;

''(N) material default by the debtor with respect to a confirmed plan;

''(O) termination of a confirmed plan by reason of the occurrence of a condition specified in the plan; and

''(P) failure of the debtor to pay any domestic support obligation that first becomes

payable after the date on which the petition is filed.

''(5) The court shall commence the hearing on a motion under this subsection not later than 30 days after filing of the motion, and shall decide the motion not later than 15 days after commencement of such hearing, unless the movant expressly consents to a continuance for a specific period of time or compelling circumstances prevent the court from meeting the time limits established by this paragraph.''.

(b) ADDITIONAL GROUNDS FOR APPOINTMENT OF TRUSTEE.—Section 1104(a) of title 11, United States Code, is amended—

(1) in paragraph (1), by striking ''or'' at the end;

(2) in paragraph (2), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(3) if grounds exist to convert or dismiss the case under section 1112, but the court determines that the appointment of a trustee or an examiner is in the best interests of creditors and the estate.''.

SEC. 443. STUDY OF OPERATION OF TITLE 11, UNITED STATES CODE, WITH RESPECT TO SMALL BUSINESSES.

Not later than 2 years after the date of enactment of this Act, the Administrator of the Small Business Administration, in consultation with the Attorney General, the Director of the Executive Office for United States Trustees, and the Director of the Administrative Office of the United States Courts, shall—

(1) conduct a study to determine—

(A) the internal and external factors that cause small businesses, especially sole proprietorships, to become debtors in cases under title 11, United States Code, and that cause certain small businesses to successfully complete cases under chapter 11 of such title; and

(B) how Federal laws relating to bankruptcy may be made more effective and efficient in assisting small businesses to remain viable; and

(2) submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report summarizing that study.

SEC. 444. PAYMENT OF INTEREST.

Section 362(d)(3) of title 11, United States Code, is amended—

(1) by inserting ''or 30 days after the court determines that the debtor is subject to this paragraph, whichever is later'' after ''90-day period)''; and

(2) by striking subparagraph (B) and inserting the following:

''(B) the debtor has commenced monthly payments that—

''(i) may, in the debtor's sole discretion, notwithstanding section 363(c)(2), be made from rents or other income generated before or after the commencement of the case by or from the property to each creditor whose claim is secured by such real estate (other than a claim secured by a judgment lien or by an unmatured statutory lien); and

''(ii) are in an amount equal to interest at the then applicable nondefault contract rate of interest on the value of the creditor's interest in the real estate; or''.

SEC. 445. PRIORITY FOR ADMINISTRATIVE EXPENSES.

Section 503(b) of title 11, United States Code, is amended—

(1) in paragraph (5), by striking ''and'' at the end;

(2) in paragraph (6), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(7) with respect to a nonresidential real property lease previously assumed under section 365, and subsequently rejected, a sum equal to all monetary obligations due, excluding those arising from or relating to a failure to operate or a penalty provision, for the period of 2 years following the later of the rejection date or the date of actual turnover of the premises, without reduction or setoff for any reason whatsoever except for sums actually received or to be received from a nondebtor, and the claim for remaining sums due for the balance of the term of the lease shall be a claim under section 502(b)(6);''.

SEC. 446. DUTIES WITH RESPECT TO A DEBTOR WHO IS A PLAN ADMINISTRATOR OF AN EMPLOYEE BENEFIT PLAN.

(a) IN GENERAL.—Section 521(a) of title 11, United States Code, as amended by section 106, is amended-

(1) in paragraph (4), by striking ''and'' at the end;

(2) in paragraph (5), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(6) unless a trustee is serving in the case, if at the time of filing the debtor served as the administrator (as defined in section 3 of the Employee Retirement Income Security Act of 1974 of an employee benefit plan, continue to perform the obligations required of the administrator.''.

(b) DUTIES OF TRUSTEES.—Section 704(a) of title 11, United States Code, as amended by sections 102 and 219, is amended—

(1) in paragraph (9), by striking ''and'' at the end;

(2) in paragraph (10), by striking the period at the end; and

(3) by adding at the end the following:

''(11) if, at the time of the commencement of the case, the debtor served as the administrator (as defined in section 3 of the Employee Retirement Income Security Act of 1974) of an employee benefit plan, continue to perform the obligations required of the administrator; and''.

(c) CONFORMING AMENDMENT.—Section 1106(a)(1) of title 11, United States Code, is amended to read as follows:

''(1) perform the duties of the trustee, as specified in paragraphs (2), (5), (7), (8), (9), (10), and (11) of section 704;''.

SEC. 447. APPOINTMENT OF COMMITTEE OF RETIRED EMPLOYEES.

Section 1114(d) of title 11, United States Code, is amended—

(1) by striking ''appoint'' and inserting ''order the appointment of'', and

(2) by adding at the end the following: ''The United States trustee shall appoint any such committee.''.

TITLE V—MUNICIPAL BANKRUPTCY PROVISIONS

SEC. 501. PETITION AND PROCEEDINGS RELATED TO PETITION.

(a) TECHNICAL AMENDMENT RELATING TO MUNICIPALITIES.—Section 921(d) of title 11, United States Code, is amended by inserting ''notwithstanding section 301(b)'' before the period at the end.

(b) CONFORMING AMENDMENT.—Section 301 of title 11, United States Code, is amended—

(1) by inserting ''(a)'' before ''A voluntary''; and

(2) by striking the last sentence and inserting the following:

''(b) The commencement of a voluntary case under a chapter of this title constitutes an order for relief under such chapter.''.

SEC. 502. APPLICABILITY OF OTHER SECTIONS TO CHAPTER 9.

Section 901(a) of title 11, United States Code, is amended—

(1) by inserting ''555, 556,'' after ''553,''; and

(2) by inserting ''559, 560, 561, 562'' after ''557,''.

TITLE VI—BANKRUPTCY DATA

SEC. 601. IMPROVED BANKRUPTCY STATISTICS.

(a) IN GENERAL.—Chapter 6 of title 28, United States Code, is amended by adding at the end the following:

''§ 159. Bankruptcy statistics

''(a) The clerk of the district court, or the clerk of the bankruptcy court if one is certified pursuant to section 156(b) of this title, shall collect statistics regarding debtors who are individuals with primarily consumer debts seeking relief under chapters 7, 11, and 13 of title 11. Those statistics shall be in a standardized format prescribed by the Director of the Administrative Office of the United States Courts (referred to in this section as the 'Director').

''(b) The Director shall—

''(1) compile the statistics referred to in subsection (a);

''(2) make the statistics available to the public; and

''(3) not later than June 1, 2005, and annually thereafter, prepare, and submit to Congress a report concerning the information collected under subsection (a) that contains an analysis of the information.

''(c) The compilation required under subsection (b) shall—

''(1) be itemized, by chapter, with respect to title 11;

''(2) be presented in the aggregate and for each district; and

''(3) include information concerning—

''(A) the total assets and total liabilities of the debtors described in subsection (a), and in each category of assets and liabilities, as reported in the schedules prescribed pursuant to section 2075 of this title and filed by those debtors;

''(B) the current monthly income, average income, and average expenses of those debtors as reported on the schedules and statements that each such debtor files under sections 521 and 1322 of title 11;

''(C) the aggregate amount of debt discharged in cases filed during the reporting period, determined as the difference between the total amount of debt and obligations of a debtor reported on the schedules and the amount of such debt reported in categories which are predominantly nondischargeable;

''(D) the average period of time between the filing of the petition and the closing of the case for cases closed during the reporting period;

''(E) for cases closed during the reporting period—

''(i) the number of cases in which a reaffirmation was filed; and

''(ii)(I) the total number of reaffirmations filed;

''(II) of those cases in which a reaffirmation was filed, the number of cases in which the debtor was not represented by an attorney; and

''(III) of those cases in which a reaffirmation was filed, the number of cases in which the reaffirmation was approved by the court;

''(F) with respect to cases filed under chapter 13 of title 11, for the reporting period—

''(i)(I) the number of cases in which a final order was entered determining the value of property securing a claim in an amount less than the amount of the claim; and

''(II) the number of final orders entered determining the value of property securing a claim;

''(ii) the number of cases dismissed, the number of cases dismissed for failure to make payments under the plan, the number of cases refiled after dismissal, and the number of cases in which the plan was completed, separately itemized with respect to the number of modifications made before completion of the plan, if any; and

''(iii) the number of cases in which the debtor filed another case during the 6-year period preceding the filing;

''(G) the number of cases in which creditors were fined for misconduct and any amount of punitive damages awarded by the court for creditor misconduct; and

''(H) the number of cases in which sanctions under rule 9011 of the Federal Rules of Bankruptcy Procedure were imposed against debtor's attorney or damages awarded under such Rule.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 6 of title 28, United States Code, is amended by adding at the end the following:

''159. Bankruptcy statistics.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

SEC. 602. UNIFORM RULES FOR THE COLLECTION OF BANKRUPTCY DATA.

(a) AMENDMENT.—Chapter 39 of title 28, United States Code, is amended by adding at the end the following:

''§ 589b. Bankruptcy data

''(a) RULES.—The Attorney General shall, within a reasonable time after the effective date of this section, issue rules requiring uniform forms for (and from time to time thereafter to appropriately modify and approve)—

''(1) final reports by trustees in cases under chapters 7, 12, and 13 of title 11; and

''(2) periodic reports by debtors in possession or trustees in cases under chapter 11 of title 11.

''(b) REPORTS.—Each report referred to in subsection (a) shall be designed (and the requirements as to place and manner of filing shall be established) so as to facilitate compilation of data and maximum possible access of the public, both by physical inspection at one or more central filing locations, and by electronic access through the Internet or other appropriate media.

''(c) REQUIRED INFORMATION.—The information required to be filed in the reports referred to in subsection (b) shall be that which is in the best interests of debtors and creditors, and in the public interest in reasonable and adequate information to evaluate the efficiency and practicality of the Federal bankruptcy system. In issuing rules proposing the forms referred to in subsection (a), the Attorney General shall strike the best achievable practical balance between—

''(1) the reasonable needs of the public for information about the operational results of the Federal bankruptcy system;

''(2) economy, simplicity, and lack of undue burden on persons with a duty to file reports; and

''(3) appropriate privacy concerns and safeguards.

''(d) FINAL REPORTS.—The uniform forms for final reports required under subsection (a) for use by trustees under chapters 7, 12, and 13 of title 11 shall, in addition to such other matters as are required by law or as the Attorney General in the discretion of the Attorney General shall propose, include with respect to a case under such title—

''(1) information about the length of time the case was pending;

''(2) assets abandoned;

''(3) assets exempted;

''(4) receipts and disbursements of the estate;

''(5) expenses of administration, including for use under section 707(b), actual costs of administering cases under chapter 13 of title 11;

''(6) claims asserted;

''(7) claims allowed; and

''(8) distributions to claimants and claims discharged without payment, in each case by appropriate category and, in cases under chapters 12 and 13 of title 11, date of confirmation of the plan, each modification thereto, and defaults by the debtor in performance under the plan.

''(e) PERIODIC REPORTS.—The uniform forms for periodic reports required under subsection (a) for use by trustees or debtors in possession under chapter 11 of title 11 shall, in addition to such other matters as are required by law or as the Attorney General in the discretion of the Attorney General shall propose, include—

''(1) information about the standard industry classification, published by the Department of Commerce, for the businesses conducted by the debtor;

''(2) length of time the case has been pending;

''(3) number of full-time employees as of the date of the order for relief and at the end of each reporting period since the case was filed;

''(4) cash receipts, cash disbursements and profitability of the debtor for the most recent period and cumulatively since the date of the order for relief;

''(5) compliance with title 11, whether or not tax returns and tax payments since the date of the order for relief have been timely filed and made;

''(6) all professional fees approved by the court in the case for the most recent period and cumulatively since the date of the order for relief (separately reported, for the professional fees incurred by or on behalf of the debtor, between those that would have been incurred absent a bankruptcy case and those not); and

''(7) plans of reorganization filed and confirmed and, with respect thereto, by class, the recoveries of the holders, expressed in aggregate dollar values and, in the case of claims, as a percentage of total claims of the class allowed.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 39 of title 28, United States Code, is amended by adding at the end the following:

''589b. Bankruptcy data.''.

SEC. 603. AUDIT PROCEDURES.

(a) IN GENERAL.—

(1) ESTABLISHMENT OF PROCEDURES.—The Attorney General (in judicial districts served by United States trustees) and the Judicial Conference of the United States (in judicial districts served by bankruptcy administrators) shall establish procedures to determine the accuracy, veracity, and completeness of petitions, schedules, and other information which the debtor is required to provide under sections 521 and 1322 of title 11, United States Code, and, if applicable, section 111 of such title, in cases filed under chapter 7 or 13 of such title in which the debtor is an individual. Such audits shall be in accordance with generally accepted auditing standards and performed by independent certified public accountants or independent licensed public accountants, provided that the Attorney General and the Judicial Conference, as appropriate, may develop alternative auditing standards not later than 2 years after the date of enactment of this Act.

(2) PROCEDURES.—Those procedures required by paragraph (1) shall—

(A) establish a method of selecting appropriate qualified persons to contract to perform those audits;

(B) establish a method of randomly selecting cases to be audited, except that not less than 1 out of every 250 cases in each Federal judicial district shall be selected for audit;

(C) require audits for schedules of income and expenses which reflect greater than average variances from the statistical norm of the district in which the schedules were filed if those variances occur by reason of higher income or higher expenses than the statistical norm of the district in which the schedules were filed; and

(D) establish procedures for providing, not less frequently than annually, public information concerning the aggregate results of such audits including the percentage of cases, by district, in which a material misstatement of income or expenditures is reported.

(b) AMENDMENTS.—Section 586 of title 28, United States Code, is amended—

(1) in subsection (a), by striking paragraph (6) and inserting the following:

''(6) make such reports as the Attorney General directs, including the results of audits performed under section 603(a) of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2002;''; and

(2) by adding at the end the following:

''(f)(1) The United States trustee for each district is authorized to contract with auditors to perform audits in cases designated by the United States trustee, in accordance with the procedures established under section 603(a) of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2002.

''(2)(A) The report of each audit referred to in paragraph (1) shall be filed with the court and transmitted to the United States trustee. Each report shall clearly and conspicuously specify any material misstatement of income or expenditures or of assets identified by the person performing the audit. In any case in which a material misstatement of income or expenditures or of assets has been reported, the clerk of the district court (or the clerk of the bankruptcy court if one is certified under section 156(b) of this title) shall give notice of the misstatement to the creditors in the case.

''(B) If a material misstatement of income or expenditures or of assets is reported, the United States trustee shall—

''(i) report the material misstatement, if appropriate, to the United States Attorney pursuant to section 3057 of title 18; and

''(ii) if advisable, take appropriate action, including but not limited to commencing an adversary proceeding to revoke the debtor's discharge pursuant to section 727(d) of title 11.''.

(c) AMENDMENTS TO SECTION 521 OF TITLE 11, U.S.C.—Section 521(a) of title 11, United States Code, as so designated by section 106, is amended in each of paragraphs (3) and (4) by inserting ''or an auditor appointed under section 586(f) of title 28'' after ''serving in the case''.

(d) AMENDMENTS TO SECTION 727 OF TITLE 11, U.S.C.—Section 727(d) of title 11, United States Code, is amended—

(1) in paragraph (2), by striking ''or'' at the end;

(2) in paragraph (3), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(4) the debtor has failed to explain satisfactorily—

''(A) a material misstatement in an audit referred to in section 586(f) of title 28; or

''(B) a failure to make available for inspection all necessary accounts, papers, documents, financial records, files, and all other papers, things, or property belonging to the debtor that are requested for an audit referred to in section 586(f) of title 28.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

SEC. 604. SENSE OF CONGRESS REGARDING AVAILABILITY OF BANKRUPTCY DATA.

It is the sense of Congress that—

(1) the national policy of the United States should be that all data held by bankruptcy

clerks in electronic form, to the extent such data reflects only public records (as defined in section 107 of title 11, United States Code), should be released in a usable electronic form in bulk to the public, subject to such appropriate privacy concerns and safeguards as Congress and the Judicial Conference of the United States may determine; and

(2) there should be established a bankruptcy data system in which—

(A) a single set of data definitions and forms are used to collect data nationwide; and

(B) data for any particular bankruptcy case are aggregated in the same electronic record.

TITLE VII—BANKRUPTCY TAX PROVISIONS

SEC. 701. TREATMENT OF CERTAIN LIENS.

(a) TREATMENT OF CERTAIN LIENS.—Section 724 of title 11, United States Code, is amended—

(1) in subsection (b), in the matter preceding paragraph (1), by inserting ''(other than to the extent that there is a properly perfected unavoidable tax lien arising in connection with an ad valorem tax on real or personal property of the estate)'' after ''under this title'';

(2) in subsection (b)(2), by inserting ''(except that such expenses, other than claims for wages, salaries, or commissions which arise after the filing of a petition, shall be limited to expenses incurred under chapter 7 of this title and shall not include expenses incurred under chapter 11 of this title)'' after ''507(a)(1)''; and

(3) by adding at the end the following:

''(e) Before subordinating a tax lien on real or personal property of the estate, the trustee shall—

''(1) exhaust the unencumbered assets of the estate; and

''(2) in a manner consistent with section 506(c), recover from property securing an allowed secured claim the reasonable, necessary costs and expenses of preserving or disposing of that property.

''(f) Notwithstanding the exclusion of ad valorem tax liens under this section and subject to the requirements of subsection (e), the following may be paid from property of the estate which secures a tax lien, or the proceeds of such property:

''(1) Claims for wages, salaries, and commissions that are entitled to priority under section 507(a)(4).

''(2) Claims for contributions to an employee benefit plan entitled to priority under section 507(a)(5).''.

(b) DETERMINATION OF TAX LIABILITY.—Section 505(a)(2) of title 11, United States Code, is amended—

(1) in subparagraph (A), by striking ''or'' at the end;

(2) in subparagraph (B), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(C) the amount or legality of any amount arising in connection with an ad valorem tax on real or personal property of the estate, if the applicable period for contesting or redetermining that amount under any law (other than a bankruptcy law) has expired.''.

SEC. 702. TREATMENT OF FUEL TAX CLAIMS.

Section 501 of title 11, United States Code, is amended by adding at the end the following:

''(e) A claim arising from the liability of a debtor for fuel use tax assessed consistent with the requirements of section 31705 of title 49 may be filed by the base jurisdiction designated pursuant to the International Fuel Tax Agreement (as defined in section 31701 of title 49) and, if so filed, shall be allowed as a single claim.''.

SEC. 703. NOTICE OF REQUEST FOR A DETERMINATION OF TAXES.

Section 505(b) of title 11, United States Code, is amended—

(1) in the first sentence, by inserting ''at the address and in the manner designated in paragraph (1)'' after ''determination of such tax'';

(2) by striking ''(1) upon payment'' and inserting ''(A) upon payment'';

(3) by striking ''(A) such governmental unit'' and inserting ''(i) such governmental unit'';

(4) by striking ''(B) such governmental unit'' and inserting ''(ii) such governmental unit'';

(5) by striking ''(2) upon payment'' and inserting ''(B) upon payment'';

(6) by striking ''(3) upon payment'' and inserting ''(C) upon payment'';

(7) by striking ''(b)'' and inserting ''(2)''; and

(8) by inserting before paragraph (2), as so designated, the following:

''(b)(1)(A) The clerk shall maintain a listing under which a Federal, State, or local governmental unit responsible for the collection of taxes within the district may—

''(i) designate an address for service of requests under this subsection; and

''(ii) describe where further information concerning additional requirements for filing such requests may be found.

''(B) If a governmental unit referred to in subparagraph (A) does not designate an address and provide that address to the clerk under that subparagraph, any request made under this subsection may be served at the address for the filing of a tax return or protest with the appropriate taxing authority of that governmental unit.''.

SEC. 704. RATE OF INTEREST ON TAX CLAIMS.

(a) IN GENERAL.—Subchapter I of chapter 5 of title 11, United States Code, is amended by adding at the end the following:

''§ 511. Rate of interest on tax claims

''(a) If any provision of this title requires the payment of interest on a tax claim or on an administrative expense tax, or the payment of interest to enable a creditor to receive the present value of the allowed amount of a tax claim, the rate of interest shall be the rate determined under applicable nonbankruptcy law.

''(b) In the case of taxes paid under a confirmed plan under this title, the rate of interest shall be determined as of the calendar month in which the plan is confirmed.''.

(b) CLERICAL AMENDMENT.—The table of sections for subchapter 1 of chapter 5 of title 11, United States Code, is amended by adding at the end the following:

''511. Rate of interest on tax claims.''.

SEC. 705. PRIORITY OF TAX CLAIMS.

Section 507(a)(8) of title 11, United States Code, is amended—

(1) in subparagraph (A)—

(A) in the matter preceding clause (i), by inserting ''for a taxable year ending on or before the date of the filing of the petition'' after ''gross receipts'';

(B) in clause (i), by striking ''for a taxable year ending on or before the date of the filing of the petition''; and

(C) by striking clause (ii) and inserting the following:

''(ii) assessed within 240 days before the date of the filing of the petition, exclusive of—

''(I) any time during which an offer in compromise with respect to that tax was pending or in effect during that 240-day period, plus 30 days; and

''(II) any time during which a stay of proceedings against collections was in effect in a prior case under this title during that 240-day period, plus 90 days.''; and

(2) by adding at the end the following:

''An otherwise applicable time period specified in this paragraph shall be suspended for any period during which a governmental unit is prohibited under applicable nonbankruptcy law from collecting a tax as a result of a request by the debtor for a hearing and an appeal of any collection action taken or proposed against the debtor, plus 90 days; plus any time during which the stay of proceedings was in effect in a prior case under this title or during which collection was precluded by the existence of 1 or more confirmed plans under this title, plus 90 days.''.

SEC. 706. PRIORITY PROPERTY TAXES INCURRED.

Section 507(a)(8)(B) of title 11, United States Code, is amended by striking ''assessed'' and inserting ''incurred''.

SEC. 707. NO DISCHARGE OF FRAUDULENT TAXES IN CHAPTER 13.

Section 1328(a)(2) of title 11, United States Code, as amended by section 314, is amended by striking ''paragraph'' and inserting ''section 507(a)(8)(C) or in paragraph (1)(B), (1)(C),''.

SEC. 708. NO DISCHARGE OF FRAUDULENT TAXES IN CHAPTER 11.

Section 1141(d) of title 11, United States Code, as amended by section 321, is amended by adding at the end the following:

''(6) Notwithstanding paragraph (1), the confirmation of a plan does not discharge a debtor that is a corporation from any debt—

''(A) of a kind specified in paragraph (2)(A) or (2)(B) of section 523(a) that is owed to a domestic governmental unit, or owed to a person as the result of an action filed under subchapter III of chapter 37 of title 31 or any similar State statute; or

''(B) for a tax or customs duty with respect to which the debtor—

''(i) made a fraudulent return; or

''(ii) willfully attempted in any manner to evade or to defeat such tax or such customs duty.''.

SEC. 709. STAY OF TAX PROCEEDINGS LIMITED TO PREPETITION TAXES.

Section 362(a)(8) of title 11, United States Code, is amended by striking ''the debtor'' and inserting ''a corporate debtor's tax liability for a taxable period the bankruptcy court may determine or concerning the tax liability of a debtor who is an individual for a taxable period ending before the order for relief under this title''.

SEC. 710. PERIODIC PAYMENT OF TAXES IN CHAPTER 11 CASES.

Section 1129(a)(9) of title 11, United States Code, is amended—

(1) in subparagraph (B), by striking ''and'' at the end;

(2) in subparagraph (C), by striking ''deferred cash payments,'' and all that follows through the end of the subparagraph, and inserting ''regular installment payments in cash—

''(i) of a total value, as of the effective date of the plan, equal to the allowed amount of such claim;

''(ii) over a period ending not later than 5 years after the date of the entry of the order for relief under section 301, 302, or 303; and

''(iii) in a manner not less favorable than the most favored nonpriority unsecured claim provided for by the plan (other than cash payments made to a class of creditors under section 1122(b)); and''; and

(3) by adding at the end the following:

''(D) with respect to a secured claim which would otherwise meet the description of an unsecured claim of a governmental unit under section 507(a)(8), but for the secured status of that claim, the holder of that claim will receive on account of that claim, cash payments, in the same manner and over the same period, as prescribed in subparagraph (C).''.

SEC. 711. AVOIDANCE OF STATUTORY TAX LIENS PROHIBITED.

Section 545(2) of title 11, United States Code, is amended by inserting before the semicolon at the end the following: '', except in any case in which a purchaser is a purchaser described in section 6323 of the Internal Revenue Code of 1986, or in any other similar provision of State or local law''.

SEC. 712. PAYMENT OF TAXES IN THE CONDUCT OF BUSINESS.

(a) PAYMENT OF TAXES REQUIRED.—Section 960 of title 28, United States Code, is amended—

(1) by inserting ''(a)'' before ''Any''; and

(2) by adding at the end the following:

''(b) A tax under subsection (a) shall be paid on or before the due date of the tax under applicable nonbankruptcy law, unless—

''(1) the tax is a property tax secured by a lien against property that is abandoned within a reasonable period of time after the lien attaches by the trustee of a bankruptcy estate under section 554 of title 11; or

''(2) payment of the tax is excused under a specific provision of title 11.

''(c) In a case pending under chapter 7 of title 11, payment of a tax may be deferred until final distribution is made under section 726 of title 11, if—

''(1) the tax was not incurred by a trustee duly appointed under chapter 7 of title 11; or

''(2) before the due date of the tax, an order of the court makes a finding of probable insufficiency of funds of the estate to pay in full the administrative expenses allowed under section 503(b) of title 11 that have the same priority in distribution under section 726(b) of title 11 as the priority of that tax.''.

(b) PAYMENT OF AD VALOREM TAXES REQUIRED.—Section 503(b)(1)(B)(i) of title 11, United States Code, is amended by inserting ''whether secured or unsecured, including property taxes for which liability is in rem, in personam, or both,'' before ''except''.

(c) REQUEST FOR PAYMENT OF ADMINISTRATIVE EXPENSE TAXES ELIMINATED.—Section 503(b)(1) of title 11, United States Code, is amended—

(1) in subparagraph (B), by striking ''and'' at the end;

(2) in subparagraph (C), by adding ''and'' at the end; and

(3) by adding at the end the following:

''(D) notwithstanding the requirements of subsection (a), a governmental unit shall not be required to file a request for the payment of an expense described in subparagraph (B) or (C), as a condition of its being an allowed administrative expense;''.

(d) PAYMENT OF TAXES AND FEES AS SECURED CLAIMS.—Section 506 of title 11, United States Code, is amended—

(1) in subsection (b), by inserting ''or State statute'' after ''agreement''; and

(2) in subsection (c), by inserting '', including the payment of all ad valorem property taxes with respect to the property'' before the period at the end.

SEC. 713. TARDILY FILED PRIORITY TAX CLAIMS.

Section 726(a)(1) of title 11, United States Code, is amended by striking ''before the date on which the trustee commences distribution under this section;'' and inserting the following: ''on or before the earlier of—

''(A) the date that is 10 days after the mailing to creditors of the summary of the trustee's final report; or

''(B) the date on which the trustee commences final distribution under this section;''.

SEC. 714. INCOME TAX RETURNS PREPARED BY TAX AUTHORITIES.

Section 523(a) of title 11, United States Code, as amended by sections 215 and 224, is amended—

(1) in paragraph (1)(B)—

(A) in the matter preceding clause (i), by inserting ''or equivalent report or notice,'' after ''a return,'';

(B) in clause (i), by inserting ''or given'' after ''filed''; and

(C) in clause (ii)—

(i) by inserting ''or given'' after ''filed''; and

(ii) by inserting '', report, or notice'' after ''return''; and

(2) by adding at the end the following:

''For purposes of this subsection, the term 'return' means a return that satisfies the requirements of applicable nonbankruptcy law (including applicable filing requirements). Such term includes a return prepared pursuant to section 6020(a) of the Internal Revenue Code of 1986, or similar State or local law, or a written stipulation to a judgment or a final order entered by a nonbankruptcy tribunal, but does not include a return made pursuant to section 6020(b) of the Internal Revenue Code of 1986, or a similar State or local law.''.

SEC. 715. DISCHARGE OF THE ESTATE'S LIABILITY FOR UNPAID TAXES.

Section 505(b)(2) of title 11, United States Code, as amended by section 703, is amended by inserting ''the estate,'' after ''misrepresentation,''.

SEC. 716. REQUIREMENT TO FILE TAX RETURNS TO CONFIRM CHAPTER 13 PLANS.

(a) FILING OF PREPETITION TAX RETURNS REQUIRED FOR PLAN CONFIRMATION.—Section 1325(a) of title 11, United States Code, as amended by sections 102, 213, and 306, is amended by inserting after paragraph (8) the following:

''(9) the debtor has filed all applicable Federal, State, and local tax returns as required by section 1308.''.

(b) ADDITIONAL TIME PERMITTED FOR FILING TAX RETURNS.—

(1) IN GENERAL.—Subchapter I of chapter 13 of title 11, United States Code, is amended by adding at the end the following:

''§ 1308. Filing of prepetition tax returns

''(a) Not later than the day before the date on which the meeting of the creditors is first scheduled to be held under section 341(a), if the debtor was required to file a tax return under applicable nonbankruptcy law, the debtor shall file with appropriate tax authorities all tax returns for all taxable periods ending during the 4-year period ending on the date of the filing of the petition.

''(b)(1) Subject to paragraph (2), if the tax returns required by subsection (a) have not been filed by the date on which the meeting of creditors is first scheduled to be held under section 341(a), the trustee may hold open that meeting for a reasonable period of time to allow the debtor an additional period of time to file any unfiled returns, but such additional period of time shall not extend beyond—

''(A) for any return that is past due as of the date of the filing of the petition, the date that is 120 days after the date of that meeting; or

''(B) for any return that is not past due as of the date of the filing of the petition, the later of—

''(i) the date that is 120 days after the date of that meeting; or

''(ii) the date on which the return is due under the last automatic extension of time for filing that return to which the debtor is entitled, and for which request is timely made, in accordance with applicable nonbankruptcy law.

''(2) After notice and a hearing, and order entered before the tolling of any applicable filing period determined under this subsection, if the debtor demonstrates by a preponderance of the evidence that the failure to file a return as required under this subsection is attributable to circumstances beyond the control of the debtor, the court may extend the filing period established by the trustee under this subsection for—

''(A) a period of not more than 30 days for returns described in paragraph (1); and

''(B) a period not to extend after the applicable extended due date for a return described in paragraph (2).

''(c) For purposes of this section, the term 'return' includes a return prepared pursuant to subsection (a) or (b) of section 6020 of the Internal Revenue Code of 1986, or a similar State or local law, or a written stipulation to a judgment or a final order entered by a nonbankruptcy tribunal.''.

(2) CONFORMING AMENDMENT.—The table of sections for subchapter I of chapter 13 of title 11, United States Code, is amended by adding at the end the following:

''1308. Filing of prepetition tax returns.''.

(c) DISMISSAL OR CONVERSION ON FAILURE TO COMPLY.—Section 1307 of title 11, United States Code, is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (d) the following:

''(e) Upon the failure of the debtor to file a tax return under section 1308, on request of a party in interest or the United States trustee and after notice and a hearing, the court shall dismiss a case or convert a case under this chapter to a case under chapter 7 of this title, whichever is in the best interest of the creditors and the estate.''.

(d) TIMELY FILED CLAIMS.—Section 502(b)(9) of title 11, United States Code, is amended by inserting before the period at the end the following: '', and except that in a case under chapter 13, a claim of a governmental unit for a tax with respect to a return filed under section 1308 shall be timely if the claim is filed on or before the date that is 60 days after the date on which such return was filed as required''.

(e) RULES FOR OBJECTIONS TO CLAIMS AND TO CONFIRMATION.—It is the sense of Congress that the Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States should, as soon as practicable after the date of enactment of this Act, propose for adoption amended Federal Rules of Bankruptcy Procedure which provide that—

(1) notwithstanding the provisions of Rule 3015(f), in cases under chapter 13 of title 11, United States Code, an objection to the confirmation of a plan filed by a governmental unit on or before the date that is 60 days after the date on which the debtor files all tax returns required under sections 1308 and 1325(a)(7) of title 11, United States Code, shall be treated for all purposes as if such objection had been timely filed before such confirmation; and

(2) in addition to the provisions of Rule 3007, in a case under chapter 13 of title 11, United States Code, no objection to a claim for a tax with respect to which a return is required to be filed under section 1308 of title 11, United States Code, shall be filed until such return has been filed as required.

SEC. 717. STANDARDS FOR TAX DISCLOSURE.

Section 1125(a)(1) of title 11, United States Code, is amended—

(1) by inserting ''including a discussion of the potential material Federal tax consequences of the plan to the debtor, any successor to the debtor, and a hypothetical investor typical of the holders of claims or interests in the case,'' after ''records''; and

(2) by striking ''a hypothetical reasonable investor typical of holders of claims or interests'' and inserting ''such a hypothetical investor''.

SEC. 718. SETOFF OF TAX REFUNDS.

Section 362(b) of title 11, United States Code, as amended by sections 224, 303, 311, and 401, is amended by inserting after paragraph (25) the following:

''(26) under subsection (a), of the setoff under applicable nonbankruptcy law of an income tax refund, by a governmental unit, with respect to a taxable period that ended before the order for relief against an income tax liability for a taxable period that also ended before the order for relief, except that in any case in which the setoff of an income tax refund is not permitted under applicable nonbankruptcy law because of a pending action to determine the amount or legality of a tax liability, the governmental unit may hold the refund pending the resolution of the action, unless the court, on the motion of the trustee and after notice and a hearing, grants the taxing authority adequate protection (within the meaning of section 361) for the secured claim of that authority in the setoff under section 506(a);''.

SEC. 719. SPECIAL PROVISIONS RELATED TO THE TREATMENT OF STATE AND LOCAL TAXES.

(a) IN GENERAL.—

(1) SPECIAL PROVISIONS.—Section 346 of title 11, United States Code, is amended to read as follows:

''§ 346. Special provisions related to the treatment of State and local taxes

''(a) Whenever the Internal Revenue Code of 1986 provides that a separate taxable estate or entity is created in a case concerning a debtor under this title, and the income, gain, loss, deductions, and credits of such estate shall be taxed to or claimed by the estate, a separate taxable estate is also created for purposes of any State and local law imposing a tax on or measured by income and such income, gain, loss, deductions, and credits shall be taxed to or claimed by the estate and may not be taxed to or claimed by the debtor. The preceding sentence shall not apply if the case is dismissed. The trustee shall make tax returns of income required under any such State or local law.

''(b) Whenever the Internal Revenue Code of 1986 provides that no separate taxable estate shall be created in a case concerning a debtor under this title, and the income, gain, loss, deductions, and credits of an estate shall be taxed to or claimed by the debtor, such income, gain, loss, deductions, and credits shall be taxed to or claimed by the debtor under a State or local law imposing a tax on or measured by income and may not be taxed to or claimed by the estate. The trustee shall make such tax returns of income of corporations and of partnerships as are required under any State or local law, but with respect to partnerships, shall make said returns only to the extent such returns are also required to be made under such Code. The estate shall be liable for any tax imposed on such corporation or partnership, but not for any tax imposed on partners or members.

''(c) With respect to a partnership or any entity treated as a partnership under a State or local law imposing a tax on or measured by income that is a debtor in a case under this title, any gain or loss resulting from a distribution of property from such partnership, or any distributive share of any income, gain, loss, deduction, or credit of a partner or member that is distributed, or considered distributed, from such partnership, after the commencement of the case, is gain, loss, income, deduction, or credit, as the case may be, of the partner or member, and if such partner or member is a debtor in a case under this title, shall be subject to tax in accordance with subsection (a) or (b).

''(d) For purposes of any State or local law imposing a tax on or measured by income, the taxable period of a debtor in a case under this title shall terminate only if and to the extent that the taxable period of such debtor terminates under the Internal Revenue Code of 1986.

''(e) The estate in any case described in subsection (a) shall use the same accounting method as the debtor used immediately before the commencement of the case, if such method of accounting complies with applicable nonbankruptcy tax law.

''(f) For purposes of any State or local law imposing a tax on or measured by income, a transfer of property from the debtor to the estate or from the estate to the debtor shall not be treated as a disposition for purposes of any provision assigning tax consequences to a disposition, except to the extent that such transfer is treated as a disposition under the Internal Revenue Code of 1986.

''(g) Whenever a tax is imposed pursuant to a State or local law imposing a tax on or measured by income pursuant to subsection (a) or (b), such tax shall be imposed at rates generally applicable to the same types of entities under such State or local law.

''(h) The trustee shall withhold from any payment of claims for wages, salaries, commissions, dividends, interest, or other payments, or collect, any amount required to be withheld or collected under applicable State or local tax law, and shall pay such withheld or collected amount to the appropriate governmental unit at the time and in the manner required by such tax law, and with the same priority as the claim from which such amount was withheld or collected was paid.

''(i)(1) To the extent that any State or local law imposing a tax on or measured by income provides for the carryover of any tax attribute from one taxable period to a subsequent taxable period, the estate shall succeed to such tax attribute in any case in which such estate is subject to tax under subsection (a).

''(2) After such a case is closed or dismissed, the debtor shall succeed to any tax attribute to which the estate succeeded under paragraph (1) to the extent consistent with the Internal Revenue Code of 1986.

''(3) The estate may carry back any loss or tax attribute to a taxable period of the debtor that ended before the order for relief under this title to the extent that—

''(A) applicable State or local tax law provides for a carryback in the case of the debtor; and

''(B) the same or a similar tax attribute may be carried back by the estate to such a taxable period of the debtor under the Internal Revenue Code of 1986.

''(j)(1) For purposes of any State or local law imposing a tax on or measured by income, income is not realized by the estate, the debtor, or a successor to the debtor by reason of discharge of indebtedness in a case under this title, except to the extent, if any, that such income is subject to tax under the Internal Revenue Code of 1986.

''(2) Whenever the Internal Revenue Code of 1986 provides that the amount excluded from gross income in respect of the discharge of indebtedness in a case under this title shall be applied to reduce the tax attributes of the debtor or the estate, a similar reduction shall be made under any State or local law imposing a tax on or measured by income to the extent such State or local law recognizes such attributes. Such State or local law may also provide for the reduction of other attributes to the extent that the full amount of income from the discharge of indebtedness has not been applied.

''(k)(1) Except as provided in this section and section 505, the time and manner of filing tax returns and the items of income, gain, loss, deduction, and credit of any taxpayer shall be determined under applicable nonbankruptcy law.

''(2) For Federal tax purposes, the provisions of this section are subject to the Internal Revenue Code of 1986 and other applicable Federal nonbankruptcy law.''.

(2) CLERICAL AMENDMENT.—The table of sections for chapter 3 of title 11, United States Code, is amended by striking the item relating to section 346 and inserting the following:

''346. Special provisions related to the treatment of State and local taxes.''.

(b) CONFORMING AMENDMENTS.—Title 11 of the United States Code is amended—

(1) by striking section 728;

(2) in the table of sections for chapter 7 by striking the item relating to section 728;

(3) in section 1146—

(A) by striking subsections (a) and (b); and

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

(4) in section 1231—

(A) by striking subsections (a) and (b); and

(B) by redesignating subsections (c) and (d) as subsections (a) and (b), respectively.

SEC. 720. DISMISSAL FOR FAILURE TO TIMELY FILE TAX RETURNS.

Section 521 of title 11, United States Code, as amended by sections 106, 225, 305, 315, and 316, is amended by adding at the end the following:

''(k)(1) Notwithstanding any other provision of this title, if the debtor fails to file a tax return that becomes due after the commencement of the case or to properly obtain an extension of the due date for filing such return, the taxing authority may request that the court enter an order converting or dismissing the case.

''(2) If the debtor does not file the required return or obtain the extension referred to in paragraph (1) within 90 days after a request is filed by the taxing authority under that paragraph, the court shall convert or dismiss the case, whichever is in the best interests of creditors and the estate.''.

TITLE VIII—ANCILLARY AND OTHER CROSS-BORDER CASES

SEC. 801. AMENDMENT TO ADD CHAPTER 15 TO TITLE 11, UNITED STATES CODE.

(a) IN GENERAL.—Title 11, United States Code, is amended by inserting after chapter 13 the following:

''CHAPTER 15—ANCILLARY AND OTHER CROSS-BORDER CASES

''Sec.

''1501. Purpose and scope of application.

''SUBCHAPTER I—GENERAL PROVISIONS

''1502. Definitions.

''1503. International obligations of the United States.

''1504. Commencement of ancillary case.

''1505. Authorization to act in a foreign country.

''1506. Public policy exception.

''1507. Additional assistance.

''1508. Interpretation.

''SUBCHAPTER II—ACCESS OF FOREIGN REPRESENTATIVES AND CREDITORS TO THE COURT

''1509. Right of direct access.

''1510. Limited jurisdiction.

''1511. Commencement of case under section 301 or 303.

''1512. Participation of a foreign representative in a case under this title.

''1513. Access of foreign creditors to a case under this title.

''1514. Notification to foreign creditors concerning a case under this title.

''SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING AND RELIEF

''1515. Application for recognition.

''1516. Presumptions concerning recognition.

''1517. Order granting recognition.

''1518. Subsequent information.

''1519. Relief that may be granted upon filing petition for recognition.
''1520. Effects of recognition of a foreign main proceeding.
''1521. Relief that may be granted upon recognition.
''1522. Protection of creditors and other interested persons.
''1523. Actions to avoid acts detrimental to creditors.
''1524. Intervention by a foreign representative.
''SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES
''1525. Cooperation and direct communication between the court and foreign courts or foreign representatives.
''1526. Cooperation and direct communication between the trustee and foreign courts or foreign representatives.
''1527. Forms of cooperation.
''SUBCHAPTER V—CONCURRENT PROCEEDINGS
''1528. Commencement of a case under this title after recognition of a foreign main proceeding.
''1529. Coordination of a case under this title and a foreign proceeding.
''1530. Coordination of more than 1 foreign proceeding.
''1531. Presumption of insolvency based on recognition of a foreign main proceeding.
''1532. Rule of payment in concurrent proceedings.

''§ 1501. Purpose and scope of application

''(a) The purpose of this chapter is to incorporate the Model Law on Cross-Border Insolvency so as to provide effective mechanisms for dealing with cases of cross-border insolvency with the objectives of—

''(1) cooperation between—

''(A) courts of the United States, United States trustees, trustees, examiners, debtors, and debtors in possession; and

''(B) the courts and other competent authorities of foreign countries involved in cross-border insolvency cases;

''(2) greater legal certainty for trade and investment;

''(3) fair and efficient administration of cross-border insolvencies that protects the interests of all creditors, and other interested entities, including the debtor;

''(4) protection and maximization of the value of the debtor's assets; and

''(5) facilitation of the rescue of financially troubled businesses, thereby protecting investment and preserving employment.

''(b) This chapter applies where—

''(1) assistance is sought in the United States by a foreign court or a foreign representative in connection with a foreign proceeding;

''(2) assistance is sought in a foreign country in connection with a case under this title;

''(3) a foreign proceeding and a case under this title with respect to the same debtor are taking place concurrently; or

''(4) creditors or other interested persons in a foreign country have an interest in requesting the commencement of, or participating in, a case or proceeding under this title.

''(c) This chapter does not apply to—

''(1) a proceeding concerning an entity, other than a foreign insurance company, identified by exclusion in section 109(b);

''(2) an individual, or to an individual and such individual's spouse, who have debts within the limits specified in section 109(e) and who are citizens of the United States or aliens lawfully admitted for permanent residence in the United States; or

''(3) an entity subject to a proceeding under the Securities Investor Protection Act of 1970, a stockbroker subject to subchapter III of chapter 7 of this title, or a commodity broker subject to subchapter IV of chapter 7 of this title.

''(d) The court may not grant relief under this chapter with respect to any deposit, escrow, trust fund, or other security required or permitted under any applicable State insurance law or regulation for the benefit of claim holders in the United States.

''SUBCHAPTER I—GENERAL PROVISIONS

''§ 1502. Definitions

''For the purposes of this chapter, the term—

''(1) 'debtor' means an entity that is the subject of a foreign proceeding;

''(2) 'establishment' means any place of operations where the debtor carries out a nontransitory economic activity;

''(3) 'foreign court' means a judicial or other authority competent to control or supervise a foreign proceeding;

''(4) 'foreign main proceeding' means a foreign proceeding taking place in the country where the debtor has the center of its main interests;

''(5) 'foreign nonmain proceeding' means a foreign proceeding, other than a foreign main proceeding, taking place in a country where the debtor has an establishment;

''(6) 'trustee' includes a trustee, a debtor in possession in a case under any chapter of this title, or a debtor under chapter 9 of this title;

''(7) 'recognition' means the entry of an order granting recognition of a foreign main proceeding or foreign nonmain proceeding under this chapter; and

''(8) 'within the territorial jurisdiction of the United States', when used with reference to property of a debtor, refers to tangible property located within the territory of the United States and intangible property deemed under applicable nonbankruptcy law to be located within that territory, including any property subject to attachment or garnishment that may properly be seized or garnished by an action in a Federal or State court in the United States.

''§ 1503. International obligations of the United States

''To the extent that this chapter conflicts with an obligation of the United States arising out of any treaty or other form of agreement to which it is a party with one or more other countries, the requirements of the treaty or agreement prevail.

''§ 1504. Commencement of ancillary case

''A case under this chapter is commenced by the filing of a petition for recognition of a foreign proceeding under section 1515.

''§ 1505. Authorization to act in a foreign country

''A trustee or another entity (including an examiner) may be authorized by the court to act in a foreign country on behalf of an estate created under section 541. An entity authorized to act under this section may act in any way permitted by the applicable foreign law.

''§ 1506. Public policy exception

''Nothing in this chapter prevents the court from refusing to take an action governed by this chapter if the action would be manifestly contrary to the public policy of the United States.

''§ 1507. Additional assistance

''(a) Subject to the specific limitations stated elsewhere in this chapter the court, if recognition is granted, may provide additional assistance to a foreign representative under this title or under other laws of the United States.

''(b) In determining whether to provide additional assistance under this title or under other laws of the United States, the court shall consider whether such additional assistance, consistent with the principles of comity, will reasonably assure—

''(1) just treatment of all holders of claims against or interests in the debtor's property;

''(2) protection of claim holders in the United States against prejudice and inconvenience in the processing of claims in such foreign proceeding;

''(3) prevention of preferential or fraudulent dispositions of property of the debtor;

''(4) distribution of proceeds of the debtor's property substantially in accordance with the order prescribed by this title; and

''(5) if appropriate, the provision of an opportunity for a fresh start for the individual that such foreign proceeding concerns.

''§ 1508. Interpretation

''In interpreting this chapter, the court shall consider its international origin, and the need to promote an application of this chapter that is consistent with the application of similar statutes adopted by foreign jurisdictions.

''SUBCHAPTER II—ACCESS OF FOREIGN REPRESENTATIVES AND CREDITORS TO THE COURT

''§ 1509. Right of direct access

''(a) A foreign representative may commence a case under section 1504 by filing directly with the court a petition for recognition of a foreign proceeding under section 1515.

''(b) If the court grants recognition under section 1515, and subject to any limitations that the court may impose consistent with the policy of this chapter—

''(1) the foreign representative has the capacity to sue and be sued in a court in the United States;

''(2) the foreign representative may apply directly to a court in the United States for appropriate relief in that court; and

''(3) a court in the United States shall grant comity or cooperation to the foreign representative.

''(c) A request for comity or cooperation by a foreign representative in a court in the United States other than the court which granted recognition shall be accompanied by a certified copy of an order granting recognition under section 1517.

''(d) If the court denies recognition under this chapter, the court may issue any appropriate order necessary to prevent the foreign representative from obtaining comity or cooperation from courts in the United States.

''(e) Whether or not the court grants recognition, and subject to sections 306 and 1510, a foreign representative is subject to applicable nonbankruptcy law.

''(f) Notwithstanding any other provision of this section, the failure of a foreign representative to commence a case or to obtain recognition under this chapter does not affect any right the foreign representative may have to sue in a court in the United States to collect or recover a claim which is the property of the debtor.

''§ 1510. Limited jurisdiction

''The sole fact that a foreign representative files a petition under section 1515 does not subject the foreign representative to the jurisdiction of any court in the United States for any other purpose.

''§ 1511. Commencement of case under section 301 or 303

''(a) Upon recognition, a foreign representative may commence—

''(1) an involuntary case under section 303; or

''(2) a voluntary case under section 301 or 302, if the foreign proceeding is a foreign main proceeding.

''(b) The petition commencing a case under subsection (a) must be accompanied by a certified copy of an order granting recognition. The court where the petition for recognition has been filed must be advised of the foreign representative's intent to commence a case under subsection (a) prior to such commencement.

''§ 1512. Participation of a foreign representative in a case under this title

''Upon recognition of a foreign proceeding, the foreign representative in the recognized proceeding is entitled to participate as a party in interest in a case regarding the debtor under this title.

''§ 1513. Access of foreign creditors to a case under this title

''(a) Foreign creditors have the same rights regarding the commencement of, and participation in, a case under this title as domestic creditors.

''(b)(1) Subsection (a) does not change or codify present law as to the priority of claims under section 507 or 726 of this title, except that the claim of a foreign creditor under those sections shall not be given a lower priority than that of general unsecured claims without priority solely because the holder of such claim is a foreign creditor.

''(2)(A) Subsection (a) and paragraph (1) do not change or codify present law as to the allowability of foreign revenue claims or other foreign public law claims in a proceeding under this title.

''(B) Allowance and priority as to a foreign tax claim or other foreign public law claim shall be governed by any applicable tax treaty of the United States, under the conditions and circumstances specified therein.

''§ 1514. Notification to foreign creditors concerning a case under this title

''(a) Whenever in a case under this title notice is to be given to creditors generally or to any class or category of creditors, such notice shall also be given to the known creditors generally, or to creditors in the notified class or category, that do not have addresses in the United States. The court may order that appropriate steps be taken with a view to notifying any creditor whose address is not yet known.

''(b) Such notification to creditors with foreign addresses described in subsection (a) shall be given individually, unless the court considers that, under the circumstances, some other form of notification would be more appropriate. No letter or other formality is required.

''(c) When a notification of commencement of a case is to be given to foreign creditors, the notification shall—

''(1) indicate the time period for filing proofs of claim and specify the place for their filing;

''(2) indicate whether secured creditors need to file their proofs of claim; and

''(3) contain any other information required to be included in such a notification to creditors under this title and the orders of the court.

''(d) Any rule of procedure or order of the court as to notice or the filing of a claim shall provide such additional time to creditors with foreign addresses as is reasonable under the circumstances.

''SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING AND RELIEF

''§ 1515. Application for recognition

''(a) A foreign representative applies to the court for recognition of the foreign proceeding in which the foreign representative has been appointed by filing a petition for recognition.

''(b) A petition for recognition shall be accompanied by—

''(1) a certified copy of the decision commencing the foreign proceeding and appointing the foreign representative;

''(2) a certificate from the foreign court affirming the existence of the foreign proceeding and of the appointment of the foreign representative; or

''(3) in the absence of evidence referred to in paragraphs (1) and (2), any other evidence acceptable to the court of the existence of the foreign proceeding and of the appointment of the foreign representative.

''(c) A petition for recognition shall also be accompanied by a statement identifying all foreign proceedings with respect to the debtor that are known to the foreign representative.

''(d) The documents referred to in paragraphs (1) and (2) of subsection (b) shall be translated into English. The court may require a translation into English of additional documents.

''§ 1516. Presumptions concerning recognition

''(a) If the decision or certificate referred to in section 1515(b) indicates that the foreign proceeding is a foreign proceeding and that the person or body is a foreign representative, the court is entitled to so presume.

''(b) The court is entitled to presume that documents submitted in support of the petition for recognition are authentic, whether or not they have been legalized.

''(c) In the absence of evidence to the contrary, the debtor's registered office, or habitual residence in the case of an individual, is presumed to be the center of the debtor's main interests.

''§ 1517. Order granting recognition

''(a) Subject to section 1506, after notice and a hearing, an order recognizing a foreign proceeding shall be entered if—

''(1) the foreign proceeding for which recognition is sought is a foreign main proceeding or foreign nonmain proceeding within the meaning of section 1502;

''(2) the foreign representative applying for recognition is a person or body; and

''(3) the petition meets the requirements of section 1515.

''(b) The foreign proceeding shall be recognized—

''(1) as a foreign main proceeding if it is taking place in the country where the debtor has the center of its main interests; or

''(2) as a foreign nonmain proceeding if the debtor has an establishment within the meaning of section 1502 in the foreign country where the proceeding is pending.

''(c) A petition for recognition of a foreign proceeding shall be decided upon at the earliest possible time. Entry of an order recognizing a foreign proceeding constitutes recognition under this chapter.

''(d) The provisions of this subchapter do not prevent modification or termination of recognition if it is shown that the grounds for granting it were fully or partially lacking or have ceased to exist, but in considering such action the court shall give due weight to possible prejudice to parties that have relied upon the order granting recognition. The case under this chapter may be closed in the manner prescribed under section 350.

''§ 1518. Subsequent information

''From the time of filing the petition for recognition of the foreign proceeding, the foreign representative shall file with the court promptly a notice of change of status concerning—

''(1) any substantial change in the status of the foreign proceeding or the status of the foreign representative's appointment; and

''(2) any other foreign proceeding regarding the debtor that becomes known to the foreign representative.

''§ 1519. Relief that may be granted upon filing petition for recognition

''(a) From the time of filing a petition for recognition until the court rules on the petition, the court may, at the request of the foreign representative, where relief is urgently needed to protect the assets of the debtor or the interests of the creditors, grant relief of a provisional nature, including—

''(1) staying execution against the debtor's assets;

''(2) entrusting the administration or realization of all or part of the debtor's assets located in the United States to the foreign representative or another person authorized by the court, including an examiner, in order to protect and preserve the value of assets that, by their nature or because of other circumstances, are perishable, susceptible to devaluation or otherwise in jeopardy; and

''(3) any relief referred to in paragraph (3), (4), or (7) of section 1521(a).

''(b) Unless extended under section 1521(a)(6), the relief granted under this section terminates when the petition for recognition is granted.

''(c) It is a ground for denial of relief under this section that such relief would interfere with the administration of a foreign main proceeding.

''(d) The court may not enjoin a police or regulatory act of a governmental unit, including a criminal action or proceeding, under this section.

''(e) The standards, procedures, and limitations applicable to an injunction shall apply to relief under this section.

''(f) The exercise of rights not subject to the stay arising under section 362(a) pursuant to paragraph (6), (7), (17), or (27) of section 362(b) or pursuant to section 362(n) shall not be stayed by any order of a court or administrative agency in any proceeding under this chapter.

''§ 1520. Effects of recognition of a foreign main proceeding

''(a) Upon recognition of a foreign proceeding that is a foreign main proceeding—

''(1) sections 361 and 362 apply with respect to the debtor and that property of the debtor that is within the territorial jurisdiction of the United States;

''(2) sections 363, 549, and 552 of this title apply to a transfer of an interest of the debtor in property that is within the territorial jurisdiction of the United States to the same extent that the sections would apply to property of an estate;

''(3) unless the court orders otherwise, the foreign representative may operate the debtor's business and may exercise the rights and powers of a trustee under and to the extent provided by sections 363 and 552; and

''(4) section 552 applies to property of the debtor that is within the territorial jurisdiction of the United States.

''(b) Subsection (a) does not affect the right to commence an individual action or proceeding in a foreign country to the extent necessary to preserve a claim against the debtor.

''(c) Subsection (a) does not affect the right of a foreign representative or an entity to file a petition commencing a case under this title or the right of any party to file claims or take other proper actions in such a case.

''§ 1521. Relief that may be granted upon recognition

''(a) Upon recognition of a foreign proceeding, whether main or nonmain, where

necessary to effectuate the purpose of this chapter and to protect the assets of the debtor or the interests of the creditors, the court may, at the request of the foreign representative, grant any appropriate relief, including—

''(1) staying the commencement or continuation of an individual action or proceeding concerning the debtor's assets, rights, obligations or liabilities to the extent they have not been stayed under section 1520(a);

''(2) staying execution against the debtor's assets to the extent it has not been stayed under section 1520(a);

''(3) suspending the right to transfer, encumber or otherwise dispose of any assets of the debtor to the extent this right has not been suspended under section 1520(a);

''(4) providing for the examination of witnesses, the taking of evidence or the delivery of information concerning the debtor's assets, affairs, rights, obligations or liabilities;

''(5) entrusting the administration or realization of all or part of the debtor's assets within the territorial jurisdiction of the United States to the foreign representative or another person, including an examiner, authorized by the court;

''(6) extending relief granted under section 1519(a); and

''(7) granting any additional relief that may be available to a trustee, except for relief available under sections 522, 544, 545, 547, 548, 550, and 724(a).

''(b) Upon recognition of a foreign proceeding, whether main or nonmain, the court may, at the request of the foreign representative, entrust the distribution of all or part of the debtor's assets located in the United States to the foreign representative or another person, including an examiner, authorized by the court, provided that the court is satisfied that the interests of creditors in the United States are sufficiently protected.

''(c) In granting relief under this section to a representative of a foreign nonmain proceeding, the court must be satisfied that the relief relates to assets that, under the law of the United States, should be administered in the foreign nonmain proceeding or concerns information required in that proceeding.

''(d) The court may not enjoin a police or regulatory act of a governmental unit, including a criminal action or proceeding, under this section.

''(e) The standards, procedures, and limitations applicable to an injunction shall apply to relief under paragraphs (1), (2), (3), and (6) of subsection (a).

''(f) The exercise of rights not subject to the stay arising under section 362(a) pursuant to paragraph (6), (7), (17), or (27) of section 362(b) or pursuant to section 362(n) shall not be stayed by any order of a court or administrative agency in any proceeding under this chapter.

''§ 1522. Protection of creditors and other interested persons

''(a) The court may grant relief under section 1519 or 1521, or may modify or terminate relief under subsection (c), only if the interests of the creditors and other interested entities, including the debtor, are sufficiently protected.

''(b) The court may subject relief granted under section 1519 or 1521, or the operation of the debtor's business under section 1520(a)(3) of this title, to conditions it considers appropriate, including the giving of security or the filing of a bond.

''(c) The court may, at the request of the foreign representative or an entity affected by relief granted under section 1519 or 1521, or at its own motion, modify or terminate such relief.

''(d) Section 1104(d) shall apply to the appointment of an examiner under this chapter. Any examiner shall comply with the qualification requirements imposed on a trustee by section 322.

''§ 1523. Actions to avoid acts detrimental to creditors

''(a) Upon recognition of a foreign proceeding, the foreign representative has standing in a case concerning the debtor pending under another chapter of this title to initiate actions under sections 522, 544, 545, 547, 548, 550, 553, and 724(a).

''(b) When the foreign proceeding is a foreign nonmain proceeding, the court must be satisfied that an action under subsection (a) relates to assets that, under United States law, should be administered in the foreign nonmain proceeding.

''§ 1524. Intervention by a foreign representative

''Upon recognition of a foreign proceeding, the foreign representative may intervene in any proceedings in a State or Federal court in the United States in which the debtor is a party.

''SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES

''§ 1525. Cooperation and direct communication between the court and foreign courts or foreign representatives

''(a) Consistent with section 1501, the court shall cooperate to the maximum extent possible with foreign courts or foreign representatives, either directly or through the trustee.

''(b) The court is entitled to communicate directly with, or to request information or assistance directly from, foreign courts or foreign representatives, subject to the rights of parties in interest to notice and participation.

''§ 1526. Cooperation and direct communication between the trustee and foreign courts or foreign representatives

''(a) Consistent with section 1501, the trustee or other person, including an examiner, authorized by the court, shall, subject to the supervision of the court, cooperate to the maximum extent possible with foreign courts or foreign representatives.

''(b) The trustee or other person, including an examiner, authorized by the court is entitled, subject to the supervision of the court, to communicate directly with foreign courts or foreign representatives.

''§ 1527. Forms of cooperation

''Cooperation referred to in sections 1525 and 1526 may be implemented by any appropriate means, including—

''(1) appointment of a person or body, including an examiner, to act at the direction of the court;

''(2) communication of information by any means considered appropriate by the court;

''(3) coordination of the administration and supervision of the debtor's assets and affairs;

''(4) approval or implementation of agreements concerning the coordination of proceedings; and

''(5) coordination of concurrent proceedings regarding the same debtor.

''SUBCHAPTER V—CONCURRENT PROCEEDINGS

''§ 1528. Commencement of a case under this title after recognition of a foreign main proceeding

''After recognition of a foreign main proceeding, a case under another chapter of this title may be commenced only if the debtor has assets in the United States. The effects of such case shall be restricted to the assets of the debtor that are within the territorial jurisdiction of the United States and, to the extent necessary to implement cooperation and coordination under sections 1525, 1526, and 1527, to other assets of the debtor that are within the jurisdiction of the court under sections 541(a) of this title, and 1334(e) of title 28, to the extent that such other assets are not subject to the jurisdiction and control of a foreign proceeding that has been recognized under this chapter.

''§ 1529. Coordination of a case under this title and a foreign proceeding

''If a foreign proceeding and a case under another chapter of this title are taking place concurrently regarding the same debtor, the court shall seek cooperation and coordination under sections 1525, 1526, and 1527, and the following shall apply:

''(1) If the case in the United States is taking place at the time the petition for recognition of the foreign proceeding is filed—

''(A) any relief granted under section 1519 or 1521 must be consistent with the relief granted in the case in the United States; and

''(B) even if the foreign proceeding is recognized as a foreign main proceeding, section 1520 does not apply.

''(2) If a case in the United States under this title commences after recognition, or after the filing of the petition for recognition, of the foreign proceeding—

''(A) any relief in effect under section 1519 or 1521 shall be reviewed by the court and shall be modified or terminated if inconsistent with the case in the United States; and

''(B) if the foreign proceeding is a foreign main proceeding, the stay and suspension referred to in section 1520(a) shall be modified or terminated if inconsistent with the relief granted in the case in the United States.

''(3) In granting, extending, or modifying relief granted to a representative of a foreign nonmain proceeding, the court must be satisfied that the relief relates to assets that, under the laws of the United States, should be administered in the foreign nonmain proceeding or concerns information required in that proceeding.

''(4) In achieving cooperation and coordination under sections 1528 and 1529, the court may grant any of the relief authorized under section 305.

''§ 1530. Coordination of more than 1 foreign proceeding

''In matters referred to in section 1501, with respect to more than 1 foreign proceeding regarding the debtor, the court shall seek cooperation and coordination under sections 1525, 1526, and 1527, and the following shall apply:

''(1) Any relief granted under section 1519 or 1521 to a representative of a foreign nonmain proceeding after recognition of a foreign main proceeding must be consistent with the foreign main proceeding.

''(2) If a foreign main proceeding is recognized after recognition, or after the filing of a petition for recognition, of a foreign nonmain proceeding, any relief in effect under section 1519 or 1521 shall be reviewed by the court and shall be modified or terminated if inconsistent with the foreign main proceeding.

''(3) If, after recognition of a foreign nonmain proceeding, another foreign nonmain proceeding is recognized, the court shall grant, modify, or terminate relief for the purpose of facilitating coordination of the proceedings.

''§ 1531. Presumption of insolvency based on recognition of a foreign main proceeding

''In the absence of evidence to the contrary, recognition of a foreign main proceeding is, for the purpose of commencing a proceeding under section 303, proof that the debtor is generally not paying its debts as such debts become due.

"§ 1532. Rule of payment in concurrent proceedings

''Without prejudice to secured claims or rights in rem, a creditor who has received payment with respect to its claim in a foreign proceeding pursuant to a law relating to insolvency may not receive a payment for the same claim in a case under any other chapter of this title regarding the debtor, so long as the payment to other creditors of the same class is proportionately less than the payment the creditor has already received.''.

(b) CLERICAL AMENDMENT.—The table of chapters for title 11, United States Code, is amended by inserting after the item relating to chapter 13 the following:

"15. Ancillary and Other Cross-Border Cases ..... 1501".

SEC. 802. OTHER AMENDMENTS TO TITLES 11 AND 28, UNITED STATES CODE.

(a) APPLICABILITY OF CHAPTERS.—Section 103 of title 11, United States Code, is amended—

(1) in subsection (a), by inserting before the period the following: '', and this chapter, sections 307, 362(n), 555 through 557, and 559 through 562 apply in a case under chapter 15''; and

(2) by adding at the end the following:

''(k) Chapter 15 applies only in a case under such chapter, except that—

''(1) sections 1505, 1513, and 1514 apply in all cases under this title; and

''(2) section 1509 applies whether or not a case under this title is pending.''.

(b) DEFINITIONS.—Section 101 of title 11, United States Code, is amended by striking paragraphs (23) and (24) and inserting the following:

''(23) 'foreign proceeding' means a collective judicial or administrative proceeding in a foreign country, including an interim proceeding, under a law relating to insolvency or adjustment of debt in which proceeding the assets and affairs of the debtor are subject to control or supervision by a foreign court, for the purpose of reorganization or liquidation;

''(24) 'foreign representative' means a person or body, including a person or body appointed on an interim basis, authorized in a foreign proceeding to administer the reorganization or the liquidation of the debtor's assets or affairs or to act as a representative of the foreign proceeding;''.

(c) AMENDMENTS TO TITLE 28, UNITED STATES CODE.—

(1) PROCEDURES.—Section 157(b)(2) of title 28, United States Code, is amended—

(A) in subparagraph (N), by striking ''and'' at the end;

(B) in subparagraph (O), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(P) recognition of foreign proceedings and other matters under chapter 15 of title 11.''.

(2) BANKRUPTCY CASES AND PROCEEDINGS.—Section 1334(c) of title 28, United States Code, is amended by striking ''Nothing in'' and inserting ''Except with respect to a case under chapter 15 of title 11, nothing in''.

(3) DUTIES OF TRUSTEES.—Section 586(a)(3) of title 28, United States Code, is amended by striking ''or 13'' and inserting ''13, or 15''.

(4) VENUE OF CASES ANCILLARY TO FOREIGN PROCEEDINGS.—Section 1410 of title 28, United States Code, is amended to read as follows:

"§ 1410. Venue of cases ancillary to foreign proceedings

''A case under chapter 15 of title 11 may be commenced in the district court of the United States for the district—

''(1) in which the debtor has its principal place of business or principal assets in the United States;

''(2) if the debtor does not have a place of business or assets in the United States, in which there is pending against the debtor an action or proceeding in a Federal or State court; or

''(3) in a case other than those specified in paragraph (1) or (2), in which venue will be consistent with the interests of justice and the convenience of the parties, having regard to the relief sought by the foreign representative.''.

(d) OTHER SECTIONS OF TITLE 11.—Title 11 of the United States Code is amended—

(1) in section 109(b), by striking paragraph (3) and inserting the following:

''(3)(A) a foreign insurance company, engaged in such business in the United States; or

''(B) a foreign bank, savings bank, cooperative bank, savings and loan association, building and loan association, or credit union, that has a branch or agency (as defined in section 1(b) of the International Banking Act of 1978 in the United States.'';

(2) in section 303, by striking subsection (k);

(3) by striking section 304;

(4) in the table of sections for chapter 3 by striking the item relating to section 304;

(5) in section 306 by striking '', 304,'' each place it appears;

(6) in section 305(a) by striking paragraph (2) and inserting the following:

''(2)(A) a petition under section 1515 of this title for recognition of a foreign proceeding has been granted; and

''(B) the purposes of chapter 15 of this title would be best served by such dismissal or suspension.''; and

(7) in section 508—

(A) by striking subsection (a); and

(B) in subsection (b), by striking ''(b)''.

TITLE IX—FINANCIAL CONTRACT PROVISIONS

SEC. 901. TREATMENT OF CERTAIN AGREEMENTS BY CONSERVATORS OR RECEIVERS OF INSURED DEPOSITORY INSTITUTIONS.

(a) DEFINITION OF QUALIFIED FINANCIAL CONTRACT.—Section 11(e)(8)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)) is amended—

(1) by striking ''subsection—'' and inserting ''subsection, the following definitions shall apply:''; and

(2) in clause (i), by inserting '', resolution, or order'' after ''any similar agreement that the Corporation determines by regulation''.

(b) DEFINITION OF SECURITIES CONTRACT.—Section 11(e)(8)(D)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(ii)) is amended to read as follows:

''(ii) SECURITIES CONTRACT.—The term 'securities contract'—

''(I) means a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan, or any interest in a mortgage loan, a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or any option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option, and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

''(II) does not include any purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan unless the Corporation determines by regulation, resolution, or order to include any such agreement within the meaning of such term;

''(III) means any option entered into on a national securities exchange relating to foreign currencies;

''(IV) means the guarantee by or to any securities clearing agency of any settlement of cash, securities, certificates of deposit, mortgage loans or interests therein, group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

''(V) means any margin loan;

''(VI) means any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

''(VII) means any combination of the agreements or transactions referred to in this clause;

''(VIII) means any option to enter into any agreement or transaction referred to in this clause;

''(IX) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a securities contract under this clause, except that the master agreement shall be considered to be a securities contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII); and

''(X) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.''.

(c) DEFINITION OF COMMODITY CONTRACT.—Section 11(e)(8)(D)(iii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(iii)) is amended to read as follows:

''(iii) COMMODITY CONTRACT.—The term 'commodity contract' means—

''(I) with respect to a futures commission merchant, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade;

''(II) with respect to a foreign futures commission merchant, a foreign future;

''(III) with respect to a leverage transaction merchant, a leverage transaction;

''(IV) with respect to a clearing organization, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization, or commodity option traded on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization;

''(V) with respect to a commodity options dealer, a commodity option;

''(VI) any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

''(VII) any combination of the agreements or transactions referred to in this clause;

''(VIII) any option to enter into any agreement or transaction referred to in this clause;

''(IX) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a commodity contract under this clause, except that the master agreement shall be considered to be a commodity contract under

this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII); or

''(X) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.''.

(d) DEFINITION OF FORWARD CONTRACT.—Section 11(e)(8)(D)(iv) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(iv)) is amended to read as follows:

''(iv) FORWARD CONTRACT.—The term 'forward contract' means—

''(I) a contract (other than a commodity contract) for the purchase, sale, or transfer of a commodity or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade, or product or byproduct thereof, with a maturity date more than 2 days after the date the contract is entered into, including, a repurchase transaction, reverse repurchase transaction, consignment, lease, swap, hedge transaction, deposit, loan, option, allocated transaction, unallocated transaction, or any other similar agreement;

''(II) any combination of agreements or transactions referred to in subclauses (I) and (III);

''(III) any option to enter into any agreement or transaction referred to in subclause (I) or (II);

''(IV) a master agreement that provides for an agreement or transaction referred to in subclauses (I), (II), or (III), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a forward contract under this clause, except that the master agreement shall be considered to be a forward contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), or (III); or

''(V) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (II), (III), or (IV), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.''.

(e) DEFINITION OF REPURCHASE AGREEMENT.—Section 11(e)(8)(D)(v) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(v)) is amended to read as follows:

''(v) REPURCHASE AGREEMENT.—The term 'repurchase agreement' (which definition also applies to a reverse repurchase agreement)—

''(I) means an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage-related securities (as such term is defined in the Securities Exchange Act of 1934), mortgage loans, interests in mortgage-related securities or mortgage loans, eligible bankers' acceptances, qualified foreign government securities or securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests as described above, at a date certain not later than 1 year after such transfers or on demand, against the transfer of funds, or any other similar agreement;

''(II) does not include any repurchase obligation under a participation in a commercial mortgage loan unless the Corporation determines by regulation, resolution, or order to include any such participation within the meaning of such term;

''(III) means any combination of agreements or transactions referred to in subclauses (I) and (IV);

''(IV) means any option to enter into any agreement or transaction referred to in subclause (I) or (III);

''(V) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a repurchase agreement under this clause, except that the master agreement shall be considered to be a repurchase agreement under this subclause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), or (IV); and

''(VI) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

For purposes of this clause, the term 'qualified foreign government security' means a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development (as determined by regulation or order adopted by the appropriate Federal banking authority).''.

(f) DEFINITION OF SWAP AGREEMENT.—Section 11(e)(8)(D)(vi) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(vi)) is amended to read as follows:

''(vi) SWAP AGREEMENT.—The term 'swap agreement' means—

''(I) any agreement, including the terms and conditions incorporated by reference in any such agreement, which is an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap; a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals agreement; a currency swap, option, future, or forward agreement; an equity index or equity swap, option, future, or forward agreement; a debt index or debt swap, option, future, or forward agreement; a total return, credit spread or credit swap, option, future, or forward agreement; a commodity index or commodity swap, option, future, or forward agreement; or a weather swap, weather derivative, or weather option;

''(II) any agreement or transaction that is similar to any other agreement or transaction referred to in this clause and that is of a type that has been, is presently, or in the future becomes, the subject of recurrent dealings in the swap markets (including terms and conditions incorporated by reference in such agreement) and that is a forward, swap, future, or option on one or more rates, currencies, commodities, equity securities or other equity instruments, debt securities or other debt instruments, quantitative measures associated with an occurrence, extent of an occurrence, or contingency associated with a financial, commercial, or economic consequence, or economic or financial indices or measures of economic or financial risk or value;

''(III) any combination of agreements or transactions referred to in this clause;

''(IV) any option to enter into any agreement or transaction referred to in this clause;

''(V) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement contains an agreement or transaction that is not a swap agreement under this clause, except that the master agreement shall be considered to be a swap agreement under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), or (IV); and

''(VI) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in subclause (I), (II), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

Such term is applicable for purposes of this subsection only and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000.''.

(g) DEFINITION OF TRANSFER.—Section 11(e)(8)(D)(viii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(viii)) is amended to read as follows:

''(viii) TRANSFER.—The term 'transfer' means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with property or with an interest in property, including retention of title as a security interest and foreclosure of the depository institution's equity of redemption.''.

(h) TREATMENT OF QUALIFIED FINANCIAL CONTRACTS.—Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended—

(1) in subparagraph (A)—

(A) by striking ''paragraph (10)'' and inserting ''paragraphs (9) and (10)'';

(B) in clause (i), by striking ''to cause the termination or liquidation'' and inserting ''such person has to cause the termination, liquidation, or acceleration''; and

(C) by striking clause (ii) and inserting the following:

''(ii) any right under any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts described in clause (i);''; and

(2) in subparagraph (E), by striking clause (ii) and inserting the following:

''(ii) any right under any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts described in clause (i);''.

(i) AVOIDANCE OF TRANSFERS.—Section 11(e)(8)(C)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(C)(i)) is amended by inserting ''section 5242 of the Revised Statutes of the United States or any other Federal or State law relating to the avoidance of preferential or fraudulent transfers,'' before ''the Corporation''.

SEC. 902. AUTHORITY OF THE CORPORATION WITH RESPECT TO FAILED AND FAILING INSTITUTIONS.

(a) IN GENERAL.—Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended—

(1) in subparagraph (E), by striking ''other than paragraph (12) of this subsection, subsection (d)(9)'' and inserting ''other than subsections (d)(9) and (e)(10)''; and

(2) by adding at the end the following new subparagraphs:

''(F) CLARIFICATION.—No provision of law shall be construed as limiting the right or power of the Corporation, or authorizing any court or agency to limit or delay, in any manner, the right or power of the Corporation to transfer any qualified financial contract in accordance with paragraphs (9) and (10) of this subsection or to disaffirm or repudiate any such contract in accordance with subsection (e)(1) of this section.

''(G) WALKAWAY CLAUSES NOT EFFECTIVE.—

''(i) IN GENERAL.—Notwithstanding the provisions of subparagraphs (A) and (E), and sections 403 and 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, no walkaway clause shall be enforceable in a qualified financial contract of an insured depository institution in default.

''(ii) WALKAWAY CLAUSE DEFINED.—For purposes of this subparagraph, the term 'walkaway clause' means a provision in a qualified financial contract that, after calculation of a value of a party's position or an amount due to or from 1 of the parties in accordance with its terms upon termination, liquidation, or acceleration of the qualified financial contract, either does not create a payment obligation of a party or extinguishes a payment obligation of a party in whole or in part solely because of such party's status as a nondefaulting party.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 11(e)(12)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(12)(A)) is amended by inserting ''or the exercise of rights or powers by'' after ''the appointment of''.

SEC. 903. AMENDMENTS RELATING TO TRANSFERS OF QUALIFIED FINANCIAL CONTRACTS.

(a) TRANSFERS OF QUALIFIED FINANCIAL CONTRACTS TO FINANCIAL INSTITUTIONS.—Section 11(e)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(9)) is amended to read as follows:

''(9) TRANSFER OF QUALIFIED FINANCIAL CONTRACTS.—

''(A) IN GENERAL.—In making any transfer of assets or liabilities of a depository institution in default which includes any qualified financial contract, the conservator or receiver for such depository institution shall either—

''(i) transfer to one financial institution, other than a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding—

''(I) all qualified financial contracts between any person or any affiliate of such person and the depository institution in default;

''(II) all claims of such person or any affiliate of such person against such depository institution under any such contract (other than any claim which, under the terms of any such contract, is subordinated to the claims of general unsecured creditors of such institution);

''(III) all claims of such depository institution against such person or any affiliate of such person under any such contract; and

''(IV) all property securing or any other credit enhancement for any contract described in subclause (I) or any claim described in subclause (II) or (III) under any such contract; or

''(ii) transfer none of the qualified financial contracts, claims, property or other credit enhancement referred to in clause (i) (with respect to such person and any affiliate of such person).

''(B) TRANSFER TO FOREIGN BANK, FOREIGN FINANCIAL INSTITUTION, OR BRANCH OR AGENCY OF A FOREIGN BANK OR FINANCIAL INSTITUTION.—In transferring any qualified financial contracts and related claims and property under subparagraph (A)(i), the conservator or receiver for the depository institution shall not make such transfer to a foreign bank, financial institution organized under the laws of a foreign country, or a branch or agency of a foreign bank or financial institution unless, under the law applicable to such bank, financial institution, branch or agency, to the qualified financial contracts, and to any netting contract, any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts, the contractual rights of the parties to such qualified financial contracts, netting contracts, security agreements or arrangements, or other credit enhancements are enforceable substantially to the same extent as permitted under this section.

''(C) TRANSFER OF CONTRACTS SUBJECT TO THE RULES OF A CLEARING ORGANIZATION.—In the event that a conservator or receiver transfers any qualified financial contract and related claims, property, and credit enhancements pursuant to subparagraph (A)(i) and such contract is cleared by or subject to the rules of a clearing organization, the clearing organization shall not be required to accept the transferee as a member by virtue of the transfer.

''(D) DEFINITIONS.—For purposes of this paragraph, the term 'financial institution' means a broker or dealer, a depository institution, a futures commission merchant, or any other institution, as determined by the Corporation by regulation to be a financial institution, and the term 'clearing organization' has the same meaning as in section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991.''.

(b) NOTICE TO QUALIFIED FINANCIAL CONTRACT COUNTERPARTIES.—Section 11(e)(10)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(10)(A)) is amended in the material immediately following clause (ii) by striking ''the conservator'' and all that follows through the period and inserting the following: ''the conservator or receiver shall notify any person who is a party to any such contract of such transfer by 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver in the case of a receivership, or the business day following such transfer in the case of a conservatorship.''.

(c) RIGHTS AGAINST RECEIVER AND TREATMENT OF BRIDGE BANKS.—Section 11(e)(10) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(10)) is amended—

(1) by redesignating subparagraph (B) as subparagraph (D); and

(2) by inserting after subparagraph (A) the following new subparagraphs:

''(B) CERTAIN RIGHTS NOT ENFORCEABLE.—

''(i) RECEIVERSHIP.—A person who is a party to a qualified financial contract with an insured depository institution may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(A) of this subsection or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a receiver for the depository institution (or the insolvency or financial condition of the depository institution for which the receiver has been appointed)—

''(I) until 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver; or

''(II) after the person has received notice that the contract has been transferred pursuant to paragraph (9)(A).

''(ii) CONSERVATORSHIP.—A person who is a party to a qualified financial contract with an insured depository institution may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(E) of this subsection or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a conservator for the depository institution (or the insolvency or financial condition of the depository institution for which the conservator has been appointed).

''(iii) NOTICE.—For purposes of this paragraph, the Corporation as receiver or conservator of an insured depository institution shall be deemed to have notified a person who is a party to a qualified financial contract with such depository institution if the Corporation has taken steps reasonably calculated to provide notice to such person by the time specified in subparagraph (A).

''(C) TREATMENT OF BRIDGE BANKS.—The following institutions shall not be considered to be a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding for purposes of paragraph (9):

''(i) A bridge bank.

''(ii) A depository institution organized by the Corporation, for which a conservator is appointed either—

''(I) immediately upon the organization of the institution; or

''(II) at the time of a purchase and assumption transaction between the depository institution and the Corporation as receiver for a depository institution in default.''.

SEC. 904. AMENDMENTS RELATING TO DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.

Section 11(e) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)) is amended—

(1) by redesignating paragraphs (11) through (15) as paragraphs (12) through (16), respectively;

(2) by inserting after paragraph (10) the following new paragraph:

''(11) DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.—In exercising the rights of disaffirmance or repudiation of a conservator or receiver with respect to any qualified financial contract to which an insured depository institution is a party, the conservator or receiver for such institution shall either—

''(A) disaffirm or repudiate all qualified financial contracts between—

''(i) any person or any affiliate of such person; and

''(ii) the depository institution in default; or

''(B) disaffirm or repudiate none of the qualified financial contracts referred to in subparagraph (A) (with respect to such person or any affiliate of such person).''; and

(3) by adding at the end the following new paragraph:

''(17) SAVINGS CLAUSE.—The meanings of terms used in this subsection are applicable for purposes of this subsection only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any similar terms under any other statute, regulation, or rule, including the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of

2000, the securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934), and the Commodity Exchange Act.''.

SEC. 905. CLARIFYING AMENDMENT RELATING TO MASTER AGREEMENTS.

Section 11(e)(8)(D)(vii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(vii)) is amended to read as follows:

''(vii) TREATMENT OF MASTER AGREEMENT AS ONE AGREEMENT.—Any master agreement for any contract or agreement described in any preceding clause of this subparagraph (or any master agreement for such master agreement or agreements), together with all supplements to such master agreement, shall be treated as a single agreement and a single qualified financial contract. If a master agreement contains provisions relating to agreements or transactions that are not themselves qualified financial contracts, the master agreement shall be deemed to be a qualified financial contract only with respect to those transactions that are themselves qualified financial contracts.''.

SEC. 906. FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991.

(a) DEFINITIONS.—Section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4402) is amended—

(1) in paragraph (2)—

(A) in subparagraph (A)(ii), by inserting before the semicolon '', or is exempt from such registration by order of the Securities and Exchange Commission''; and

(B) in subparagraph (B), by inserting before the period '', that has been granted an exemption under section 4(c)(1) of the Commodity Exchange Act, or that is a multilateral clearing organization (as defined in section 408 of this Act)'';

(2) in paragraph (6)—

(A) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively;

(B) by inserting after subparagraph (A) the following new subparagraph:

''(B) an uninsured national bank or an uninsured State bank that is a member of the Federal Reserve System, if the national bank or State member bank is not eligible to make application to become an insured bank under section 5 of the Federal Deposit Insurance Act;''; and

(C) by amending subparagraph (C), so redesignated, to read as follows:

''(C) a branch or agency of a foreign bank, a foreign bank and any branch or agency of the foreign bank, or the foreign bank that established the branch or agency, as those terms are defined in section 1(b) of the International Banking Act of 1978;'';

(3) in paragraph (11), by inserting before the period ''and any other clearing organization with which such clearing organization has a netting contract'';

(4) by amending paragraph (14)(A)(i) to read as follows:

''(i) means a contract or agreement between 2 or more financial institutions, clearing organizations, or members that provides for netting present or future payment obligations or payment entitlements (including liquidation or close out values relating to such obligations or entitlements) among the parties to the agreement; and''; and

(5) by adding at the end the following new paragraph:

''(15) PAYMENT.—The term 'payment' means a payment of United States dollars, another currency, or a composite currency, and a noncash delivery, including a payment or delivery to liquidate an unmatured obligation.''.

(b) ENFORCEABILITY OF BILATERAL NETTING CONTRACTS.—Section 403 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4403) is amended—

(1) by striking subsection (a) and inserting the following:

''(a) GENERAL RULE.—Notwithstanding any other provision of State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act or any order authorized under section 5(b)(2) of the Securities Investor Protection Act of 1970), the covered contractual payment obligations and the covered contractual payment entitlements between any 2 financial institutions shall be netted in accordance with, and subject to the conditions of, the terms of any applicable netting contract (except as provided in section 561(b)(2) of title 11, United States Code).''; and

(2) by adding at the end the following new subsection:

''(f) ENFORCEABILITY OF SECURITY AGREEMENTS.—The provisions of any security agreement or arrangement or other credit enhancement related to one or more netting contracts between any 2 financial institutions shall be enforceable in accordance with their terms (except as provided in section 561(b)(2) of title 11, United States Code), and shall not be stayed, avoided, or otherwise limited by any State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act and section 5(b)(2) of the Securities Investor Protection Act of 1970).''.

(c) ENFORCEABILITY OF CLEARING ORGANIZATION NETTING CONTRACTS.—Section 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4404) is amended—

(1) by striking subsection (a) and inserting the following:

''(a) GENERAL RULE.—Notwithstanding any other provision of State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act and any order authorized under section 5(b)(2) of the Securities Investor Protection Act of 1970), the covered contractual payment obligations and the covered contractual payment entitlements of a member of a clearing organization to and from all other members of a clearing organization shall be netted in accordance with and subject to the conditions of any applicable netting contract (except as provided in section 561(b)(2) of title 11, United States Code).''; and

(2) by adding at the end the following new subsection:

''(h) ENFORCEABILITY OF SECURITY AGREEMENTS.—The provisions of any security agreement or arrangement or other credit enhancement related to one or more netting contracts between any 2 members of a clearing organization shall be enforceable in accordance with their terms (except as provided in section 561(b)(2) of title 11, United States Code), and shall not be stayed, avoided, or otherwise limited by any State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act and section 5(b)(2) of the Securities Investor Protection Act of 1970).''.

(d) ENFORCEABILITY OF CONTRACTS WITH UNINSURED NATIONAL BANKS, UNINSURED FEDERAL BRANCHES AND AGENCIES, CERTAIN UNINSURED STATE MEMBER BANKS, AND EDGE ACT CORPORATIONS.—The Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4401 et seq.) is amended—

(1) by redesignating section 407 as section 407A; and

(2) by inserting after section 406 the following new section:

''SEC. 407. TREATMENT OF CONTRACTS WITH UNINSURED NATIONAL BANKS, UNINSURED FEDERAL BRANCHES AND AGENCIES, CERTAIN UNINSURED STATE MEMBER BANKS, AND EDGE ACT CORPORATIONS.

''(a) IN GENERAL.—Notwithstanding any other provision of law, paragraphs (8), (9), (10), and (11) of section 11(e) of the Federal Deposit Insurance Act shall apply to an uninsured national bank or uninsured Federal branch or Federal agency, a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act, except that for such purpose—

''(1) any reference to the 'Corporation as receiver' or 'the receiver or the Corporation' shall refer to the receiver appointed by the Comptroller of the Currency in the case of an uninsured national bank or uninsured Federal branch or agency, or to the receiver appointed by the Board of Governors of the Federal Reserve System in the case of a corporation chartered under section 25A of the Federal Reserve Act or an uninsured State member bank;

''(2) any reference to the 'Corporation' (other than in section 11(e)(8)(D) of such Act), the 'Corporation, whether acting as such or as conservator or receiver', a 'receiver', or a 'conservator' shall refer to the receiver or conservator appointed by the Comptroller of the Currency in the case of an uninsured national bank or uninsured Federal branch or agency, or to the receiver or conservator appointed by the Board of Governors of the Federal Reserve System in the case of a corporation chartered under section 25A of the Federal Reserve Act or an uninsured State member bank; and

''(3) any reference to an 'insured depository institution' or 'depository institution' shall refer to an uninsured national bank, an uninsured Federal branch or Federal agency, a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act.

''(b) LIABILITY.—The liability of a receiver or conservator of an uninsured national bank, uninsured Federal branch or agency, a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act, shall be determined in the same manner and subject to the same limitations that apply to receivers and conservators of insured depository institutions under section 11(e) of the Federal Deposit Insurance Act.

''(c) REGULATORY AUTHORITY.—

''(1) IN GENERAL.—The Comptroller of the Currency in the case of an uninsured national bank or uninsured Federal branch or agency and the Board of Governors of the Federal Reserve System in the case of a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank that operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act, in consultation with the Federal Deposit Insurance Corporation, may each promulgate regulations solely to implement this section.

''(2) SPECIFIC REQUIREMENT.—In promulgating regulations, limited solely to implementing paragraphs (8), (9), (10), and (11) of section 11(e) of the Federal Deposit Insurance Act, the Comptroller of the Currency and the Board of Governors of the Federal Reserve System each shall ensure that the regulations generally are consistent with the

regulations and policies of the Federal Deposit Insurance Corporation adopted pursuant to the Federal Deposit Insurance Act.

''(d) DEFINITIONS.—For purposes of this section, the terms 'Federal branch', 'Federal agency', and 'foreign bank' have the same meanings as in section 1(b) of the International Banking Act of 1978.''.

SEC. 907. BANKRUPTCY LAW AMENDMENTS.

(a) DEFINITIONS OF FORWARD CONTRACT, REPURCHASE AGREEMENT, SECURITIES CLEARING AGENCY, SWAP AGREEMENT, COMMODITY CONTRACT, AND SECURITIES CONTRACT.—Title 11, United States Code, is amended—

(1) in section 101—

(A) in paragraph (25)—

(i) by striking ''means a contract'' and inserting ''means—

''(A) a contract'';

(ii) by striking '', or any combination thereof or option thereon;'' and inserting '', or any other similar agreement;''; and

(iii) by adding at the end the following:

''(B) any combination of agreements or transactions referred to in subparagraphs (A) and (C);

''(C) any option to enter into an agreement or transaction referred to in subparagraph (A) or (B);

''(D) a master agreement that provides for an agreement or transaction referred to in subparagraph (A), (B), or (C), together with all supplements to any such master agreement, without regard to whether such master agreement provides for an agreement or transaction that is not a forward contract under this paragraph, except that such master agreement shall be considered to be a forward contract under this paragraph only with respect to each agreement or transaction under such master agreement that is referred to in subparagraph (A), (B), or (C); or

''(E) any security agreement or arrangement, or other credit enhancement related to any agreement or transaction referred to in subparagraph (A), (B), (C), or (D), including any guarantee or reimbursement obligation by or to a forward contract merchant or financial participant in connection with any agreement or transaction referred to in any such subparagraph, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562 of this title;'';

(B) in paragraph (46), by striking ''on any day during the period beginning 90 days before the date of'' and inserting ''at any time before'';

(C) by amending paragraph (47) to read as follows:

''(47) 'repurchase agreement' (which definition also applies to a reverse repurchase agreement)—

''(A) means—

''(i) an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage related securities (as defined in section 3 of the Securities Exchange Act of 1934), mortgage loans, interests in mortgage related securities or mortgage loans, eligible bankers' acceptances, qualified foreign government securities (defined as a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development), or securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests, with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptance, securities, mortgage loans, or interests of the kind described in this clause, at a date certain not later than 1 year after such transfer or on demand, against the transfer of funds;

''(ii) any combination of agreements or transactions referred to in clauses (i) and (iii);

''(iii) an option to enter into an agreement or transaction referred to in clause (i) or (ii);

''(iv) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), or (iii), together with all supplements to any such master agreement, without regard to whether such master agreement provides for an agreement or transaction that is not a repurchase agreement under this paragraph, except that such master agreement shall be considered to be a repurchase agreement under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in clause (i), (ii), or (iii); or

''(v) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in clause (i), (ii), (iii), or (iv), including any guarantee or reimbursement obligation by or to a repo participant or financial participant in connection with any agreement or transaction referred to in any such clause, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562 of this title; and

''(B) does not include a repurchase obligation under a participation in a commercial mortgage loan;'';

(D) in paragraph (48), by inserting '', or exempt from such registration under such section pursuant to an order of the Securities and Exchange Commission,'' after ''1934''; and

(E) by amending paragraph (53B) to read as follows:

''(53B) 'swap agreement'—

''(A) means—

''(i) any agreement, including the terms and conditions incorporated by reference in such agreement, which is—

''(I) an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap;

''(II) a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals agreement;

''(III) a currency swap, option, future, or forward agreement;

''(IV) an equity index or equity swap, option, future, or forward agreement;

''(V) a debt index or debt swap, option, future, or forward agreement;

''(VI) a total return, credit spread or credit swap, option, future, or forward agreement;

''(VII) a commodity index or a commodity swap, option, future, or forward agreement; or

''(VIII) a weather swap, weather derivative, or weather option;

''(ii) any agreement or transaction that is similar to any other agreement or transaction referred to in this paragraph and that—

''(I) is of a type that has been, is presently, or in the future becomes, the subject of recurrent dealings in the swap markets (including terms and conditions incorporated by reference therein); and

''(II) is a forward, swap, future, or option on one or more rates, currencies, commodities, equity securities, or other equity instruments, debt securities or other debt instruments, quantitative measures associated with an occurrence, extent of an occurrence, or contingency associated with a financial, commercial, or economic consequence, or economic or financial indices or measures of economic or financial risk or value;

''(iii) any combination of agreements or transactions referred to in this subparagraph;

''(iv) any option to enter into an agreement or transaction referred to in this subparagraph;

''(v) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), (iii), or (iv), together with all supplements to any such master agreement, and without regard to whether the master agreement contains an agreement or transaction that is not a swap agreement under this paragraph, except that the master agreement shall be considered to be a swap agreement under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in clause (i), (ii), (iii), or (iv); or

''(vi) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in clause (i) through (v), including any guarantee or reimbursement obligation by or to a swap participant or financial participant in connection with any agreement or transaction referred to in any such clause, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562 of this title; and

''(B) is applicable for purposes of this title only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000;'';

(2) in section 741(7), by striking paragraph (7) and inserting the following:

''(7) 'securities contract'—

''(A) means—

''(i) a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan or any interest in a mortgage loan, a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including an interest therein or based on the value thereof), or option on any of the foregoing, including an option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option, and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

''(ii) any option entered into on a national securities exchange relating to foreign currencies;

''(iii) the guarantee by or to any securities clearing agency of a settlement of cash, securities, certificates of deposit, mortgage loans or interests therein, group or index of securities, or mortgage loans or interests therein (including any interest therein or based on the value thereof), or option on any of the foregoing, including an option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

''(iv) any margin loan;

''(v) any other agreement or transaction that is similar to an agreement or transaction referred to in this subparagraph;

''(vi) any combination of the agreements or transactions referred to in this subparagraph;

''(vii) any option to enter into any agreement or transaction referred to in this subparagraph;

''(viii) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), (iii), (iv), (v), (vi), or (vii), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a securities contract under this subparagraph, except that such master agreement shall be considered to be a securities contract under this subparagraph only with respect to each agreement or transaction under such master agreement that is referred to in clause (i), (ii), (iii), (iv), (v), (vi), or (vii); or

''(ix) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this subparagraph, including any guarantee or reimbursement obligation by or to a stockbroker, securities clearing agency, financial institution, or financial participant in connection with any agreement or transaction referred to in this subparagraph, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562 of this title; and

''(B) does not include any purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan;''; and

(3) in section 761(4)—

(A) by striking ''or'' at the end of subparagraph (D); and

(B) by adding at the end the following:

''(F) any other agreement or transaction that is similar to an agreement or transaction referred to in this paragraph;

''(G) any combination of the agreements or transactions referred to in this paragraph;

''(H) any option to enter into an agreement or transaction referred to in this paragraph;

''(I) a master agreement that provides for an agreement or transaction referred to in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H), together with all supplements to such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a commodity contract under this paragraph, except that the master agreement shall be considered to be a commodity contract under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H); or

''(J) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this paragraph, including any guarantee or reimbursement obligation by or to a commodity broker or financial participant in connection with any agreement or transaction referred to in this paragraph, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562 of this title;''.

(b) DEFINITIONS OF FINANCIAL INSTITUTION, FINANCIAL PARTICIPANT, AND FORWARD CONTRACT MERCHANT.—Section 101 of title 11, United States Code, is amended—

(1) by striking paragraph (22) and inserting the following:

''(22) 'financial institution' means—

''(A) a Federal reserve bank, or an entity (domestic or foreign) that is a commercial or savings bank, industrial savings bank, savings and loan association, trust company, or receiver or conservator for such entity and, when any such Federal reserve bank, receiver, conservator or entity is acting as agent or custodian for a customer in connection with a securities contract (as defined in section 741) such customer; or

''(B) in connection with a securities contract (as defined in section 741) an investment company registered under the Investment Company Act of 1940;'';

(2) by inserting after paragraph (22) the following:

''(22A) 'financial participant' means—

''(A) an entity that, at the time it enters into a securities contract, commodity contract, swap agreement, repurchase agreement, or forward contract, or at the time of the filing of the petition, has one or more agreements or transactions described in paragraph (1), (2), (3), (4), (5), or (6) of section 561(a) with the debtor or any other entity (other than an affiliate) of a total gross dollar value of not less than $1,000,000,000 in notional or actual principal amount outstanding on any day during the previous 15-month period, or has gross mark-to-market positions of not less than $100,000,000 (aggregated across counterparties) in one or more such agreements or transactions with the debtor or any other entity (other than an affiliate) on any day during the previous 15-month period; or

''(B) a clearing organization (as defined in section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991);''; and

(3) by striking paragraph (26) and inserting the following:

''(26) 'forward contract merchant' means a Federal reserve bank, or an entity the business of which consists in whole or in part of entering into forward contracts as or with merchants in a commodity (as defined in section 761) or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade;''.

(c) DEFINITION OF MASTER NETTING AGREEMENT AND MASTER NETTING AGREEMENT PARTICIPANT.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (38) the following new paragraphs:

''(38A) 'master netting agreement'—

''(A) means an agreement providing for the exercise of rights, including rights of netting, setoff, liquidation, termination, acceleration, or close out, under or in connection with one or more contracts that are described in any one or more of paragraphs (1) through (5) of section 561(a), or any security agreement or arrangement or other credit enhancement related to one or more of the foregoing, including any guarantee or reimbursement obligation related to 1 or more of the foregoing; and

''(B) if the agreement contains provisions relating to agreements or transactions that are not contracts described in paragraphs (1) through (5) of section 561(a), shall be deemed to be a master netting agreement only with respect to those agreements or transactions that are described in any one or more of paragraphs (1) through (5) of section 561(a);

''(38B) 'master netting agreement participant' means an entity that, at any time before the filing of the petition, is a party to an outstanding master netting agreement with the debtor;''.

(d) SWAP AGREEMENTS, SECURITIES CONTRACTS, COMMODITY CONTRACTS, FORWARD CONTRACTS, REPURCHASE AGREEMENTS, AND MASTER NETTING AGREEMENTS UNDER THE AUTOMATIC-STAY.—

(1) IN GENERAL.—Section 362(b) of title 11, United States Code, as amended by sections 224, 303, 311, 401, and 718, is amended—

(A) in paragraph (6), by inserting '', pledged to, under the control of,'' after ''held by'';

(B) in paragraph (7), by inserting '', pledged to, under the control of,'' after ''held by'';

(C) by striking paragraph (17) and inserting the following:

''(17) under subsection (a), of the setoff by a swap participant or financial participant of a mutual debt and claim under or in connection with one or more swap agreements that constitutes the setoff of a claim against the debtor for any payment or other transfer of property due from the debtor under or in connection with any swap agreement against any payment due to the debtor from the swap participant or financial participant under or in connection with any swap agreement or against cash, securities, or other property held by, pledged to, under the control of, or due from such swap participant or financial participant to margin, guarantee, secure, or settle any swap agreement;''; and

(D) by inserting after paragraph (26) the following:

''(27) under subsection (a), of the setoff by a master netting agreement participant of a mutual debt and claim under or in connection with one or more master netting agreements or any contract or agreement subject to such agreements that constitutes the setoff of a claim against the debtor for any payment or other transfer of property due from the debtor under or in connection with such agreements or any contract or agreement subject to such agreements against any payment due to the debtor from such master netting agreement participant under or in connection with such agreements or any contract or agreement subject to such agreements or against cash, securities, or other property held by, pledged to, under the control of, or due from such master netting agreement participant to margin, guarantee, secure, or settle such agreements or any contract or agreement subject to such agreements, to the extent that such participant is eligible to exercise such offset rights under paragraph (6), (7), or (17) for each individual contract covered by the master netting agreement in issue.''.

(2) LIMITATION.—Section 362 of title 11, United States Code, as amended by sections 106, 305, 311, and 441, is amended by adding at the end the following:

''(o) The exercise of rights not subject to the stay arising under subsection (a) pursuant to paragraph (6), (7), (17), or (27) of subsection (b) shall not be stayed by any order of a court or administrative agency in any proceeding under this title.''.

(e) LIMITATION OF AVOIDANCE POWERS UNDER MASTER NETTING AGREEMENT.—Section 546 of title 11, United States Code, is amended—

(1) in subsection (g) (as added by section 103 of Public Law 101–311)—

(A) by striking ''under a swap agreement'';

(B) by striking ''in connection with a swap agreement'' and inserting ''under or in connection with any swap agreement''; and

(C) by inserting ''or financial participant'' after ''swap participant'' each place such term appears; and

(2) by adding at the end the following:

''(j) Notwithstanding sections 544, 545, 547, 548(a)(1)(B), and 548(b) the trustee may not avoid a transfer made by or to a master netting agreement participant under or in connection with any master netting agreement or any individual contract covered thereby that is made before the commencement of the case, except under section 548(a)(1)(A) and except to the extent that the trustee could otherwise avoid such a transfer made under an individual contract covered by such master netting agreement.''.

(f) FRAUDULENT TRANSFERS OF MASTER NETTING AGREEMENTS.—Section 548(d)(2) of title 11, United States Code, is amended—

(1) in subparagraph (C), by striking ''and'' at the end;

(2) in subparagraph (D), by striking the period and inserting ''; and''; and

(3) by adding at the end the following new subparagraph:

''(E) a master netting agreement participant that receives a transfer in connection with a master netting agreement or any individual contract covered thereby takes for value to the extent of such transfer, except that, with respect to a transfer under any individual contract covered thereby, to the extent that such master netting agreement participant otherwise did not take (or is otherwise not deemed to have taken) such transfer for value.''.

(g) TERMINATION OR ACCELERATION OF SECURITIES CONTRACTS.—Section 555 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

''§ 555. Contractual right to liquidate, terminate, or accelerate a securities contract'';

and

(2) in the first sentence, by striking ''liquidation'' and inserting ''liquidation, termination, or acceleration''.

(h) TERMINATION OR ACCELERATION OF COMMODITIES OR FORWARD CONTRACTS.—Section 556 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

''§ 556. Contractual right to liquidate, terminate, or accelerate a commodities contract or forward contract'';

(2) in the first sentence, by striking ''liquidation'' and inserting ''liquidation, termination, or acceleration''; and

(3) in the second sentence, by striking ''As used'' and all that follows through ''right,'' and inserting ''As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof and a right,''.

(i) TERMINATION OR ACCELERATION OF REPURCHASE AGREEMENTS.—Section 559 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

''§ 559. Contractual right to liquidate, terminate, or accelerate a repurchase agreement'';

(2) in the first sentence, by striking ''liquidation'' and inserting ''liquidation, termination, or acceleration''; and

(3) in the third sentence, by striking ''As used'' and all that follows through ''right,'' and inserting ''As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof and a right,''.

(j) LIQUIDATION, TERMINATION, OR ACCELERATION OF SWAP AGREEMENTS.—Section 560 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

''§ 560. Contractual right to liquidate, terminate, or accelerate a swap agreement'';

(2) in the first sentence, by striking ''termination of a swap agreement'' and inserting ''liquidation, termination, or acceleration of one or more swap agreements'';

(3) by striking ''in connection with any swap agreement'' and inserting ''in connection with the termination, liquidation, or acceleration of one or more swap agreements''; and

(4) in the second sentence, by striking ''As used'' and all that follows through ''right,'' and inserting ''As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof and a right,''.

(k) LIQUIDATION, TERMINATION, ACCELERATION, OR OFFSET UNDER A MASTER NETTING AGREEMENT AND ACROSS CONTRACTS.—

(1) IN GENERAL.—Title 11, United States Code, is amended by inserting after section 560 the following:

''§ 561. Contractual right to terminate, liquidate, accelerate, or offset under a master netting agreement and across contracts; proceedings under chapter 15

''(a) Subject to subsection (b), the exercise of any contractual right, because of a condition of the kind specified in section 365(e)(1), to cause the termination, liquidation, or acceleration of or to offset or net termination values, payment amounts, or other transfer obligations arising under or in connection with one or more (or the termination, liquidation, or acceleration of one or more)—

''(1) securities contracts, as defined in section 741(7);

''(2) commodity contracts, as defined in section 761(4);

''(3) forward contracts;

''(4) repurchase agreements;

''(5) swap agreements; or

''(6) master netting agreements,

shall not be stayed, avoided, or otherwise limited by operation of any provision of this title or by any order of a court or administrative agency in any proceeding under this title.

''(b)(1) A party may exercise a contractual right described in subsection (a) to terminate, liquidate, or accelerate only to the extent that such party could exercise such a right under section 555, 556, 559, or 560 for each individual contract covered by the master netting agreement in issue.

''(2) If a debtor is a commodity broker subject to subchapter IV of chapter 7—

''(A) a party may not net or offset an obligation to the debtor arising under, or in connection with, a commodity contract traded on or subject to the rules of a contract market designated under the Commodity Exchange Act or a derivatives transaction execution facility registered under the Commodity Exchange Act against any claim arising under, or in connection with, other instruments, contracts, or agreements listed in subsection (a) except to the extent that the party has positive net equity in the commodity accounts at the debtor, as calculated under such subchapter; and

''(B) another commodity broker may not net or offset an obligation to the debtor arising under, or in connection with, a commodity contract entered into or held on behalf of a customer of the debtor and traded on or subject to the rules of a contract market designated under the Commodity Exchange Act or a derivatives transaction execution facility registered under the Commodity Exchange Act against any claim arising under, or in connection with, other instruments, contracts, or agreements listed in subsection (a).

''(3) No provision of subparagraph (A) or (B) of paragraph (2) shall prohibit the offset of claims and obligations that arise under—

''(A) a cross-margining agreement or similar arrangement that has been approved by the Commodity Futures Trading Commission or submitted to the Commodity Futures Trading Commission under paragraph (1) or (2) of section 5c(c) of the Commodity Exchange Act and has not been abrogated or rendered ineffective by the Commodity Futures Trading Commission; or

''(B) any other netting agreement between a clearing organization (as defined in section 761) and another entity that has been approved by the Commodity Futures Trading Commission.

''(c) As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof, and a right, whether or not evidenced in writing, arising under common law, under law merchant, or by reason of normal business practice.

''(d) Any provisions of this title relating to securities contracts, commodity contracts, forward contracts, repurchase agreements, swap agreements, or master netting agreements shall apply in a case under chapter 15, so that enforcement of contractual provisions of such contracts and agreements in accordance with their terms will not be stayed or otherwise limited by operation of any provision of this title or by order of a court in any case under this title, and to limit avoidance powers to the same extent as in a proceeding under chapter 7 or 11 of this title (such enforcement not to be limited based on the presence or absence of assets of the debtor in the United States).''.

(2) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, is amended by inserting after the item relating to section 560 the following:

''561. Contractual right to terminate, liquidate, accelerate, or offset under a master netting agreement and across contracts; proceedings under chapter 15.''.

(l) COMMODITY BROKER LIQUIDATIONS.—Title 11, United States Code, is amended by inserting after section 766 the following:

''§ 767. Commodity broker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants

''Notwithstanding any other provision of this title, the exercise of rights by a forward

contract merchant, commodity broker, stockbroker, financial institution, financial participant, securities clearing agency, swap participant, repo participant, or master netting agreement participant under this title shall not affect the priority of any unsecured claim it may have after the exercise of such rights.''.

(m) STOCKBROKER LIQUIDATIONS.—Title 11, United States Code, is amended by inserting after section 752 the following:

''§ 753. Stockbroker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants

''Notwithstanding any other provision of this title, the exercise of rights by a forward contract merchant, commodity broker, stockbroker, financial institution, securities clearing agency, swap participant, repo participant, financial participant, or master netting agreement participant under this title shall not affect the priority of any unsecured claim it may have after the exercise of such rights.''.

(n) SETOFF.—Section 553 of title 11, United States Code, is amended—

(1) in subsection (a)(2)(B)(ii), by inserting before the semicolon the following: ''(except for a setoff of a kind described in section 362(b)(6), 362(b)(7), 362(b)(17), 362(b)(27), 555, 556, 559, 560, or 561)'';

(2) in subsection (a)(3)(C), by inserting before the period the following: ''(except for a setoff of a kind described in section 362(b)(6), 362(b)(7), 362(b)(17), 362(b)(27), 555, 556, 559, 560, or 561 of this title)''; and

(3) in subsection (b)(1), by striking ''362(b)(14),'' and inserting ''362(b)(17), 362(b)(27), 555, 556, 559, 560, 561,''.

(o) SECURITIES CONTRACTS, COMMODITY CONTRACTS, AND FORWARD CONTRACTS.—Title 11, United States Code, is amended—

(1) in section 362(b)(6), by striking ''financial institutions,'' each place such term appears and inserting ''financial institution, financial participant,'';

(2) in sections 362(b)(7) and 546(f), by inserting ''or financial participant'' after ''repo participant'' each place such term appears;

(3) in section 546(e), by inserting ''financial participant,'' after ''financial institution,'';

(4) in section 548(d)(2)(B), by inserting ''financial participant,'' after ''financial institution,'';

(5) in section 548(d)(2)(C), by inserting ''or financial participant'' after ''repo participant'';

(6) in section 548(d)(2)(D), by inserting ''or financial participant'' after ''swap participant'';

(7) in section 555—

(A) by inserting ''financial participant,'' after ''financial institution,''; and

(B) by striking the second sentence and inserting the following: ''As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act), or in a resolution of the governing board thereof, and a right, whether or not in writing, arising under common law, under law merchant, or by reason of normal business practice'';

(8) in section 556, by inserting '', financial participant,'' after ''commodity broker'';

(9) in section 559, by inserting ''or financial participant'' after ''repo participant'' each place such term appears; and

(10) in section 560, by inserting ''or financial participant'' after ''swap participant''.

(p) CONFORMING AMENDMENTS.—Title 11, United States Code, is amended—

(1) in the table of sections for chapter 5—

(A) by amending the items relating to sections 555 and 556 to read as follows:

''555. Contractual right to liquidate, terminate, or accelerate a securities contract.

''556. Contractual right to liquidate, terminate, or accelerate a commodities contract or forward contract.'';

and

(B) by amending the items relating to sections 559 and 560 to read as follows:

''559. Contractual right to liquidate, terminate, or accelerate a repurchase agreement.

''560. Contractual right to liquidate, terminate, or accelerate a swap agreement.'';

and

(2) in the table of sections for chapter 7—

(A) by inserting after the item relating to section 766 the following:

''767. Commodity broker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants.'';

and

(B) by inserting after the item relating to section 752 the following:

''753. Stockbroker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants.''.

SEC. 908. RECORDKEEPING REQUIREMENTS.

Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended by adding at the end the following new subparagraph:

''(H) RECORDKEEPING REQUIREMENTS.—The Corporation, in consultation with the appropriate Federal banking agencies, may prescribe regulations requiring more detailed recordkeeping by any insured depository institution with respect to qualified financial contracts (including market valuations) only if such insured depository institution is in a troubled condition (as such term is defined by the Corporation pursuant to section 32).''.

SEC. 909. EXEMPTIONS FROM CONTEMPORANEOUS EXECUTION REQUIREMENT.

Section 13(e)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(e)(2)) is amended to read as follows:

''(2) EXEMPTIONS FROM CONTEMPORANEOUS EXECUTION REQUIREMENT.—An agreement to provide for the lawful collateralization of—

''(A) deposits of, or other credit extension by, a Federal, State, or local governmental entity, or of any depositor referred to in section 11(a)(2), including an agreement to provide collateral in lieu of a surety bond;

''(B) bankruptcy estate funds pursuant to section 345(b)(2) of title 11, United States Code;

''(C) extensions of credit, including any overdraft, from a Federal reserve bank or Federal home loan bank; or

''(D) one or more qualified financial contracts, as defined in section 11(e)(8)(D),

shall not be deemed invalid pursuant to paragraph (1)(B) solely because such agreement was not executed contemporaneously with the acquisition of the collateral or because of pledges, delivery, or substitution of the collateral made in accordance with such agreement.''.

SEC. 910. DAMAGE MEASURE.

(a) IN GENERAL.—Title 11, United States Code, is amended—

(1) by inserting after section 561, as added by section 907, the following:

''§ 562. Timing of damage measurement in connection with swap agreements, securities contracts, forward contracts, commodity contracts, repurchase agreements, and master netting agreements

''(a) If the trustee rejects a swap agreement, securities contract (as defined in section 741), forward contract, commodity contract (as defined in section 761), repurchase agreement, or master netting agreement pursuant to section 365(a), or if a forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant liquidates, terminates, or accelerates such contract or agreement, damages shall be measured as of the earlier of—

''(1) the date of such rejection; or

''(2) the date or dates of such liquidation, termination, or acceleration.

''(b) If there are not any commercially reasonable determinants of value as of any date referred to in paragraph (1) or (2) of subsection (a), damages shall be measured as of the earliest subsequent date or dates on which there are commercially reasonable determinants of value.

''(c) For the purposes of subsection (b), if damages are not measured as of the date or dates of rejection, liquidation, termination, or acceleration, and the forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant or the trustee objects to the timing of the measurement of damages—

''(1) the trustee, in the case of an objection by a forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant; or

''(2) the forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant, in the case of an objection by the trustee,

has the burden of proving that there were no commercially reasonable determinants of value as of such date or dates.''; and

(2) in the table of sections for chapter 5, by inserting after the item relating to section 561 (as added by section 907) the following new item:

''562. Timing of damage measure in connection with swap agreements, securities contracts, forward contracts, commodity contracts, repurchase agreements, or master netting agreements.''.

(b) CLAIMS ARISING FROM REJECTION.—Section 502(g) of title 11, United States Code, is amended—

(1) by inserting ''(1)'' after ''(g)''; and

(2) by adding at the end the following:

''(2) A claim for damages calculated in accordance with section 562 of this title shall be allowed under subsection (a), (b), or (c), or disallowed under subsection (d) or (e), as if

such claim had arisen before the date of the filing of the petition.''.

SEC. 911. SIPC STAY.

Section 5(b)(2) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78eee(b)(2)) is amended by adding at the end the following new subparagraph:

''(C) EXCEPTION FROM STAY.—

''(i) Notwithstanding section 362 of title 11, United States Code, neither the filing of an application under subsection (a)(3) nor any order or decree obtained by SIPC from the court shall operate as a stay of any contractual rights of a creditor to liquidate, terminate, or accelerate a securities contract, commodity contract, forward contract, repurchase agreement, swap agreement, or master netting agreement, as those terms are defined in sections 101, 741, and 761 of title 11, United States Code, to offset or net termination values, payment amounts, or other transfer obligations arising under or in connection with one or more of such contracts or agreements, or to foreclose on any cash collateral pledged by the debtor, whether or not with respect to one or more of such contracts or agreements.

''(ii) Notwithstanding clause (i), such application, order, or decree may operate as a stay of the foreclosure on, or disposition of, securities collateral pledged by the debtor, whether or not with respect to one or more of such contracts or agreements, securities sold by the debtor under a repurchase agreement, or securities lent under a securities lending agreement.

''(iii) As used in this subparagraph, the term 'contractual right' includes a right set forth in a rule or bylaw of a national securities exchange, a national securities association, or a securities clearing agency, a right set forth in a bylaw of a clearing organization or contract market or in a resolution of the governing board thereof, and a right, whether or not in writing, arising under common law, under law merchant, or by reason of normal business practice.''.

TITLE X—PROTECTION OF FAMILY FARMERS AND FAMILY FISHERMEN

SEC. 1001. PERMANENT REENACTMENT OF CHAPTER 12.

(a) REENACTMENT.—

(1) IN GENERAL.—Chapter 12 of title 11, United States Code, as reenacted by section 149 of division C of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277), is hereby reenacted, and as here reenacted is amended by this Act.

(2) EFFECTIVE DATE.—Subsection (a) shall take effect on the date of the enactment of this Act.

(b) CONFORMING AMENDMENT.—Section 302 of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note) is amended by striking subsection (f).

SEC. 1002. DEBT LIMIT INCREASE.

Section 104(b) of title 11, United States Code, as amended by section 226, is amended by inserting ''101(18),'' after ''101(3),'' each place it appears.

SEC. 1003. CERTAIN CLAIMS OWED TO GOVERNMENTAL UNITS.

(a) CONTENTS OF PLAN.—Section 1222(a)(2) of title 11, United States Code, is amended to read as follows:

''(2) provide for the full payment, in deferred cash payments, of all claims entitled to priority under section 507, unless—

''(A) the claim is a claim owed to a governmental unit that arises as a result of the sale, transfer, exchange, or other disposition of any farm asset used in the debtor's farming operation, in which case the claim shall be treated as an unsecured claim that is not entitled to priority under section 507, but the debt shall be treated in such manner only if the debtor receives a discharge; or

''(B) the holder of a particular claim agrees to a different treatment of that claim;''.

(b) SPECIAL NOTICE PROVISIONS.—Section 1231(b) of title 11, United States Code, as so designated by section 719, is amended by striking ''a State or local governmental unit'' and inserting ''any governmental unit''.

(c) EFFECTIVE DATE; APPLICATION OF AMENDMENTS.—This section and the amendments made by this section shall take effect on the date of the enactment of this Act and shall not apply with respect to cases commenced under title 11 of the United States Code before such date.

SEC. 1004. DEFINITION OF FAMILY FARMER.

Section 101(18) of title 11, United States Code, is amended—

(1) in subparagraph (A)—

(A) by striking ''$1,500,000'' and inserting ''$3,237,000''; and

(B) by striking ''80'' and inserting ''50''; and

(2) in subparagraph (B)(ii)—

(A) by striking ''$1,500,000'' and inserting ''$3,237,000''; and

(B) by striking ''80'' and inserting ''50''.

SEC. 1005. ELIMINATION OF REQUIREMENT THAT FAMILY FARMER AND SPOUSE RECEIVE OVER 50 PERCENT OF INCOME FROM FARMING OPERATION IN YEAR PRIOR TO BANKRUPTCY.

Section 101(18)(A) of title 11, United States Code, is amended by striking ''for the taxable year preceding the taxable year'' and inserting the following:

''for—

''(i) the taxable year preceding; or

''(ii) each of the 2d and 3d taxable years preceding;

the taxable year''.

SEC. 1006. PROHIBITION OF RETROACTIVE ASSESSMENT OF DISPOSABLE INCOME.

(a) CONFIRMATION OF PLAN.—Section 1225(b)(1) of title 11, United States Code, is amended—

(1) in subparagraph (A) by striking ''or'' at the end;

(2) in subparagraph (B) by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(C) the value of the property to be distributed under the plan in the 3-year period, or such longer period as the court may approve under section 1222(c), beginning on the date that the first distribution is due under the plan is not less than the debtor's projected disposable income for such period.''.

(b) MODIFICATION OF PLAN.—Section 1229 of title 11, United States Code, is amended by adding at the end the following:

''(d) A plan may not be modified under this section—

''(1) to increase the amount of any payment due before the plan as modified becomes the plan;

''(2) by anyone except the debtor, based on an increase in the debtor's disposable income, to increase the amount of payments to unsecured creditors required for a particular month so that the aggregate of such payments exceeds the debtor's disposable income for such month; or

''(3) in the last year of the plan by anyone except the debtor, to require payments that would leave the debtor with insufficient funds to carry on the farming operation after the plan is completed.''.

SEC. 1007. FAMILY FISHERMEN.

(a) DEFINITIONS.—Section 101 of title 11, United States Code, is amended—

(1) by inserting after paragraph (7) the following:

''(7A) 'commercial fishing operation' means—

''(A) the catching or harvesting of fish, shrimp, lobsters, urchins, seaweed, shellfish, or other aquatic species or products of such species; or

''(B) for purposes of section 109 and chapter 12, aquaculture activities consisting of raising for market any species or product described in subparagraph (A);

''(7B) 'commercial fishing vessel' means a vessel used by a family fisherman to carry out a commercial fishing operation;''; and

(2) by inserting after paragraph (19) the following:

''(19A) 'family fisherman' means—

''(A) an individual or individual and spouse engaged in a commercial fishing operation—

''(i) whose aggregate debts do not exceed $1,500,000 and not less than 80 percent of whose aggregate noncontingent, liquidated debts (excluding a debt for the principal residence of such individual or such individual and spouse, unless such debt arises out of a commercial fishing operation), on the date the case is filed, arise out of a commercial fishing operation owned or operated by such individual or such individual and spouse; and

''(ii) who receive from such commercial fishing operation more than 50 percent of such individual's or such individual's and spouse's gross income for the taxable year preceding the taxable year in which the case concerning such individual or such individual and spouse was filed; or

''(B) a corporation or partnership—

''(i) in which more than 50 percent of the outstanding stock or equity is held by—

''(I) 1 family that conducts the commercial fishing operation; or

''(II) 1 family and the relatives of the members of such family, and such family or such relatives conduct the commercial fishing operation; and

''(ii)(I) more than 80 percent of the value of its assets consists of assets related to the commercial fishing operation;

''(II) its aggregate debts do not exceed $1,500,000 and not less than 80 percent of its aggregate noncontingent, liquidated debts (excluding a debt for 1 dwelling which is owned by such corporation or partnership and which a shareholder or partner maintains as a principal residence, unless such debt arises out of a commercial fishing operation), on the date the case is filed, arise out of a commercial fishing operation owned or operated by such corporation or such partnership; and

''(III) if such corporation issues stock, such stock is not publicly traded;

''(19B) 'family fisherman with regular annual income' means a family fisherman whose annual income is sufficiently stable and regular to enable such family fisherman to make payments under a plan under chapter 12 of this title;''.

(b) WHO MAY BE A DEBTOR.—Section 109(f) of title 11, United States Code, is amended by inserting ''or family fisherman'' after ''family farmer''.

(c) CHAPTER 12.—Chapter 12 of title 11, United States Code, is amended—

(1) in the chapter heading, by inserting ''**OR FISHERMAN**'' after ''**FAMILY FARMER**'';

(2) in section 1203, by inserting ''or commercial fishing operation'' after ''farm''; and

(3) in section 1206, by striking ''if the property is farmland or farm equipment'' and inserting ''if the property is farmland, farm equipment, or property used to carry out a commercial fishing operation (including a commercial fishing vessel)''.

(d) CLERICAL AMENDMENT.—In the table of chapters for title 11, United States Code, the item relating to chapter 12, is amended to read as follows:

"12. Adjustments of Debts of a Family Farmer or Family Fisherman with Regular Annual Income ..... 1201".

(e) Applicability.—Nothing in this section shall change, affect, or amend the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801, et seq.).

TITLE XI—HEALTH CARE AND EMPLOYEE BENEFITS

SEC. 1101. DEFINITIONS.

(a) HEALTH CARE BUSINESS DEFINED.—Section 101 of title 11, United States Code, as amended by section 306, is amended—

(1) by redesignating paragraph (27A) as paragraph (27B); and

(2) by inserting after paragraph (27) the following:

''(27A) 'health care business'—

''(A) means any public or private entity (without regard to whether that entity is organized for profit or not for profit) that is primarily engaged in offering to the general public facilities and services for—

''(i) the diagnosis or treatment of injury, deformity, or disease; and

''(ii) surgical, drug treatment, psychiatric, or obstetric care; and

''(B) includes—

''(i) any—

''(I) general or specialized hospital;

''(II) ancillary ambulatory, emergency, or surgical treatment facility;

''(III) hospice;

''(IV) home health agency; and

''(V) other health care institution that is similar to an entity referred to in subclause (I), (II), (III), or (IV); and

''(ii) any long-term care facility, including any—

''(I) skilled nursing facility;

''(II) intermediate care facility;

''(III) assisted living facility;

''(IV) home for the aged;

''(V) domiciliary care facility; and

''(VI) health care institution that is related to a facility referred to in subclause (I), (II), (III), (IV), or (V), if that institution is primarily engaged in offering room, board, laundry, or personal assistance with activities of daily living and incidentals to activities of daily living;''.

(b) PATIENT AND PATIENT RECORDS DEFINED.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (40) the following:

''(40A) 'patient' means any person who obtains or receives services from a health care business;

''(40B) 'patient records' means any written document relating to a patient or a record recorded in a magnetic, optical, or other form of electronic medium;''.

(c) RULE OF CONSTRUCTION.—The amendments made by subsection (a) of this section shall not affect the interpretation of section 109(b) of title 11, United States Code.

SEC. 1102. DISPOSAL OF PATIENT RECORDS.

(a) IN GENERAL.—Subchapter III of chapter 3 of title 11, United States Code, is amended by adding at the end the following:

"§ 351. Disposal of patient records

''If a health care business commences a case under chapter 7, 9, or 11, and the trustee does not have a sufficient amount of funds to pay for the storage of patient records in the manner required under applicable Federal or State law, the following requirements shall apply:

''(1) The trustee shall—

''(A) promptly publish notice, in 1 or more appropriate newspapers, that if patient records are not claimed by the patient or an insurance provider (if applicable law permits the insurance provider to make that claim) by the date that is 365 days after the date of that notification, the trustee will destroy the patient records; and

''(B) during the first 180 days of the 365-day period described in subparagraph (A), promptly attempt to notify directly each patient that is the subject of the patient records and appropriate insurance carrier concerning the patient records by mailing to the most recent known address of that patient, or a family member or contact person for that patient, and to the appropriate insurance carrier an appropriate notice regarding the claiming or disposing of patient records.

''(2) If, after providing the notification under paragraph (1), patient records are not claimed during the 365-day period described under that paragraph, the trustee shall mail, by certified mail, at the end of such 365-day period a written request to each appropriate Federal agency to request permission from that agency to deposit the patient records with that agency, except that no Federal agency is required to accept patient records under this paragraph.

''(3) If, following the 365-day period described in paragraph (2) and after providing the notification under paragraph (1), patient records are not claimed by a patient or insurance provider, or request is not granted by a Federal agency to deposit such records with that agency, the trustee shall destroy those records by—

''(A) if the records are written, shredding or burning the records; or

''(B) if the records are magnetic, optical, or other electronic records, by otherwise destroying those records so that those records cannot be retrieved.''.

(b) CLERICAL AMENDMENT.—The table of sections for subchapter III of chapter 3 of title 11, United States Code, is amended by adding at the end the following:

''351. Disposal of patient records.''.

SEC. 1103. ADMINISTRATIVE EXPENSE CLAIM FOR COSTS OF CLOSING A HEALTH CARE BUSINESS AND OTHER ADMINISTRATIVE EXPENSES.

Section 503(b) of title 11, United States Code, as amended by section 445, is amended by adding at the end the following:

''(8) the actual, necessary costs and expenses of closing a health care business incurred by a trustee or by a Federal agency (as defined in section 551(1) of title 5) or a department or agency of a State or political subdivision thereof, including any cost or expense incurred—

''(A) in disposing of patient records in accordance with section 351; or

''(B) in connection with transferring patients from the health care business that is in the process of being closed to another health care business; and''.

SEC. 1104. APPOINTMENT OF OMBUDSMAN TO ACT AS PATIENT ADVOCATE.

(a) OMBUDSMAN TO ACT AS PATIENT ADVOCATE.—

(1) APPOINTMENT OF OMBUDSMAN.—Title 11, United States Code, as amended by section 232, is amended by inserting after section 332 the following:

"§ 333. Appointment of patient care ombudsman

''(a)(1) If the debtor in a case under chapter 7, 9, or 11 is a health care business, the court shall order, not later than 30 days after the commencement of the case, the appointment of an ombudsman to monitor the quality of patient care and to represent the interests of the patients of the health care business unless the court finds that the appointment of such ombudsman is not necessary for the protection of patients under the specific facts of the case.

''(2)(A) If the court orders the appointment of an ombudsman under paragraph (1), the United States trustee shall appoint 1 disinterested person (other than the United States trustee) to serve as such ombudsman.

''(B) If the debtor is a health care business that provides long-term care, then the United States trustee may appoint the State Long-Term Care Ombudsman appointed under the Older Americans Act of 1965 for the State in which the case is pending to serve as the ombudsman required by paragraph (1).

''(C) If the United States trustee does not appoint a State Long-Term Care Ombudsman under subparagraph (B), the court shall notify the State Long-Term Care Ombudsman appointed under the Older Americans Act of 1965 for the State in which the case is pending, of the name and address of the person who is appointed under subparagraph (A).

''(b) An ombudsman appointed under subsection (a) shall—

''(1) monitor the quality of patient care provided to patients of the debtor, to the extent necessary under the circumstances, including interviewing patients and physicians;

''(2) not later than 60 days after the date of appointment, and not less frequently than at 60-day intervals thereafter, report to the court, at a hearing or in writing, regarding the quality of patient care provided to patients of the debtor; and

''(3) if such ombudsman determines that the quality of patient care provided to patients of the debtor is declining significantly or is otherwise being materially compromised, file with the court a motion or a written report, with notice to the parties in interest immediately upon making such determination.

''(c)(1) An ombudsman appointed under subsection (a) shall maintain any information obtained by such ombudsman under this section that relates to patients (including information relating to patient records) as confidential information. Such ombudsman may not review confidential patient records unless the court approves such review in advance and imposes restrictions on such ombudsman to protect the confidentiality of such records.

''(2) An ombudsman appointed under subsection (a)(2)(B) shall have access to patient records consistent with authority of such ombudsman under the Older Americans Act of 1965 and under non-Federal laws governing the State Long-Term Care Ombudsman program.''.

(2) CLERICAL AMENDMENT.—The table of sections for subchapter II of chapter 3 of title 11, United States Code, as amended by section 232, is amended by adding at the end the following:

''333. Appointment of ombudsman.''.

(b) COMPENSATION OF OMBUDSMAN.—Section 330(a)(1) of title 11, United States Code, is amended—

(1) in the matter preceding subparagraph (A), by inserting ''an ombudsman appointed under section 333, or'' before ''a professional person''; and

(2) in subparagraph (A), by inserting ''ombudsman,'' before ''professional person''.

SEC. 1105. DEBTOR IN POSSESSION; DUTY OF TRUSTEE TO TRANSFER PATIENTS.

(a) IN GENERAL.—Section 704(a) of title 11, United States Code, as amended by sections 102, 219, and 446, is amended by adding at the end the following:

''(12) use all reasonable and best efforts to transfer patients from a health care business that is in the process of being closed to an appropriate health care business that—

''(A) is in the vicinity of the health care business that is closing;

''(B) provides the patient with services that are substantially similar to those provided by the health care business that is in the process of being closed; and

''(C) maintains a reasonable quality of care.''.

(b) CONFORMING AMENDMENT.—Section 1106(a)(1) of title 11, United States Code, as amended by section 446, is amended by striking ''and (11)'' and inserting ''(11), and (12)''.

SEC. 1106. EXCLUSION FROM PROGRAM PARTICIPATION NOT SUBJECT TO AUTOMATIC STAY.

Section 362(b) of title 11, United States Code, is amended by inserting after paragraph (27), as amended by sections 224, 303, 311, 401, 718, and 907, the following:

''(28) under subsection (a), of the exclusion by the Secretary of Health and Human Services of the debtor from participation in the medicare program or any other Federal health care program (as defined in section 1128B(f) of the Social Security Act pursuant to title XI of such Act or title XVIII of such Act.''.

TITLE XII—TECHNICAL AMENDMENTS

SEC. 1201. DEFINITIONS.

Section 101 of title 11, United States Code, as hereinbefore amended by this Act, is amended—

(1) by striking ''In this title—'' and inserting ''In this title the following definitions shall apply:'';

(2) in each paragraph, by inserting ''The term'' after the paragraph designation;

(3) in paragraph (35)(B), by striking ''paragraphs (21B) and (33)(A)'' and inserting ''paragraphs (23) and (35)'';

(4) in each of paragraphs (35A), (38), and (54A), by striking ''; and'' at the end and inserting a period;

(5) in paragraph (51B)—

(A) by inserting ''who is not a family farmer'' after ''debtor'' the first place it appears; and

(B) by striking ''thereto having aggregate'' and all that follows through the end of the paragraph and inserting a semicolon;

(6) by striking paragraph (54) and inserting the following:

''(54) The term 'transfer' means—

''(A) the creation of a lien;

''(B) the retention of title as a security interest;

''(C) the foreclosure of a debtor's equity of redemption; or

''(D) each mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with—

''(i) property; or

''(ii) an interest in property;'';

(7) by indenting the left margin of paragraph (54A) 2 ems to the right; and

(8) in each of paragraphs (1) through (35), in each of paragraphs (36), (37), (38A), (38B) and (39A), and in each of paragraphs (40) through (55), by striking the semicolon at the end and inserting a period.

SEC. 1202. ADJUSTMENT OF DOLLAR AMOUNTS.

Section 104 of title 11, United States Code, is amended by inserting ''522(f)(3),'' after ''522(d),'' each place it appears.

SEC. 1203. EXTENSION OF TIME.

Section 108(c)(2) of title 11, United States Code, is amended by striking ''922'' and all that follows through ''or'', and inserting ''922, 1201, or''.

SEC. 1204. TECHNICAL AMENDMENTS.

Title 11, United States Code, is amended—

(1) in section 109(b)(2), by striking ''subsection (c) or (d) of''; and

(2) in section 552(b)(1), by striking ''product'' each place it appears and inserting ''products''.

SEC. 1205. PENALTY FOR PERSONS WHO NEGLIGENTLY OR FRAUDULENTLY PREPARE BANKRUPTCY PETITIONS.

Section 110(j)(4) of title 11, United States Code, as so redesignated by section 221, is amended by striking ''attorney's'' and inserting ''attorneys' ''.

SEC. 1206. LIMITATION ON COMPENSATION OF PROFESSIONAL PERSONS.

Section 328(a) of title 11, United States Code, is amended by inserting ''on a fixed or percentage fee basis,'' after ''hourly basis,''.

SEC. 1207. EFFECT OF CONVERSION.

Section 348(f)(2) of title 11, United States Code, is amended by inserting ''of the estate'' after ''property'' the first place it appears.

SEC. 1208. ALLOWANCE OF ADMINISTRATIVE EXPENSES.

Section 503(b)(4) of title 11, United States Code, is amended by inserting ''subparagraph (A), (B), (C), (D), or (E) of'' before ''paragraph (3)''.

SEC. 1209. EXCEPTIONS TO DISCHARGE.

Section 523 of title 11, United States Code, as amended by sections 215 and 314, is amended—

(1) by transferring paragraph (15), as added by section 304(e) of Public Law 103–394 (108 Stat. 4133), so as to insert such paragraph after subsection (a)(14A);

(2) in subsection (a)(9), by striking ''motor vehicle'' and inserting ''motor vehicle, vessel, or aircraft''; and

(3) in subsection (e), by striking ''a insured'' and inserting ''an insured''.

SEC. 1210. EFFECT OF DISCHARGE.

Section 524(a)(3) of title 11, United States Code, is amended by striking ''section 523'' and all that follows through ''or that'' and inserting ''section 523, 1228(a)(1), or 1328(a)(1), or that''.

SEC. 1211. PROTECTION AGAINST DISCRIMINATORY TREATMENT.

Section 525(c) of title 11, United States Code, is amended—

(1) in paragraph (1), by inserting ''student'' before ''grant'' the second place it appears; and

(2) in paragraph (2), by striking ''the program operated under part B, D, or E of'' and inserting ''any program operated under''.

SEC. 1212. PROPERTY OF THE ESTATE.

Section 541(b)(4)(B)(ii) of title 11, United States Code, is amended by inserting ''365 or'' before ''542''.

SEC. 1213. PREFERENCES.

(a) IN GENERAL.—Section 547 of title 11, United States Code, as amended by section 201, is amended—

(1) in subsection (b), by striking ''subsection (c)'' and inserting ''subsections (c) and (i)''; and

(2) by adding at the end the following:

''(i) If the trustee avoids under subsection (b) a transfer made between 90 days and 1 year before the date of the filing of the petition, by the debtor to an entity that is not an insider for the benefit of a creditor that is an insider, such transfer shall be considered to be avoided under this section only with respect to the creditor that is an insider.''.

(b) APPLICABILITY.—The amendments made by this section shall apply to any case that is pending or commenced on or after the date of enactment of this Act.

SEC. 1214. POSTPETITION TRANSACTIONS.

Section 549(c) of title 11, United States Code, is amended—

(1) by inserting ''an interest in'' after ''transfer of'' each place it appears;

(2) by striking ''such property'' and inserting ''such real property''; and

(3) by striking ''the interest'' and inserting ''such interest''.

SEC. 1215. DISPOSITION OF PROPERTY OF THE ESTATE.

Section 726(b) of title 11, United States Code, is amended by striking ''1009,''.

SEC. 1216. GENERAL PROVISIONS.

Section 901(a) of title 11, United States Code, is amended by inserting ''1123(d),'' after ''1123(b),''.

SEC. 1217. ABANDONMENT OF RAILROAD LINE.

Section 1170(e)(1) of title 11, United States Code, is amended by striking ''section 11347'' and inserting ''section 11326(a)''.

SEC. 1218. CONTENTS OF PLAN.

Section 1172(c)(1) of title 11, United States Code, is amended by striking ''section 11347'' and inserting ''section 11326(a)''.

SEC. 1219. BANKRUPTCY CASES AND PROCEEDINGS.

Section 1334(d) of title 28, United States Code, is amended—

(1) by striking ''made under this subsection'' and inserting ''made under subsection (c)''; and

(2) by striking ''This subsection'' and inserting ''Subsection (c) and this subsection''.

SEC. 1220. KNOWING DISREGARD OF BANKRUPTCY LAW OR RULE.

Section 156(a) of title 18, United States Code, is amended—

(1) in the first undesignated paragraph—

(A) by inserting ''(1) the term'' before '' 'bankruptcy''; and

(B) by striking the period at the end and inserting ''; and''; and

(2) in the second undesignated paragraph—

(A) by inserting ''(2) the term'' before '' 'document''; and

(B) by striking ''this title'' and inserting ''title 11''.

SEC. 1221. TRANSFERS MADE BY NONPROFIT CHARITABLE CORPORATIONS.

(a) SALE OF PROPERTY OF ESTATE.—Section 363(d) of title 11, United States Code, is amended by striking ''only'' and all that follows through the end of the subsection and inserting ''only—

''(1) in accordance with applicable nonbankruptcy law that governs the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust; and

''(2) to the extent not inconsistent with any relief granted under subsection (c), (d), (e), or (f) of section 362.''.

(b) CONFIRMATION OF PLAN FOR REORGANIZATION.—Section 1129(a) of title 11, United States Code, as amended by sections 213, 321, and 331, is amended by adding at the end the following:

''(17) All transfers of property of the plan shall be made in accordance with any applicable provisions of nonbankruptcy law that govern the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust.''.

(c) TRANSFER OF PROPERTY.—Section 541 of title 11, United States Code, as amended by section 225, is amended by adding at the end the following:

''(f) Notwithstanding any other provision of this title, property that is held by a debtor that is a corporation described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code may be transferred to an entity that is not such a corporation, but only under the same conditions as would apply if the debtor had not filed a case under this title.''.

(d) APPLICABILITY.—The amendments made by this section shall apply to a case pending under title 11, United States Code, on the date of enactment of this Act, or filed under that title on or after that date of enactment, except that the court shall not confirm a plan under chapter 11 of title 11, United States Code, without considering whether this section would substantially affect the rights of a party in interest who first acquired rights with respect to the debtor after the date of the petition. The parties who may appear and be heard in a proceeding under this section include the attorney general of the State in which the debtor is incorporated, was formed, or does business.

(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require the court in which a case under chapter 11 of title 11, United States Code, is pending to remand or refer any proceeding, issue, or controversy to any other court or to require the approval of any other court for the transfer of property.

SEC. 1222. PROTECTION OF VALID PURCHASE MONEY SECURITY INTERESTS.

Section 547(c)(3)(B) of title 11, United States Code, is amended by striking ''20'' and inserting ''30''.

SEC. 1223. COMPENSATING TRUSTEES.

Section 1326 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking ''and'';

(B) in paragraph (2), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(3) if a chapter 7 trustee has been allowed compensation due to the conversion or dismissal of the debtor's prior case pursuant to section 707(b), and some portion of that compensation remains unpaid in a case converted to this chapter or in the case dismissed under section 707(b) and refiled under this chapter, the amount of any such unpaid compensation, which shall be paid monthly—

''(A) by prorating such amount over the remaining duration of the plan; and

''(B) by monthly payments not to exceed the greater of—

''(i) $25; or

''(ii) the amount payable to unsecured nonpriority creditors, as provided by the plan, multiplied by 5 percent, and the result divided by the number of months in the plan.''; and

(2) by adding at the end the following:

''(d) Notwithstanding any other provision of this title—

''(1) compensation referred to in subsection (b)(3) is payable and may be collected by the trustee under that paragraph, even if such amount has been discharged in a prior proceeding under this title; and

''(2) such compensation is payable in a case under this chapter only to the extent permitted by subsection (b)(3).''.

SEC. 1224. AMENDMENT TO SECTION 362 OF TITLE 11, UNITED STATES CODE.

Section 362(b)(18) of title 11, United States Code, is amended to read as follows:

''(18) under subsection (a) of the creation or perfection of a statutory lien for an ad valorem property tax, or a special tax or special assessment on real property whether or not ad valorem, imposed by a governmental unit, if such tax or assessment comes due after the filing of the petition;''.

SEC. 1225. JUDICIAL EDUCATION.

The Director of the Federal Judicial Center, in consultation with the Director of the Executive Office for United States Trustees, shall develop materials and conduct such training as may be useful to courts in implementing this Act and the amendments made by this Act, including the requirements relating to the means test and reaffirmations under section 707(b) of title 11, United States Code, as amended by this Act.

SEC. 1226. RECLAMATION.

(a) RIGHTS AND POWERS OF THE TRUSTEE.—Section 546(c) of title 11, United States Code, is amended to read as follows:

''(c)(1) Except as provided in subsection (d) of this section and subsection (c) of section 507, and subject to the prior rights of holders of security interests in such goods or the proceeds thereof, the rights and powers of the trustee under sections 544(a), 545, 547, and 549 are subject to the right of a seller of goods that has sold goods to the debtor, in the ordinary course of such seller's business, to reclaim such goods if the debtor has received such goods while insolvent, within 45 days before the date of the commencement of a case under this title, but such seller may not reclaim such goods unless such seller demands in writing reclamation of such goods—

''(A) not later than 45 days after the date of receipt of such goods by the debtor; or

''(B) not later than 20 days after the date of commencement of the case, if the 45-day period expires after the commencement of the case.

''(2) If a seller of goods fails to provide notice in the manner described in paragraph (1), the seller still may assert the rights contained in section 503(b)(9).''.

(b) ADMINISTRATIVE EXPENSES.—Section 503(b) of title 11, United States Code, as amended by sections 445 and 1103, is amended by adding at the end the following:

''(9) the value of any goods received by the debtor within 20 days before the date of commencement of a case under this title in which the goods have been sold to the debtor in the ordinary course of such debtor's business.''.

SEC. 1227. PROVIDING REQUESTED TAX DOCUMENTS TO THE COURT.

(a) CHAPTER 7 CASES.—The court shall not grant a discharge in the case of an individual seeking bankruptcy under chapter 7 of title 11, United States Code, unless requested tax documents have been provided to the court.

(b) CHAPTER 11 AND CHAPTER 13 CASES.—The court shall not confirm a plan of reorganization in the case of an individual under chapter 11 or 13 of title 11, United States Code, unless requested tax documents have been filed with the court.

(c) DOCUMENT RETENTION.—The court shall destroy documents submitted in support of a bankruptcy claim not sooner than 3 years after the date of the conclusion of a bankruptcy case filed by an individual under chapter 7, 11, or 13 of title 11, United States Code. In the event of a pending audit or enforcement action, the court may extend the time for destruction of such requested tax documents.

SEC. 1228. ENCOURAGING CREDITWORTHINESS.

(a) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) certain lenders may sometimes offer credit to consumers indiscriminately, without taking steps to ensure that consumers are capable of repaying the resulting debt, and in a manner which may encourage certain consumers to accumulate additional debt; and

(2) resulting consumer debt may increasingly be a major contributing factor to consumer insolvency.

(b) STUDY REQUIRED.—The Board of Governors of the Federal Reserve System (hereafter in this section referred to as the ''Board'') shall conduct a study of—

(1) consumer credit industry practices of soliciting and extending credit—

(A) indiscriminately;

(B) without taking steps to ensure that consumers are capable of repaying the resulting debt; and

(C) in a manner that encourages consumers to accumulate additional debt; and

(2) the effects of such practices on consumer debt and insolvency.

(c) REPORT AND REGULATIONS.—Not later than 12 months after the date of enactment of this Act, the Board—

(1) shall make public a report on its findings with respect to the indiscriminate solicitation and extension of credit by the credit industry;

(2) may issue regulations that would require additional disclosures to consumers; and

(3) may take any other actions, consistent with its existing statutory authority, that the Board finds necessary to ensure responsible industrywide practices and to prevent resulting consumer debt and insolvency.

SEC. 1229. PROPERTY NO LONGER SUBJECT TO REDEMPTION.

Section 541(b) of title 11, United States Code, as amended by sections 225 and 323, is amended by adding at the end the following:

''(8) subject to subchapter III of chapter 5, any interest of the debtor in property where the debtor pledged or sold tangible personal property (other than securities or written or printed evidences of indebtedness or title) as collateral for a loan or advance of money given by a person licensed under law to make such loans or advances, where—

''(A) the tangible personal property is in the possession of the pledgee or transferee;

''(B) the debtor has no obligation to repay the money, redeem the collateral, or buy back the property at a stipulated price; and

''(C) neither the debtor nor the trustee have exercised any right to redeem provided under the contract or State law, in a timely manner as provided under State law and section 108(b) of this title; or''.

SEC. 1230. TRUSTEES.

(a) SUSPENSION AND TERMINATION OF PANEL TRUSTEES AND STANDING TRUSTEES.—Section 586(d) of title 28, United States Code, is amended—

(1) by inserting ''(1)'' after ''(d)''; and

(2) by adding at the end the following:

''(2) A trustee whose appointment under subsection (a)(1) or under subsection (b) is terminated or who ceases to be assigned to cases filed under title 11, United States Code, may obtain judicial review of the final agency decision by commencing an action in the district court of the United States for the district for which the panel to which the trustee is appointed under subsection (a)(1), or in the district court of the United States for the district in which the trustee is appointed under subsection (b) resides, after first exhausting all available administrative remedies, which if the trustee so elects, shall also include an administrative hearing on the record. Unless the trustee elects to have an administrative hearing on the record, the trustee shall be deemed to have exhausted all administrative remedies for purposes of this paragraph if the agency fails to make a final agency decision within 90 days after the trustee requests administrative remedies. The Attorney General shall prescribe procedures to implement this paragraph. The decision of the agency shall be affirmed by the district court unless it is unreasonable and without cause based on the administrative record before the agency.''.

(b) EXPENSES OF STANDING TRUSTEES.—Section 586(e) of title 28, United States Code, is amended by adding at the end the following:

''(3) After first exhausting all available administrative remedies, an individual appointed under subsection (b) may obtain judicial review of final agency action to deny a claim of actual, necessary expenses under this subsection by commencing an action in the district court of the United States for the district where the individual resides. The decision of the agency shall be affirmed by the district court unless it is unreasonable and without cause based upon the administrative record before the agency.

''(4) The Attorney General shall prescribe procedures to implement this subsection.''.

SEC. 1231. BANKRUPTCY FORMS.

Section 2075 of title 28, United States Code, is amended by adding at the end the following:

''The bankruptcy rules promulgated under this section shall prescribe a form for the statement required under section 707(b)(2)(C) of title 11 and may provide general rules on the content of such statement.''.

SEC. 1232. DIRECT APPEALS OF BANKRUPTCY MATTERS TO COURTS OF APPEALS.

(a) APPEALS.—Section 158 of title 28, United States Code, is amended—

(1) in subsection (c)(1), by striking ''Subject to subsection (b),'' and inserting ''Subject to subsections (b) and (d)(2),''; and

(2) in subsection (d)—

(A) by inserting ''(1)'' after ''(d)''; and

(B) by adding at the end the following:

''(2)(A) The appropriate court of appeals shall have jurisdiction of appeals described in the first sentence of subsection (a) if the bankruptcy court, the district court, or the bankruptcy appellate panel involved, acting on its own motion or on the request of a party to the judgment, order, or decree described in such first sentence, or all the appellants and appellees (if any) acting jointly, certify that—

''(i) the judgment, order, or decree involves a question of law as to which there is no controlling decision of the court of appeals for the circuit or of the Supreme Court of the United States, or involves a matter of public importance;

''(ii) the judgment, order, or decree involves a question of law requiring resolution of conflicting decisions; or

''(iii) an immediate appeal from the judgment, order, or decree may materially advance the progress of the case or proceeding in which the appeal is taken;

and if the court of appeals authorizes the direct appeal of the judgment, order, or decree.

''(B) If the bankruptcy court, the district court, or the bankruptcy appellate panel—

''(i) on its own motion or on the request of a party, determines that a circumstance specified in clause (i), (ii), or (iii) of subparagraph (A) exists; or

''(ii) receives a request made by a majority of the appellants and a majority of appellees (if any) to make the certification described in subparagraph (A);

then the bankruptcy court, the district court, or the bankruptcy appellate panel shall make the certification described in subparagraph (A).

''(C) The parties may supplement the certification with a short statement of the basis for the certification.

''(D) An appeal under this paragraph does not stay any proceeding of the bankruptcy court, the district court, or the bankruptcy appellate panel from which the appeal is taken, unless the respective bankruptcy court, district court, or bankruptcy appellate panel, or the court of appeals in which the appeal in pending, issues a stay of such proceeding pending the appeal.

''(E) Any request under subparagraph (B) for certification shall be made not later than 60 days after the entry of the judgment, order, or decree.''.

(b) PROCEDURAL RULES.—

(1) TEMPORARY APPLICATION.—A provision of this subsection shall apply to appeals under section 158(d)(2) of title 28, United States Code, until a rule of practice and procedure relating to such provision and such appeals is promulgated or amended under chapter 131 of such title.

(2) CERTIFICATION.—A district court, a bankruptcy court, or a bankruptcy appellate panel may make a certification under section 158(d)(2) of title 28, United States Code, only with respect to matters pending in the respective bankruptcy court, district court, or bankruptcy appellate panel.

(3) PROCEDURE.—Subject to any other provision of this subsection, an appeal authorized by the court of appeals under section 158(d)(2)(A) of title 28, United States Code, shall be taken in the manner prescribed in subdivisions (a)(1), (b), (c), and (d) of rule 5 of the Federal Rules of Appellate Procedure. For purposes of subdivision (a)(1) of rule 5—

(A) a reference in such subdivision to a district court shall be deemed to include a reference to a bankruptcy court and a bankruptcy appellate panel, as appropriate;

(B) a reference in such subdivision to the parties requesting permission to appeal to be served with the petition shall be deemed to include a reference to the parties to the judgment, order, or decree from which the appeal is taken.

(4) FILING OF PETITION WITH ATTACHMENT.—A petition requesting permission to appeal, that is based on a certification made under subparagraph (A) or (B) of section 158(d)(2) shall—

(A) be filed with the circuit clerk not later than 10 days after the certification is entered on the docket of the bankruptcy court, the district court, or the bankruptcy appellate panel from which the appeal is taken; and

(B) have attached a copy of such certification.

(5) REFERENCES IN RULE 5.—For purposes of rule 5 of the Federal Rules of Appellate Procedure—

(A) a reference in such rule to a district court shall be deemed to include a reference to a bankruptcy court and to a bankruptcy appellate panel; and

(B) a reference in such rule to a district clerk shall be deemed to include a reference to a clerk of a bankruptcy court and to a clerk of a bankruptcy appellate panel.

(6) APPLICATION OF RULES.—The Federal Rules of Appellate Procedure shall apply in the courts of appeals with respect to appeals authorized under section 158(d)(2)(A), to the extent relevant and as if such appeals were taken from final judgments, orders, or decrees of the district courts or bankruptcy appellate panels exercising appellate jurisdiction under subsection (a) or (b) of section 158 of title 28, United States Code.

SEC. 1233. INVOLUNTARY CASES.

(a) AMENDMENTS.—Section 303 of title 11, United States Code, is amended—

(1) in subsection (b)(1), by—

(A) inserting ''as to liability or amount'' after ''bona fide dispute''; and

(B) striking ''if such claims'' and inserting ''if such noncontingent, undisputed claims''; and

(2) in subsection (h)(1), by inserting ''as to liability or amount'' before the semicolon at the end.

(b) EFFECTIVE DATE; APPLICATION OF AMENDMENTS.—This section and the amendments made by this section shall take effect on the date of the enactment of this Act and shall apply with respect to cases commenced under title 11 of the United States Code before, on, and after such date.:

SEC. 1234. FEDERAL ELECTION LAW FINES AND PENALTIES AS NONDISCHARGEABLE DEBT.

Section 523(a) of title 11, United States Code, as amended by section 314, is amended by inserting after paragraph (14A) the following:

''(14B) incurred to pay fines or penalties imposed under Federal election law;''.

TITLE XIII—CONSUMER CREDIT DISCLOSURE

SEC. 1301. ENHANCED DISCLOSURES UNDER AN OPEN END CREDIT PLAN.

(a) MINIMUM PAYMENT DISCLOSURES.—Section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b)) is amended by adding at the end the following:

''(11)(A) In the case of an open end credit plan that requires a minimum monthly payment of not more than 4 percent of the balance on which finance charges are accruing, the following statement, located on the front of the billing statement, disclosed clearly and conspicuously: 'Minimum Payment Warning: Making only the minimum payment will increase the interest you pay and the time it takes to repay your balance. For example, making only the typical 2% minimum monthly payment on a balance of $1,000 at an interest rate of 17% would take 88 months to repay the balance in full. For an estimate of the time it would take to repay your balance, making only minimum payments, call this toll-free number: _____.' (the blank space to be filled in by the creditor).

''(B) In the case of an open end credit plan that requires a minimum monthly payment of more than 4 percent of the balance on which finance charges are accruing, the following statement, in a prominent location on the front of the billing statement, disclosed clearly and conspicuously: 'Minimum Payment Warning: Making only the required minimum payment will increase the interest you pay and the time it takes to repay your balance. Making a typical 5% minimum monthly payment on a balance of $300 at an interest rate of 17% would take 24 months to repay the balance in full. For an estimate of the time it would take to repay your balance, making only minimum monthly payments, call this toll-free number: _____.' (the blank space to be filled in by the creditor).

''(C) Notwithstanding subparagraphs (A) and (B), in the case of a creditor with respect to which compliance with this title is enforced by the Federal Trade Commission, the following statement, in a prominent location on the front of the billing statement, disclosed clearly and conspicuously: 'Minimum Payment Warning: Making only the required minimum payment will increase the interest you pay and the time it takes to repay your balance. For example, making only the typical 5% minimum monthly payment on a balance of $300 at an interest rate of 17% would take 24 months to repay the balance in full. For an estimate of the time it would take to repay your balance, making only minimum monthly payments, call the Federal Trade Commission at this toll-free number: _____.' (the blank space to be filled in by the creditor). A creditor who is subject to this subparagraph shall not be subject to subparagraph (A) or (B).

''(D) Notwithstanding subparagraph (A), (B), or (C), in complying with any such subparagraph, a creditor may substitute an example based on an interest rate that is greater than 17 percent. Any creditor that is subject to subparagraph (B) may elect to provide the disclosure required under subparagraph (A) in lieu of the disclosure required under subparagraph (B).

''(E) The Board shall, by rule, periodically recalculate, as necessary, the interest rate and repayment period under subparagraphs (A), (B), and (C).

''(F)(i) The toll-free telephone number disclosed by a creditor or the Federal Trade Commission under subparagraph (A), (B), or (G), as appropriate, may be a toll-free telephone number established and maintained by the creditor or the Federal Trade Commission, as appropriate, or may be a toll-free telephone number established and maintained by a third party for use by the creditor or multiple creditors or the Federal Trade Commission, as appropriate. The toll-free telephone number may connect consumers to an automated device through which consumers may obtain information described in subparagraph (A), (B), or (C), by inputting information using a touch-tone telephone or similar device, if consumers whose telephones are not equipped to use such automated device are provided the opportunity to be connected to an individual from whom the information described in subparagraph (A), (B), or (C), as applicable, may be obtained. A person that receives a request

for information described in subparagraph (A), (B), or (C) from an obligor through the toll-free telephone number disclosed under subparagraph (A), (B), or (C), as applicable, shall disclose in response to such request only the information set forth in the table promulgated by the Board under subparagraph (H)(i).

''(ii)(I) The Board shall establish and maintain for a period not to exceed 24 months following the effective date of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2002, a toll-free telephone number, or provide a toll-free telephone number established and maintained by a third party, for use by creditors that are depository institutions (as defined in section 3 of the Federal Deposit Insurance Act), including a Federal credit union or State credit union (as defined in section 101 of the Federal Credit Union Act, with total assets not exceeding $250,000,000. The toll-free telephone number may connect consumers to an automated device through which consumers may obtain information described in subparagraph (A) or (B), as applicable, by inputting information using a touch-tone telephone or similar device, if consumers whose telephones are not equipped to use such automated device are provided the opportunity to be connected to an individual from whom the information described in subparagraph (A) or (B), as applicable, may be obtained. A person that receives a request for information described in subparagraph (A) or (B) from an obligor through the toll-free telephone number disclosed under subparagraph (A) or (B), as applicable, shall disclose in response to such request only the information set forth in the table promulgated by the Board under subparagraph (H)(i). The dollar amount contained in this subclause shall be adjusted according to an indexing mechanism established by the Board.

''(II) Not later than 6 months prior to the expiration of the 24-month period referenced in subclause (I), the Board shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the program described in subclause (I).

''(G) The Federal Trade Commission shall establish and maintain a toll-free number for the purpose of providing to consumers the information required to be disclosed under subparagraph (C).

''(H) The Board shall—

''(i) establish a detailed table illustrating the approximate number of months that it would take to repay an outstanding balance if a consumer pays only the required minimum monthly payments and if no other advances are made, which table shall clearly present standardized information to be used to disclose the information required to be disclosed under subparagraph (A), (B), or (C), as applicable;

''(ii) establish the table required under clause (i) by assuming—

''(I) a significant number of different annual percentage rates;

''(II) a significant number of different account balances;

''(III) a significant number of different minimum payment amounts; and

''(IV) that only minimum monthly payments are made and no additional extensions of credit are obtained; and

''(iii) promulgate regulations that provide instructional guidance regarding the manner in which the information contained in the table established under clause (i) should be used in responding to the request of an obligor for any information required to be disclosed under subparagraph (A), (B), or (C).

''(I) The disclosure requirements of this paragraph do not apply to any charge card account, the primary purpose of which is to require payment of charges in full each month.

''(J) A creditor that maintains a toll-free telephone number for the purpose of providing customers with the actual number of months that it will take to repay the customer's outstanding balance is not subject to the requirements of subparagraph (A) or (B).

''(K) A creditor that maintains a toll-free telephone number for the purpose of providing customers with the actual number of months that it will take to repay an outstanding balance shall include the following statement on each billing statement:

'Making only the minimum payment will increase the interest you pay and the time it takes to repay your balance. For more information, call this toll-free number: _____.' (the blank space to be filled in by the creditor).''.

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board of Governors of the Federal Reserve System (hereafter in this title referred to as the ''Board'') shall promulgate regulations implementing the requirements of section 127(b)(11) of the Truth in Lending Act, as added by subsection (a) of this section.

(2) EFFECTIVE DATE.—Section 127(b)(11) of the Truth in Lending Act, as added by subsection (a) of this section, and the regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 18 months after the date of enactment of this Act; or

(B) 12 months after the publication of such final regulations by the Board.

(c) STUDY OF FINANCIAL DISCLOSURES.—

(1) IN GENERAL.—The Board may conduct a study to determine the types of information available to potential borrowers from consumer credit lending institutions regarding factors qualifying potential borrowers for credit, repayment requirements, and the consequences of default.

(2) FACTORS FOR CONSIDERATION.—In conducting a study under paragraph (1), the Board should, in consultation with the other Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), the National Credit Union Administration, and the Federal Trade Commission, consider the extent to which—

(A) consumers, in establishing new credit arrangements, are aware of their existing payment obligations, the need to consider those obligations in deciding to take on new credit, and how taking on excessive credit can result in financial difficulty;

(B) minimum periodic payment features offered in connection with open end credit plans impact consumer default rates;

(C) consumers make only the required minimum payment under open end credit plans;

(D) consumers are aware that making only required minimum payments will increase the cost and repayment period of an open end credit obligation; and

(E) the availability of low minimum payment options is a cause of consumers experiencing financial difficulty.

(3) REPORT TO CONGRESS.—Findings of the Board in connection with any study conducted under this subsection shall be submitted to Congress. Such report shall also include recommendations for legislative initiatives, if any, of the Board, based on its findings.

SEC. 1302. ENHANCED DISCLOSURE FOR CREDIT EXTENSIONS SECURED BY A DWELLING.

(a) OPEN END CREDIT EXTENSIONS.—

(1) CREDIT APPLICATIONS.—Section 127A(a)(13) of the Truth in Lending Act (15 U.S.C. 1637a(a)(13)) is amended—

(A) by striking ''CONSULTATION OF TAX ADVISER.—A statement that the'' and inserting the following: ''TAX DEDUCTIBILITY.—A statement that—

''(A) the''; and

(B) by striking the period at the end and inserting the following: ''; and

''(B) in any case in which the extension of credit exceeds the fair market value (as defined under the Internal Revenue Code of 1986) of the dwelling, the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes.''.

(2) CREDIT ADVERTISEMENTS.—Section 147(b) of the Truth in Lending Act (15 U.S.C. 1665b(b)) is amended—

(A) by striking ''If any'' and inserting the following:

''(1) IN GENERAL.—If any''; and

(B) by adding at the end the following:

''(2) CREDIT IN EXCESS OF FAIR MARKET VALUE.—Each advertisement described in subsection (a) that relates to an extension of credit that may exceed the fair market value of the dwelling, and which advertisement is disseminated in paper form to the public or through the Internet, as opposed to by radio or television, shall include a clear and conspicuous statement that—

''(A) the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes; and

''(B) the consumer should consult a tax adviser for further information regarding the deductibility of interest and charges.''.

(b) NON-OPEN END CREDIT EXTENSIONS.—

(1) CREDIT APPLICATIONS.—Section 128 of the Truth in Lending Act (15 U.S.C. 1638) is amended—

(A) in subsection (a), by adding at the end the following:

''(15) In the case of a consumer credit transaction that is secured by the principal dwelling of the consumer, in which the extension of credit may exceed the fair market value of the dwelling, a clear and conspicuous statement that—

''(A) the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes; and

''(B) the consumer should consult a tax adviser for further information regarding the deductibility of interest and charges.''; and

(B) in subsection (b), by adding at the end the following:

''(3) In the case of a credit transaction described in paragraph (15) of subsection (a), disclosures required by that paragraph shall be made to the consumer at the time of application for such extension of credit.''.

(2) CREDIT ADVERTISEMENTS.—Section 144 of the Truth in Lending Act (15 U.S.C. 1664) is amended by adding at the end the following:

''(e) Each advertisement to which this section applies that relates to a consumer credit transaction that is secured by the principal dwelling of a consumer in which the extension of credit may exceed the fair market value of the dwelling, and which advertisement is disseminated in paper form to the public or through the Internet, as opposed to by radio or television, shall clearly and conspicuously state that—

''(1) the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes; and

''(2) the consumer should consult a tax adviser for further information regarding the deductibility of interest and charges.''.

(c) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the amendments made by this section.

(2) EFFECTIVE DATE.—Regulations issued under paragraph (1) shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1303. DISCLOSURES RELATED TO "INTRODUCTORY RATES".

(a) INTRODUCTORY RATE DISCLOSURES.—Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended by adding at the end the following:

''(6) ADDITIONAL NOTICE CONCERNING 'INTRODUCTORY RATES'.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), an application or solicitation to open a credit card account and all promotional materials accompanying such application or solicitation for which a disclosure is required under paragraph (1), and that offers a temporary annual percentage rate of interest, shall—

''(i) use the term 'introductory' in immediate proximity to each listing of the temporary annual percentage rate applicable to such account, which term shall appear clearly and conspicuously;

''(ii) if the annual percentage rate of interest that will apply after the end of the temporary rate period will be a fixed rate, state in a clear and conspicuous manner in a prominent location closely proximate to the first listing of the temporary annual percentage rate (other than a listing of the temporary annual percentage rate in the tabular format described in section 122(c)), the time period in which the introductory period will end and the annual percentage rate that will apply after the end of the introductory period; and

''(iii) if the annual percentage rate that will apply after the end of the temporary rate period will vary in accordance with an index, state in a clear and conspicuous manner in a prominent location closely proximate to the first listing of the temporary annual percentage rate (other than a listing in the tabular format prescribed by section 122(c)), the time period in which the introductory period will end and the rate that will apply after that, based on an annual percentage rate that was in effect within 60 days before the date of mailing the application or solicitation.

''(B) EXCEPTION.—Clauses (ii) and (iii) of subparagraph (A) do not apply with respect to any listing of a temporary annual percentage rate on an envelope or other enclosure in which an application or solicitation to open a credit card account is mailed.

''(C) CONDITIONS FOR INTRODUCTORY RATES.—An application or solicitation to open a credit card account for which a disclosure is required under paragraph (1), and that offers a temporary annual percentage rate of interest shall, if that rate of interest is revocable under any circumstance or upon any event, clearly and conspicuously disclose, in a prominent manner on or with such application or solicitation—

''(i) a general description of the circumstances that may result in the revocation of the temporary annual percentage rate; and

''(ii) if the annual percentage rate that will apply upon the revocation of the temporary annual percentage rate—

''(I) will be a fixed rate, the annual percentage rate that will apply upon the revocation of the temporary annual percentage rate; or

''(II) will vary in accordance with an index, the rate that will apply after the temporary rate, based on an annual percentage rate that was in effect within 60 days before the date of mailing the application or solicitation.

''(D) DEFINITIONS.—In this paragraph—

''(i) the terms 'temporary annual percentage rate of interest' and 'temporary annual percentage rate' mean any rate of interest applicable to a credit card account for an introductory period of less than 1 year, if that rate is less than an annual percentage rate that was in effect within 60 days before the date of mailing the application or solicitation; and

''(ii) the term 'introductory period' means the maximum time period for which the temporary annual percentage rate may be applicable.

''(E) RELATION TO OTHER DISCLOSURE REQUIREMENTS.—Nothing in this paragraph may be construed to supersede subsection (a) of section 122, or any disclosure required by paragraph (1) or any other provision of this subsection.''.

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of section 127(c)(6) of the Truth in Lending Act, as added by this section.

(2) EFFECTIVE DATE.—Section 127(c)(6) of the Truth in Lending Act, as added by this section, and regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1304. INTERNET-BASED CREDIT CARD SOLICITATIONS.

(a) INTERNET-BASED SOLICITATIONS.—Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended by adding at the end the following:

''(7) INTERNET-BASED SOLICITATIONS.—

''(A) IN GENERAL.—In any solicitation to open a credit card account for any person under an open end consumer credit plan using the Internet or other interactive computer service, the person making the solicitation shall clearly and conspicuously disclose—

''(i) the information described in subparagraphs (A) and (B) of paragraph (1); and

''(ii) the information described in paragraph (6).

''(B) FORM OF DISCLOSURE.—The disclosures required by subparagraph (A) shall be—

''(i) readily accessible to consumers in close proximity to the solicitation to open a credit card account; and

''(ii) updated regularly to reflect the current policies, terms, and fee amounts applicable to the credit card account.

''(C) DEFINITIONS.—For purposes of this paragraph—

''(i) the term 'Internet' means the international computer network of both Federal and non-Federal interoperable packet switched data networks; and

''(ii) the term 'interactive computer service' means any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions.''.

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of section 127(c)(7) of the Truth in Lending Act, as added by this section.

(2) EFFECTIVE DATE.—The amendment made by subsection (a) and the regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1305. DISCLOSURES RELATED TO LATE PAYMENT DEADLINES AND PENALTIES.

(a) DISCLOSURES RELATED TO LATE PAYMENT DEADLINES AND PENALTIES.—Section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b)) is amended by adding at the end the following:

''(12) If a late payment fee is to be imposed due to the failure of the obligor to make payment on or before a required payment due date, the following shall be stated clearly and conspicuously on the billing statement:

''(A) The date on which that payment is due or, if different, the earliest date on which a late payment fee may be charged.

''(B) The amount of the late payment fee to be imposed if payment is made after such date.''.

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of section 127(b)(12) of the Truth in Lending Act, as added by this section.

(2) EFFECTIVE DATE.—The amendment made by subsection (a) and regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1306. PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.

(a) PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.—Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end the following:

''(h) PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.—A creditor of an account under an open end consumer credit plan may not terminate an account prior to its expiration date solely because the consumer has not incurred finance charges on the account. Nothing in this subsection shall prohibit a creditor from terminating an account for inactivity in 3 or more consecutive months.''.

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of section 127(h) of the Truth in Lending Act, as added by this section.

(2) EFFECTIVE DATE.—The amendment made by subsection (a) and regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1307. DUAL USE DEBIT CARD.

(a) REPORT.—The Board may conduct a study of, and present to Congress a report containing its analysis of, consumer protections under existing law to limit the liability of consumers for unauthorized use of a debit card or similar access device. Such report, if submitted, shall include recommendations for legislative initiatives, if any, of the Board, based on its findings.

(b) CONSIDERATIONS.—In preparing a report under subsection (a), the Board may include—

(1) the extent to which section 909 of the Electronic Fund Transfer Act (15 U.S.C. 1693g), as in effect at the time of the report, and the implementing regulations promulgated by the Board to carry out that section provide adequate unauthorized use liability protection for consumers;

(2) the extent to which any voluntary industry rules have enhanced or may enhance

the level of protection afforded consumers in connection with such unauthorized use liability; and

(3) whether amendments to the Electronic Fund Transfer Act (15 U.S.C. 1693 et seq.), or revisions to regulations promulgated by the Board to carry out that Act, are necessary to further address adequate protection for consumers concerning unauthorized use liability.

SEC. 1308. STUDY OF BANKRUPTCY IMPACT OF CREDIT EXTENDED TO DEPENDENT STUDENTS.

(a) STUDY.—

(1) IN GENERAL.—The Board shall conduct a study regarding the impact that the extension of credit described in paragraph (2) has on the rate of bankruptcy cases filed under title 11, United States Code.

(2) EXTENSION OF CREDIT.—The extension of credit described in this paragraph is the extension of credit to individuals who are—

(A) claimed as dependents for purposes of the Internal Revenue Code of 1986; and

(B) enrolled within 1 year of successfully completing all required secondary education requirements and on a full-time basis, in postsecondary educational institutions.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Board shall submit to the Senate and the House of Representatives a report summarizing the results of the study conducted under subsection (a).

SEC. 1309. CLARIFICATION OF CLEAR AND CONSPICUOUS.

(a) REGULATIONS.—Not later than 6 months after the date of enactment of this Act, the Board, in consultation with the other Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), the National Credit Union Administration Board, and the Federal Trade Commission, shall promulgate regulations to provide guidance regarding the meaning of the term ''clear and conspicuous'', as used in subparagraphs (A), (B), and (C) of section 127(b)(11) and clauses (ii) and (iii) of section 127(c)(6)(A) of the Truth in Lending Act.

(b) EXAMPLES.—Regulations promulgated under subsection (a) shall include examples of clear and conspicuous model disclosures for the purposes of disclosures required by the provisions of the Truth in Lending Act referred to in subsection (a).

(c) STANDARDS.—In promulgating regulations under this section, the Board shall ensure that the clear and conspicuous standard required for disclosures made under the provisions of the Truth in Lending Act referred to in subsection (a) can be implemented in a manner which results in disclosures which are reasonably understandable and designed to call attention to the nature and significance of the information in the notice.

TITLE XIV—GENERAL EFFECTIVE DATE; APPLICATION OF AMENDMENTS

SEC. 1401. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as otherwise provided in this Act, this Act and the amendments made by this Act shall take effect 180 days after the date of enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—

(1) IN GENERAL.—Except as otherwise provided in this Act and paragraph (2), the amendments made by this Act shall not apply with respect to cases commenced under title 11, United States Code, before the effective date of this Act.

(2) CERTAIN LIMITATIONS APPLICABLE TO DEBTORS.—The amendments made by sections 308, 322, and 330 shall apply with respect to cases commenced under title 11, United States Code, on or after the date of the enactment of this Act.

The SPEAKER pro tempore. The gentleman from Pennsylvania (Mr. GEKAS) will be recognized for 30 minutes in support of the motion, and the gentleman from New York (Mr. NADLER) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. GEKAS).

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume. The upshot of all this parliamentary movement that we have witnessed just now is to bring back to the Chamber the conference report on the bankruptcy reform bill without the odious language that caused such a bitter debate earlier in the day which in effect would remove the abortion language altogether. In addition, it would remove the language that would call for new judges to be appointed in various jurisdictions, not because of the substance of that portion of the provisions but because this would eliminate the possibility of a point of order being lodged on the budgetary portion of the bill. So in effect we have a clean conference report without the judges and without the abortion clinic language vested in it.

Mr. Speaker, I reserve the balance of my time.

PARLIAMENTARY INQUIRIES

Mr. NADLER. Mr. Speaker, I have a parliamentary inquiry before I start my 30 minutes.

The SPEAKER pro tempore. The gentleman may inquire.

Mr. NADLER. Mr. Speaker, we have just been handed a 472-page bill labeled H.R. 5745. My inquiry is, is this brand new bill what is now before the House that none of us have had a chance to read?

The SPEAKER pro tempore. That is the text incorporatd by reference in the pending motion.

Mr. NADLER. The motion is to consider this bill?

The SPEAKER pro tempore. The text is incorporated by reference in the motion.

Mr. NADLER. My next parliamentary inquiry is, is this brand new 472-page bill that no one has had a chance to read, including me, that we just saw for the first time about 5 minutes ago identical to anything we have ever seen before, or is this a brand new bill that we are going to debate sight unseen?

The SPEAKER pro tempore. That is not a parliamentary inquiry.

Mr. NADLER. Is this a new bill or is this a copy of something else?

The SPEAKER pro tempore. The bill was introduced today.

Mr. NADLER. But my question is, is this the same as something else that we have seen before or is it new, since we have not had a chance to read it?

The SPEAKER pro tempore. That is not a parliamentary inquiry. That is a matter for debate.

Mr. NADLER. Then I will ask the gentlemen, somebody over there, to yield and answer that question.

Mr. FRANK. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman may inquire.

Mr. FRANK. The gentleman referred to this as a conference report. Conference reports are handled under one set of procedures. Is this in fact still a conference report, and will it be treated in the other body that way, or is it a brand new bill, to be treated as a brand new bill?

The SPEAKER pro tempore. This motin contains a proposed amendment to the Senate amendment. It is not a conference report.

Mr. FRANK. So it is not a conference report, and therefore if we were to pass it, it does not have the status of a conference report when it goes to the other body?

The SPEAKER pro tempore. That is correct.

Mr. NADLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are told, and we have to take it on faith, that this 472-page amendment, although it says H.R. 5745, it is a new bill, is the same as the conference report minus the Schumer amendment, minus the judgeships, but otherwise it is supposedly identical. We have to take on faith that this brand new 472-page bill that we have never seen before is in fact the same as the conference report text minus the two differences we have been told about. We have to take it on faith because we have not been given any opportunity at all to read the bill.

Not being satisfied with the humiliation of having one of their top priority bills defeated by their own Members earlier today, the Republican leadership now insults our intelligence by wasting our time at one o'clock in the morning with a bill they know the Senate will not even glance at. The conference report whose rule was defeated earlier today and which was just ruled out of order a few minutes ago was the result of months of painstaking negotiations with the other body. Now we are going to undo the results of all those negotiations in a few minutes and produce a brand new bill that we know the Senate will not even glance at. Mr. Speaker, even everyone, even the banks who have paid for this legislation with cold hard cash, know that this midnight stunt cannot result in a live bill. I find it hard to believe that even the Members putting on this little show can believe that it is intended even vaguely seriously.

□ 0110

It does not really matter how Members vote on this bill tonight, because the bill is not going anywhere, although I am sure the vote totals will be hastily inserted into a press release that has already been drafted.

I am not going to get into the merits of the bill. We debated the merits of the bill this afternoon, although I will note that the 28 new bankruptcy judges and the extensions of temporary judgeships that will otherwise expire that were contained in the conference report have been removed.

Now, with the great increase in bankruptcy filings that supposedly motivated the bill in the first place, everyone concedes that we need those judicial positions in order to process all the bankruptcy proceedings, especially with all the new requirements that will be imposed by this bill, which will necessitate a lot of new judicial time, according to everyone.

I find it interesting that with all the wailing and gnashing of teeth about the terrible impact on justice of the Senate's failure to confirm promptly the President's judicial nominees, we are suddenly eliminating 28 judges and many existing judges who will now be permitted to expire for no apparent reason. Why are the Republicans suddenly eliminating all these, everyone admits, needed judicial positions? Now, I understand the political necessity of paying obeisance and bowing down deeply to the religious right by eliminating the Schumer amendment, but why eliminate these judicial positions that are, everyone concedes, essential?

It is no wonder that the voters are cynical about Congress, when the leadership here, the Republican leadership, insists on putting on circuses purely to entertain the lobbyists who have put up the money behind this bill. We know this bill will not pass the Senate. It will not go to the President. It is the legislative equivalent of a fraternity stunt.

Has anyone, by the way, even read this brand new bill, these 457 new pages? I would ask anyone who has read this bill to raise their hand.

I do not see any hands raised.

I know the voters are bursting with pride as they watch this at 1 in the morning; but the fact is, this is a legislative stunt for no purpose except saying to the lobbyists, we passed it, even though we passed it in a form we know the Senate will not glance at and we are just wasting everyone's time.

Mr. Speaker, I will not waste further time by getting into the merits of this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. GEKAS. Mr. Speaker, I yield such time as he may consume to the gentleman from Delaware (Mr. CASTLE).

Mr. CASTLE. Mr. Speaker, I would like to enter into a colloquy. I had an earlier discussion with the gentleman from Missouri (Mr. BLUNT), who is not on the floor as I can see now, the new whip, if somebody knows where he is.

I would like to discuss this with the sponsor of the legislation. I am concerned about the new judges. To me it is absurd that we are at this point anyhow. We should have passed this bill earlier today.

But of those 28 new judges, four of them would be in Delaware. As the gentleman knows, Delaware's bankruptcy court is extraordinarily busy, and even after the four new judges would still have the highest caseload of any court in the United States of America. As it is now, we are borrowing courts from actually the gentleman's jurisdiction, from Pennsylvania, on a regular basis to handle the bankruptcy matters there.

I understand that this was deleted from the bill because it could present apparently some sort of budgetary point of order, as I understand the circumstances. There are 28 new judges, and I think there are some expired judges there. Do we know how many expired judge terms there are? Does anyone on staff know?

Mr. GEKAS. Mr. Speaker, will the gentleman yield?

Mr. CASTLE. I yield to the gentleman from Pennsylvania.

Mr. GEKAS. We are not certain of that. Let me assure the gentleman that indeed this deletion of the judges does not in any way sway us away from our commitment to have these judges appointed and to assume their positions as bankruptcy judges. This is, just as we outlined, necessary in order to get the main body of the bill on bankruptcy reform to the vote for the Members. So we reassure the gentleman that the commitment to the judges is intact and that will be part of a final solution to this problem.

Mr. CASTLE. Mr. Speaker, reclaiming my time, the gentleman from Missouri (Mr. BLUNT) is here now. If I could inquire of the gentleman as part of this inquiry his representations concerning these new judges and what would happen to them in the future, if this legislation were to pass tonight and then were to pass the Senate tomorrow.

Mr. BLUNT. Mr. Speaker, will the gentleman yield?

Mr. CASTLE. I yield to the gentleman from Missouri.

Mr. BLUNT. The gentleman makes a good point. Because of the passage of the legislation, I think we would need to add the judges as the legislation did that came back from the conference committee. I think that was a wise addition, and the gentleman certainly has my commitment, and I believe the commitment of the majority of our colleagues, would be my thought, that we would follow up with the sections of this bill that relate to judges, assuming that the bill is passed in the other body.

Mr. CASTLE. Well, reclaiming my time, my sense is that this bill will not pass in the other body, and perhaps in this sense it should not pass, and I think it should have passed today. As it is, I am getting some acknowledgment over there on that side.

But I think it is extraordinarily important. I cannot stress how important this is. I cannot stress how stressed our courts are as a result of this. It has been very disruptive to the entire district court practice, because the district court judges have actually had to do this in my State and a lot of other jurisdictions that are missing judges and with expired terms.

So we have a tremendous judicial problem in this country, and this needs to be acted on immediately. Again, I think bankruptcy is probably going to be a subject for next year. The way it has been handled today, it will not get through the House and Senate. But if it did, the aspect of the judges absolutely has to take the highest priority at the earliest possible time.

Mr. BLUNT. Mr. Speaker, if the gentleman will yield further, I agree totally with the gentleman. I think it became clear during the further discussion of the bill that we sent to the other body and during the conference that we needed to deal with this question of judges as well, and certainly would believe that that would follow any legislation that passed that did not include these judges.

Mr. CASTLE. Mr. Speaker, reclaiming my time, I thank both the gentlemen. I am not entirely appeased by what I heard. Obviously, I believe the judges should be in there, but I do take your word for it on that basis.

Again, this is legislation, in my judgment, we should not be considering at 1:15 in the morning. It should have happened a lot earlier in the day, and it would be over in the Senate already. But so be it. Hopefully, the word of everybody tonight will be held up.

Mr. NADLER. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK. Mr. Speaker, as I realized how much time was going to be wasted on this effort to allow some Members to get back in the graces of some of their financial supporters whom they had to alienate, and as we were lionizing, justifiably, Mr. Morris, the refrain kept going through my head, Hey, Mr. Tally Clerk, tally up our votes; daylight comes and we want to go home.

We cannot go home because here is what happened: the bankruptcy bill came up, and some Members on the Republican side had to choose between people who are interested in vigorously protesting abortion and the financial community; and they decided to support the people who vigorously protest abortion, which meant that the bill died.

Now, there is no way this bill is going to pass. Understand that what they did then was this. Let us be clear about the sequence. The bill died because some of the Members there were torn between the people opposed to abortion and the people with money. And you would have thought they could have waited until maybe February or March to get back in the graces of the people with money. But apparently the separation anxiety on the Republican side of not being continuously in the bosom, if not the pocket, of large financial interests, was so great that they had to come up with, and let me use the technical parliamentary term, the cockamamiest scheme I have ever seen on the floor of a legitimate democratic legislature.

You bring a bill to the floor, it is losing, and you do everything you can to

get people to vote for it. And when you cannot get them to vote for it, you then decide that what you try to get them to vote for violates the rules of the House. So you bring back your own bill, which violated the rules of the House, and say to people, well, you know these rules, maybe they are more important than we thought.

So you then make a point of order against your own bill to change it, knock out a very important provision about judges, the gentleman from Delaware asked a legitimate question, he gets a little bit of mumbo-jumbo because none of this makes any sense, and he sits down with a little grumble, and now you want to vote to send this bill to the Senate. People should understand, this will go to the Senate not as a conference report, but as a standalone bill.

□ 0120

It will pass in the other body if someone gets unanimous consent to pass it.

Now, I think frankly there are a lot of things more likely to get unanimous consent than this. No one thinks that this bill will even be taken up in the Senate. So here is what puzzles me. Yes, I understand that people in the financial industry to whom many of you are attached emotionally, politically, and in any other way, they are distressed that you voted no, and they want you now to vote yes, so you can vote both ways on the same bill in the same evening. Not that bad.

But here is the problem. When the bill had a chance to pass, you voted to kill it. Now, when it is dead, you vote to pass it. And I got to say this, I have to ask you this question, I have to ask you this question because I am interested in your techniques. For this you are going to get credit? I mean, if you can persuade, and let me say in tribute, if you can persuade these sophisticated financial people to give you credit for something this phony, then you are selling too cheap. Why do you not get a platinum credit card with negative interest rates? I mean, you are going to these people and they are going to accept this? You killed the bill when it could have passed, and now you are going through this, it is not a charade because there is talking, but I do not know what it is.

Let me just say, Mr. Speaker, just to summarize, Members kill a bill because of some honest concern about the first amendment rights of people who are protesting. I honor that. Do not degrade that. Stay with that. What you have done is to transform this statement of principle by then bringing back the bill you tried to get people to vote for, announcing that your own bill violated the Rules of the House, now alleging allegiance to the Rules of the House, and engaging in the most transparent, cynical, legislative maneuver I have ever seen, giving Members a chance to switch their votes to be recorded on a bill to make contributors and other financial interests happy in the full knowledge that it will end here.

Mr. Speaker, politics is a nice business, and we are all in it. But this is so cynical, so an interruption of the legislative process that you ought to be embarrassed about it.

Mr. GEKAS. Mr. Speaker, I reserve the balance of my time.

Mr. NADLER. Mr. Speaker, the total absurdity of the situation having been well explained by the gentleman from Massachusetts, I yield back the balance of our time.

Mr. GEKAS. Mr. Speaker, I yield 30 seconds to the gentleman from California (Mr. THOMAS).

Mr. THOMAS. Mr. Speaker, I thank the gentleman for yielding me this time.

I too was moved by the gentleman from Massachusetts and I observed how much his side of the aisle thought he made cogent points, and as we move to the vote I am going to see how many people support the position with their vote.

Mr. GEKAS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the motion.

The previous question was ordered.

PARLIAMENTARY INQUIRY

Mr. NADLER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman will state it.

Mr. NADLER. Mr. Speaker, before I yielded back the balance of my time, the gentleman from Pennsylvania had yielded back the balance of his time, had he not?

The SPEAKER pro tempore. No. The gentleman reserved the balance of his time.

PARLIAMENTARY INQUIRY

Ms. JACKSON-LEE of Texas. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentlewoman will state it.

Ms. JACKSON-LEE of Texas. The inquiry is to be clear on what the Members are voting on. Are they not voting on a bill that we just saw with no judges to rule on the law?

The SPEAKER pro tempore. The gentlewoman is not stating a parliamentary inquiry.

Ms. JACKSON-LEE of Texas. The parliamentary inquiry is, Mr. Speaker, is this bill without any judicial support in terms of the judges provision? Is that not in the bill?

The SPEAKER pro tempore. That is not a parliamentary inquiry.

The question is on the motion offered by the gentleman from Pennsylvania (Mr. GEKAS).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. FRANK. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 244, noes 116, not voting 72, as follows:

[Roll No. 484]

AYES—244

Aderholt
Akin
Andrews
Armey
Baca
Bachus
Baker
Bartlett
Bass
Bereuter
Berkley
Berry
Biggert
Bilirakis
Bishop
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Boswell
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Carson (OK)
Castle
Chabot
Chambliss
Coble
Collins
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis, Tom
Deal
DeLay
DeMint
Deutsch
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Etheridge
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Gekas
Gibbons
Gilchrest
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Gutknecht
Hall (TX)
Hansen
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Hulshof
Hunter
Inslee
Isakson
Israel
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
Kind (WI)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Lampson
Larsen (WA)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Maloney (CT)
Maloney (NY)
Manzullo
Matheson
McCarthy (NY)
McHugh
McIntyre
McKeon
Meeks (NY)
Menendez
Mica
Miller, Dan
Miller, Jeff
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Myrick
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Ortiz
Osborne
Ose
Otter
Pallone
Paul
Pence
Peterson (MN)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rivers
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Royce
Ryan (WI)
Ryun (KS)
Sabo
Sandlin
Schaffer
Schrock
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (WA)
Snyder
Souder
Stearns
Stenholm
Strickland
Sullivan
Sweeney
Tancredo
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Turner
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)

NOES—116

Abercrombie
Ackerman
Allen
Baird
Baldwin
Barrett
Bentsen
Berman
Blumenauer
Boucher
Brady (PA)
Brown (FL)
Brown (OH)
Capuano
Cardin
Clayton
Clyburn
Conyers
Costello
Coyne
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Dooley
Doyle
Engel
Eshoo
Evans

Farr
Fattah
Filner
Frank
Frost
Gonzalez
Green (TX)
Gutierrez
Hilliard
Hinchey
Hoeffel
Holden
Holt
Honda
Hoyer
Jackson (IL)
Jackson-Lee (TX)
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kleczka
Kucinich
Langevin
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Lynch
Matsui
McCollum
McDermott
McGovern
McNulty
Meehan
Millender-McDonald
Miller, George
Nadler
Obey
Olver
Owens
Pastor
Payne
Pelosi
Rahall
Reyes
Rodriguez
Roybal-Allard
Rush
Sanders
Schakowsky
Schiff
Scott
Serrano
Solis
Spratt
Stupak
Tauscher
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Waters
Watson (CA)
Weiner
Wexler
Woolsey
Wu

NOT VOTING—72

Baldacci
Ballenger
Barcia
Barr
Barton
Becerra
Blagojevich
Bonior
Borski
Boyd
Callahan
Carson (IN)
Clay
Clement
Combest
Condit
Cooksey
Davis, Jo Ann
Diaz-Balart
Doolittle
Ehrlich
Ford
Ganske
Gephardt
Gillmor
Gilman
Gordon
Greenwood
Grucci
Harman
Hastings (FL)
Hefley
Hinojosa
Hooley
Houghton
Hyde
Issa
Jefferson
Johnson, Sam
King (NY)
LaFalce
Lantos
Lipinski
Markey
Mascara
McCarthy (MO)
McCrery
McInnis
McKinney
Meek (FL)
Miller, Gary
Murtha
Oberstar
Oxley
Pascrell
Peterson (PA)
Rangel
Roukema
Sanchez
Sawyer
Saxton
Sensenbrenner
Slaughter
Smith (TX)
Stark
Stump
Sununu
Toomey
Watt (NC)
Waxman
Wynn
Young (FL)

□ 0202

Mrs. CAPPS and Messrs. PRICE of North Carolina, LAMPSON and SHERMAN changed their vote from ''no'' to ''aye.''

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. GRUCCI. Mr. Speaker, I apologize for my absence on November 13 and 14, 2002. Should I have been present, I would have voted in the following manner on these specific rollcall votes:

November 13, 2002: rollcall vote No. 471—''nay''; rollcall vote No. 472—''yea''; and rollcall vote No. 473—''nay''.

November 14, 2002: rollcall vote No. 478—''yea''; rollcall vote No. 479—''yea''; rollcall vote No. 480—''yea''; rollcall vote No. 481—''yea''; rollcall vote No. 482—''yea''; rollcall vote No. 483—''yea''; and rollcall vote No. 484—''yea''.

MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed with an amendment in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 3529. An act to provide tax incentives for economic recovery and assistance to displaced workers.

H.R. 5469. An act to amend title 17, United States Code, with respect to the statutory license for webcasting, and for other purposes.

The message also announced that the Senate has passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 4664. An act to authorize appropriations for fiscal years 2003, 2004, and 2005 for the National Science Foundation, and for other purposes.

The message also announced that the Senate has passed bills and a joint resolution of the following titles in which the concurrence of the House is requested:

S. 1742. An act to prevent the crime of identity theft, mitigate the harm to individuals victimized by identity theft, and for other purposes.

S. 2712. An act to authorize economic and democratic development assistance for Afghanistan and to authorize military assistance for Afghanistan and certain other foreign countries.

S.J. Res. 53. Joint resolution relative to the convening of the first session of the One Hundred Eighth Congress.

LAYING ON TABLE SUNDRY HOUSE RESOLUTIONS

Mr. DREIER. Mr. Speaker, I ask unanimous consent that the following resolutions be laid on the table: H. Res. 586, H. Res. 587, H. Res. 601, H. Res. 603, and H. Res. 608.

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentleman from California?

There was no objection.

TRIBUTE TO THE HONORABLE GEORGE GEKAS, MEMBER OF CONGRESS

(Mr. DELAY asked and was given permission to address the House for 1 minute.)

Mr. DELAY. Mr. Speaker, I take this time to honor the man who just finished the bill on bankruptcy reform, the gentleman from Pennsylvania (Mr. GEKAS) who has served in this body for 20 years, has worked on the bankruptcy reform bill for over 10 years, probably the whole 20 years that he has been in Congress, just stood up here and took all the abuse that could be hurled at him and showed what kind of man he was and passed that bill and sent it over to the Senate where we hope that it will receive the consideration that it deserves.

This is a man that has worked so hard, has been so collegial with the other Members of this body, who lost his last election. Tonight he is closing down the Congress with a bill that he has worked on his entire career and it is sort of indicative of who we are and what we are here. He is a man that is so humble that he would not even stick around on the floor tonight. He went and left the floor after passing his bill because he knows that many other Members had worked on the bill. He is a humble man, a man of great musical talent, a man that has served on the Committee on the Judiciary, went through all the things that the Committee on the Judiciary works on and not the least of which was the impeachment, a very difficult time for this House, was a stalwart, and the kind of legislation that came out of that committee, was a subcommittee chairman for the last 8 years and honored this House by his presence and honored this House by his service, a very distinguished service that we greatly appreciate. We honor tonight GEORGE GEKAS who closes the 107th Congress by passing a bill that he has worked on for so long.

Mr. TOM DAVIS of Virginia. Mr. Speaker, will the gentleman yield?

Mr. DELAY. I yield to the gentleman from Virginia.

Mr. TOM DAVIS of Virginia. Let me join my friend from Texas in also honoring GEORGE GEKAS and his 20 years of service to this body. I think the crowning achievement this evening was an overwhelming vote for this bankruptcy bill. The objectionable parts of this bill were not inserts that he put in there as part of the political sausage-making that goes on between the House and the Senate; but the overwhelming 244–116 vote I think speaks well for the kind of bill that he worked with his colleagues across party lines to put together.

A graduate of Dickinson from Harrisburg, Pennsylvania, he was very underspoken, not just soft-spoken, but understated, was someone who was not always out there getting the credit, issuing press releases, but he was here. He had one of the best attendance records in the House, often driving between Harrisburg and Washington, D.C., between sessions, getting back to his district as often as possible. He was an impeachment manager as the majority whip noted and had a distinguished career in the Committee on the Judiciary where he was involved in the intricacies of many bills that came out of there. His 20 years of service here I think are a reflection of the dedication that he put into public service which preceded his election to Congress. He will be missed from this body. I will miss him. Again, I congratulate him for this crowning achievement, the passage of this bankruptcy bill tonight.

Mr. YOUNG of Alaska. Mr. Speaker, will the gentleman yield?

Mr. DELAY. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Speaker, I thank the gentleman for yielding. I can only say, Members may not know that GEORGE is a person that can speak three different languages. He served in the military with honor as an officer. He has probably the greatest knowledge of anybody I have ever met. To have GEORGE GEKAS as a dear friend, as

he was and is, is something I will always cherish. We are two opposites. I am the barbarian and he is the intellect. But we worked together. I watched him on this floor especially during the impeachment time, the dignity he brought and the knowledge that he had, the legal background that he used; I have the greatest respect for his abilities. I cherished his friendship and tonight was a crowning night for him. We did lose him, but we really have never lost him because he will always be in our hearts.

Mr. DELAY. I appreciate the gentleman's comments.

Mr. NUSSLE. Mr. Speaker, will the gentleman yield?

Mr. DELAY. I yield to the gentleman from Iowa.

Mr. NUSSLE. Mr. Speaker, I would also like to add my voice to the many who praise GEORGE GEKAS tonight on his many accomplishments in his career. He is one of the ones who has encouraged those of us who have tried to reform the budget process. Every year he introduces the bill on the automatic continuing resolution which might have come in handy maybe this year. Who knows? At almost 2 o'clock in the morning, maybe we would have been done a lot sooner. But obviously with controversy but always with a good heart and a cheerful heart. He also demonstrated to me that we also have a personal side to all of us. We are legislators, we are chairmen, we get to be big shots on the floor once in a while. But GEORGE was also the kind of guy that liked to go and tickle the ivories and play the piano. He is a frustrated musician along with a few of the rest of us around here. He had a personal side to him, too, which was fun to get to know even for someone who did not serve with him as long as some of the rest of my colleagues. I congratulate him on his bill tonight and wish him Godspeed.

Mr. NADLER. Mr. Speaker, will the gentleman yield?

Mr. DELAY. I yield to the gentleman from New York.

Mr. NADLER. I thank the gentleman for yielding.

Mr. Speaker, I want to join in the tribute to the gentleman from Pennsylvania (Mr. GEKAS) tonight. The gentleman from Pennsylvania served for 4 years as chairman of the Subcommittee on Administrative and Commercial Law; I served for those 4 years as the ranking Democratic member. Though we often disagreed and obviously we disagreed on the bill we just passed, I must comment that the gentleman from Pennsylvania conducted the subcommittee with unfailing promptness and with unfailing courtesy and consideration despite, on some occasions, considerable provocation from me. I want to pay tribute to him on this occasion. We will miss him.

Mr. LEWIS of California. Mr. Speaker, will the gentleman yield?

Mr. DELAY. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Speaker, I appreciate the majority whip yielding. George Gekas is a friend of all of ours. The gentleman from Pennsylvania has made a great contribution to the House. It has been my privilege to not just be his friend but to work very intently on his behalf. He is a great guy. We will miss him in the House. He has made a great contribution to the House. Indeed, I appreciate very much the gentleman from Texas raising this point at this moment as he has had this fantastic success at the end of his legislative career.

Mr. BOEHLERT. Mr. Speaker, will the gentleman yield?

Mr. DELAY. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Speaker, I want to thank the gentleman for initiating this tribute. It is well deserved, for a guy that I have had the pleasure of knowing for 20 years. We came together in 1982 in the freshman class. Over those 20 years, I have had a chance to get to know this distinguished and very fine gentleman very well. He is a versatile guy in so many respects. He is a many-dimensional guy and one who has devoted a generation to service in the House and to service of the people of Pennsylvania. He will be missed. I think it is so fitting that he came in here as a winner in 1982 and he leaves here as a winner tonight with his signature legislation.

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Mr. DELAY. Mr. Speaker, I appreciate the gentleman's remarks. I yield to the gentleman from Michigan (Mr. EHLERS).

Mr. EHLERS. Mr. Speaker, I thank the gentleman for yielding. I am a relative newcomer here, but I have always enjoyed Congressman GEKAS in the many discussions we have had. He is very proud of his Greek heritage, loves to serve us the Greek delicacies that we all enjoy and is also a superb piano player. But beyond that he is an outstanding Congressman, and at one time I had a bill before his subcommittee. He treated me with fairness, with honor, and went above and beyond the call of duty of a chairman in helping me get my legislation through, and I still remember that as a newcomer to have someone with that maturity and that experience be willing to help me in my efforts before his subcommittee. He is a great gentleman. We are going to miss him here, but at least he goes out with a crowning achievement and we can all be proud of that.

Mr. DELAY. Mr. Speaker, I appreciate the gentleman from Michigan.

I think the gentleman from California (Mr. DREIER) would like me to yield.

Mr. DREIER. Mr. Speaker, I thank my friend for yielding. And, Mr. Speaker, I want to join in this tribute to our friend GEORGE GEKAS, and my friend from Iowa (Mr. NUSSLE) just mentioned the fact that Mr. GEKAS regularly talked about the need for us to have an automatic continuing resolution, and it was the Committee on Rules that he came before on a regular basis, and I remember one time where on every single appropriations bill, he would come before the Committee on Rules making the case. So he was dogged in his pursuit of that just as he was in his pursuit of bringing about bankruptcy reform, and we all know that this process has been a very messy, difficult one, but it is exactly as James Madison envisaged it, and I think that he was looking down and saw GEORGE GEKAS work through this process over a long period of time.

Mr. Speaker, I would also, when I think about GEORGE GEKAS, like to take a moment to mention another of our colleagues who is retiring, my very good friend from California, STEVE HORN. When I think of GEORGE GEKAS, I think of STEVE HORN, another well-educated work horse. Steve Horn is an individual who came to this institution with an amazing background, having been a college president, and he is someone who, because of his tremendous institutional memory having worked as an aid to former Senator Tom Kuchel of California, he brought an understanding of the work of the other body and an expertise which will be sorely missed.

As I think back and I see my friend from Virginia (Mr. TOM DAVIS) here, I am reminded of the work that we did on the issue of Y2K, and he will recall that our colleague Mr. HORN began very early having a wide range of hearings focusing on the governmental challenge of dealing with the turn of the century and the Y2K issue. And I want to say that he and his wonderful wife Nini have worked night and day representing a very difficult and challenging area in southern California but at the same time understanding the responsibility that they have had in this institution. So I would just like to say, Mr. Speaker, that he will be sorely missed and I certainly wish him well in his retirement. And I thank my friend for yielding.

Mr. TOM DAVIS of Virginia. Mr. Speaker, will the gentleman yield?

Mr. DELAY. Mr. Speaker, I yield to the gentleman from Virginia.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I appreciate the gentleman from California (Mr. DREIER) bringing up STEVE HORN. I have known STEVE HORN I think longer than anyone in this body because I was a Senate page from 1963 to 1967 and STEVE HORN worked there as a legislative aid to Senator Tom Kuchel. When he left Senator Kuchel's office, his replacement was a young man named Leon Paneta. So history works in strange ways, but I kept up with STEVE through the years, followed his career in the presidential administration he went into, leaving Tom Kuchel, and then into his academic career. Of course STEVE had degrees from Harvard and Stanford, was a university president, well regarded in the Long Beach community.

When he was elected to Congress in 1992, it was a huge upset. This was a district that had been drawn to elect a Democrat, and STEVE won it and held it every time, the only Republican most years to be elected in that area because he transcended politics.

He was a very detail-oriented Member. He took copious notes on every hearing, what Members were saying. I hope some day he will publish that and share that with the world. He was active not just in the Y2K legislation that the gentleman from California (Mr. DREIER) and I worked on, he also wanted to put the ''M'' back in OMB, management, and he was a stickler for bringing management back into government. He felt that we spent too much time on budgetary items and not enough time managing that budget. I think this evening on some of the unanimous consent legislation going through, some of that will bear the imprint of Mr. HORN, as did a lot of legislation that passed through this body from his work on the Committee on Government Reform and Oversight when he was a very active subcommittee chairman for years.

Mr. DREIER. Mr. Speaker, would the gentleman yield briefly for one comment?

Mr. DELAY. I yield to the gentleman from California (Mr. DREIER).

Mr. DREIER. Mr. Speaker, I would like to say that my friend is absolutely right reminding us of the fact that STEVE HORN took copious notes in a wide range of meetings, and I want to say that sometimes even when I was having conversations with my friend Mr. HORN he was taking notes, and I would like very much to go on record saying that I hope he never publishes those particular notes that he has taken in a number of conversations we had.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I would agree with the gentleman. But anyway STEVE is going to be missed. He is leaving on his own volition. We always like to say there are three ways to leave public office and two of them are not very pleasant. STEVE has opted for the third role, but I hope he will remain active in government and somewhere find a place for him perhaps in the administration because he has a lot to give and a great education and great experience.

SENSE OF HOUSE THAT NATIONAL PARK SERVICE SHOULD FORM COMMITTEE FOR ESTABLISHING GUIDELINES FOR NATIONAL DESIGN COMPETITION

Mr. HANSEN. Mr. Speaker, I ask unanimous consent that the Committee on Resources be discharged from further consideration of the resolution (H. Res. 591) expressing the sense of the House of Representatives that the National Park Service should form a committee for the purpose of establishing guidelines to launch a national design competition, and ask for its immediate consideration in the House.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 591

Whereas President Thomas Jefferson received the approval of Congress on 6 February 28, 1803, to fund an expedition into the West with orders to explore the Missouri River and such tributaries as might lead to the Pacific Ocean on the most direct and practicable water route for purposes of commerce, in addition to which, the expedition was to gather scientific and geographical information, and to encourage peace among any Indian Nations encountered;

Whereas Meriwether Lewis, Captain of the First Regiment of Infantry, and former Secretary to President Jefferson, was appointed to lead the expedition, and he selected, with the approval of the President, William Clark to serve equally as a Captain in a leadership role;

Whereas the Expedition returned to St. Louis, Missouri, on September 23, 1806, after a 28-month journey covering 8,000 miles during which it traversed 11 future States: Illinois, Missouri, Kansas, Nebraska, Iowa, North Dakota, South Dakota, Montana, Idaho, Washington, and Oregon; and

Whereas the expedition was one of the most remarkable and productive scientific and military exploratory expeditions in all American history: Now, therefore, be it

Resolved, That the House of Representatives directs the National Park Service to form a committee for the purpose of establishing guidelines to launch a national design competition for the following project: In as much as Congress desires to memorialize the Lewis and Clark Expedition and because the City of Louis was the departing and returning points of the Expedition as depicted by its Gateway to the West Arch, therefore the City of St. Louis should display a proper recognition of these great men in the form of a heroic sculpture portraying the Expedition to be built in the Luther Ely Smith Park in downtown St. Louis, which lies between the Arch and the Old Courthouse, all now governed by the National Park Service.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PRESIDENT JOHN ADAMS COMMEMORATIVE WORK IN THE DISTRICT OF COLUMBIA

Mr. HANSEN. Mr. Speaker, I ask unanimous consent that the Committee on Resources be discharged from further consideration of the joint resolution (H.J. Res. 117) approving the location of the commemorative work in the District of Columbia honoring former President John Adams, and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 117

Whereas section 8908 of title 40, United States Code, provides that the location of a commemorative work in the area described as Area I shall be deemed disapproved unless approved by law not later than 150 days after notification to Congress that the commemorative work should be located in Area I;

Whereas Public Law 107–62 (115 Stat. 411) authorized the Adams Memorial Foundation to establish a commemorative work on Federal land in the District of Columbia to honor former President John Adams and his legacy; and

Whereas the Secretary of the Interior has notified Congress of her determination that a memorial to former President John Adams should be located in Area I: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. APPROVAL OF COMMEMORATIVE WORK.

(a) APPROVAL.—Congress approves the location for the commemorative work to honor former President John Adams and his legacy, as authorized by Public Law 107–62 (115 Stat. 411), within Area I as described in section 8908 of title 40, United States Code, subject to the limitation in subsection (b).

(b) LIMITATION.—The commemorative work approved in subsection (a) shall not be located within the Reserve.

(c) DEFINITION OF RESERVE.—In this section the term ''Reserve'' means the area of The National Mall extending from the United States Capitol to the Lincoln Memorial, and from the White House to the Jefferson Memorial, as depicted on the map entitled ''Commemorative Areas Washington, DC and Environs,'' numbered 869/86501A and dated May 1, 2002.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

BAINBRIDGE ISLAND JAPANESE-AMERICAN MEMORIAL STUDY ACT OF 2002

Mr. HANSEN. Mr. Speaker, I ask unanimous consent for the immediate consideration in the House of the bill (H.R. 3747) to direct the Secretary of the Interior to conduct a study of the site commonly known as Eagledale Ferry Dock at Taylor Avenue in the State of Washington for potential inclusion in the National Park System.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

The Clerk read the bill, as follows:

H.R. 3747

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

SECTION 1. SHORT TITLE; FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the ''Bainbridge Island Japanese-American Memorial Study Act of 2002''.

(b) FINDINGS.—The Congress finds the following:

(1) During World War II on February 19, 1942, President Franklin Delano Roosevelt signed Executive Order 9066, setting in motion the forced exile of more than 110,000 Japanese Americans.

(2) In Washington State, 12,892 men, women and children of Japanese ancestry experienced three years of incarceration, an incarceration violating the most basic freedoms of American citizens.

(3) On March 30, 1942, 227 Bainbridge Island residents were the first Japanese Americans in United States history to be forcibly removed from their homes by the U.S. Army and sent to internment camps. They boarded the ferry Kehloken from the former Eagledale Ferry Dock, located at the end of Taylor Avenue, in the city of Bainbridge Island, Washington State.

(4) The city of Bainbridge Island has adopted a resolution stating that this site should be a National Memorial, and similar resolutions have been introduced in the Washington State Legislature.

(5) Both the Minidoka National Monument and Manzanar National Historic Site can clearly tell the story of a time in our Nation's history when constitutional rights were ignored. These camps by design were placed in very remote places and are not easily accessible. Bainbridge Island is a short ferry ride from Seattle and the site would be within easy reach of many more people.

(6) This is a unique opportunity to create a site that will honor those who suffered, cherish the friends and community who stood beside them and welcomed them home, and inspire all to stand firm in the event our nation again succumbs to similar fears.

(7) The site should be recognized by the National Park Service based on its high degree of national significance, association with significant events, and integrity of its location and setting. This site is critical as an anchor for future efforts to identify, interpret, serve, and ultimately honor the Nikkei—persons of Japanese ancestry—influence on Bainbridge Island.

SEC. 2. EAGLEDALE FERRY DOCK LOCATION AT TAYLOR AVENUE STUDY AND REPORT.

(a) STUDY.—The Secretary of the Interior shall carry out a special resource study regarding the national significance, suitability, and feasibility of designating as a unit of the National Park System the property commonly known as the Eagledale Ferry Dock at Taylor Avenue and the historical events associated with it, located in the town of Bainbridge Island, Kitsap County, Washington.

(b) REPORT.—Not later than 1 year after funds are first made available for the study under subsection (a), the Secretary of the Interior 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 describing the findings, conclusions, and recommendations of the study.

(c) REQUIREMENTS FOR STUDY.—Except as otherwise provided in this section, the study under subsection (a) shall be conducted in accordance with section 8(c) of Public Law 91–383 (16 U.S.C. 1a–5(c)).

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CARIBBEAN NATIONAL FOREST WILDERNESS ACT OF 2002

Mr. HANSEN. Mr. Speaker, I ask unanimous consent for the immediate consideration in the House of the bill (H.R. 3955) to designate certain National Forest System lands in the Commonwealth of Puerto Rico as components of the National Wilderness Preservation System, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

The Clerk read the bill, as follows:

H.R. 3955

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 ''Caribbean National Forest Wilderness Act of 2002''.

SEC. 2. WILDERNESS DESIGNATION, CARIBBEAN NATIONAL FOREST, PUERTO RICO.

(a) EL TORO WILDERNESS.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 113 et seq.), the approximately 10,000 acres of land in the Caribbean National Forest/Luquillo Experimental Forest in the Commonwealth of Puerto Rico that were proposed for wilderness classification in the revised land and resource management plan for the Caribbean National Forest/Luquillo Experimental Forest, approved April 17, 1997, are hereby designated as wilderness and, therefore, as a component of the National Wilderness Preservation System. The designated lands shall be known as the El Toro Wilderness.

(b) WILDERNESS BOUNDARIES.—The El Toro Wilderness shall consist of those lands that were proposed for wilderness classification in the management plan referred to in subsection (a), except that the Secretary of Agriculture shall locate the boundaries of the wilderness area so that existing municipal water intakes will not be within the wilderness boundaries and the boundaries shall be located at least 600 feet west of Highway PR 191 from Kilometer 6.5 to Kilometer 12.0.

(c) MAP AND DESCRIPTION.—

(1) PREPARATION AND SUBMISSION.—As soon as practicable after the date of the enactment of this Act, the Secretary of Agriculture shall prepare a map and a boundary description of the El Toro Wilderness and submit the map and boundary description to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. The map and boundary description shall be on file and available for public inspection in the office of the Chief of the Forest Service.

(2) TREATMENT.—The map and boundary description prepared under paragraph (1) shall have the same force and effect as if included in this Act. The Secretary may correct clerical and typographical errors in the map and description.

(d) ADMINISTRATION.—Subject to valid existing rights, the Secretary of Agriculture shall administer the El Toro Wilderness in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.) and this Act. With respect to the El Toro Wilderness , any reference in the Wilderness Act to the effective date of the Wilderness Act shall be deemed to be a reference to the date of the enactment of this Act.

(e) SPECIAL MANAGEMENT CONSIDERATIONS.—Designation of the El Toro Wilderness, and the applicability of the Wilderness Act to the wilderness area, shall not be construed to prevent any of the following activities, subject to such conditions as the Secretary of Agriculture considers desirable, within the boundaries of the wilderness area:

(1) Installation and maintenance of hydrologic, meteorological, climatological, or atmospheric data collection and transmission facilities, or any combination of such facilities, when the Secretary determines that such facilities are essential to the scientific research purposes of the Luquillo Experimental Forest.

(2) Construction and maintenance of nesting structures, observation blinds, and population monitoring platforms for threatened and endangered species.

(3) Construction and maintenance of trails to such facilities as necessary for research purposes and for the recovery of threatened and endangered species.

COMMITTEE AMENDMENT

The SPEAKER pro tempore. The Clerk will report the committee amendment.

Mr. HANSEN. Mr. Speaker, I ask unanimous consent that the committee amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

The text of the committee amendment is as follows:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Caribbean National Forest Wilderness Act of 2002''.

SEC. 2. WILDERNESS DESIGNATION, CARIBBEAN NATIONAL FOREST, PUERTO RICO.

(a) EL TORO WILDERNESS.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 113 et seq.), the approximately 10,000 acres of land in the Caribbean National Forest/Luquillo Experimental Forest in the Commonwealth of Puerto Rico that were proposed for wilderness classification in the revised land and resource management plan for the Caribbean National Forest/Luquillo Experimental Forest, approved April 17, 1997, are hereby designated as wilderness and, therefore, as a component of the National Wilderness Preservation System. The designated lands shall be known as the El Toro Wilderness.

(b) WILDERNESS BOUNDARIES.—The El Toro Wilderness shall consist of those lands that were proposed for wilderness classification in the management plan referred to in subsection (a), except that the Secretary of Agriculture shall locate the boundaries of the wilderness area so that existing municipal water intakes will not be within the wilderness boundaries and the boundaries shall be located at least 600 feet west of Highway PR 191 from Kilometer 6.5 to Kilometer 12.0.

(c) MAP AND DESCRIPTION.—

(1) PREPARATION AND SUBMISSION.—As soon as practicable after the date of the enactment of this Act, the Secretary of Agriculture shall prepare a map and a boundary description of the El Toro Wilderness and submit the map and boundary description to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. The map and boundary description shall be on file and available for public inspection in the office of the Chief of the Forest Service.

(2) TREATMENT.—The map and boundary description prepared under paragraph (1) shall have the same force and effect as if included in this Act. The Secretary may correct clerical and typographical errors in the map and description.

(d) ADMINISTRATION.—Subject to valid existing rights, the Secretary of Agriculture shall administer the El Toro Wilderness in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.) and this Act. With respect to the El Toro Wilderness, any reference in the Wilderness Act to the effective date of the Wilderness Act shall be deemed to be a reference to the date of the enactment of this Act.

(e) SPECIAL MANAGEMENT CONSIDERATIONS.—Designation of the El Toro Wilderness, and the applicability of the Wilderness

Act to the wilderness area, shall not be construed to prevent any of the following activities, subject to such conditions as the Secretary of Agriculture considers desirable, within the boundaries of the wilderness area:

(1) Installation and maintenance of hydrologic, meteorological, climatological, or atmospheric data collection and transmission facilities, or any combination of such facilities, when the Secretary determines that—

(A) such facilities are essential to the scientific research purposes of the Luquillo Experimental Forest; and

(B) the scale and scope of the facility development are not detrimental to the wilderness characteristics of the wilderness area.

(2) Construction and maintenance of nesting structures, observation blinds, and population monitoring platforms for threatened and endangered species.

(3) Construction and maintenance of trails to such facilities as necessary for research purposes and for the recovery of threatened and endangered species.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

HYDROGRAPHIC SERVICES IMPROVEMENT ACT AMENDMENTS OF 2002

Mr. HANSEN. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 4883) to reauthorize the Hydrographic Services Improvement Act of 1998, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

The Clerk read the bill, as follows:

H.R. 4883

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

SECTION 1. SHORT TITLE.

This title may be cited as the ''Hydrographic Services Improvement Act Amendments of 2002''.

SEC. 2. DEFINITIONS.

Section 302 of the Hydrographic Services Improvement Act of 1998 (33 U.S.C. 892) is amended—

(1) in paragraph (3) by inserting ''geospatial or geomagnetic'' after ''geodetic''; and

(2) in paragraph (4) by inserting ''geospatial, geomagnetic,'' after ''geodetic,''.

SEC. 3. FUNCTIONS OF ADMINISTRATOR.

(a) HYDROGRAPHIC MONITORING SYSTEMS.—Section 303(b)(4) of the Hydrographic Services Improvement Act of 1998 (33 U.S.C. 892a(b)(4)) is amended to read as follows:

''(4) shall design, install, maintain, and operate real-time hydrographic monitoring systems to enhance navigation safety and efficiency.''.

(b) CONSERVATION AND MANAGEMENT OF COASTAL AND OCEAN RESOURCES.—Section 303 of such Act (33 U.S.C. 892a) is further amended by adding at the end the following:

''(c) CONSERVATION AND MANAGEMENT OF COASTAL AND OCEAN RESOURCES.—Where appropriate and to the extent that it does not detract from the promotion of safe and efficient navigation, the Secretary may use hydrographic data and services to support the conservation and management of coastal and ocean resources.''.

SEC. 4. QUALITY ASSURANCE PROGRAM.

(a) IN GENERAL.—Section 304(b)(1) of the Hydrographic Services Improvement Act of 1998 (33 U.S.C. 892b(1)) is amended to read as follows:

''(1) IN GENERAL.—The Administrator—

''(A) by not later than 2 years after the date of enactment of the Hydrographic Services Improvement Act Amendments of 2002, shall, subject to the availability of appropriations, develop and implement a quality assurance program that is equally available to all applicants, under which the Administrator may certify hydrographic products that satisfy the standards promulgated by the Administrator under section 303(a)(3) of this Act;

''(B) may authorize the use of the emblem or any trademark of the Administration on a hydrographic product certified under subparagraph (A); and

''(C) may charge a fee for such certification and use.''.

(b) ACCEPTANCE AND RECOGNITION OF CERTIFICATIONS.—Section 304(b) of such Act (33 U.S.C. 892b(b)) is amended by adding at the end the following:

''(3) ACCEPTANCE AND RECOGNITION OF CERTIFICATIONS.—The Administrator shall, to the maximum extent practicable, assure that any international organizations and agreements to which the United States is a party which affect hydrographic products and nautical charts accept or recognize, respectively, hydrographic products certified by the Administrator under this subsection.''.

SEC. 5. HYDROGRAPHIC SERVICES REVIEW PANEL.

Section 305 of the Hydrographic Services Improvement Act of 1998 (33 U.S.C. 892c) is amended to read as follows:

''SEC. 305. HYDROGRAPHIC SERVICES REVIEW PANEL.

''(a) ESTABLISHMENT.—No later than 1 year after the date of enactment of the Hydrographic Services Improvement Act Amendments of 2002, the Secretary shall establish the Hydrographic Services Review Panel.

''(b) DUTIES.—

''(1) IN GENERAL.—The panel shall advise the Administrator on matters related to the responsibilities and authorities set forth in section 303 of this Act and such other appropriate matters as the Administrator refers to the panel for review and advice.

''(2) ADMINISTRATIVE RESOURCES.—The Administrator shall make available to the panel such information, personnel, and administrative services and assistance as it may reasonably require to carry out its duties.

''(c) MEMBERSHIP.—

''(1) IN GENERAL.—

''(A) The panel shall consist of 15 voting members who shall be appointed by the Administrator. The Director of the Joint Hydrographic Institute and no more than 2 employees of the National Oceanic and Atmospheric Administration appointed by the Administrator shall serve as nonvoting members of the panel. The voting members of the panel shall be individuals who, by reason of knowledge, experience, or training, are especially qualified in one or more of the disciplines and fields relating to hydrographic surveying, tide, current geodetic and geospatial measurement, marine transportation, port administration, vessel pilotage, and coastal and fishery management.

''(B) An individual may not be appointed as a voting member of the panel if the individual is a full-time officer or employee of the United States.

''(C) Any voting member of the panel who is an applicant for, or beneficiary (as determined by the Secretary) of, any assistance under this Act shall disclose to the panel that relationship, and may not vote on any matter pertaining to that assistance.

''(2) TERMS.—

''(A) The term of office of a voting member of the panel shall be 4 years, except that of the original appointees, five shall be appointed for a term of 2 years, five shall be appointed for a term of 3 years, and five shall be appointed for a term of 4 years, as specified by the Administrator at the time of appointment.

''(B) Any individual appointed to a partial or full term may be reappointed for one additional full term. A voting member may serve after the date of the expiration of the term of office for which appointed until his or her successor has taken office.

''(3) NOMINATIONS.—At least once each year, the Secretary shall publish a notice in the Federal Register soliciting nominations for membership on the panel.

''(4) CHAIRMAN AND VICE CHAIRMAN.—

''(A) The panel shall select one voting member to serve as the Chairman and another voting member to serve as the Vice Chairman.

''(B) The Vice Chairman shall act as Chairman in the absence or incapacity of the Chairman.

''(d) COMPENSATION.—Voting members of the panel shall—

''(1) receive compensation at a rate established by the Secretary, not to exceed the maximum daily rate payable under section 5376 of title 5, United States Code, when actually engaged in the performance of duties for such panel; and

''(2) be reimbursed for actual and reasonable expenses incurred in the performance of such duties.

''(e) MEETINGS.—The panel shall meet on a biannual basis and, at any other time, at the call of the Chairman or upon the request of a majority of the voting members or of the Secretary.

''(f) POWERS.—The panel may exercise such powers as are reasonably necessary in order to carry out its duties under subsection (b).''.

SEC. 6. PLAN REGARDING PHOTOGRAMMETRY AND REMOTE SENSING.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Administrator of the National Oceanic and Atmospheric Administration shall submit to the Congress a plan for increasing, consistent with this Act, contracting with the private sector for photogrammetric, remote sensing, and other geospatial reference services related to hydrographic data acquisition or hydrographic services activities performed by the National Ocean Service. In preparing the plan, the Administrator shall consult with private sector entities knowledgeable in photogrammetry and remote sensing.

(b) CONTENTS.—The plan shall include the following:

(1) An assessment of which of the photogrammetric, remote sensing, and other geospatial reference services related to hydrographic data acquisition or hydrographic services activities performed by the National Ocean Service can be performed adequately by private-sector entities.

(2) An evaluation of the relative cost-effectiveness of the Federal Government and private-sector entities in performing those activities.

(3) A strategy for enhancing and improving the acquisition and contract management capabilities of the National Oceanic and Atmospheric Administration to assist in the utilization of private sector entities for photogrammetric, remote sensing and other geospatial reference services related to hydrographic data acquisition or hydrographic

services activities performed by the National Ocean Service, including—

(A) the transfer and retraining of personnel to become contracting officer technical representatives;

(B) education in the use of the procedures described in section 303(b)(3) of the Hydrographic Services Improvement Act of 1998, as amended by this Act; and

(C) the utilization of training, education, and acquisition and contract management capabilities of other Federal agencies that are expert and experienced in contracting for such services.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

Section 306 of such Act (33 U.S.C. 892d) is amended to read as follows:

"SEC. 306. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to the Administrator the following:

''(1) To carry out nautical mapping and charting functions under sections 303 and 304 of this Act, except for conducting hydrographic surveys—

''(A) $50,000,000 for fiscal year 2003;

''(B) $55,000,000 for fiscal year 2004;

''(C) $60,000,000 for fiscal year 2005;

''(D) $65,000,000 for fiscal year 2006; and

''(E) $70,000,000 for fiscal year 2007.

''(2) To contract for hydrographic surveys under section 303(d)(1), including the leasing or time chartering of vessels—

''(A) $40,000,000 for fiscal year 2003;

''(B) $42,500,000 for fiscal year 2004;

''(C) $45,000,000 for fiscal year 2005;

''(D) $47,500,000 for fiscal year 2006; and

''(E) $50,000,000 for fiscal year 2007.

''(3) To carry out geodetic functions under this title—

''(A) $27,500,000 for fiscal year 2003;

''(B) $30,000,000 for fiscal year 2004;

''(C) $32,500,000 for fiscal year 2005;

''(D) $35,000,000 for fiscal year 2006; and

''(E) $35,500,000 for fiscal year 2007.

''(4) To carry out tide and current measurement functions under this title—

''(A) $25,000,000 for fiscal year 2003;

''(B) $27,500,000 for fiscal year 2004;

''(C) $30,000,000 for fiscal year 2005;

''(D) $32,500,000 for fiscal year 2006; and

''(E) $35,000,000 for fiscal year 2007.

''(5) To carry out activities authorized under this title that enhance homeland security, including electronic navigation charts, hydrographic surveys, real time tide and current measurements, and geodetic functions, in addition to other amounts authorized by this section, $50,000,000.''.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. HANSEN

Mr. HANSEN. Mr. Speaker, I offer an amendment in the nature of a substitute in lieu of the committee amendment.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. HANSEN:

Strike all after the enacting clause and insert the following:

SECTION 1. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Table of contents.

TITLE I—NOAA HYDROGRAPHIC SERVICES IMPROVEMENT

Sec. 101. Short title; references.
Sec. 102. Definitions.
Sec. 103. Functions of Administrator.
Sec. 104. Quality assurance program.
Sec. 105. Hydrographic Services Review Panel.
Sec. 106. Authorization of appropriations.

TITLE II—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION COMMISSIONED OFFICER CORPS

Sec. 201. Short title.

SUBTITLE A—GENERAL PROVISIONS

Sec. 211. Commissioned officer corps.
Sec. 212. Definitions.
Sec. 213. Authorized number on the active list.
Sec. 214. Strength and distribution in grade.
Sec. 215. Authorized number for fiscal years 2003 through 2005.

SUBTITLE B—APPOINTMENT AND PROMOTION OF OFFICERS

Sec. 221. Original appointments.
Sec. 222. Personnel boards.
Sec. 223. Promotion of ensigns to grade of lieutenant (junior grade).
Sec. 224. Promotion by selection to permanent grades above lieutenant (junior grade).
Sec. 225. Length of service for promotion purposes.
Sec. 226. Appointments and promotions to permanent grades.
Sec. 227. General qualification of officers for promotion to higher permanent grade.
Sec. 228. Positions of importance and responsibility.
Sec. 229. Temporary appointments and promotions generally.
Sec. 230. Temporary appointment or advancement of commissioned officers in time of war or national emergency.
Sec. 231. Pay and allowances; date of acceptance of promotion.
Sec. 232. Service credit as deck officer or junior engineer for promotion purposes.
Sec. 233. Suspension during war or emergency.

SUBTITLE C—SEPARATION AND RETIREMENT OF OFFICERS

Sec. 241. Involuntary retirement or separation.
Sec. 242. Separation pay.
Sec. 243. Mandatory retirement for age.
Sec. 244. Retirement for length of service.
Sec. 245. Computation of retired pay.
Sec. 246. Retired grade and retired pay.
Sec. 247. Retired rank and pay held pursuant to other laws unaffected.
Sec. 248. Continuation on active duty; deferral of retirement.
Sec. 249. Recall to active duty.

SUBTITLE D—SERVICE OF OFFICERS WITH THE MILITARY DEPARTMENTS

Sec. 251. Cooperation with and transfer to military departments.
Sec. 252. Relative rank of officers when serving with Army, Navy, or Air Force.
Sec. 253. Rules and regulations when cooperating with military departments.

SUBTITLE E—RIGHTS AND BENEFITS

Sec. 261. Applicability of certain provisions of title 10, United States Code.
Sec. 262. Eligibility for veterans benefits and other rights, privileges, immunities, and benefits under certain provisions of law.
Sec. 263. Medical and dental care.
Sec. 264. Commissary privileges.
Sec. 265. Authority to use appropriated funds for transportation and reimbursement of certain items.
Sec. 266. Presentation of United States flag upon retirement.

SUBTITLE F—REPEALS AND CONFORMING AMENDMENTS

Sec. 271. Repeals.
Sec. 272. Conforming amendments.

TITLE III—VARIOUS FISHERIES CONSERVATION REAUTHORIZATIONS

Sec. 301. Short title.
Sec. 302. Reauthorization and amendment of the Interjurisdictional Fisheries Act of 1986.
Sec. 303. Reauthorization and amendment of the Anadromous Fish Conservation Act.
Sec. 304. Reauthorization of the Atlantic Tunas Convention Act of 1975.
Sec. 305. Reauthorization of the Northwest Atlantic Fisheries Convention Act of 1995.
Sec. 306. Extension of deadline.

TITLE IV—MISCELLANEOUS

Sec. 401. Chesapeake Bay Office.
Sec. 402. Conveyance of NOAA laboratory in Tiburon, California.
Sec. 403. Emergency assistance for subsistence whale hunters.

TITLE I—NOAA HYDROGRAPHIC SERVICES IMPROVEMENT

SEC. 101. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This title may be cited as the ''Hydrographic Services Improvement Act Amendments of 2002''.

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Hydrographic Services Improvement Act of 1998 (33 U.S.C. 892 et seq.).

SEC. 102. DEFINITIONS.

Section 302 (33 U.S.C. 892) is amended—

(1) in paragraph (3) by inserting '', geospatial, or geomagnetic'' after ''geodetic''; and

(2) in paragraph (4) by inserting ''geospatial, geomagnetic'' after ''geodetic,''.

SEC. 103. FUNCTIONS OF ADMINISTRATOR.

(a) HYDROGRAPHIC MONITORING SYSTEMS.—Section 303(b)(4) (33 U.S.C. 892a(b)(4)) is amended to read as follows:

''(4) shall, subject to the availability of appropriations, design, install, maintain, and operate real-time hydrographic monitoring systems to enhance navigation safety and efficiency.''.

(b) CONSERVATION AND MANAGEMENT OF COASTAL AND OCEAN RESOURCES.—Section 303 (33 U.S.C. 892a) is further amended by adding at the end the following:

''(c) CONSERVATION AND MANAGEMENT OF COASTAL AND OCEAN RESOURCES.—Where appropriate and to the extent that it does not detract from the promotion of safe and efficient navigation, the Secretary may use hydrographic data and services to support the conservation and management of coastal and ocean resources.''.

SEC. 104. QUALITY ASSURANCE PROGRAM.

(a) IN GENERAL.—Section 304(b)(1) (33 U.S.C. 892b(b)(1)) is amended to read as follows:

''(1) IN GENERAL.—The Administrator—

''(A) by not later than 2 years after the date of enactment of the Hydrographic Services Improvement Act Amendments of 2002, shall, subject to the availability of appropriations, develop and implement a quality assurance program that is equally available to all applicants, under which the Administrator may certify hydrographic products that satisfy the standards promulgated by the Administrator under section 303(a)(3) of this Act;

''(B) may authorize the use of the emblem or any trademark of the Administration on a hydrographic product certified under subparagraph (A); and

''(C) may charge a fee for such certification and use.''.

SEC. 105. HYDROGRAPHIC SERVICES REVIEW PANEL.

Section 305 (33 U.S.C. 892c) is amended to read as follows:

"SEC. 305. HYDROGRAPHIC SERVICES REVIEW PANEL.

''(a) ESTABLISHMENT.—No later than 1 year after the date of enactment of the Hydrographic Services Improvement Act Amendments of 2002, the Secretary shall establish the Hydrographic Services Review Panel.

''(b) DUTIES.—

''(1) IN GENERAL.—The panel shall advise the Administrator on matters related to the responsibilities and authorities set forth in section 303 of this Act and such other appropriate matters as the Administrator refers to the panel for review and advice.

''(2) ADMINISTRATIVE RESOURCES.—The Administrator shall make available to the panel such information, personnel, and administrative services and assistance as it may reasonably require to carry out its duties.

''(c) MEMBERSHIP.—

''(1) IN GENERAL.—

''(A) The panel shall consist of 15 voting members who shall be appointed by the Administrator. The Director of the Joint Hydrographic Institute and no more than 2 employees of the National Oceanic and Atmospheric Administration appointed by the Administrator shall serve as nonvoting members of the panel. The voting members of the panel shall be individuals who, by reason of knowledge, experience, or training, are especially qualified in one or more of the disciplines and fields relating to hydrographic surveying, tide, current geodetic and geospatial measurement, marine transportation, port administration, vessel pilotage, and coastal and fishery management.

''(B) An individual may not be appointed as a voting member of the panel if the individual is a full-time officer or employee of the United States.

''(C) Any voting member of the panel who is an applicant for, or beneficiary (as determined by the Secretary) of, any assistance under this Act shall disclose to the panel that relationship, and may not vote on any matter pertaining to that assistance.

''(2) TERMS.—

''(A) The term of office of a voting member of the panel shall be 4 years, except that of the original appointees, five shall be appointed for a term of 2 years, five shall be appointed for a term of 3 years, and five shall be appointed for a term of 4 years, as specified by the Administrator at the time of appointment.

''(B) Any individual appointed to a partial or full term may be reappointed for one additional full term. A voting member may serve after the date of the expiration of the term of office for which appointed until his or her successor has taken office.

''(3) NOMINATIONS.—At least once each year, the Secretary shall publish a notice in the Federal Register soliciting nominations for membership on the panel.

''(4) CHAIRMAN AND VICE CHAIRMAN.—

''(A) The panel shall select one voting member to serve as the Chairman and another voting member to serve as the Vice Chairman.

''(B) The Vice Chairman shall act as Chairman in the absence or incapacity of the Chairman.

''(d) COMPENSATION.—Voting members of the panel shall—

''(1) receive compensation at a rate established by the Secretary, not to exceed the maximum daily rate payable under section 5376 of title 5, United States Code, when actually engaged in the performance of duties for such panel; and

''(2) be reimbursed for actual and reasonable expenses incurred in the performance of such duties.

''(e) MEETINGS.—The panel shall meet on a biannual basis and, at any other time, at the call of the Chairman or upon the request of a majority of the voting members or of the Secretary.

''(f) POWERS.—The panel may exercise such powers as are reasonably necessary in order to carry out its duties under subsection (b).''.

SEC. 106. AUTHORIZATION OF APPROPRIATIONS.

Section 306 (33 U.S.C. 892d) is amended to read as follows:

"SEC. 306. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to the Administrator the following:

''(1) To carry out nautical mapping and charting functions under sections 303 and 304 of this Act, except for conducting hydrographic surveys—

''(A) $50,000,000 for fiscal year 2003;

''(B) $55,000,000 for fiscal year 2004;

''(C) $60,000,000 for fiscal year 2005;

''(D) $65,000,000 for fiscal year 2006; and

''(E) $70,000,000 for fiscal year 2007.

''(2) To contract for hydrographic surveys under section 303(b)(1), including the leasing or time chartering of vessels—

''(A) $40,000,000 for fiscal year 2003;

''(B) $42,500,000 for fiscal year 2004;

''(C) $45,000,000 for fiscal year 2005;

''(D) $47,500,000 for fiscal year 2006; and

''(E) $50,000,000 for fiscal year 2007.

''(3) To operate hydrographic survey vessels owned by the United States and operated by the Administration—

''(A) $14,000,000 for fiscal year 2003;

''(B) $18,000,000 for fiscal year 2004; and

''(C) $21,000,000 for fiscal years 2005 through 2007.

''(4) To carry out geodetic functions under this title—

''(A) $27,500,000 for fiscal year 2003;

''(B) $30,000,000 for fiscal year 2004;

''(C) $32,500,000 for fiscal year 2005;

''(D) $35,000,000 for fiscal year 2006; and

''(E) $35,500,000 for fiscal year 2007.

''(5) To carry out tide and current measurement functions under this title—

''(A) $25,000,000 for fiscal year 2003;

''(B) $27,500,000 for fiscal year 2004;

''(C) $30,000,000 for fiscal year 2005;

''(D) $32,500,000 for fiscal year 2006; and

''(E) $35,000,000 for fiscal year 2007.

''(6) To carry out activities authorized under this title that enhance homeland security, including electronic navigation charts, hydrographic surveys, real time tide and current measurements, and geodetic functions, in addition to other amounts authorized by this section, $20,000,000.''.

TITLE II—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION COMMISSIONED OFFICER CORPS

SEC. 201. SHORT TITLE.

This title may be cited as the ''National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002''.

Subtitle A—General Provisions

SEC. 211. COMMISSIONED OFFICER CORPS.

There shall be in the National Oceanic and Atmospheric Administration a commissioned officer corps.

SEC. 212. DEFINITIONS.

(a) APPLICABILITY OF DEFINITIONS IN TITLE 10, UNITED STATES CODE.—Except as provided in subsection (b), the definitions provided in section 101 of title 10, United States Code, apply to the provisions of this title.

(b) ADDITIONAL DEFINITIONS.—In this title:

(1) ACTIVE DUTY.—The term ''active duty'' means full-time duty in the active service of a uniformed service.

(2) GRADE.—The term ''grade'' means a step or degree, in a graduated scale of office or rank, that is established and designated as a grade by law or regulation.

(3) OFFICER.—The term ''officer'' means an officer of the commissioned corps.

(4) FLAG OFFICER.—The term ''flag officer'' means an officer serving in, or having the grade of, vice admiral, rear admiral, or rear admiral (lower half).

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Commerce.

(6) ADMINISTRATION.—The term ''Administration'' means the National Oceanic and Atmospheric Administration.

SEC. 213. AUTHORIZED NUMBER ON THE ACTIVE LIST.

(a) ANNUAL STRENGTH ON ACTIVE LIST.—The annual strength of the commissioned corps in officers on the lineal list of active duty officers of the corps shall be prescribed by law.

(b) LINEAL LIST.—The Secretary shall maintain a list, known as the ''lineal list'', of officers on active duty. Officers shall be carried on the lineal list by grade and, within grade, by seniority in grade.

SEC. 214. STRENGTH AND DISTRIBUTION IN GRADE.

(a) RELATIVE RANK; PROPORTION.—Of the total authorized number of officers on the lineal list of the commissioned corps, there are authorized numbers in permanent grade, in relative rank with officers of the Navy, in proportions as follows:

(1) 8 in the grade of captain.

(2) 14 in the grade of commander.

(3) 19 in the grade of lieutenant commander.

(4) 23 in the grade of lieutenant.

(5) 18 in the grade of lieutenant (junior grade).

(6) 18 in the grade of ensign.

(b) COMPUTATION OF NUMBER IN GRADE.—

(1) IN GENERAL.—Subject to paragraph (2), whenever a final fraction occurs in computing the authorized number of officers in a grade, the nearest whole number shall be taken, and if the fraction is one-half the next higher whole number shall be taken.

(2) LIMITATION ON INCREASE IN TOTAL NUMBER.—The total number of officers on the lineal list authorized by law may not be increased as the result of the computations prescribed in this section, and if necessary the number of officers in the lowest grade shall be reduced accordingly.

(c) PRESERVATION OF GRADE AND PAY, ETC.—No officer may be reduced in grade or pay or separated from the commissioned corps as the result of a computation made to determine the authorized number of officers in the various grades.

(d) FILLING OF VACANCIES; ADDITIONAL NUMBERS.—Nothing in this section may be construed as requiring the filling of any vacancy or as prohibiting additional numbers in any grade to compensate for vacancies existing in higher grades.

(e) TEMPORARY INCREASE IN NUMBERS.—The total number of officers authorized by law to be on the lineal list during a fiscal year may be temporarily exceeded so long as the average number on that list during that fiscal year does not exceed the authorized number.

SEC. 215. AUTHORIZED NUMBER FOR FISCAL YEARS 2003 THROUGH 2005.

There are authorized to be on the lineal list of the commissioned corps of the National Oceanic and Atmospheric Administration—

(1) 270 officers for fiscal year 2003;

(2) 285 officers for fiscal year 2004; and

(3) 299 officers for fiscal year 2005.

Subtitle B—Appointment and Promotion of Officers

SEC. 221. ORIGINAL APPOINTMENTS.

(a) IN GENERAL.—

(1) GRADES.—Original appointments may be made in the grades of ensign, lieutenant (junior grade), and lieutenant.

(2) QUALIFICATIONS.—Under regulations prescribed by the Secretary, such an appointment may be given only to a person who—

(A) meets the qualification requirements specified in paragraphs (1) through (4) of section 532(a) of title 10, United States Code; and

(B) has such other special qualifications as the Secretary may prescribe by regulation.

(3) EXAMINATION.—A person may be given such an appointment only after passage of a mental and physical examination given in accordance with regulations prescribed by the Secretary.

(4) REVOCATION OF COMMISSION OF OFFICERS FOUND NOT QUALIFIED.—The President may revoke the commission of any officer appointed under this section during the officer's first three years of service if the officer is found not qualified for the service. Any such revocation shall be made under regulations prescribed by the President.

(b) LINEAL LIST.—Each person appointed under this section shall be placed on the lineal list in a position commensurate with that person's age, education, and experience, in accordance with regulations prescribed by the Secretary.

(c) SERVICE CREDIT UPON ORIGINAL APPOINTMENT IN GRADE ABOVE ENSIGN.—

(1) IN GENERAL.—For the purposes of basic pay, a person appointed under this section in the grade of lieutenant shall be credited as having, on the date of that appointment, three years of service, and a person appointed under this section in the grade of lieutenant (junior grade) shall be credited as having, as of the date of that appointment, 1½ years of service.

(2) HIGHER CREDIT UNDER OTHER LAW.—If a person appointed under this section is entitled to credit for the purpose of basic pay under any other provision of law that would exceed the amount of credit authorized by paragraph (1), that person shall be credited with that amount of service in lieu of the credit authorized by paragraph (1).

SEC. 222. PERSONNEL BOARDS.

(a) CONVENING.—At least once a year and at such other times as the Secretary determines necessary, the Secretary shall convene a personnel board. A personnel board shall consist of not less than five officers on the lineal list in the permanent grade of commander or above.

(b) DUTIES.—Each personnel board shall—

(1) recommend to the Secretary such changes in the lineal list as the board may determine; and

(2) make selections and recommendations to the Secretary and President for the appointment, promotion, separation, continuation, and retirement of officers as prescribed in this subtitle and subtitle C.

(c) ACTION ON RECOMMENDATIONS NOT ACCEPTABLE.—In a case in which any recommendation by a board convened under subsection (a) is not accepted by the Secretary or the President, the board shall make such further recommendations as are acceptable.

SEC. 223. PROMOTION OF ENSIGNS TO GRADE OF LIEUTENANT (JUNIOR GRADE).

(a) IN GENERAL.—An officer in the permanent grade of ensign shall be promoted to and appointed in the grade of lieutenant (junior grade) upon completion of three years of service. The authorized number of officers in the grade of lieutenant (junior grade) shall be temporarily increased as necessary to authorize such appointment.

(b) SEPARATION OF ENSIGNS FOUND NOT FULLY QUALIFIED.—If an officer in the permanent grade of ensign is at any time found not fully qualified, the officer's commission shall be revoked and the officer shall be separated from the commissioned service.

SEC. 224. PROMOTION BY SELECTION TO PERMANENT GRADES ABOVE LIEUTENANT (JUNIOR GRADE).

Promotion to fill vacancies in each permanent grade above the grade of lieutenant (junior grade) shall be made by selection from the next lower grade upon recommendation of the personnel board.

SEC. 225. LENGTH OF SERVICE FOR PROMOTION PURPOSES.

(a) GENERAL RULE.—Each officer shall be assumed to have, for promotion purposes, at least the same length of service as any other officer below that officer on the lineal list.

(b) EXCEPTION.—Notwithstanding subsection (a), an officer who has lost numbers shall be assumed to have, for promotion purposes, no greater service than the officer next above such officer in such officer's new position on the lineal list.

SEC. 226. APPOINTMENTS AND PROMOTIONS TO PERMANENT GRADES.

Appointments in and promotions to all permanent grades shall be made by the President, by and with the advice and consent of the Senate.

SEC. 227. GENERAL QUALIFICATION OF OFFICERS FOR PROMOTION TO HIGHER PERMANENT GRADE.

No officer may be promoted to a higher permanent grade on the active list until the officer has passed a satisfactory mental and physical examination in accordance with regulations prescribed by the Secretary.

SEC. 228. POSITIONS OF IMPORTANCE AND RESPONSIBILITY.

(a) DESIGNATION OF POSITIONS.—The Secretary may designate positions in the Administration as being positions of importance and responsibility for which it is appropriate that officers of the Administration, if serving in those positions, serve in the grade of vice admiral, rear admiral, or rear admiral (lower half), as designated by the Secretary for each position.

(b) ASSIGNMENT OF OFFICERS TO DESIGNATED POSITIONS.—The Secretary may assign officers to positions designated under subsection (a).

(c) DIRECTOR OF NOAA CORPS AND OFFICE OF MARINE AND AVIATION OPERATIONS.—The Secretary shall designate one position under this section as responsible for oversight of the vessel and aircraft fleets and for the administration of the commissioned officer corps. That position shall be filled by an officer on the lineal list serving in or above the grade of rear admiral (lower half). For the specific purpose of administering the commissioned officer corps, that position shall carry the title of Director of the National Oceanic and Atmospheric Administration Commissioned Officer Corps. For the specific purpose of administering the vessel and aircraft fleets, that position shall carry the title of Director of the Office of Marine and Aviation Operations.

(d) GRADE.—

(1) TEMPORARY APPOINTMENT TO GRADE DESIGNATED FOR POSITION.—An officer assigned to a position under this section while so serving has the grade designated for that position, if appointed to that grade by the President, by and with the advice and consent of the Senate.

(2) REVERSION TO PERMANENT GRADE.—An officer who has served in a grade above captain, upon termination of the officer's assignment to the position for which that appointment was made, shall, unless appointed or assigned to another position for which a higher grade is designated, revert to the grade and number the officer would have occupied but for serving in a grade above that of captain. In such a case, the officer shall be an extra number in that grade.

(e) NUMBER OF OFFICERS APPOINTED.—

(1) OVERALL LIMIT.—The total number of officers serving on active duty at any one time in the grade of rear admiral (lower half) or above may not exceed four.

(2) LIMIT BY GRADE.—The number of officers serving on active duty under appointments under this section may not exceed—

(A) one in the grade of vice admiral;

(B) two in the grade of rear admiral; and

(C) two in the grade of rear admiral (lower half).

(f) PAY AND ALLOWANCES.—An officer appointed to a grade under this section, while serving in that grade, shall have the pay and allowances of the grade to which appointed.

(g) EFFECT OF APPOINTMENT.—An appointment of an officer under this section—

(1) does not vacate the permanent grade held by the officer; and

(2) creates a vacancy on the active list.

SEC. 229. TEMPORARY APPOINTMENTS AND PROMOTIONS GENERALLY.

(a) ENSIGN.—Temporary appointments in the grade of ensign may be made by the President alone. Each such temporary appointment terminates at the close of the next regular session of the Congress unless the Senate sooner gives its advice and consent to the appointment.

(b) LIEUTENANT (JUNIOR GRADE).—Officers in the permanent grade of ensign may be temporarily promoted to and appointed in the grade of lieutenant (junior grade) by the President alone whenever vacancies exist in higher grades.

(c) ANY ONE GRADE.—When determined by the Secretary to be in the best interest of the service, officers in any permanent grade may be temporarily promoted one grade by the President alone. Any such temporary promotion terminates upon the transfer of the officer to a new assignment.

SEC. 230. TEMPORARY APPOINTMENT OR ADVANCEMENT OF COMMISSIONED OFFICERS IN TIME OF WAR OR NATIONAL EMERGENCY.

(a) IN GENERAL.—Officers of the Administration shall be subject in like manner and to the same extent as personnel of the Navy to all laws authorizing temporary appointment or advancement of commissioned officers in time of war or national emergency.

(b) LIMITATIONS.—Subsection (a) shall be applied subject to the following limitations:

(1) A commissioned officer in the service of a military department under section 251 may, upon the recommendation of the Secretary of the military department concerned, be temporarily promoted to a higher rank or grade.

(2) A commissioned officer in the service of the Administration may be temporarily promoted to fill vacancies in ranks and grades caused by the transfer of commissioned officers to the service and jurisdiction of a military department under section 251.

(3) Temporary appointments may be made in all grades to which original appointments in the Administration are authorized, except that the number of officers holding temporary appointments may not exceed the number of officers transferred to a military department under section 251.

SEC. 231. PAY AND ALLOWANCES; DATE OF ACCEPTANCE OF PROMOTION.

(a) ACCEPTANCE AND DATE OF PROMOTION.—An officer of the commissioned corps who is promoted to a higher grade—

(1) is deemed for all purposes to have accepted the promotion upon the date the promotion is made by the President, unless the officer expressly declines the promotion; and

(2) shall receive the pay and allowances of the higher grade from that date unless the officer is entitled under another provision of law to receive the pay and allowances of the higher grade from an earlier date.

(b) OATH OF OFFICE.—An officer who subscribed to the oath of office required by section 3331 of title 5, United States Code, shall not be required to renew such oath or to take a new oath upon promotion to a higher grade, if the service of the officer after the taking of such oath is continuous.

SEC. 232. SERVICE CREDIT AS DECK OFFICER OR JUNIOR ENGINEER FOR PROMOTION PURPOSES.

For purposes of promotion, there shall be counted in addition to active commissioned service, service as deck officer or junior engineer.

SEC. 233. SUSPENSION DURING WAR OR EMERGENCY.

In time of emergency declared by the President or by the Congress, and in time of war, the President is authorized, in the President's discretion, to suspend the operation of all or any part of the provisions of law pertaining to promotion of commissioned officers of the Administration.

Subtitle C—Separation and Retirement of Officers

SEC. 241. INVOLUNTARY RETIREMENT OR SEPARATION.

(a) TRANSFER OF OFFICERS TO RETIRED LIST; SEPARATION FROM SERVICE.—As recommended by a personnel board convened under section 222—

(1) an officer in the permanent grade of captain or commander may be transferred to the retired list; and

(2) an officer in the permanent grade of lieutenant commander, lieutenant, or lieutenant (junior grade) who is not qualified for retirement may be separated from the service.

(b) COMPUTATIONS.—In any fiscal year, the total number of officers selected for retirement or separation under subsection (a) plus the number of officers retired for age may not exceed the whole number nearest 4 percent of the total number of officers authorized to be on the active list, except as otherwise provided by law.

(c) EFFECTIVE DATE OF RETIREMENTS AND SEPARATIONS.—A retirement or separation under subsection (a) shall take effect on the first day of the sixth month beginning after the date on which the Secretary approves the retirement or separation, except that if the officer concerned requests an earlier retirement or separation date, the date shall be as determined by the Secretary.

SEC. 242. SEPARATION PAY.

(a) AUTHORIZATION OF PAYMENT.—An officer who is separated under section 241(a)(2) and who has completed more than three years of continuous active service immediately before that separation is entitled to separation pay computed under subsection (b) unless the Secretary determines that the conditions under which the officer is separated do not warrant payment of that pay.

(b) AMOUNT OF SEPARATION PAY.—

(1) SIX OR MORE YEARS.—In the case of an officer who has completed six or more years of continuous active service immediately before that separation, the amount of separation pay to be paid to the officer under this section is 10 percent of the product of—

(A) the years of active service creditable to the officer; and

(B) 12 times the monthly basic pay to which the officer was entitled at the time of separation.

(2) THREE TO SIX YEARS.—In the case of an officer who has completed three or more but fewer than six years of continuous active service immediately before that separation, the amount of separation pay to be paid to the officer under this section is one-half of the amount computed under paragraph (1).

(c) OTHER CONDITIONS, REQUIREMENTS, AND ADMINISTRATIVE PROVISIONS.—The provisions of subsections (f), (g), and (h) of section 1174 of title 10, United States Code, shall apply to separation pay under this section in the same manner as such provisions apply to separation pay under that section.

SEC. 243. MANDATORY RETIREMENT FOR AGE.

(a) OFFICERS BELOW GRADE OF REAR ADMIRAL (LOWER HALF).—Unless retired or separated earlier, each officer on the lineal list of the commissioned corps who is serving in a grade below the grade of rear admiral (lower half) shall be retired on the first day of the month following the month in which the officer becomes 62 years of age.

(b) FLAG OFFICERS.—Notwithstanding subsection (a), the President may defer the retirement of an officer serving in a position that carries a grade above captain for such period as the President considers advisable, but such a deferment may not extend beyond the first day of the month following the month in which the officer becomes 64 years of age.

SEC. 244. RETIREMENT FOR LENGTH OF SERVICE.

An officer who has completed 20 years of service, of which at least 10 years was service as a commissioned officer, may at any time thereafter, upon application by such officer and in the discretion of the President, be placed on the retired list.

SEC. 245. COMPUTATION OF RETIRED PAY.

(a) OFFICERS FIRST BECOMING MEMBERS BEFORE SEPTEMBER 8, 1980.—Each officer on the retired list who first became a member of a uniformed service before September 8, 1980, shall receive retired pay at the rate determined by multiplying—

(1) the retired pay base determined under section 1406(g) of title 10, United States Code; by

(2) 2½ percent of the number of years of service that may be credited to the officer under section 1405 of such title as if the officer's service were service as a member of the Armed Forces.

The retired pay so computed may not exceed 75 percent of the retired pay base.

(b) OFFICERS FIRST BECOMING MEMBERS ON OR AFTER SEPTEMBER 8, 1980.—Each officer on the retired list who first became a member of a uniformed service on or after September 8, 1980, shall receive retired pay at the rate determined by multiplying—

(1) the retired pay base determined under section 1407 of title 10, United States Code; by

(2) the retired pay multiplier determined under section 1409 of such title for the number of years of service that may be credited to the officer under section 1405 of such title as if the officer's service were service as a member of the Armed Forces.

(c) TREATMENT OF FULL AND FRACTIONAL PARTS OF MONTHS IN COMPUTING YEARS OF SERVICE.—

(1) IN GENERAL.—In computing the number of years of service of an officer for the purposes of subsection (a)—

(A) each full month of service that is in addition to the number of full years of service creditable to the officer shall be credited as 1/12 of a year; and

(B) any remaining fractional part of a month shall be disregarded.

(2) ROUNDING.—Retired pay computed under this section, if not a multiple of $1, shall be rounded to the next lower multiple of $1.

SEC. 246. RETIRED GRADE AND RETIRED PAY.

Each officer retired pursuant to law shall be placed on the retired list with the highest grade satisfactorily held by that officer while on active duty including active duty pursuant to recall, under permanent or temporary appointment, and shall receive retired pay based on such highest grade, if—

(1) the officer's performance of duty in such highest grade has been satisfactory, as determined by the Secretary of the department or departments under whose jurisdiction the officer served; and

(2) unless retired for disability, the officer's length of service in such highest grade is no less than that required by the Secretary of officers retiring under permanent appointment in that grade.

SEC. 247. RETIRED RANK AND PAY HELD PURSUANT TO OTHER LAWS UNAFFECTED.

Nothing in this subtitle shall prevent an officer from being placed on the retired list with the highest rank and with the highest retired pay to which the officer is entitled under any other provision of law.

SEC. 248. CONTINUATION ON ACTIVE DUTY; DEFERRAL OF RETIREMENT.

The provisions of subchapter IV of chapter 36 of title 10, United States Code, relating to continuation on active duty and deferral of retirement shall apply to commissioned officers of the Administration.

SEC. 249. RECALL TO ACTIVE DUTY.

The provisions of chapter 39 of title 10, United States Code, relating to recall of retired officers to active duty, including the limitations on such recalls, shall apply to commissioned officers of the Administration.

Subtitle D—Service of Officers With the Military Departments

SEC. 251. COOPERATION WITH AND TRANSFER TO MILITARY DEPARTMENTS.

(a) TRANSFERS OF RESOURCES AND OFFICERS DURING NATIONAL EMERGENCY.—

(1) TRANSFERS AUTHORIZED.—The President may, whenever in the judgment of the President a sufficient national emergency exists, transfer to the service and jurisdiction of a military department such vessels, equipment, stations, and officers of the Administration as the President considers to be in the best interest of the country.

(2) RESPONSIBILITY FOR FUNDING OF TRANSFERRED RESOURCES AND OFFICERS.—After any such transfer all expenses connected therewith shall be defrayed out of the appropriations for the department to which the transfer is made.

(3) RETURN OF TRANSFERRED RESOURCES AND OFFICERS.—Such transferred vessels, equipment, stations, and officers shall be returned to the Administration when the national emergency ceases, in the opinion of the President.

(4) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as transferring the Administration or any of its functions from the Department of Commerce except in time of national emergency and to the extent provided in this section.

(b) LIMITATION ON TRANSFER OF OFFICERS.—This section does not authorize the transfer of an officer of the Administration to a military department if the accession or retention of that officer in that military department is otherwise not authorized by law.

(c) STATUS OF TRANSFERRED OFFICERS.—An officer of the Administration transferred under this section, shall, while under the jurisdiction of a military department, have proper military status and shall be subject to the laws, regulations, and orders for the government of the Army, Navy, or Air Force, as the case may be, insofar as the same may be applicable to persons whose retention permanently in the military service of the United States is not contemplated by law.

SEC. 252. RELATIVE RANK OF OFFICERS WHEN SERVING WITH ARMY, NAVY, OR AIR FORCE.

When serving with the Army, Navy, or Air Force, an officer of the Administration shall rank with and after officers of corresponding grade in the Army, Navy, or Air Force of the same length of service in grade. Nothing in this subtitle shall be construed to affect or alter an officer's rates of pay and allowances when not assigned to military duty.

SEC. 253. RULES AND REGULATIONS WHEN COOPERATING WITH MILITARY DEPARTMENTS.

(a) JOINT REGULATIONS.—The Secretary of Defense and the Secretary of Commerce shall jointly prescribe regulations—

(1) governing the duties to be performed by the Administration in time of war; and

(2) providing for the cooperation of the Administration with the military departments in time of peace in preparation for its duties in time of war.

(b) APPROVAL.—Regulations under subsection (a) shall not be effective unless approved by each of those Secretaries.

(c) COMMUNICATIONS.—Regulations under subsection (a) may provide procedures for making reports and communications between a military department and the Administration.

Subtitle E—Rights and Benefits

SEC. 261. APPLICABILITY OF CERTAIN PROVISIONS OF TITLE 10, UNITED STATES CODE.

(a) PROVISIONS MADE APPLICABLE TO THE CORPS.—The rules of law that apply to the Armed Forces under the following provisions of title 10, United States Code, as those provisions are in effect from time to time, apply also to the commissioned officer corps of the Administration:

(1) Chapter 40, relating to leave.

(2) Section 533(b), relating to constructive service.

(3) Section 716, relating to transfers between the armed forces and to and from National Oceanic and Atmospheric Administration.

(4) Section 1035, relating to deposits of savings.

(5) Section 1036, relating to transportation and travel allowances for escorts for dependents of members.

(6) Section 1052, relating to reimbursement for adoption expenses.

(7) Section 1174a, relating to special separation benefits (except that benefits under subsection (b)(2)(B) of such section are subject to the availability of appropriations for such purpose and are provided at the discretion of the Secretary of Commerce).

(8) Chapter 61, relating to retirement or separation for physical disability.

(9) Chapter 69, relating to retired grade, except sections 1370, 1375, and 1376.

(10) Chapter 71, relating to computation of retired pay.

(11) Chapter 73, relating to annuities based on retired or retainer pay.

(12) Subchapter II of chapter 75, relating to death benefits.

(13) Section 2634, relating to transportation of motor vehicles for members on permanent change of station.

(14) Sections 2731 and 2735, relating to property loss incident to service.

(15) Section 2771, relating to final settlement of accounts of deceased members.

(16) Such other provisions of subtitle A of that title as may be adopted for applicability to the commissioned officer corps of the National Oceanic and Atmospheric Administration by any other provision of law.

(b) REFERENCES.—The authority vested by title 10, United States Code, in the ''military departments'', ''the Secretary concerned'', or ''the Secretary of Defense'' with respect to the provisions of law referred to in subsection (a) shall be exercised, with respect to the commissioned officer corps of the Administration, by the Secretary of Commerce or the Secretary's designee.

SEC. 262. ELIGIBILITY FOR VETERANS BENEFITS AND OTHER RIGHTS, PRIVILEGES, IMMUNITIES, AND BENEFITS UNDER CERTAIN PROVISIONS OF LAW.

(a) IN GENERAL.—Active service of officers of the Administration shall be deemed to be active military service for the purposes of all rights, privileges, immunities, and benefits under the following:

(1) Laws administered by the Secretary of Veterans Affairs.

(2) The Soldiers' and Sailors' Civil Relief Act of 1940 (50 App. U.S.C. 501 et seq.).

(3) Section 210 of the Social Security Act (42 U.S.C. 410), as in effect before September 1, 1950.

(b) EXERCISE OF AUTHORITY.—In the administration of the laws and regulations referred to in subsection (a), with respect to the Administration, the authority vested in the Secretary of Defense and the Secretaries of the military departments and their respective departments shall be exercised by the Secretary of Commerce.

SEC. 263. MEDICAL AND DENTAL CARE.

The Secretary may provide medical and dental care, including care in private facilities, for personnel of the Administration entitled to that care by law or regulation.

SEC. 264. COMMISSARY PRIVILEGES.

(a) EXTENSION OF PRIVILEGE.—Commissioned officers, ships' officers, and members of crews of vessels of the Administration shall be permitted to purchase commissary and quartermaster supplies as far as available from the Armed Forces at the prices charged officers and enlisted members of the Armed Forces.

(b) SALES OF RATIONS, STORES, UNIFORMS, AND RELATED EQUIPMENT.—The Secretary may purchase ration supplies for messes, stores, uniforms, accouterments, and related equipment for sale aboard ship and shore stations of the Administration to members of the uniformed services and to personnel assigned to such ships or shore stations. Sales shall be in accordance with regulations prescribed by the Secretary, and proceeds therefrom shall, as far as is practicable, fully reimburse the appropriations charged without regard to fiscal year.

(c) SURVIVING SPOUSES' RIGHTS.—Rights extended to members of the uniformed services in this section are extended to their surviving spouses and to such others as are designated by the Secretary concerned.

SEC. 265. AUTHORITY TO USE APPROPRIATED FUNDS FOR TRANSPORTATION AND REIMBURSEMENT OF CERTAIN ITEMS.

(a) TRANSPORTATION OF EFFECTS OF DECEASED OFFICERS.—In the case of an officer who dies on active duty, the Secretary may provide, from appropriations made available to the Administration, transportation (including packing, unpacking, crating, and uncrating) of personal and household effects of that officer to the official residence of record of that officer. However, upon application by the dependents of such an officer, such transportation may be provided to such other location as may be determined by the Secretary.

(b) REIMBURSEMENT FOR SUPPLIES FURNISHED BY OFFICERS TO DISTRESSED AND SHIPWRECKED PERSONS.—Under regulations prescribed by the Secretary, appropriations made available to the Administration may be used to reimburse an officer for food, clothing, medicines, and other supplies furnished by the officer—

(1) for the temporary relief of distressed persons in remote localities; or

(2) to shipwrecked persons who are temporarily provided for by the officer.

SEC. 266. PRESENTATION OF UNITED STATES FLAG UPON RETIREMENT.

(a) PRESENTATION OF FLAG UPON RETIREMENT.—Upon the release of a commissioned officer from active commissioned service for retirement, the Secretary shall present a United States flag to the officer.

(b) MULTIPLE PRESENTATIONS NOT AUTHORIZED.—An officer is not eligible for presentation of a flag under subsection (a) if the officer has previously been presented a flag under this section or any other provision of law providing for the presentation of a United States flag incident to release from active service for retirement.

(c) NO COST TO RECIPIENT.—The presentation of a flag under this section shall be at no cost to the recipient.

Subtitle F—Repeals and Conforming Amendments

SEC. 271. REPEALS.

The following provisions of law are repealed:

(1) The Coast and Geodetic Survey Commissioned Officers' Act of 1948 (33 U.S.C. 853a et seq.).

(2) Section 3 of the Act of August 10, 1956 (33 U.S.C. 857a).

(3) Public Law 91–621 (33 U.S.C. 857–1 et seq.).

(4) Section 16 of the Act of May 22, 1917 (33 U.S.C. 854, 855, 856, 857, and 858).

(5) Section 1 of the Act of July 22, 1947 (33 U.S.C. 874).

(6) Section 11 of the Act entitled ''An Act to increase the efficiency of the commissioned and enlisted personnel of the Army, Navy, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service'', enacted May 18, 1920 (33 U.S.C. 864).

(7) Section 636(a)(17) of the Foreign Assistance Act of 1961 (22 U.S.C. 2396(a)(17)).

SEC. 272. CONFORMING AMENDMENTS.

(a) TITLE 10, UNITED STATES CODE.—Section 1406(g) of title 10, United States Code, is amended by striking ''section 16 of the Coast and Geodetic Survey Commissioned Officers' Act of 1948 (33 U.S.C. 853o)'' and inserting ''section 305 of the National Oceanic and Atmospheric Administration Commissioned Officers Act of 2002''.

(b) PUBLIC LAW 104–106.—Section 566(c) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 328; 10 U.S.C. 1293 note) is amended by striking ''the Coast and Geodetic Survey Commissioned Officers' Act of 1948'' and inserting ''the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002''.

TITLE III—VARIOUS FISHERIES CONSERVATION REAUTHORIZATIONS

SEC. 301. SHORT TITLE.

This title may be cited as the ''Fisheries Conservation Act of 2002''.

SEC. 302. REAUTHORIZATION AND AMENDMENT OF THE INTERJURISDICTIONAL FISHERIES ACT OF 1986.

(a) REAUTHORIZATION.—Section 308 of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107) is amended—

(1) by amending subsection (a) to read as follows:

''(a) GENERAL APPROPRIATIONS.—There are authorized to be appropriated to the Department of Commerce for apportionment to carry out the purposes of this title—

''(1) $5,400,000 for each of fiscal years 2003 and 2004; and

''(2) $5,900,000 for each of fiscal years 2005 and 2006.''; and

(2) in subsection (c) by striking ''$700,000 for fiscal year 1997, and $750,000 for each of

the fiscal years 1998, 1999, and 2000'' and inserting ''$850,000 for each of fiscal years 2003 and 2004, and $900,000 for each of fiscal years 2005 and 2006''.

(b) PURPOSES OF THE INTERJURISDICTIONAL FISHERIES ACT OF 1986.—Section 302 of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4101) is amended by striking ''and'' after the semicolon at the end of paragraph (1), striking the period at the end of paragraph (2) and inserting ''; and'', and adding at the end the following:

''(3) to promote and encourage research in preparation for the implementation of the use of ecosystems and interspecies approaches to the conservation and management of interjurisdictional fishery resources throughout their range.''.

SEC. 303. REAUTHORIZATION AND AMENDMENT OF THE ANADROMOUS FISH CONSERVATION ACT.

(a) REAUTHORIZATION.—Section 4 of the Anadromous Fish Conservation Act (16 U.S.C. 757d) is amended to read as follows:

''AUTHORIZATION OF APPROPRIATIONS

''SEC. 4. (a)(1) There are authorized to be appropriated to carry out the purposes of this Act not to exceed the following sums:

''(A) $4,750,000 for each of fiscal years 2003 and 2004; and

''(B) $5,000,000 for each of fiscal years 2005 and 2006.

''(2) Sums appropriated under this subsection are authorized to remain available until expended.

''(b) Not more than $625,000 of the funds appropriated under this section in any one fiscal year shall be obligated in any one State.''.

(b) RESEARCH ON AND USE OF ECOSYSTEMS AND INTERSPECIES APPROACHES TO CONSERVATION AND MANAGEMENT.—The first section of the Anadromous Fish Conservation Act (16 U.S.C. 757a) is amended in subsection (b) by inserting ''(1)'' after ''(b)'', and by adding at the end the following:

''(2) In carrying out responsibilities under this section, the Secretary shall conduct, promote, and encourage research in preparation for the implementation of the use of ecosystems and interspecies approaches to the conservation and management of anadromous and Great Lakes fishery resources.''.

SEC. 304. REAUTHORIZATION OF THE ATLANTIC TUNAS CONVENTION ACT OF 1975.

Section 10 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971h) is amended to read as follows:

''AUTHORIZATION OF APPROPRIATIONS

''SEC. 10. (a) IN GENERAL.—There are authorized to be appropriated to carry out this Act, including use for payment of the United States share of the joint expenses of the Commission as provided in Article X of the Convention, the following sums:

Section 211 of the Northwest Atlantic Fisheries Convention Act of 1995 (16 U.S.C. 5610) is amended by striking ''2001'' and inserting ''2006''.

SEC. 306. EXTENSION OF DEADLINE.

(a) EXTENSION OF DEADLINE.—The Oceans Act of 2000 (Public Law 106–256) is amended—

(1) in section 3(i) (114 Stat. 648) by striking ''30 days'' and inserting ''90 days''; and

(2) in section 4(a) (114 Stat. 648; 33 U.S.C. 857–19 note) by striking ''120 days'' and inserting ''90 days''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 3(j) of such Act (114 Stat. 648) is amended by striking ''$6,000,000'' and inserting ''$8,500,000''.

(c) TECHNICAL CORRECTIONS.—Section 3(e) of such Act (114 Stat. 646) is amended—

(1) in paragraph (1) by striking the colon in the third sentence and inserting a period;

(2) by inserting immediately after such period the following:

''(2) NOTICE; MINUTES; PUBLIC AVAILABILITY OF DOCUMENTS.—''; and

(3) by redesignating the subsequent paragraphs in order as paragraphs (3) and (4), respectively.

TITLE IV—MISCELLANEOUS

SEC. 401. CHESAPEAKE BAY OFFICE.

(a) REAUTHORIZATION OF OFFICE.—Section 307 of the National Oceanic and Atmospheric Administration Authorization Act of 1992 (15 U.S.C. 1511d) is amended to read as follows:

''SEC. 307. CHESAPEAKE BAY OFFICE.

''(a) ESTABLISHMENT.—(1) The Secretary of Commerce shall establish, within the National Oceanic and Atmospheric Administration, an office to be known as the Chesapeake Bay Office (in this section referred to as the 'Office').

''(2) The Office shall be headed by a Director who shall be appointed by the Secretary of Commerce, in consultation with the Chesapeake Executive Council. Any individual appointed as Director shall have knowledge and experience in research or resource management efforts in the Chesapeake Bay.

''(3) The Director may appoint such additional personnel for the Office as the Director determines necessary to carry out this section.

''(b) FUNCTIONS.—The Office, in consultation with the Chesapeake Executive Council, shall—

''(1) provide technical assistance to the Administrator, to other Federal departments and agencies, and to State and local government agencies in—

''(A) assessing the processes that shape the Chesapeake Bay system and affect its living resources;

''(B) identifying technical and management alternatives for the restoration and protection of living resources and the habitats they depend upon; and

''(C) monitoring the implementation and effectiveness of management plans;

''(2) develop and implement a strategy for the National Oceanic and Atmospheric Administration that integrates the science, research, monitoring, data collection, regulatory, and management responsibilities of the Secretary of Commerce in such a manner as to assist the cooperative, intergovernmental Chesapeake Bay Program to meet the commitments of the Chesapeake Bay Agreement;

''(3) coordinate the programs and activities of the various organizations within the National Oceanic and Atmospheric Administration, the Chesapeake Bay Regional Sea Grant Programs, and the Chesapeake Bay units of the National Estuarine Research Reserve System, including—

''(A) programs and activities in—

''(i) coastal and estuarine research, monitoring, and assessment;

''(ii) fisheries research and stock assessments;

''(iii) data management;

''(iv) remote sensing;

''(v) coastal management;

''(vi) habitat conservation and restoration; and

''(vii) atmospheric deposition; and

''(B) programs and activities of the Cooperative Oxford Laboratory of the National Ocean Service with respect to—

''(i) nonindigenous species;

''(ii) estuarine and marine species pathology;

''(iii) human pathogens in estuarine and marine environments; and

''(iv) ecosystem health;

''(4) coordinate the activities of the National Oceanic and Atmospheric Administration with the activities of the Environmental Protection Agency and other Federal, State, and local agencies;

''(5) establish an effective mechanism which shall ensure that projects have undergone appropriate peer review and provide other appropriate means to determine that projects have acceptable scientific and technical merit for the purpose of achieving maximum utilization of available funds and resources to benefit the Chesapeake Bay area;

''(6) remain cognizant of ongoing research, monitoring, and management projects and assist in the dissemination of the results and findings of those projects; and

''(7) submit a biennial report to the Congress and the Secretary of Commerce with respect to the activities of the Office and on the progress made in protecting and restoring the living resources and habitat of the Chesapeake Bay, which report shall include an action plan consisting of—

''(A) a list of recommended research, monitoring, and data collection activities necessary to continue implementation of the strategy described in paragraph (2); and

''(B) proposals for—

''(i) continuing any new National Oceanic and Atmospheric Administration activities in the Chesapeake Bay; and

''(ii) the integration of those activities with the activities of the partners in the Chesapeake Bay Program to meet the commitments of the Chesapeake 2000 agreement and subsequent agreements.

''(c) CHESAPEAKE BAY FISHERY AND HABITAT RESTORATION SMALL WATERSHED GRANTS PROGRAM.—

''(1) IN GENERAL.—The Director of the Chesapeake Bay Office of the National Oceanic and Atmospheric Administration (in this section referred to as the 'Director'), in cooperation with the Chesapeake Executive Council, shall carry out a community-based fishery and habitat restoration small grants and technical assistance program in the Chesapeake Bay watershed.

''(2) PROJECTS.—

''(A) SUPPORT.—The Director shall make grants under this subsection to pay the Federal share of the cost of projects that are carried out by entities eligible under paragraph (3) for the restoration of fisheries and habitats in the Chesapeake Bay.

''(B) FEDERAL SHARE.—The Federal share under subparagraph (A) shall not exceed 75 percent.

''(C) TYPES OF PROJECTS.—Projects for which grants may be made under this subsection include—

''(i) the improvement of fish passageways;

''(ii) the creation of natural or artificial reefs or substrata for habitats;

''(iii) the restoration of wetland or sea grass;

''(iv) the production of oysters for restoration projects; and

''(v) the prevention, identification, and control of nonindigenous species.

''(3) ELIGIBLE ENTITIES.—The following entities are eligible to receive grants under this subsection:

''(A) The government of a political subdivision of a State in the Chesapeake Bay watershed, and the government of the District of Columbia.

''(B) An organization in the Chesapeake Bay watershed (such as an educational institution or a community organization)—

''(i) that is described in section 501(c) of the Internal Revenue Code of 1986 and is exempt from taxation under section 501(a) of that Code; and

''(ii) that will administer such grants in coordination with a government referred to in subparagraph (A).

''(4) ADDITIONAL REQUIREMENTS.—The Director may prescribe any additional requirements, including procedures, that the Director considers necessary to carry out the program under this subsection.

''(d) CHESAPEAKE EXECUTIVE COUNCIL.—For purposes of this section, 'Chesapeake Executive Council' means the representatives from the Commonwealth of Virginia, the State of Maryland, the Commonwealth of Pennsylvania, the Environmental Protection Agency, the District of Columbia, and the Chesapeake Bay Commission, who are signatories to the Chesapeake Bay Agreement, and any future signatories to that Agreement.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Department of Commerce for the Chesapeake Bay Office $6,000,000 for each of fiscal years 2002 through 2006.''.

(b) CONFORMING AMENDMENT.—Section 2 of the National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act (Public Law 98–210; 97 Stat. 1409) is amended by striking subsection (e).

(c) MULTIPLE SPECIES MANAGEMENT STRATEGY.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Director of the Chesapeake Bay Office of the National Oceanic and Atmospheric Administration shall begin a 5-year study, in cooperation with the scientific community of the Chesapeake Bay, appropriate State and interstate resource management entities, and appropriate Federal agencies—

(A) to determine and expand the understanding of the role and response of living resources in the Chesapeake Bay ecosystem; and

(B) to develop a multiple species management strategy for the Chesapeake Bay.

(2) REQUIRED ELEMENTS OF STUDY.—In order to improve the understanding necessary for the development of the strategy under paragraph (1)(B), the study shall—

(A) determine the current status and trends of fish and shellfish that live in the Chesapeake Bay and its tributaries and are selected for study;

(B) evaluate and assess interactions among the fish and shellfish referred to in subparagraph (A) and other living resources, with particular attention to the impact of changes within and among trophic levels; and

(C) recommend management actions to optimize the return of a healthy and balanced ecosystem for the Chesapeake Bay.

SEC. 402. CONVEYANCE OF NOAA LABORATORY IN TIBURON, CALIFORNIA.

(a) IN GENERAL.—Except as provided in subsection (c), the Secretary of Commerce shall convey to the Board of Trustees of the California State University, by suitable instrument, in accordance with this section, by as soon as practicable, but not later than 180 days after the date of the enactment of this Act, and without consideration, all right, title, and interest of the United States in the balance of the National Oceanic and Atmospheric Administration property known as the Tiburon Laboratory, located in Tiburon, California, as described in Exhibit A of the notarized, revocable license between the Administration and Romberg Tiburon Center for Environmental Studies at San Francisco State University dated November 5, 2001 (license number 01ABF779–N).

(b) CONDITIONS.—As a condition of any conveyance by the Secretary under this section the Secretary shall require the following:

(1) The property conveyed shall be administered by the Romberg Tiburon Center for Environmental Studies at San Francisco State University and used only for the following purposes:

(A) To enhance estuarine scientific research and estuary restoration activities within San Francisco Bay.

(B) To administer and coordinate management activities at the San Francisco Bay National Estuarine Research Reserve.

(C) To conduct education and interpretation and outreach activities to enhance public awareness and appreciation of estuary resources, and for other purposes.

(2) The Board shall—

(A) take title to the property as is;

(B) assume full responsibility for all facility maintenance and repair, security, fire prevention, utilities, signs, and grounds maintenance;

(C) allow the Secretary to have all necessary ingress and egress over the property of the Board to access Department of Commerce building and related facilities, equipment, improvements, modifications, and alterations; and

(D) not erect or allow to be erected any structure or structures or obstruction of whatever kind that will interfere with the access to or operation of property retained for the United States under subsection (c)(1), unless prior written consent has been provided by the Secretary to the Board.

(c) RETAINED INTERESTS.—The Secretary shall retain for the United States—

(1) all right, title, and interest in and to the portion of the property referred to in subsection (a) comprising Building 86, identified as Parcel C on Exhibit A of the license referred to in subsection (a), including all facilities, equipment, fixtures, improvements, modifications, or alterations made by the Secretary;

(2) rights-of-way and easements that are determined by the Secretary to be reasonable and convenient to ensure all necessary ingress, egress, utilities, drainage, and sewage disposal for the property retained under paragraph (1), including access to the existing boat launch ramp (or equivalent) and parking that is suitable to the Secretary;

(3) the exclusive right to install, maintain, repair, replace, and remove its facilities, fixtures, and equipment on the retained property, and to authorize other persons to take any such action;

(4) the right to grade, condition, and install drainage facilities, and to seed soil on the retained property, if necessary; and

(5) the right to remove all obstructions from the retained property that may constitute a hindrance to the establishment and maintenance of the retained property.

(d) EQUIVALENT ALTERNATIVE.—

(1) IN GENERAL.—At any time, either the Secretary or the Board may request of each other to enter into negotiations pursuant to which the Board may convey if appropriate to the United States, in exchange for property conveyed by the United States under subsection (a), another building that is equivalent in function to the property retained under subsection (c) that is acceptable to the Secretary.

(2) LOCATION.—Property conveyed by the Board under this subsection is not required to be located on the property referred to in subsection (a).

(3) COSTS.—If the Secretary and the Board engage in a property exchange under this subsection, all costs for repair, removal, and moving of facilities, equipment, fixtures, improvements, modifications, or alterations, including power, control, and utilities, that are necessary for the exchange—

(A) shall be the responsibility of the Secretary, if the action to seek an equivalent alternative was requested by the Secretary in response to factors unrelated to the activities of the Board or its operatives in the operation of its facilities; or

(B) shall be the responsibility of the Board, if the Secretary's request for an equivalent alternative was in response to changes or modifications made by the Board or its operatives that adversely affected the Secretary's interest in the property retained under subsection (c).

(e) ADDITIONAL CONDITIONS.—As conditions of any conveyance under subsection (a)—

(1) the Secretary shall require that—

(A) the Board remediate, or have remediated, at its sole cost, all hazardous or toxic substance contamination found on the property conveyed under subsection (a), whether known or unknown at the time of the conveyance or later discovered; and

(B) the Board of Trustees hold harmless the Secretary for any and all costs, liabilities, or claims by third parties that arise out of any hazardous or toxic substance contamination found on the property conveyed under subsection (a) that are not directly attributable to the installation, operation, or maintenance of the Secretary's facilities, equipment, fixtures, improvements, modifications, or alterations;

(2) the Secretary shall remediate, at the sole cost of the United States, all hazardous or toxic substance contamination on the property retained under subsection (c) that is found to have occurred as a direct result of the installation, operation, or maintenance of the Secretary's facilities, equipment, fixtures, improvements, modifications, or alterations; and

(3) if the Secretary decides to terminate future occupancy and interest of the property retained under subsection (c), the Secretary shall—

(A) provide written notice to the Board at least 60 days prior to the scheduled date when the property will be vacated;

(B) remove facilities, equipment, fixtures, improvements, modifications, or alterations and restore the property to as good a condition as existed at the time the property was retained under subsection (c), taking into account ordinary wear and tear and exposure to natural elements or phenomena; or

(C) surrender all facilities, equipment, fixtures, improvements, modifications, or alterations to the Board in lieu of restoration, whereupon title shall vest in the Board of Trustees, and whereby all obligations of restoration under this subsection shall be waived, and all interests retained under subsection (c) shall be revoked.

(f) REVERSIONARY INTEREST.—

(1) IN GENERAL.—All right, title, and interest in and to all property and interests conveyed by the United States under this section shall revert to the United States on the date on which the Board uses any of the property for any purpose other than the purposes described in subsection (b)(1).

(2) ADMINISTRATION OF REVERTED PROPERTY.—Any property that reverts to the United States under this subsection shall be under the administrative jurisdiction of the Administrator of General Services.

(3) ANNUAL CERTIFICATION.—One year after the date of a conveyance made pursuant to subsection (a), and annually thereafter, the Board shall certify to the Administrator of General Services or his or her designee that the Board and its designees are in compliance with the conditions of conveyance under subsections (b) and (e).

(g) DEFINITIONS.—In this section:

(1) BOARD.—The term ''Board'' means the Board of Trustees of the California State University.

(2) CENTER.—The term ''Center'' means the Romberg Tiburon Center for Environmental Studies at San Francisco State University.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Commerce.

SEC. 403. EMERGENCY ASSISTANCE FOR SUBSISTENCE WHALE HUNTERS.

Notwithstanding any provision of law, the use of a vessel to tow a whale taken in a traditional subsistence whale hunt permitted by Federal law and conducted in waters off the coast of Alaska is authorized, if such towing is performed upon a request for emergency assistance made by a subsistence whale hunting organization formally recognized by an agency of the United States Government, or made by a member of such an organization, to prevent the loss of a whale.

Mr. HANSEN. (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

The amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

□ 0220

ADJUSTING BOUNDARIES OF SALT RIVER BAY NATIONAL HISTORICAL PARK AND ECOLOGICAL PRESERVE

Mr. HANSEN. Mr. Speaker, I ask unanimous consent that the Committee on Resources be discharged from further consideration of the bill (H.R. 5097) to adjust the boundaries of the Salt River Bay National Historical Park and Ecological Preserve located in St. Croix, Virgin Islands, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentleman from Utah?

There was no objection.

The Clerk read the bill, as follows:

H.R. 5097

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

SECTION 1. BOUNDARIES AMENDED.

Section 103(b) of the Salt River Bay National Historical Park and Ecological Preserve at St. Croix, Virgin Islands, Act of 1992 (16 U.S.C. 410tt–1(b)) is amended—

(1) by striking ''The park shall consist'' and inserting the following:

''(a) INITIAL BOUNDARIES.—The park shall consist'';

(2) by striking ''The map shall be'' and inserting the following:

''(c) MAP ON FILE.—The map shall be''; and

(3) by inserting before subsection (c) (as added by paragraph (2) of this section) the following:

''(b) ADDITIONAL LANDS.—In addition to the lands described in subsection (a), the park shall consist of the approximately 28.45 acres depicted on the National Park Service drawing numbered 141–80002 and further described as follows:

''(1) Estate Salt River (Sugar Bay Subdivision) plots 21–37, except plots 29 and 30 and associated road plots (13.25 acres).

''(2) Estate Morning Star plot 14B (15.2 acres).''.

COMMITTEE AMENDMENT

The SPEAKER pro tempore. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Strike out all after the enacting clause and insert:

SECTION 1. BOUNDARY ADJUSTMENT.

The first sentence of section 103(b) of the Salt River Bay National Historical Park and Ecological Preserve at St. Croix, Virgin Islands, Act of 1992 (16 U.S.C. 410tt–1(b)) is amended to read as follows: ''The park shall consist of approximately 1015 acres of lands, waters, and interests in lands as generally depicted on the map entitled 'Salt River Bay National Historical Park and Ecological Preserve, St. Croix, U.S.V.I.', numbered 141/80002, and dated May 2, 2002.''.

Mr. HANSEN (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MOUNT RAINIER NATIONAL PARK BOUNDARY ADJUSTMENT ACT OF 2002

Mr. HANSEN. Mr. Speaker, I ask unanimous consent that the Committee on Resources be discharged from further consideration of the bill (H.R. 5512) to provide for an adjustment of the boundaries of Mount Rainier National Park, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

The Clerk read the bill, as follows:

H.R. 5512

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 ''Mount Rainier National Park Boundary Adjustment Act of 2002''.

SEC. 2. EXPANSION OF MOUNT RAINIER NATIONAL PARK.

(a) IN GENERAL.—

(1) ACQUISITION AUTHORIZED.—The Secretary of the Interior may acquire, with the consent of the owners, by donation, purchase with donated or appropriated funds, or exchange, privately owned land depicted on the map entitled ''_____'', numbered _____, and dated _____.

(2) LIMITATION.—The total acreage of the land acquired under this subsection and the land transferred to the administrative jurisdiction of the Secretary of the Interior under subsection (b) shall not exceed 1,000 acres.

(3) INCLUSION IN PARK.—Upon the acquisition of property by the Secretary under this subsection—

(A) the boundary of Mount Rainier National Park shall be modified to include the acquired property and to ensure that access over the Carbon River Bridge to National Forest lands is maintained for commercial and other public use; and

(B) the Secretary of the Interior shall administer the acquired property as part of Mount Rainier National Park.

(b) TRANSFER OF NATIONAL FOREST LANDS.—

(1) TRANSFER.—There is transferred to the Secretary of the Interior administrative jurisdiction over National Forest lands depicted on the map referred to in subsection (a)(1).

(2) INCLUSION IN PARK.—Upon the effectiveness of this subsection, the boundary of Mount Rainier National Park shall be modified to include the lands referred to in paragraph (1).

(c) ADMINISTRATIVE SITE.—In addition to lands acquired under subsection (a), in order to provide public information for the visitor accessing public lands along the Carbon and Mowich Corridors, the Secretary of the Interior may acquire land in the vicinity of Wilkeson, Washington, not to exceed .5 acre, by purchase, donation, or exchange, and from willing sellers only.

(d) ADMINISTRATION OF ACQUIRED LANDS.—The Secretary of the Interior shall administer lands acquired under this section as part of Mount Rainier National Park and in accordance with applicable laws and regulations.

(e) AVAILABILITY OF MAP.—The map referred to in subsection (a)(1) shall be on file in the appropriate offices of the National Park Service.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. HANSEN

Mr. HANSEN. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. HANSEN:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Mount Rainier National Park Boundary Adjustment Act of 2002''.

SEC. 2. EXPANSION OF MOUNT RAINIER NATIONAL PARK.

(a) IN GENERAL.—

(1) ACQUISITION AUTHORIZED.—The Secretary of the Interior may acquire, from willing owners only, privately owned land depicted on the map entitled ''Mount Rainer National Park FY2004 LWCF Project'', numbered 105/92,002, and dated October 2002. The privately owned land so depicted may be acquired from such willing owners by donation, purchase with donated or appropriated funds, or exchange.

(2) LIMITATION.—The total acreage of the land acquired under this subsection and the land transferred to the administrative jurisdiction of the Secretary of the Interior under subsection (b) shall not exceed 1,000 acres.

(3) INCLUSION IN PARK.—Upon the acquisition of property by the Secretary under this subsection—

(A) the boundary of Mount Rainier National Park shall be modified to include the acquired property and to ensure that access over the Carbon River Bridge to National Forest lands is maintained for commercial and other public use; and

(B) the Secretary of the Interior shall administer the acquired property as part of Mount Rainier National Park.

(b) TRANSFER OF NATIONAL FOREST LANDS.—

(1) TRANSFER.—There is transferred to the Secretary of the Interior administrative jurisdiction over National Forest lands depicted on the map referred to in subsection (a)(1).

(2) INCLUSION IN PARK.—Upon the effective date of this subsection, the boundary of Mount Rainier National Park shall be modified to include the lands referred to in paragraph (1).

(c) ADMINISTRATIVE SITE.—In addition to lands acquired under subsection (a), in order to provide public information for visitors accessing public lands along the Carbon and Mowich Corridors, the Secretary of the Interior may acquire land in the vicinity of Wilkeson, Washington, not to exceed .5 acre, by purchase, donation, or exchange, and from willing owners only.

(d) ADMINISTRATION OF ACQUIRED LANDS.—The Secretary of the Interior shall administer lands acquired under this section as part of Mount Rainier National Park and in accordance with applicable laws and regulations.

(e) AVAILABILITY OF MAP.—The map referred to in subsection (a)(1) shall be on file in the appropriate offices of the National Park Service.

Mr. HANSEN (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

The amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

YAVAPAI RANCH LAND EXCHANGE REFINEMENT ACT OF 2002

Mr. HANSEN. Mr. Speaker, I ask unanimous consent that the Committee on Resources be discharged from further consideration of the bill (H.R. 5513) to authorize and direct the exchange of certain land in the State of Arizona between the Secretary of Agriculture and Yavapai Ranch Limited Partnership, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

The Clerk read the bill, as follows:

H.R. 5513

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 ''Yavapai Ranch Land Exchange Refinement Act of 2002''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) certain parcels of private land in the approximately 170 square miles of land commonly known as the ''Yavapai Ranch'' and located in Yavapai County, Arizona, are intermingled with National Forest System land owned by the United States and administered by the Secretary of Agriculture as part of Prescott National Forest;

(2) the private land is owned by the Yavapai Ranch Limited Partnership and the Northern Yavapai, L.L.C. in an intermingled checkerboard pattern, with the United States or Yavapai Ranch Limited Partnership and the Northern Yavapai, L.L.C. owning alternate square mile sections of land or fractions of square mile sections;

(3) much of the private land within the checkerboard area (including the land located in or near the Pine Creek watershed, Juniper Mesa Wilderness Area, Haystack Peak, and the Luis Maria Baca Float No. 5) is located in environmentally sensitive areas that possess outstanding attributes and values for public management, use, and enjoyment, including opportunities for—

(A) outdoor recreation;

(B) preservation of stands of old growth forest;

(C) important and largely unfragmented habitat for antelope, deer, elk, mountain lion, wild turkey, and other wildlife species;

(D) watershed protection and enhancement;

(E) scientific research;

(F) rangeland;

(G) ecological and archaeological resources; and

(H) scenic vistas;

(4) the checkerboard ownership pattern of land within the Yavapai Ranch detracts from sound and efficient management of the intermingled National Forest System land;

(5) if the private land in the checkerboard area is subdivided or developed, the intermingled National Forest System land will become highly fragmented and lose much of the value of the land for wildlife habitat and future public access, use, and enjoyment;

(6) acquisition by the United States of certain parcels of land that have been offered by Yavapai Ranch Limited Partnership and the Northern Yavapai, L.L.C. for addition to Prescott National Forest will serve important public objectives, including—

(A) acquiring private land that meets the criteria for inclusion in the National Forest System in exchange for land with lower public, environmental, and ecological values;

(B) consolidating a large area of National Forest System land to preserve—

(i) permanent public access, use, and enjoyment of the land; and

(ii) efficient management of the land;

(C) minimizing cash outlays by the United States to achieve the objectives described in subparagraphs (A) and (B);

(D) significantly reducing administrative costs to the United States through—

(i) consolidation of Federal land holdings for more efficient land management and planning;

(ii) elimination of approximately 350 miles of boundary between private land and the Federal parcels;

(iii) reduced right-of-way, special use, and other permit processing and issuance for roads and other facilities on National Forest System land; and

(iv) other administrative cost savings;

(E) significantly protecting the watershed and stream flow of the Verde River in Arizona by reducing the land available for future development within that watershed by approximately 25,000 acres; and

(F) conserving the waters of the Verde River through the recording of declarations restricting the use of water on Federal land located near the communities of Camp Verde, Cottonwood and Clarkdale to be exchanged by the United States to Yavapai Ranch Limited Partnership or the Northern Yavapai, L.L.C.;

(7) Yavapai Ranch Limited Partnership and the Northern Yavapai, L.L.C. have selected parcels of National Forest System land that are logical for conveyance to Yavapai Ranch Limited Partnership or the Northern Yavapai, L.L.C. through a land exchange because the parcels—

(A) are located in less environmentally sensitive areas than the land to be acquired by the United States;

(B) have significantly lower recreational, wildlife, ecological, aesthetic, and other public purpose values than the land to be acquired by the United States; and

(C) are encumbered by special use permits and rights-of-way for a variety of purposes (including summer youth camps, municipal water treatment facilities, sewage treatment facilities, city parks, and airport-related facilities) that—

(i) limit the usefulness of the parcels for general National Forest System purposes; but

(ii) are logical for pass-through conveyances from Yavapai Ranch Limited Partnership and the Northern Yavapai, L.L.C. to the permit or right-of-way holders;

(8) because of residential and ranchette-style subdivisions and developments on land adjacent to the Yavapai Ranch, it is in the interest of the public—

(A) to authorize, direct, facilitate, and expedite the exchange of Federal land and non-Federal land; and

(B) to establish a large consolidated area of National Forest System land; and

(9) without a land exchange, Yavapai Ranch Limited Partnership and the Northern Yavapai, L.L.C. will be forced to initiate development of the non-Federal land.

(b) PURPOSE.—The purpose of this Act is to further the public interest by authorizing, directing, facilitating, and expediting the exchange of Federal land and non-Federal land between the United States, Yavapai Ranch Limited Partnership, and the Northern Yavapai, L.L.C.

SEC. 3. DEFINITIONS.

In this Act:

(1) CAMP VERDE DECLARATION.—The term ''Camp Verde Declaration'' means the Declaration of Covenants, Conditions, and Restrictions executed by Yavapai Ranch Limited Partnership and the Northern Yavapai, L.L.C., on or about August 12, 2002, and recorded in the official records of Yavapai County, Arizona, that is intended to run with the land and imposes certain water use restrictions, water source limitations, and water conservation measures on the future development of the land described in section 4(a)(2)(D).

(2) COTTONWOOD DECLARATION.—The term ''Cottonwood Declaration'' means the Declaration of Covenants, Conditions and Restrictions executed by Yavapai Ranch Limited Partnership and the Northern Yavapai, L.L.C., on or about August 12, 2002, and recorded in the official records of Yavapai County, Arizona, that is intended to run with the land and imposes certain water use restrictions, water source limitations, and water conservation measures on the future development of the land described in section 4(a)(2)(E).

(3) DECLARATIONS.—The term ''Declarations'' collectively means the Camp Verde Declaration and the Cottonwood Declaration, both of which Congress is requiring to be recorded as encumbrances on the Camp Verde Federal land described in section 4(a)(2)(D) and the Cottonwood/Clarkdale Federal land described in section 4(a)(2)(E) in order to conserve water resources in the Verde River Valley, Arizona.

(4) FEDERAL LAND.—The term ''Federal land'' means the land directed for exchange to YRLP in section 4(a)(2).

(5) MANAGEMENT PLAN.—The term ''Management Plan'' means the land and resource management plan for Prescott National Forest.

(6) NON-FEDERAL LAND.—The term ''non-Federal land'' means the approximately 35,000 acres of non-Federal land located within the boundaries of Prescott National Forest and directed for exchange to the United States, as generally depicted on the map entitled ''Yavapai Ranch Non-Federal Lands'', dated April 2002.

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

(8) SUMMER CAMPS.—The term ''summer camps'' means Camp Pearlstein and Friendly Pines, Patterdale Pines, Pine Summit, Sky Y, and YoungLife Lost Canyon camps in the State of Arizona.

(9) YRLP.—

(A) IN GENERAL.—The term ''YRLP'' means—

(i) the Yavapai Ranch Limited Partnership, an Arizona Limited Partnership; and

(ii) the Northern Yavapai, L.L.C., an Arizona Limited Liability Company.

(B) INCLUSIONS.—Except as otherwise expressly provided in this Act, the term ''YRLP'' includes successors-in-interest, assigns, transferees, and affiliates of YRLP.

SEC. 4. LAND EXCHANGE.

(a) CONVEYANCE OF FEDERAL LAND BY THE UNITED STATES.—

(1) IN GENERAL.—On receipt of an offer from YRLP to convey the non-Federal land, the Secretary shall convey to YRLP by deed acceptable to YRLP all right, title, and interest of the United States in and to the Federal land described in paragraph (2), subject to easements, rights-of-way, utility lines, and any other valid encumbrances on the Federal land in existence on the date of enactment of this Act and such other reservations as may be mutually agreed to by the Secretary and YRLP.

(2) DESCRIPTION OF FEDERAL LAND.—The Federal land referred to in paragraph (1) shall consist of the following:

(A) Certain land comprising approximately 15,300 acres located in Yavapai County, Arizona, as generally depicted on the map entitled ''Yavapai Ranch-Ranch Area Federal Lands'', dated April 2002.

(B) Certain land in the Coconino National Forest, Coconino County Arizona—

(i) comprising approximately 1,500 acres located in Coconino National Forest, Coconino County, Arizona, as generally depicted on the map entitled ''Flagstaff Federal Lands-Airport Parcel'', dated April 2002; and

(ii) comprising approximately 28.26 acres in 2 separate parcels, as generally depicted on the map entitled ''Flagstaff Federal Lands—Wetzel School and Mt. Elden Parcels'', dated September 2002.

(C) Certain land referred to as Williams Airport, Williams golf course, Williams Sewer, Buckskinner Park, Williams Railroad, and Well parcels numbers 2, 3, and 4, comprising approximately 950 acres, all located in Kaibab National Forest, Coconino County, Arizona, as generally depicted on the map entitled ''Williams Federal Lands'', dated April 2002.

(D) Certain land comprising approximately 2,200 acres located in Prescott National Forest, Yavapai County, Arizona, as generally depicted on the map entitled ''Camp Verde Federal Land—General Crook Parcel'', dated April 2002, and title to which shall be conveyed to Yavapai Ranch Limited Partnership or the Northern Yavapai, L.L.C., but not to any successor-in-interest, assign, transferee or affiliate of Yavapai Ranch Limited Partnership or the Northern Yavapai, L.L.C., or any other person or entity holding or acquiring any interest in Yavapai Ranch.

(E) Certain land comprising approximately 820 acres located in Prescott National Forest in Yavapai County, Arizona, as generally depicted on the map entitled ''Cottonwood/Clarkdale Federal Lands'', dated April 2002, and title to which shall be conveyed to Yavapai Ranch Limited Partnership or the Northern Yavapai, L.L.C., but not to any successor-in-interest, assign, transferee or affiliate of Yavapai Ranch Limited Partnership or the Northern Yavapai, L.L.C., or any other person or entity holding or acquiring any interest in Yavapai Ranch.

(F) Certain land comprising approximately 237.5 acres located in Kaibab National Forest, Coconino County, Arizona, as generally depicted on the map entitled ''Younglife Lost Canyon'', dated April 2002.

(G) Certain land comprising approximately 200 acres located in Prescott National Forest, Yavapai County, Arizona, and including Friendly Pines, Patterdale Pines, Camp Pearlstein, Pine Summit, and Sky Y, as generally depicted on the map entitled ''Prescott Federal Lands—Summer Youth Camp Parcels'', dated April 2002.

(H) Perpetual, unrestricted, and nonexclusive easements that—

(i) run with and benefit land owned by or conveyed to YRLP across certain land of the United States;

(ii) are for—

(I) the purposes of operating, maintaining, repairing, improving, and replacing electric power lines or water pipelines (including related storage tanks, valves, pumps, and hardware); and

(II) rights of reasonable ingress and egress necessary for the purposes described in subclause (I);

(iii) are 20 feet in width; and

(iv) are located 10 feet on either side of each line depicted on the map entitled ''YRLP Acquired Easements for Water Lines'', dated April 2002.

(3) CONDITIONS.—

(A) PERMITS.—Permits or other legal occupancies of the Federal land by third parties in existence on the date of transfer of the Federal land to YRLP shall be addressed in accordance with—

(i) part 254.15 of title 36, Code of Federal Regulations (or any successor regulation); and

(ii) other applicable laws (including regulations).

(B) CONVEYANCE OF CERTAIN PARCELS.—

(i) CAMP VERDE.—

(I) IN GENERAL.—Before YRLP acquires the parcel described in paragraph (2)(D), YRLP shall execute and record the Camp Verde Declaration.

(II) AMENDED DECLARATION.—Following the acquisition of the parcel described in paragraph (2)(D), YRLP shall execute and record with the Yavapai County Recorder an amended declaration in which the legal description of the land referred to in the Camp Verde Declaration is amended to conform to the legal description in paragraph (2)(D).

(ii) COTTONWOOD/CLARKDALE.—

(I) IN GENERAL.—Before YRLP acquires the parcel described in paragraph (2)(E), YRLP shall execute and record the Cottonwood Declaration.

(II) AMENDED DECLARATION.—Following the acquisition of the parcel described in paragraph (2)(E), YRLP shall execute and record with the Yavapai County Recorder an amended declaration in which the legal description of the land referred to in the Cottonwood Declaration is amended to conform to the legal description in paragraph (2)(E).

(b) CONVEYANCE OF NON-FEDERAL LAND BY YRLP.—

(1) IN GENERAL.—On receipt of title to the Federal land, YRLP shall simultaneously convey to the United States, by deed acceptable to Secretary and subject to any encumbrances, all right, title, and interest of YRLP in and to the non-Federal land.

(2) EASEMENTS.—

(A) IN GENERAL.—The conveyance of non-Federal land to the United States under paragraph (1) shall be subject to the reservation of—

(i) perpetual and unrestricted easements and water rights that run with and benefit the land retained by YRLP for—

(I) the operation, maintenance, repair, improvement, development, and replacement of not more than 3 existing wells;

(II) related storage tanks, valves, pumps, and hardware; and

(III) pipelines to points of use; and

(ii) easements for reasonable ingress and egress to accomplish the purposes of the easements described in clause (i).

(B) EXISTING WELLS.—

(i) IN GENERAL.—Each easement for an existing well shall be—

(I) 40 acres in area; and

(II) to the maximum extent practicable—

(aa) centered on the existing well; and

(bb) located in the same square mile section of land.

(ii) LIMITATION.—Within a 40-acre easement described in clause (i), the United States and any permitees or licensees of the United States shall be prohibited from undertaking any activity that interferes with the use of the wells by YRLP, without the written consent of YRLP.

(iii) RESERVATION OF WATER FOR THE UNITED STATES.—The United States shall be entitled to ½ of the production of each existing well, not to exceed a total of 3,100,000 gallons of water annually, for watering wildlife and stock from all 3 wells.

(C) REASONABLE ACCESS.—Each easement for ingress and egress shall be at least 20 feet in width.

(D) LOCATION.—The locations of the easements and wells shall be the locations generally depicted on a map entitled ''YRLP Reserved Easements for Water Lines and Wells'', dated April 2002.

(c) LAND TRANSFER PROBLEMS.—

(1) FEDERAL LAND.—If all or part of any parcels of Federal land cannot be transferred to YRLP because of hazardous materials, or if the proposed title to a Federal land parcel or parcels or fraction thereof is unacceptable to YRLP because of the existence of unpatented mining claims, or in the event of the presence of threatened or endangered species or cultural or historic resources which cannot be mitigated, or other third party rights under the public land laws, the parcel or parcels or parts thereof shall be deleted from the exchange and the Secretary and YRLP may mutually agree to exchange other Federal land in lieu of the deleted parcel or part thereof in accordance with section 5(c). If the parcel or parcels are deleted from the exchange, the non-Federal land shall be adjusted in accordance with section 5(c) as necessary to achieve equal value.

(2) NON-FEDERAL LAND.—If 1 or more of the parcels of non-Federal land or a portion of such a parcel cannot be conveyed to the United States because of the presence of hazardous materials or because the proposed title to a parcel or a portion of the parcel is unacceptable to the Secretary—

(A) the parcel or any portion of the parcel shall be excluded from the exchange; and

(B) the Federal land shall be adjusted in accordance with section 5(c) to achieve approximate equal value.

(d) PASS-THROUGH CONVEYANCES.—

(1) IN GENERAL.—On or after the acquisition of the Federal land, YRLP may subsequently pass through or convey to the cities of Flagstaff, Williams, Camp Verde, Cottonwood, and the summer camps the parcels of Federal land or portions of parcels located in or near the cities or summer camps.

(2) DELETION FROM EXCHANGE.—If YRLP and the cities or summer camps referred to

in paragraph (1) have not agreed to the terms and conditions of a pass-through or subsequent conveyance of a parcel or portion of a parcel of Federal land before the completion of the exchange, the Secretary, on notice by YRLP, shall delete the parcel or any portion of the parcel from the exchange, provided that any portion so deleted shall be configured by the Secretary to leave the United States with manageable post-exchange lands and boundaries.

(3) EASEMENTS.—In accordance with section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)), the United States shall reserve easements in any land transferred to YRLP.

SEC. 5. EXCHANGE VALUATION, APPRAISALS, AND EQUALIZATION.

(a) EQUAL VALUE EXCHANGE.—The values of the non-Federal and Federal land directed to be exchanged under this Act—

(1) shall be equal, as determined by the Secretary; or

(2) if the values are not equal, shall be equalized in accordance with subsection (c).

(b) APPRAISALS.—

(1) IN GENERAL.—The values of the Federal land and non-Federal land shall be determined by appraisals using the appraisal standards in—

(A) the Uniform Appraisal Standards for Federal Land Acquisitions, fifth edition (December 20, 2000); and

(B) the Uniform Standards of Professional Appraisal Practice.

(2) APPROVAL.—In accordance with part 254.9(a)(1) of title 36, Code of Federal Regulations (or any successor regulation), the appraiser shall be—

(A) acceptable to the Secretary and YRLP; and

(B) a contractor, the clients of which shall be both the Secretary and YRLP.

(3) REQUIREMENTS.—During the appraisal process—

(A) the Secretary and YRLP shall have equal access to the appraiser; and

(B) the Secretary and YRLP shall cooperate with each other and the appraiser to prepare appraisal instructions which shall require the appraiser to—

(i) consider the effect on value of the Federal land or non-Federal land because of the existence of encumbrances on each parcel, including—

(I) permitted uses on Federal land that cannot be reasonably terminated before the appraisal;

(II) facilities on Federal land that cannot be reasonably removed before the appraisal; and

(III) the reduction in value attributable to the conservation measures and restrictions on water use under the Declarations; and

(ii) determine the value of each parcel of Federal land and non-Federal land (including the value of each individual section of the intermingled Federal and non-Federal land of the Yavapai Ranch) as an assembled transaction consistent with the applicable provisions of parts 254.5 and 254.9(b)(1)(v) of title 36, Code of Federal Regulations (or any successor regulation).

(4) DISPUTE RESOLUTION.—A dispute relating to the appraised values of the Federal land or non-Federal land following completion of the appraisal shall be processed in accordance with—

(A) section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(d)); and

(B) part 254.10 of title 36, Code of Federal Regulations (or any successor regulation).

(5) APPRAISAL PERIOD.—After the final appraised values of the Federal land and non-Federal land have been reviewed and approved by the Secretary or otherwise determined in accordance with the requirements of paragraph (4), the final appraised values—

(A) shall not be reappraised or updated by the Secretary before the completion of the land exchange; and

(B) shall be considered to be the values of the Federal land and non-Federal land on the date of the transfer of title.

(6) AVAILABILITY.—A comprehensive summary of the appraisals approved by the Secretary shall be made available for public inspection in the Offices of the Supervisors for Prescott, Coconino, and Kaibab National Forests at the time the exchange is consummated.

(c) EQUALIZATION OF VALUES.—

(1) SURPLUS OF NON-FEDERAL LAND.—

(A) IN GENERAL.—If, after any adjustments are made to the non-Federal land or Federal land under subsection (c) or (d) of section 4, the final appraised value of the non-Federal land exceeds the final appraised value of the Federal land, the Federal land and non-Federal land shall be adjusted in accordance with subparagraph (B) until the values are approximately equal.

(B) ADJUSTMENTS.—An adjustment referred to in subparagraph (A) shall be accomplished by beginning at the east boundary of section 30, T. 20 N., R. 6 W., Gila and Salt River Base and Meridian, Yavapai County, Arizona, and adding to the Federal land to be conveyed to YRLP in ⅛ section increments (N–S 64th line) and lot lines across the section, while deleting from the conveyance to the United States non-Federal land in the same incremental portions of sections 19 and 31, T. 20 N., R. 6 W., Gila and Salt River Base and Meridian, Yavapai County, Arizona, to establish a linear and continuous boundary that runs north to south across the sections.

(2) SURPLUS OF FEDERAL LAND.—

(A) IN GENERAL.—If, after any adjustments are made to the non-Federal land or Federal land under subsection (c) or (d) of section 4, the final appraised value of the Federal land exceeds the final appraised value of the non-Federal land, the Federal land and non-Federal land shall be adjusted in accordance with subparagraph (B) until the values are approximately equal.

(B) ADJUSTMENTS.—Adjustments under subparagraph (A) shall be made in the following order:

(i) Beginning at the south boundary of section 31, T. 20 N., R. 5 W., Gila and Salt River Base and Meridian, Yavapai County, Arizona, and sections 33 and 35, T. 20 N., R. 6 W., Gila and Salt River Base and Meridian, Yavapai County, by adding to the non-Federal land to be conveyed to the United States in ⅛ section increments (E–W 64th line) while deleting from the conveyance to YRLP Federal land in the same incremental portions of section 32, T. 20 N., R. 5 W., Gila and Salt River Base and Meridian, Yavapai County, Arizona, and sections 32, 34, and 36, in T. 20 N., R. 6 W., Gila and Salt River Base and Meridian, Yavapai County, Arizona, to establish a linear and continuous boundary that runs east to west across the sections.

(ii) By deleting the following parcels:

(I) The Williams Sewer parcel, comprising approximately 20 acres, located in Kaibab National Forest, and more particularly described as the E½NW¼SE¼ portion of section 21, T. 22 N., R. 2 E., Gila and Salt River Base and Meridian, Coconino County, Arizona.

(II) The Williams railroad parcel, located in the Kaibab National Forest, and more particularly described as—

(aa) the W½SW¼ portion of section 26, T. 22 N., R. 2 E., Gila and Salt River Base and Meridian, Coconino County, Arizona, excluding any portion northeast of the southwestern right-of-way line of the Burlington Northern and Santa Fe Railway (Seligman Subdivision), comprising approximately 30 acres;

(bb) the NE¼NW¼, the N½SE¼NW¼, the SE¼SE¼NW¼, the NE¼, the SE¼SW¼, and the SE¼ portions of section 27, T. 22 N., R. 2 E., Gila and Salt River Base and Meridian, Coconino County, Arizona, excluding any portion north of the southern right-of-way of Interstate 40 and any portion northeast of the southwestern right-of-way line of the Burlington Northern and Santa Fe Railway (Seligman Subdivision), any portion south of the northern right-of-way of the Burlington Northern and Santa Fe Railway (Phoenix Subdivision), and any portion within Exchange Survey No. 677, comprising approximately 220 acres;

(cc) the NE¼NE¼ portion of section 34, T. 22 N., R. 2 E., Gila and Salt River Base and Meridian, Coconino County, Arizona, excluding any portion southwest of the northeastern right-of-way line of the Burlington Northern and Santa Fe Railway (Phoenix Subdivision), comprising approximately 2 acres; and

(dd) the N½ portion of section 35, T. 22 N., R. 2 E., Gila and Salt River Base and Meridian, Coconino County, Arizona, excluding any portion north of the southern right-of-way line of the Burlington Northern and Santa Fe Railway (Seligman Subdivision) and any portion south of the northern right-of-way of the Burlington Northern and Santa Fe Railway (Phoenix Subdivision), comprising approximately 60 acres.

(III) Buckskinner Park, comprising approximately 50 acres, located in Kaibab National Forest, and more particularly described as the SW¼SW¼, and the S½S½NW¼SW¼ portions of section 33, T. 22 N., R. 2 E., Gila and Salt River Base and Meridian, Coconino County, Arizona.

(IV) The Cottonwood/Clarkdale parcel, comprising approximately 820 acres, located in Prescott National Forest, and more particularly described as—

(aa) lots 3, 4, 6, portions of lots 7, 8, and 9, and the W½NW¼ and the SW¼SE¼ portions of section 5, T. 15 N., R. 3 E., Gila and Salt River Base and Meridian, Yavapai County, Arizona; and

(bb) the S½S½N½NW¼, the E½E½NE¼NE¼NW¼, the E½NE¼SE¼NE¼NW¼, the NW¼NE¼, the S½NE¼, the S½NW¼, and the S½ portions of section 8, T. 15 N., R. 3 E., Gila and Salt River Base and Meridian, Yavapai County, Arizona.

(V) A portion of the Camp Verde parcel, comprising approximately 511 acres, located in Prescott National Forest, consisting of the land south of the southeastern boundary of the I–17 right-of-way, and more particularly described as the SE¼ portion of section 26, the E½ and the E½W½ portions of section 35, and lots 5 through 7 of section 36, T. 14 N., R. 4 E., Gila and Salt River Base and Meridian, Yavapai County, Arizona.

(VI) The Wetzel school parcel, comprising approximately 10.89 acres, located in Coconino National Forest, and more particularly described as lot 9 of section 11, T. 21 N., R. 7 E., Gila and Salt River Base and Meridian, Coconino County, Arizona.

(VII) The Mt. Eldon parcel, comprising approximately 17.21 acres, located in Coconino National Forest, and more particularly described as lot 7 of section 7, T. 21 N., R. 8 E., Gila and Salt River Base and Meridian, Coconino County, Arizona.

(VIII) A portion of the Camp Verde parcel, comprising approximately 316 acres, located in Prescott National Forest, and more particularly described as the NENE¼ and lots 1, 5, and 6 of section 26, and the N½N½ of section 27, T. 14 N., R. 4 E., Gila and Salt River Base and Meridian, Yavapai County, Arizona.

(IX) A portion of the Camp Verde parcel, comprising approximately 314 acres, located in Prescott National Forest, and more particularly described as the SENE¼ and lots 2, 7, 8, and 9 of section 26, and the S½N½ of section 27, T. 14 N., R. 4 E., Gila and Salt River Base and Meridian, Yavapai County, Arizona.

(C) MODIFICATIONS.—The descriptions of land and acreage provided in subclauses (III), (IV), and (V) of subparagraph (B)(ii) may be modified to conform with a survey approved by the Bureau of Land Management.

(3) ADDITIONAL EQUALIZATION OF VALUES.—If, after the values are adjusted in accordance with paragraph (1) or (2), the values of the Federal land and non-Federal land are not equal, then the Secretary and YRLP may by mutual agreement adjust the acreage of the Federal land and non-Federal land until the values of that land are equal.

(d) CASH EQUALIZATION.—

(1) IN GENERAL.—After the values of the non-Federal and Federal land are equalized to the maximum extent practicable under subsection (c), any balance due to the Secretary or to YRLP shall be paid—

(A) through cash equalization payments under section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)); or

(B) in accordance with standards established by the Secretary and YRLP.

(2) LIMITATION.—

(A) IN GENERAL.—YRLP shall not be required to make any cash equalization payment to the Secretary in an amount that exceeds $50,000.

(B) ADJUSTMENTS.—If the value of the Federal land exceeds the value of the non-Federal land by more than $50,000, the Secretary and YRLP shall by mutual agreement delete additional Federal land from the exchange until the values of the Federal land and non-Federal land are equal.

(C) DEPOSIT.—Any money received by the United States under this Act shall, without further appropriation, be deposited in a fund established under Public Law 90–171 (16 U.S.C. 484(a)) (commonly known as the ''Sisk Act'') for the acquisition of land or interests in land for National Forest System purposes in the State of Arizona.

SEC. 6. MISCELLANEOUS PROVISIONS.

(a) REVOCATION OF ORDERS.—Any public orders withdrawing any of the Federal land from appropriation or disposal under the public land laws are revoked to the extent necessary to permit disposal of the Federal land.

(b) WITHDRAWAL OF FEDERAL LAND.—The Federal land is withdrawn from all forms of entry and appropriation under the public land laws, including the mining and mineral leasing laws and the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.), until the date on which the exchange of Federal land and non-Federal land is completed.

(c) SURVEYS, INVENTORIES, AND CLEARANCES.—Before completing the exchange of Federal land and non-Federal land directed by this Act, the Secretary shall carry out land surveys and preexchange inventories, clearances, reviews, and approvals relating to hazardous materials, threatened and endangered species, cultural and historic resources, and wetlands and floodplains.

(d) COSTS OF IMPLEMENTING THE EXCHANGE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall be responsible for any costs of implementing the exchange of Federal land and non-Federal land.

(2) EXCEPTIONS.—Subject to paragraph (3), YRLP shall be responsible for paying—

(A) 100 percent of the costs of—

(i) conducting the appraisals of the Federal land and non-Federal land;

(ii) the preparation of necessary land surveys and verified legal descriptions of the Federal land and non-Federal land; and

(iii) title insurance; and

(B) 50 percent of the costs of—

(i) conducting cultural and historic resource surveys;

(ii) conducting surveys of hazardous materials;

(iii) escrow; and

(iv) publication of notice of the proposed exchange.

(3) LIMITATIONS.—

(A) IN GENERAL.—YRLP shall not pay more than $500,000 of the costs described in paragraph (2).

(B) CREDIT.—Any costs paid by YRLP for cultural or historic resource surveys before the date of enactment of this Act shall be credited against the maximum amount required to be paid by YRLP under subparagraph (A).

(4) REIMBURSEMENT.—No amount paid by YRLP under this subsection shall be eligible for reimbursement under section 206(f) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(f)).

(e) TIMING.—It is the intent of Congress that the exchange of Federal land and non-Federal land directed by this Act be completed not later than 1 year after the date of enactment of this Act.

(f) CONTRACTORS.—

(1) IN GENERAL.—If the Secretary lacks adequate staff or resources to complete the exchange by the date referred to in subsection (e), or if the costs described in subsection (d)(2) exceed the limitation described in subsection (d)(3), the Secretary shall reimburse YRLP for the costs of 1 or more independent third party contractors, subject to the approval of the Secretary and YRLP, to carry out any activities necessary to complete the exchange by that date.

(2) CREDITS.—If the Secretary lacks funds with which to reimburse YRLP in accordance with paragraph (1), the Secretary shall credit any amounts paid by YRLP to third party independent contractors against the value of the Federal land in accordance with section 206(f) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(f)).

SEC. 7. STATUS AND MANAGEMENT OF LAND AFTER EXCHANGE.

(a) IN GENERAL.—Non-Federal land acquired by the United States under this Act—

(1) shall become part of the Prescott National Forest; and

(2) shall be administered by the Secretary in accordance with—

(A) this Act; and

(B) the laws (including regulations) applicable to the National Forest System.

(b) MANAGEMENT PLAN.—

(1) IN GENERAL.—Acquisition of the land authorized by this Act shall not, of itself, require a revision or amendment to the Management Plan for Prescott National Forest.

(2) AMENDMENT OR REVISION OF PLAN.—If the Management Plan is amended or revised after the date of acquisition of non-Federal land under this Act, the Management Plan shall be amended to reflect the acquisition of the non-Federal land.

(c) POST-EXCHANGE MANAGEMENT OF CERTAIN LAND.—

(1) IN GENERAL.—Following its acquisition by the United States, the non-Federal land acquired by the United States and adjoining National Forest System land shall be managed in accordance with paragraphs (2) through (6), and the laws, rules, and regulations generally applicable to the National Forest System.

(2) PROTECTION OF NATURAL RESOURCES.—The land shall be managed in a manner that maintains the species, character, and natural values of the land, including—

(A) deer, pronghorn antelope, wild turkey, mountain lion, and other resident wildlife and native plant species;

(B) suitability for livestock grazing; and

(C) aesthetic values.

(3) GRAZING.—Each area located in the Yavapai Ranch grazing allotment as of the date of enactment of this Act shall—

(A) remain in the Yavapai Ranch grazing allotment; and

(B) continue to be subject to grazing in accordance with the laws, rules, and regulations generally applicable to domestic livestock grazing on National Forest System land.

(4) ROADS.—

(A) IMPROVEMENT AND MAINTENANCE.—The Secretary shall maintain or improve a system of roads and trails on the land to provide opportunities for hunting, motorized and nonmotorized recreation, and other uses of the land by the public.

(B) PUBLIC ACCESS ROAD.—

(i) CONSTRUCTION.—The Secretary shall improve or construct a public access road linking Forest Road 7 (Pine Creek Road) to Forest Road 1 (Turkey Canyon Road) through portions of sections 33, 32, 31, and 30, T. 19 N., R. 6 W., Gila and Salt River Base and Meridian.

(ii) EXISTING ROAD.—The existing road linking Pine Creek and Gobbler Knob—

(I) shall remain open until the date on which the new public access road is completed; and

(II) after the date on which the new public access road is completed, shall be obliterated.

(C) EASEMENTS.—

(i) IN GENERAL.—Simultaneously with completion of the land exchange directed by this Act, the Secretary and YRLP shall mutually grant to each other at no charge reciprocal easements for ingress, egress, and utilities across, over, and through—

(I) the routes depicted on the map entitled ''Road and Trail Easements—Yavapai Ranch Area'' dated April 2002; and any other inholdings retained by the United States or YRLP; or

(II) any relocated routes that are mutually agreed to by the Secretary and YRLP.

(ii) REQUIREMENTS.—Easements granted under this subparagraph shall be unlimited, perpetual, and nonexclusive in nature, and shall run with and benefit the land of the grantee.

(iii) RIGHTS OF GRANTEE.—The rights of the grantee shall extend to—

(I) in the case of YRLP, any successors-in-interest, assigns, and transferees of YRLP; and

(II) in the case of the Secretary, members of the general public, as determined to be appropriate by the Secretary.

(5) TIMBER HARVESTING.—

(A) IN GENERAL.—Except as provided in subparagraph (B), timber harvesting for commodity production shall be prohibited on the non-Federal land.

(B) EXCEPTIONS.—Timber harvesting may be conducted on the land if the Secretary determines that timber harvesting is necessary—

(i) to prevent or control fires, insects, and disease through forest thinning or other forest management techniques; or

(ii) to protect or enhance grassland habitat, watershed values, or native plants, trees, and wildlife species.

(6) WATER IMPROVEMENTS.—Nothing in this Act prohibits the Secretary from authorizing or constructing new water improvements in accordance with the laws, rules, and regulations applicable to water improvements on National Forest System land for—

(A) the benefit of domestic livestock or wildlife management; or

(B) the improvement of forest health or forest restoration.

(d) MAPS.—

(1) IN GENERAL.—The Secretary and YRLP may correct any minor errors in the maps of, legal descriptions of, or encumbrances on the Federal land or non-Federal land.

(2) DISCREPANCY.—In the event of any discrepancy between a map, acreage, and a legal description, the map shall prevail unless the Secretary and YRLP agree otherwise.

(3) AVAILABILITY.—The Declarations and all maps referred to in this Act shall be on file and available for inspection in the Office of the Supervisor, Prescott National Forest, Prescott, Arizona.

(e) EFFECT.—Nothing in this Act precludes, prohibits, or otherwise restricts YRLP from subsequently granting, conveying, or otherwise transferring title to the Federal land after its acquisition of the Federal land and recordation of the Declarations and any conforming amendments to the Declarations.

(f) ENCROACHMENT LAND IN FLAGSTAFF.—

(1) IN GENERAL.—The Secretary shall convey by quitclaim deed lot 8 in section 11, T. 21 N., R. 7 E., Gila and Salt River Base and Meridian, Coconino County, Arizona, to a single individual or entity, either of which represent the majority of landowners with encroachments on such lot.

(2) PAYMENT TO THE UNITED STATES.—In consideration of the conveyance directed by paragraph (1), the individual or entity representing the majority of landowners with encroachments on lot 8 shall pay to the Secretary the sum of $2500 plus any costs of remonumenting the boundary of lot 8.

(3) TIMING.—The Secretary shall convey lot 8 in accordance with this subsection within 90 days of receipt of powers of attorney executed to a single individual or entity representing the majority of landowners with encroachments on lot 8. If the powers of attorney are not delivered to the Secretary within 270 days of the date of enactment of this Act, the authorization under this subsection shall expire and, thereafter, any conveyances shall be made under Public Law 97–465 (16 U.S.C. 521c et seq.).

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. HANSEN

Mr. HANSEN. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. HANSEN:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Prescott and San Isabel National Forests Land Exchange Act of 2002''.

TITLE I—YAVAPAI RANCH LAND EXCHANGE, ARIZONA

SEC. 101. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) certain parcels of private land in the approximately 170 square miles of land commonly known as the ''Yavapai Ranch'' and located in Yavapai County, Arizona, are intermingled with National Forest System land owned by the United States and administered by the Secretary of Agriculture as part of Prescott National Forest;

(2) the private land is owned by the Yavapai Ranch Limited Partnership and the Northern Yavapai, L.L.C. in an intermingled checkerboard pattern, with the United States or Yavapai Ranch Limited Partnership and the Northern Yavapai, L.L.C. owning alternate square mile sections of land or fractions of square mile sections;

(3) much of the private land within the checkerboard area (including the land located in or near the Pine Creek watershed, Juniper Mesa Wilderness Area, Haystack Peak, and the Luis Maria Baca Float No. 5) is located in environmentally sensitive areas that possess outstanding attributes and values for public management, use, and enjoyment, including opportunities for—

(A) outdoor recreation;

(B) preservation of stands of old growth forest;

(C) important and largely unfragmented habitat for antelope, deer, elk, mountain lion, wild turkey, and other wildlife species;

(D) watershed protection and enhancement;

(E) scientific research;

(F) rangeland;

(G) ecological and archaeological resources; and

(H) scenic vistas;

(4) the checkerboard ownership pattern of land within the Yavapai Ranch detracts from sound and efficient management of the intermingled National Forest System land;

(5) if the private land in the checkerboard area is subdivided or developed, the intermingled National Forest System land will become highly fragmented and lose much of the value of the land for wildlife habitat and future public access, use, and enjoyment;

(6) acquisition by the United States of certain parcels of land that have been offered by Yavapai Ranch Limited Partnership and the Northern Yavapai, L.L.C. for addition to Prescott National Forest will serve important public objectives, including—

(A) acquiring private land that meets the criteria for inclusion in the National Forest System in exchange for land with lower public, environmental, and ecological values;

(B) consolidating a large area of National Forest System land to preserve—

(i) permanent public access, use, and enjoyment of the land; and

(ii) efficient management of the land;

(C) minimizing cash outlays by the United States to achieve the objectives described in subparagraphs (A) and (B);

(D) significantly reducing administrative costs to the United States through—

(i) consolidation of Federal land holdings for more efficient land management and planning;

(ii) elimination of approximately 350 miles of boundary between private land and the Federal parcels;

(iii) reduced right-of-way, special use, and other permit processing and issuance for roads and other facilities on National Forest System land; and

(iv) other administrative cost savings;

(E) significantly protecting the watershed and stream flow of the Verde River in Arizona by reducing the land available for future development within that watershed by approximately 25,000 acres; and

(F) conserving the waters of the Verde River through the recording of declarations restricting the use of water on Federal land located near the communities of Camp Verde, Cottonwood and Clarkdale to be exchanged by the United States to Yavapai Ranch Limited Partnership or the Northern Yavapai, L.L.C.; and

(7) Yavapai Ranch Limited Partnership and the Northern Yavapai, L.L.C. have selected parcels of National Forest System land that are logical for conveyance to Yavapai Ranch Limited Partnership or the Northern Yavapai, L.L.C. through a land exchange because the parcels—

(A) are located in less environmentally sensitive areas than the land to be acquired by the United States;

(B) have significantly lower recreational, wildlife, ecological, aesthetic, and other public purpose values than the land to be acquired by the United States; and

(C) are encumbered by special use permits and rights-of-way for a variety of purposes (including summer youth camps, municipal water treatment facilities, sewage treatment facilities, city parks, and airport-related facilities) that—

(i) limit the usefulness of the parcels for general National Forest System purposes; but

(ii) are logical for pass-through conveyances from Yavapai Ranch Limited Partnership and the Northern Yavapai, L.L.C. to the permit or right-of-way holders.

(b) PURPOSE.—The purpose of this title is to authorize, direct, and facilitate the exchange of Federal land and non-Federal land between the United States, Yavapai Ranch Limited Partnership, and the Northern Yavapai, L.L.C.

SEC. 102. DEFINITIONS.

In this title:

(1) CAMP VERDE DECLARATION.—The term ''Camp Verde Declaration'' means the Declaration of Covenants, Conditions, and Restrictions executed by Yavapai Ranch Limited Partnership and the Northern Yavapai, L.L.C., on or about August 12, 2002, and recorded in the official records of Yavapai County, Arizona, that is intended to run with the land and imposes certain water use restrictions, water source limitations, and water conservation measures on the future development of the land described in section 103(a)(2)(D).

(2) COTTONWOOD DECLARATION.—The term ''Cottonwood Declaration'' means the Declaration of Covenants, Conditions and Restrictions executed by Yavapai Ranch Limited Partnership and the Northern Yavapai, L.L.C., on or about August 12, 2002, and recorded in the official records of Yavapai County, Arizona, that is intended to run with the land and imposes certain water use restrictions, water source limitations, and water conservation measures on the future development of the land described in section 103(a)(2)(E).

(3) DECLARATIONS.—The term ''Declarations'' collectively means the Camp Verde Declaration and the Cottonwood Declaration, both of which Congress is requiring to be recorded as encumbrances on the Camp Verde Federal land described in section 103(a)(2)(D) and the Cottonwood/Clarkdale Federal land described in section 103(a)(2)(E) in order to conserve water resources in the Verde River Valley, Arizona.

(4) FEDERAL LAND.—The term ''Federal land'' means the land directed for exchange to YRLP in section 103(a)(2).

(5) MANAGEMENT PLAN.—The term ''Management Plan'' means the land and resource management plan for Prescott National Forest.

(6) NON-FEDERAL LAND.—The term ''non-Federal land'' means the approximately 35,000 acres of non-Federal land located within the boundaries of Prescott National Forest and directed for exchange to the United States, as generally depicted on the map entitled ''Yavapai Ranch Non-Federal Lands'', dated April 2002.

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

(8) SUMMER CAMPS.—The term ''summer camps'' means Camp Pearlstein and Friendly Pines, Patterdale Pines, Pine Summit, Sky Y, and YoungLife Lost Canyon camps in the State of Arizona.

(9) YRLP.—

(A) IN GENERAL.—The term ''YRLP'' means—

(i) the Yavapai Ranch Limited Partnership, an Arizona Limited Partnership; and

(ii) the Northern Yavapai, L.L.C., an Arizona Limited Liability Company.

(B) INCLUSIONS.—Except as otherwise expressly provided in this title, the term

''YRLP'' includes successors-in-interest, assigns, transferees, and affiliates of YRLP.

SEC. 103. LAND EXCHANGE.

(a) CONVEYANCE OF FEDERAL LAND BY THE UNITED STATES.—

(1) IN GENERAL.—On receipt of an offer from YRLP to convey the non-Federal land, the Secretary shall convey to YRLP by deed acceptable to YRLP all right, title, and interest of the United States in and to the Federal land described in paragraph (2), subject to easements, rights-of-way, utility lines, and any other valid encumbrances on the Federal land in existence on the date of enactment of this Act and such other reservations as may be mutually agreed to by the Secretary and YRLP.

(2) DESCRIPTION OF FEDERAL LAND.—The Federal land referred to in paragraph (1) shall consist of the following:

(A) Certain land comprising approximately 15,300 acres located in Yavapai County, Arizona, as generally depicted on the map entitled ''Yavapai Ranch-Ranch Area Federal Lands'', dated April 2002.

(B) Certain land in the Coconino National Forest, Coconino County Arizona—

(i) comprising approximately 1,500 acres located in Coconino National Forest, Coconino County, Arizona, as generally depicted on the map entitled ''Flagstaff Federal Lands-Airport Parcel'', dated April 2002; and

(ii) comprising approximately 28.26 acres in 2 separate parcels, as generally depicted on the map entitled ''Flagstaff Federal Lands—Wetzel School and Mt. Elden Parcels'', dated September 2002.

(C) Certain land referred to as Williams Airport, Williams golf course, Williams Sewer, Buckskinner Park, Williams Railroad, and Well parcels numbers 2, 3, and 4, comprising approximately 950 acres, all located in Kaibab National Forest, Coconino County, Arizona, as generally depicted on the map entitled ''Williams Federal Lands'', dated April 2002.

(D) Certain land comprising approximately 2,200 acres located in Prescott National Forest, Yavapai County, Arizona, as generally depicted on the map entitled ''Camp Verde Federal Land—General Crook Parcel'', dated April 2002, and title to which shall be conveyed to Yavapai Ranch Limited Partnership or the Northern Yavapai, L.L.C., but not to any successor-in-interest, assign, transferee or affiliate of Yavapai Ranch Limited Partnership or the Northern Yavapai, L.L.C., or any other person or entity holding or acquiring any interest in Yavapai Ranch.

(E) Certain land comprising approximately 820 acres located in Prescott National Forest in Yavapai County, Arizona, as generally depicted on the map entitled ''Cottonwood/Clarkdale Federal Lands'', dated April 2002, and title to which shall be conveyed to Yavapai Ranch Limited Partnership or the Northern Yavapai, L.L.C., but not to any successor-in-interest, assign, transferee or affiliate of Yavapai Ranch Limited Partnership or the Northern Yavapai, L.L.C., or any other person or entity holding or acquiring any interest in Yavapai Ranch.

(F) Certain land comprising approximately 237.5 acres located in Kaibab National Forest, Coconino County, Arizona, as generally depicted on the map entitled ''Younglife Lost Canyon'', dated April 2002.

(G) Certain land comprising approximately 200 acres located in Prescott National Forest, Yavapai County, Arizona, and including Friendly Pines, Patterdale Pines, Camp Pearlstein, Pine Summit, and Sky Y, as generally depicted on the map entitled ''Prescott Federal Lands—Summer Youth Camp Parcels'', dated April 2002.

(H) Perpetual, unrestricted, and nonexclusive easements that—

(i) run with and benefit land owned by or conveyed to YRLP across certain land of the United States;

(ii) are for—

(I) the purposes of operating, maintaining, repairing, improving, and replacing electric power lines or water pipelines (including related storage tanks, valves, pumps, and hardware); and

(II) rights of reasonable ingress and egress necessary for the purposes described in subclause (I);

(iii) are 20 feet in width; and

(iv) are located 10 feet on either side of each line depicted on the map entitled ''YRLP Acquired Easements for Water Lines'', dated April 2002.

(3) CONDITIONS.—

(A) PERMITS.—Permits or other legal occupancies of the Federal land by third parties in existence on the date of transfer of the Federal land to YRLP shall be addressed in accordance with—

(i) part 254.15 of title 36, Code of Federal Regulations (or any successor regulation); and

(ii) other applicable laws (including regulations).

(B) CONVEYANCE OF CERTAIN PARCELS.—

(i) CAMP VERDE.—Following the acquisition of the parcel described in paragraph (2)(D), YRLP shall execute and record with the Yavapai County Recorder an amended declaration in which the legal description of the land referred to in the Camp Verde Declaration is amended to conform to the legal description in paragraph (2)(D).

(ii) COTTONWOOD/CLARKDALE.—Following the acquisition of the parcel described in paragraph (2)(E), YRLP shall execute and record with the Yavapai County Recorder an amended declaration in which the legal description of the land referred to in the Cottonwood Declaration is amended to conform to the legal description in paragraph (2)(E).

(b) CONVEYANCE OF NON-FEDERAL LAND BY YRLP.—

(1) IN GENERAL.—On receipt of title to the Federal land, YRLP shall simultaneously convey to the United States, by deed acceptable to Secretary and subject to any encumbrances, all right, title, and interest of YRLP in and to the non-Federal land.

(2) EASEMENTS.—

(A) IN GENERAL.—The conveyance of non-Federal land to the United States under paragraph (1) shall be subject to the reservation of—

(i) perpetual and unrestricted easements and water rights that run with and benefit the land retained by YRLP for—

(I) the operation, maintenance, repair, improvement, development, and replacement of not more than 3 existing wells;

(II) related storage tanks, valves, pumps, and hardware; and

(III) pipelines to points of use; and

(ii) easements for reasonable ingress and egress to accomplish the purposes of the easements described in clause (i).

(B) EXISTING WELLS.—

(i) IN GENERAL.—Each easement for an existing well shall be—

(I) 40 acres in area; and

(II) to the maximum extent practicable—

(aa) centered on the existing well; and

(bb) located in the same square mile section of land.

(ii) LIMITATION.—Within a 40-acre easement described in clause (i), the United States and any permitees or licensees of the United States shall be prohibited from undertaking any activity that interferes with the use of the wells by YRLP, without the written consent of YRLP.

(iii) RESERVATION OF WATER FOR THE UNITED STATES.—The United States shall be entitled to ½ of the production of each existing well, not to exceed a total of 3,100,000 gallons of water annually, for watering wildlife and stock and for other National Forest System purposes from all 3 wells.

(C) REASONABLE ACCESS.—Each easement for ingress and egress shall be at least 20 feet in width.

(D) LOCATION.—The locations of the easements and wells shall be the locations generally depicted on a map entitled ''YRLP Reserved Easements for Water Lines and Wells'', dated April 2002.

(c) LAND TRANSFER PROBLEMS.—

(1) FEDERAL LAND.—If all or part of any parcels of Federal land cannot be transferred to YRLP because of hazardous materials, or if the proposed title to a Federal land parcel or parcels or fraction thereof is unacceptable to YRLP because of the existence of unpatented mining claims, or in the event of the presence of threatened or endangered species or cultural or historic resources which cannot be mitigated, or other third party rights under the public land laws, the parcel or parcels or parts thereof shall be deleted from the exchange and the Secretary and YRLP may mutually agree to exchange other Federal land in lieu of the deleted parcel or part thereof in accordance with section 104(c). If the parcel or parcels are deleted from the exchange, the non-Federal land shall be adjusted in accordance with section 104(c) as necessary to achieve equal value.

(2) NON-FEDERAL LAND.—If 1 or more of the parcels of non-Federal land or a portion of such a parcel cannot be conveyed to the United States because of the presence of hazardous materials or because the proposed title to a parcel or a portion of the parcel is unacceptable to the Secretary—

(A) the parcel or any portion of the parcel shall be excluded from the exchange; and

(B) the Federal land shall be adjusted in accordance with section 104(c).

(d) PASS-THROUGH CONVEYANCES.—

(1) IN GENERAL.—On or after the acquisition of the Federal land, YRLP may subsequently pass through or convey to the cities of Flagstaff, Williams, Camp Verde, Cottonwood, and the summer camps the parcels of Federal land or portions of parcels located in or near the cities or summer camps.

(2) DELETION FROM EXCHANGE.—If YRLP and the cities or summer camps referred to in paragraph (1) have not agreed to the terms and conditions of a pass-through or subsequent conveyance of a parcel or portion of a parcel of Federal land before the completion of the exchange, the Secretary, on notice by YRLP, shall delete the parcel or any portion of the parcel from the exchange, provided that any portion so deleted shall be configured by the Secretary to leave the United States with manageable post-exchange lands and boundaries.

(3) EASEMENTS.—In accordance with section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)), the United States shall reserve easements in any land transferred to YRLP.

SEC. 104. EXCHANGE VALUATION, APPRAISALS, AND EQUALIZATION.

(a) EQUAL VALUE EXCHANGE.—The values of the non-Federal and Federal land directed to be exchanged under this title—

(1) shall be equal, as determined by the Secretary; or

(2) if the values are not equal, shall be equalized in accordance with subsection (c).

(b) APPRAISALS.—

(1) IN GENERAL.—The values of the Federal land and non-Federal land shall be determined by appraisals using the appraisal standards in—

(A) the Uniform Appraisal Standards for Federal Land Acquisitions, fifth edition (December 20, 2000); and

(B) the Uniform Standards of Professional Appraisal Practice.

(2) APPROVAL.—In accordance with part 254.9(a)(1) of title 36, Code of Federal Regulations (or any successor regulation), the appraiser shall be—

(A) acceptable to the Secretary and YRLP; and

(B) a contractor, the clients of which shall be both the Secretary and YRLP.

(3) REQUIREMENTS.—During the appraisal process—

(A) the Secretary and YRLP shall have equal access to the appraiser; and

(B) the Secretary and YRLP shall cooperate with each other and the appraiser to prepare appraisal instructions which shall require the appraiser to—

(i) consider the effect on value of the Federal land or non-Federal land because of the existence of encumbrances on each parcel, including—

(I) permitted uses on Federal land that cannot be reasonably terminated before the appraisal; and

(II) facilities on Federal land that cannot be reasonably removed before the appraisal.

(ii) determine the value of each parcel of Federal land and non-Federal land (including the value of each individual section of the intermingled Federal and non-Federal land of the Yavapai Ranch) as an assembled transaction consistent with the applicable provisions of parts 254.5 and 254.9(b)(1)(v) of title 36, Code of Federal Regulations (or any successor regulation).

(4) DISPUTE RESOLUTION.—A dispute relating to the appraised values of the Federal land or non-Federal land following completion of the appraisal shall be processed in accordance with—

(A) section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(d)); and

(B) part 254.10 of title 36, Code of Federal Regulations (or any successor regulation).

(5) APPRAISAL PERIOD.—After the final appraised values of the Federal land and non-Federal land have been reviewed and approved by the Secretary or otherwise determined in accordance with the requirements of paragraph (4), the final appraised values—

(A) shall not be reappraised or updated by the Secretary before the completion of the land exchange; and

(B) shall be considered to be the values of the Federal land and non-Federal land on the date of the transfer of title.

(6) AVAILABILITY.—The appraisals approved by the Secretary shall be made available for public inspection in the Offices of the Supervisors for Prescott, Coconino, and Kaibab National Forests in accordance with Forest Service policy.

(7) ALLOCATION OF CHANGES.—For purposes of the land exchange directed by this title, any change in land value attributable to the conservation measures and restrictions on water use under the Declarations shall be allocated 50 percent to the Secretary and 50 percent to YRLP.

(c) EQUALIZATION OF VALUES.—

(1) SURPLUS OF NON-FEDERAL LAND.—

(A) IN GENERAL.—If, after any adjustments are made to the non-Federal land or Federal land under subsection (c) or (d) of section 103, the final appraised value of the non-Federal land exceeds the final appraised value of the Federal land, the Federal land and non-Federal land shall be adjusted in accordance with subparagraph (B) until the values are approximately equal.

(B) ADJUSTMENTS.—An adjustment referred to in subparagraph (A) shall be accomplished by beginning at the east boundary of section 30, T. 20 N., R. 6 W., Gila and Salt River Base and Meridian, Yavapai County, Arizona, and adding to the Federal land to be conveyed to YRLP in ⅛ section increments (N–S 64th line) and lot lines across the section, while deleting from the conveyance to the United States non-Federal land in the same incremental portions of sections 19 and 31, T. 20 N., R. 6 W., Gila and Salt River Base and Meridian, Yavapai County, Arizona, to establish a linear and continuous boundary that runs north to south across the sections.

(2) SURPLUS OF FEDERAL LAND.—

(A) IN GENERAL.—If, after any adjustments are made to the non-Federal land or Federal land under subsection (c) or (d) of section 103, the final appraised value of the Federal land exceeds the final appraised value of the non-Federal land, the Federal land and non-Federal land shall be adjusted in accordance with subparagraph (B) until the values are approximately equal.

(B) ADJUSTMENTS.—Adjustments under subparagraph (A) shall be made in the following order:

(i) Beginning at the south boundary of section 31, T. 20 N., R. 5 W., Gila and Salt River Base and Meridian, Yavapai County, Arizona, and sections 33 and 35, T. 20 N., R. 6 W., Gila and Salt River Base and Meridian, Yavapai County, by adding to the non-Federal land to be conveyed to the United States in ⅛ section increments (E–W 64th line) while deleting from the conveyance to YRLP Federal land in the same incremental portions of section 32, T. 20 N., R. 5 W., Gila and Salt River Base and Meridian, Yavapai County, Arizona, and sections 32, 34, and 36, in T. 20 N., R. 6 W., Gila and Salt River Base and Meridian, Yavapai County, Arizona, to establish a linear and continuous boundary that runs east to west across the sections.

(ii) By deleting the following parcels:

(I) The Williams Sewer parcel, comprising approximately 20 acres, located in Kaibab National Forest, and more particularly described as the E½NW¼SE¼ portion of section 21, T. 22 N., R. 2 E., Gila and Salt River Base and Meridian, Coconino County, Arizona.

(II) The Williams railroad parcel, located in the Kaibab National Forest, and more particularly described as—

(aa) the W½SW¼ portion of section 26, T. 22 N., R. 2 E., Gila and Salt River Base and Meridian, Coconino County, Arizona, excluding any portion northeast of the southwestern right-of-way line of the Burlington Northern and Santa Fe Railway (Seligman Subdivision), comprising approximately 30 acres;

(bb) the NE¼NW¼, the N½SE¼NW¼, the SE¼SE¼NW¼, the NE¼, the SE¼SW¼, and the SE¼ portions of section 27, T. 22 N., R. 2 E., Gila and Salt River Base and Meridian, Coconino County, Arizona, excluding any portion north of the southern right-of-way of Interstate 40 and any portion northeast of the southwestern right-of-way line of the Burlington Northern and Santa Fe Railway (Seligman Subdivision), any portion south of the northern right-of-way of the Burlington Northern and Santa Fe Railway (Phoenix Subdivision), and any portion within Exchange Survey No. 677, comprising approximately 220 acres;

(cc) the NE¼NE¼ portion of section 34, T. 22 N., R. 2 E., Gila and Salt River Base and Meridian, Coconino County, Arizona, excluding any portion southwest of the northeastern right-of-way line of the Burlington Northern and Santa Fe Railway (Phoenix Subdivision), comprising approximately 2 acres; and

(dd) the N½ portion of section 35, T. 22 N., R. 2 E., Gila and Salt River Base and Meridian, Coconino County, Arizona, excluding any portion north of the southern right-of-way line of the Burlington Northern and Santa Fe Railway (Seligman Subdivision) and any portion south of the northern right-of-way of the Burlington Northern and Santa Fe Railway (Phoenix Subdivision), comprising approximately 60 acres.

(III) Buckskinner Park, comprising approximately 50 acres, located in Kaibab National Forest, and more particularly described as the SW¼SW¼, and the S½S½NW¼SW¼ portions of section 33, T. 22 N., R. 2 E., Gila and Salt River Base and Meridian, Coconino County, Arizona.

(IV) The Cottonwood/Clarkdale parcel, comprising approximately 820 acres, located in Prescott National Forest, and more particularly described as—

(aa) lots 3, 4, 6, portions of lots 7, 8, and 9, and the W½NW¼ and the SW¼SE¼ portions of section 5, T. 15 N., R. 3 E., Gila and Salt River Base and Meridian, Yavapai County, Arizona; and

(bb) the S½S½N½NW¼, the E½E½NE¼NE¼NW¼, the E½NE¼SE¼NE¼NW¼, the NW¼NE¼, the S½NE¼, the S½NW¼, and the S½ portions of section 8, T. 15 N., R. 3 E., Gila and Salt River Base and Meridian, Yavapai County, Arizona.

(V) The Wetzel school parcel, comprising approximately 10.89 acres, located in Coconino National Forest, and more particularly described as lot 9 of section 11, T. 21 N., R. 7 E., Gila and Salt River Base and Meridian, Coconino County, Arizona.

(VI) The Mt. Eldon parcel, comprising approximately 17.21 acres, located in Coconino National Forest, and more particularly described as lot 7 of section 7, T. 21 N., R. 8 E., Gila and Salt River Base and Meridian, Coconino County, Arizona.

(VII) A portion of the Camp Verde parcel, comprising approximately 316 acres, located in Prescott National Forest, and more particularly described as the NENE¼ and lots 1, 5, and 6 of section 26, and the N½N½ of section 27, T. 14 N., R. 4 E., Gila and Salt River Base and Meridian, Yavapai County, Arizona.

(VIII) A portion of the Camp Verde parcel, comprising approximately 314 acres, located in Prescott National Forest, and more particularly described as the SENE¼ and lots 2, 7, 8, and 9 of section 26, and the S½N½ of section 27, T. 14 N., R. 4 E., Gila and Salt River Base and Meridian, Yavapai County, Arizona.

(C) MODIFICATIONS.—The descriptions of land and acreage provided in subclauses (III), (IV), and (V) of subparagraph (B)(ii) may be modified to conform with a survey approved by the Bureau of Land Management.

(3) ADDITIONAL EQUALIZATION OF VALUES.—If, after the values are adjusted in accordance with paragraph (1) or (2), the values of the Federal land and non-Federal land are not equal, then the Secretary and YRLP may by mutual agreement adjust the acreage of the Federal land and non-Federal land until the values of that land are equal.

(d) CASH EQUALIZATION.—

(1) IN GENERAL.—After the values of the non-Federal and Federal land are equalized to the maximum extent practicable under subsection (c), any balance due to the Secretary or to YRLP shall be paid—

(A) through cash equalization payments under section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)); or

(B) in accordance with standards established by the Secretary and YRLP.

(2) LIMITATION.—

(A) IN GENERAL.—YRLP shall not be required to make any cash equalization payment to the Secretary in an amount that exceeds $50,000.

(B) ADJUSTMENTS.—If the value of the Federal land exceeds the value of the non-Federal land by more than $50,000, the Secretary and YRLP shall by mutual agreement delete additional Federal land from the exchange until the values of the Federal land and non-Federal land are equal.

(C) DEPOSIT.—Any money received by the United States under this title shall, without further appropriation, be deposited in a fund established under Public Law 90–171 (16 U.S.C. 484(a); commonly known as the Sisk Act) for the acquisition of land or interests in land for National Forest System purposes in the State of Arizona.

SEC. 105. MISCELLANEOUS PROVISIONS.

(a) REVOCATION OF ORDERS.—Any public orders withdrawing any of the Federal land from appropriation or disposal under the public land laws are revoked to the extent necessary to permit disposal of the Federal land.

(b) WITHDRAWAL OF FEDERAL LAND.—The Federal land is withdrawn from all forms of entry and appropriation under the public land laws, including the mining and mineral leasing laws and the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.), until the date on which the exchange of Federal land and non-Federal land is completed.

(c) SURVEYS, INVENTORIES, AND CLEARANCES.—Before completing the exchange of Federal land and non-Federal land directed by this title, the Secretary shall carry out land surveys and preexchange inventories, clearances, reviews, and approvals relating to hazardous materials, threatened and endangered species, cultural and historic resources, and wetlands and floodplains.

(d) COSTS OF IMPLEMENTING THE EXCHANGE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall be responsible for any costs of implementing the exchange of Federal land and non-Federal land.

(2) EXCEPTIONS.—Subject to paragraph (3), YRLP shall be responsible for paying—

(A) 100 percent of the costs of—

(i) conducting the appraisals of the Federal land and non-Federal land;

(ii) the preparation of necessary land surveys and verified legal descriptions of the Federal land and non-Federal land; and

(iii) title insurance; and

(B) 50 percent of the costs of—

(i) conducting cultural and historic resource surveys;

(ii) conducting surveys of hazardous materials;

(iii) escrow; and

(iv) publication of notice of the proposed exchange.

(3) LIMITATIONS.—

(A) IN GENERAL.—YRLP shall not pay more than $500,000 of the costs described in paragraph (2).

(B) CREDIT.—Any costs paid by YRLP for cultural or historic resource surveys before the date of enactment of this Act shall be credited against the maximum amount required to be paid by YRLP under subparagraph (A).

(4) REIMBURSEMENT.—No amount paid by YRLP under this subsection shall be eligible for reimbursement under section 206(f) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(f)).

(e) TIMING.—It is the intent of Congress that the exchange of Federal land and non-Federal land directed by this title be completed not later than 1 year after the date of enactment of this Act.

(f) CONTRACTORS.—

(1) IN GENERAL.—If the Secretary lacks adequate staff or resources to complete the exchange by the date referred to in subsection (e), or if the costs described in subsection (d)(2) exceed the limitation described in subsection (d)(3), the Secretary shall reimburse YRLP for the costs of 1 or more independent third party contractors, subject to the approval of the Secretary and YRLP, to carry out any activities necessary to complete the exchange by that date.

(2) CREDITS.—If the Secretary lacks funds with which to reimburse YRLP in accordance with paragraph (1), the Secretary shall credit any amounts paid by YRLP to third party independent contractors against the value of the Federal land in accordance with section 206(f) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(f)).

SEC. 106. STATUS AND MANAGEMENT OF LAND AFTER EXCHANGE.

(a) IN GENERAL.—Non-Federal land acquired by the United States under this title—

(1) shall become part of the Prescott National Forest; and

(2) shall be administered by the Secretary in accordance with—

(A) this title; and

(B) the laws (including regulations) applicable to the National Forest System.

(b) MANAGEMENT PLAN.—

(1) IN GENERAL.—Acquisition of the land authorized by this title shall not, of itself, require a revision or amendment to the Management Plan for Prescott National Forest.

(2) AMENDMENT OR REVISION OF PLAN.—If the Management Plan is amended or revised after the date of acquisition of non-Federal land under this title, the Management Plan shall be amended to reflect the acquisition of the non-Federal land.

(c) POST-EXCHANGE MANAGEMENT OF CERTAIN LAND.—

(1) IN GENERAL.—Following its acquisition by the United States, the non-Federal land acquired by the United States and adjoining National Forest System land shall be managed in accordance with paragraphs (2) through (6), and the laws, rules, and regulations generally applicable to the National Forest System.

(2) PROTECTION OF NATURAL RESOURCES.—The land shall be managed in a manner that maintains the species, character, and natural values of the land, including—

(A) deer, pronghorn antelope, wild turkey, mountain lion, and other resident wildlife and native plant species;

(B) suitability for livestock grazing; and

(C) aesthetic values.

(3) GRAZING.—Each area located in the Yavapai Ranch grazing allotment as of the date of enactment of this Act shall—

(A) remain in the Yavapai Ranch grazing allotment; and

(B) continue to be subject to grazing in accordance with the laws, rules, and regulations generally applicable to domestic livestock grazing on National Forest System land.

(4) ROADS.—

(A) IMPROVEMENT AND MAINTENANCE.—The Secretary shall maintain or improve a system of roads and trails on the land to provide opportunities for hunting, motorized and nonmotorized recreation, and other uses of the land by the public.

(B) PUBLIC ACCESS ROAD.—

(i) CONSTRUCTION.—The Secretary shall improve or construct a public access road linking Forest Road 7 (Pine Creek Road) to Forest Road 1 (Turkey Canyon Road) through portions of sections 33, 32, 31, and 30, T. 19 N., R. 6 W., Gila and Salt River Base and Meridian.

(ii) EXISTING ROAD.—The existing road linking Pine Creek and Gobbler Knob—

(I) shall remain open until the date on which the new public access road is completed; and

(II) after the date on which the new public access road is completed, shall be obliterated.

(C) EASEMENTS.—

(i) IN GENERAL.—Simultaneously with completion of the land exchange directed by this title, the Secretary and YRLP shall mutually grant to each other at no charge reciprocal easements for ingress, egress, and utilities across, over, and through—

(I) the routes depicted on the map entitled ''Road and Trail Easements—Yavapai Ranch Area'' dated April 2002; and any other inholdings retained by the United States or YRLP; or

(II) any relocated routes that are mutually agreed to by the Secretary and YRLP.

(ii) REQUIREMENTS.—Easements granted under this subparagraph shall be unlimited, perpetual, and nonexclusive in nature, and shall run with and benefit the land of the grantee.

(iii) RIGHTS OF GRANTEE.—The rights of the grantee shall extend to—

(I) in the case of YRLP, any successors-in-interest, assigns, and transferees of YRLP; and

(II) in the case of the Secretary, members of the general public, as determined to be appropriate by the Secretary.

(5) TIMBER HARVESTING.—

(A) IN GENERAL.—Except as provided in subparagraph (B), timber harvesting for commodity production shall be prohibited on the land.

(B) EXCEPTIONS.—Timber harvesting may be conducted on the land if the Secretary determines that timber harvesting is necessary—

(i) to prevent or control fires, insects, and disease through forest thinning or other forest management techniques; or

(ii) to protect or enhance grassland habitat, watershed values, or native plants, trees, and wildlife species.

(6) WATER IMPROVEMENTS.—Nothing in this title prohibits the Secretary from authorizing or constructing new water improvements in accordance with the laws, rules, and regulations applicable to water improvements on National Forest System land for—

(A) the benefit of domestic livestock or wildlife management; or

(B) the improvement of forest health or forest restoration.

(d) MAPS.—

(1) IN GENERAL.—The Secretary and YRLP may correct any minor errors in the maps of, legal descriptions of, or encumbrances on the Federal land or non-Federal land.

(2) DISCREPANCY.—In the event of any discrepancy between a map, acreage, and a legal description, the map shall prevail unless the Secretary and YRLP agree otherwise.

(3) AVAILABILITY.—The Declarations and all maps referred to in this title shall be on file and available for inspection in the Office of the Supervisor, Prescott National Forest, Prescott, Arizona.

(e) EFFECT.—Nothing in this title precludes, prohibits, or otherwise restricts YRLP from subsequently granting, conveying, or otherwise transferring title to the Federal land after its acquisition of the Federal land and recordation of the Declarations and any conforming amendments to the Declarations.

(f) ENCROACHMENT LAND IN FLAGSTAFF.—

(1) IN GENERAL.—The Secretary shall convey by quitclaim deed lot 8 in section 11, T. 21 N., R. 7 E., Gila and Salt River Base and Meridian, Coconino County, Arizona, to a single individual or entity, either of which represent the majority of landowners with encroachments on such lot.

(2) PAYMENT TO THE UNITED STATES.—In consideration of the conveyance directed by

paragraph (1), the individual or entity representing the majority of landowners with encroachments on lot 8 shall pay to the Secretary the sum of $2500 plus any costs of remonumenting the boundary of lot 8.

(3) TIMING.—The Secretary shall convey lot 8 in accordance with this subsection within 90 days of receipt of powers of attorney executed to a single individual or entity representing the majority of landowners with encroachments on lot 8. If the powers of attorney are not delivered to the Secretary within 270 days of the date of enactment of this Act, the authorization under this subsection shall expire and, thereafter, any conveyances shall be made under Public Law 97–465 (16 U.S.C. 521c et seq.).

TITLE II—SAN ISABEL NATIONAL FOREST LAND EXCHANGE, COLORADO

SEC. 201. LAND EXCHANGE, SAN ISABEL NATIONAL FOREST, COLORADO.

(a) EXCHANGE REQUIRED.—In exchange for the private property described in subsection (b), the Secretary of Agriculture shall convey to E. Michael Senter of Buena Vista, Colorado (in this section referred to as the ''recipient''), all right, title, and interest of the United States in and to a parcel of real property consisting of approximately 2.2 acres in the San Isabel National Forest, Colorado, as generally depicted on the map entitled ''Senter Exchange'' , dated September 20, 2002. The conveyance under this subsection shall be made upon the receipt by the Secretary of a binding offer for the conveyance of title acceptable to the Secretary to the property described in subsection (b).

(b) CONSIDERATION.—As consideration for the property to be conveyed by the Secretary under subsection (a), the recipient shall convey to the Secretary a parcel of real property consisting of approximately 2.0 acres located within the boundaries of the San Isabel National Forest. This parcel is also generally depicted on the map referred to in subsection (a).

(c) EQUAL VALUE EXCHANGE; APPRAISAL.—The values of the properties to be exchanged under this section shall be equal or equalized as provided in subsection (d). The value of the properties shall be determined through an appraisal performed by a qualified appraiser mutually agreed to by the Secretary and the recipient. The appraisal shall be performed in conformance with the Uniform Appraisal Standards for Federal Land Acquisitions (Department of Justice, December 2000) and shall be completed not later than 120 days after the date of the enactment of this Act.

(d) CASH EQUALIZATION.—Any difference in the value of the properties to be exchanged under this section shall be equalized through the making of a cash equalization payment. The Secretary shall deposit any cash equalization payment received by the Secretary under this subsection in the fund established by Public Law 90-171 (commonly known as the Sisk Act; 16 U.S.C. 484a).

(e) PAYMENT OF COSTS.—All direct costs associated with the conveyances under this section, including the costs of appraisal, title, and survey work, shall be borne by the Secretary.

(f) ADMINISTRATION OF ACQUIRED LAND.—The property acquired by the Secretary under this section shall become part of the San Isabel National Forest and be administered as such in accordance with the laws, rules, and regulations generally applicable to the National Forest System.

Mr. HANSEN (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

The amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title of the bill was amended so as to read: ''A bill to provide for a land exchange in the State of Arizona between the Secretary of Agriculture and Yavapai Ranch Limited Partnership and a land exchange in the State of Colorado to acquire a private inholding in the San Isabel National Forest, and for other purposes.''.

A motion to reconsider was laid on the table.

AMERICAN WILDLIFE ENHANCEMENT ACT OF 2001

Mr. HANSEN. Mr. Speaker, I ask unanimous consent that the Committee on Resources be discharged from further consideration of the Senate bill (S. 990) to amend the Pittman-Robertson Wildlife Restoration Act to improve the provisions relating to wildlife conservation and restoration programs, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

Mr. GILCHREST. Mr. Speaker, reserving the right to object, and I will not object, but I just want to take this moment to tell the gentleman from Utah, the chairman of the Committee on Resources, that he has stayed the course, he has given that committee dignity, he has worked to improve the resources and nature's bounty and the approachability to use those resources for human progress; and I just wanted to say, Jim, thank you for your service to your country. I enjoyed serving on your committee.

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. GILCHREST. I yield to the gentleman from California.

Mr. DREIER. Mr. Speaker, I would like to join in extending congratulations. We have just talked about two of our colleagues who are retiring. They were not in the Chamber. We actually have three of our colleagues in the Chamber at this moment at 2:22 in the morning as we retire.

Of course, we have our friend, the gentleman from Texas (Mr. ARMEY), who is always in this Chamber, no matter what; and our friend, the gentleman from Utah (Mr. HANSEN); and our friend, the gentleman from Oklahoma (Mr. WATKINS), here as well.

I would like to say to all three of our colleagues who are retiring how much we have appreciated their extraordinary service to this institution.

I had the privilege of being elected in 1980 with Jim Hansen. He came as a former speaker of the House of Representatives of the State legislature in Utah and did a phenomenal job there, and came in with a class that was actually larger than the one that will be coming in for the 108th Congress. We ended up with a class of, in a bipartisan way, I think about 76 Members or so. We had 53 Republicans who came in, and it was the day that Ronald Reagan was elected President of the United States that Jim Hansen and I were elected to the House of Representatives. He provided just extraordinary leadership to us.

I want to say on this issue that he has dealt with on the Committee on Resources dealing with the challenges that especially those of us in the West face, that I have appreciated his great service and his wonderful friendship; and I would like to say he will be missed, along with our friends, the gentleman from Texas (Mr. ARMEY) and, of course, the gentleman from Oklahoma (Mr. WATKINS), who we are going to be hearing from I expect before too terribly long. He has just informed me he will be in both Oklahoma and Washington, D.C., and I am not going to say exactly why he will be in both locations. His wife told him that there is a reason for that, but I am not going to state it right now. But his service here has been extraordinary, working very hard in his work on the Committee on Ways and Means.

I thank all of our friends who are retiring, but especially those three who are here at now 2:25 in the morning.

Mr. TOM DAVIS of Virginia. Mr. Speaker, will the gentleman yield?

Mr. GILCHREST. I yield to the gentleman from Virginia.

Mr. TOM DAVIS of Virginia. Mr. Speaker, let me commend my friend, the gentleman from Utah (Mr. HANSEN), for a distinguished career here, not only his stewardship of the Committee on Resources, but his stewardship of the most popular committee in the House, the Committee on Standards of Official Conduct. I know that could the gentleman have stayed on the Committee on Standards of Official Conduct as chairman, he would have probably stayed in this body, and his disappointment at going off that.

But Jim was a pillar of integrity, picked by the leadership because of that, because of his objectivity in dealing with these kinds of issue, and the gentleman added a great dimension to this body. We will miss you and I hope you stay active, Jim.

Mr. FARR of California. Mr. Speaker, will the gentleman yield?

Mr. GILCHREST. I yield to the gentleman from California.

Mr. FARR of California. Mr. Speaker, I would like to rise also. I came here as a freshman and was assigned to the Committee on Resources, which I think is probably the most important committee in Congress, because it really deals with the terrain of America, the landscape of America, the things that brings us such respect for this country,

its diversity and its incredible geography and beauty; and I found the gentleman from Utah (Mr. HANSEN) to be an incredibly warm chairman, always listening, being very fair, a real gentleman as a chairman; and I have to say on the other side of the aisle that we were treated always fairly and our views were respected and bills were passed.

I think that we are going to miss him. We are going to miss somebody that represents a State that really knows the beauty of America; and under his leadership we, Congress, rose to help that State put on the Olympics. It would not have happened without his leadership.

So it is a real pleasure to have served with him, and I wish him all the luck in the world. Thank you.

Mr. INSLEE. Mr. Speaker, will the gentleman yield?

Mr. GILCHREST. I yield to the gentleman from Washington.

Mr. INSLEE. Mr. Speaker, I would just like to report from the Democratic cloakroom that when we saw this spontaneous tribute to the gentleman from Utah (Mr. HANSEN), somebody said, You know, he is a really nice guy, and there was universal shaking of the heads affirmatively. That is the highest praise.

This has been a tremendous opportunity to work with the gentleman, Mr. Chairman, and Utah is a beautiful state and you have made it a little nicer being such a gracious person here.

Mr. GILCHREST. Mr. Speaker, reclaiming my time, I would say to WES WATKINS, DICK ARMEY, JIM HANSEN, thank you from the country's heart.

Mr. HANSEN. Mr. Speaker, will the gentleman yield?

Mr. GILCHREST. I yield to the gentleman from Utah.

Mr. HANSEN. Mr. Speaker, I would like to express my appreciation for the kind words of my colleagues and friends. It has been very kind of them to say these things.

Mr. GILCHREST. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 990

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''American Wildlife Enhancement Act of 2001''.

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

Sec. 1. Short title; table of contents.

TITLE I—PITTMAN-ROBERTSON WILDLIFE CONSERVATION AND RESTORATION PROGRAMS IMPROVEMENT

Sec. 101. Short title.
Sec. 102. Definitions.
Sec. 103. Wildlife Conservation and Restoration Account.
Sec. 104. Apportionment of amounts in the Account.
Sec. 105. Wildlife conservation and restoration programs.
Sec. 106. Nonapplicability of Federal Advisory Committee Act.
Sec. 107. Technical amendments.
Sec. 108. Effective date.

TITLE II—ENDANGERED AND THREATENED SPECIES RECOVERY

Sec. 201. Purpose.
Sec. 202. Endangered and threatened species recovery assistance.

TITLE III—NON-FEDERAL LAND CONSERVATION GRANT PROGRAM

Sec. 301. Non-Federal land conservation grant program.

TITLE IV—CONSERVATION AND RESTORATION OF SHRUBLAND AND GRASSLAND

Sec. 401. Conservation and restoration of shrubland and grassland.

TITLE I—PITTMAN-ROBERTSON WILDLIFE CONSERVATION AND RESTORATION PROGRAMS IMPROVEMENT

SEC. 101. SHORT TITLE.

This title may be cited as the ''Pittman-Robertson Wildlife Conservation and Restoration Programs Improvement Act''.

SEC. 102. DEFINITIONS.

(a) IN GENERAL.—Section 2 of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669a) is amended to read as follows:

''SEC. 2. DEFINITIONS.

''In this Act:

''(1) ACCOUNT.—The term 'Account' means the Wildlife Conservation and Restoration Account established by section 3(a)(2).

''(2) CONSERVATION.—

''(A) IN GENERAL.—The term 'conservation' means the use of a method or procedure necessary or desirable—

''(i) to sustain healthy populations of wildlife; or

''(ii) to restore declining populations of wildlife.

''(B) INCLUSIONS.—The term 'conservation' includes any activity associated with scientific resources management, such as—

''(i) research;

''(ii) census;

''(iii) monitoring of populations;

''(iv) acquisition, improvement, and management of habitat;

''(v) live trapping and transplantation;

''(vi) wildlife damage management;

''(vii) periodic or total protection of a species or population; and

''(viii) the taking of individuals within a wildlife stock or population if permitted by applicable Federal law, State law, or law of the District of Columbia, a territory, or an Indian tribe for the purpose of protecting wildlife in decline.

''(3) FUND.—The term 'fund' means the Federal aid to wildlife restoration fund established by section 3(a)(1).

''(4) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

''(5) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.

''(6) STATE FISH AND GAME DEPARTMENT.—The term 'State fish and game department' means any department or division of a department of another name, or commission, or 1 or more officials, of a State, the District of Columbia, a territory, or an Indian tribe empowered under the laws of the State, the District of Columbia, the territory, or the Indian tribe, respectively, to exercise the functions ordinarily exercised by a State fish and game department or a State fish and wildlife department.

''(7) TERRITORY.—The term 'territory' means Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands.

''(8) WILDLIFE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'wildlife' means—

''(i) any species of wild, free-ranging fauna (excluding fish); and

''(ii) any species of fauna (excluding fish) in a captive breeding program the object of which is to reintroduce individuals of a depleted native species into the previously occupied range of the species.

''(B) WILDLIFE CONSERVATION AND RESTORATION PROGRAM.—For the purposes of each wildlife conservation and restoration program, the term 'wildlife' includes fish and native plants.

''(9) WILDLIFE-ASSOCIATED RECREATION PROJECT.—The term 'wildlife-associated recreation project' means—

''(A) a project intended to meet the demand for an outdoor activity associated with wildlife, such as hunting, fishing, and wildlife observation and photography;

''(B) a project such as construction or restoration of a wildlife viewing area, observation tower, blind, platform, land or water trail, water access route, area for field trialing, or trail head; and

''(C) a project to provide access for a project described in subparagraph (A) or (B).

''(10) WILDLIFE CONSERVATION AND RESTORATION PROGRAM.—The term 'wildlife conservation and restoration program' means a program developed by a State fish and game department and approved by the Secretary under section 12.

''(11) WILDLIFE CONSERVATION EDUCATION PROJECT.—The term 'wildlife conservation education project' means a project, including public outreach, that is intended to foster responsible natural resource stewardship.

''(12) WILDLIFE-RESTORATION PROJECT.—

''(A) IN GENERAL.—The term 'wildlife-restoration project' means a project consisting of the selection, restoration, rehabilitation, or improvement of an area of land or water (including a property interest in land or water) that is adaptable as a feeding, resting, or breeding place for wildlife.

''(B) INCLUSIONS.—The term 'wildlife-restoration project' includes—

''(i) acquisition of an area of land or water described in subparagraph (A) that is suitable or capable of being made suitable for feeding, resting, or breeding by wildlife;

''(ii) restoration or rehabilitation of an area of land or water described in subparagraph (A) (such as through management of habitat and invasive species);

''(iii) construction in an area described in subparagraph (A) of such works as are necessary to make the area available for feeding, resting, or breeding by wildlife;

''(iv) such research into any problem of wildlife management as is necessary for efficient administration of wildlife resources; and

''(v) such preliminary or incidental expenses as are incurred with respect to activities described in this paragraph.''.

(b) CONFORMING AMENDMENTS.—

(1) The first section, section 3(a)(1), and section 12 of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669, 669b(a)(1), 669i) are amended by striking ''Secretary of Agriculture'' each place it appears and inserting ''Secretary''.

(2) The Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669 et seq.) is amended by striking ''Secretary of the Interior'' each place it appears and inserting ''Secretary''.

(3) Section 3(a)(1) of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C.

669b(a)(1)) is amended by striking ''(hereinafter referred to as the 'fund')''.

(4) Section 6(c) of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669e(c)) is amended by striking ''established by section 3 of this Act''.

(5) Section 11(b) of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669h–2(b)) is amended by striking ''wildlife restoration projects'' each place it appears and inserting ''wildlife-restoration projects''.

SEC. 103. WILDLIFE CONSERVATION AND RESTORATION ACCOUNT.

(a) IN GENERAL.—Section 3 of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669b) is amended—

(1) by striking ''SEC. 3. (a)(1) An'' and inserting the following:

''SEC. 3. FEDERAL AID TO WILDLIFE RESTORATION FUND.

''(a) IN GENERAL.—

''(1) FEDERAL AID TO WILDLIFE RESTORATION FUND.—An'';

(2) in subsection (a), by striking paragraph (2) and inserting the following:

''(2) WILDLIFE CONSERVATION AND RESTORATION ACCOUNT.—

''(A) ESTABLISHMENT.—There is established in the fund an account to be known as the 'Wildlife Conservation and Restoration Account'.

''(B) FUNDING.—

''(i) IN GENERAL.—There are authorized to be appropriated to the Account for apportionment to States, the District of Columbia, territories, and Indian tribes in accordance with section 4(d)—

''(I) $50,000,000 for fiscal year 2001; and

''(II) $350,000,000 for each of fiscal years 2002 through 2006.

''(ii) AVAILABILITY.—Notwithstanding the matter under the heading 'FEDERAL AID IN WILDLIFE RESTORATION' under the heading 'FISH AND WILDLIFE SERVICE' in title I of chapter VII of the General Appropriation Act, 1951 (64 Stat. 693), the amount appropriated under clause (i)(II) for each of fiscal years 2002 through 2006 shall be available for obligation in that fiscal year.''; and

(3) by striking subsections (c) and (d).

(b) CONFORMING AMENDMENTS.—

(1) Section 3 of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669b) is amended—

(A) in the first sentence of subsection (a)(1)—

(i) by inserting ''(other than the Account)'' after ''wildlife restoration fund''; and

(ii) by inserting before the period at the end the following: ''(other than sections 4(d) and 12)''; and

(B) in subsection (b), by inserting ''(other than the Account)'' after ''the fund'' each place it appears.

(2) Section 4 of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669c) is amended—

(A) in subsection (a)—

(i) in paragraph (1)(A)—

(I) by inserting ''(other than the Account)'' after ''the fund''; and

(II) by inserting ''(other than subsection (d) and sections 3(a)(2) and 12)'' after ''this Act''; and

(ii) in paragraph (2)(B), by inserting ''from the fund (other than the Account)'' before ''under this Act''; and

(B) in the first sentence of subsection (b), by striking ''said fund'' and inserting ''the fund (other than the Account)''.

(3) Section 6 of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669e) is amended—

(A) in subsection (a)—

(i) in the matter preceding paragraph (1), by inserting ''(other than sections 4(d) and 12)'' after ''this Act'';

(ii) in the last sentence of paragraph (1), by striking ''this Act from funds apportioned under this Act'' and inserting ''this Act (other than sections 4(d) and 12) from funds apportioned from the fund (other than the Account) under this Act'';

(iii) in paragraph (2)—

(I) in the first sentence, by inserting ''(other than sections 4(d) and 12)'' after ''this Act''; and

(II) in the last sentence, by striking ''said fund as represents the share of the United States payable under this Act'' and inserting ''the fund (other than the Account) as represents the share of the United States payable from the fund (other than the Account) under this Act''; and

(iv) in the last paragraph, by inserting ''from the fund (other than the Account)'' before ''under this Act'' each place it appears; and

(B) in subsection (b), by inserting ''(other than sections 4(d) and 12)'' after ''this Act'' each place it appears.

(4) Section 8A of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669g–1) is amended in the first sentence by inserting ''from the fund (other than the Account)'' before ''under this Act''.

(5) Section 9 of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669h) is amended in subsections (a) and (b)(1) by striking ''section 4(a)(1)'' each place it appears and inserting ''subsections (a)(1) and (d)(1) of section 4''.

(6) Section 10 of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669h–1) is amended—

(A) in subsection (a)(1)—

(i) by inserting ''(other than the Account)'' after ''the fund''; and

(ii) in subparagraph (B), by inserting ''but excluding any use authorized solely by section 12'' after ''target ranges''; and

(B) in subsection (c)(2), by inserting before the period at the end the following: ''(other than sections 4(d) and 12)''.

(7) Section 11(a)(1) of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669h–2(a)(1)) is amended by inserting ''(other than the Account)'' after ''the fund''.

SEC. 104. APPORTIONMENT OF AMOUNTS IN THE ACCOUNT.

Section 4 of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669c) is amended by striking the second subsection (c) and subsection (d) and inserting the following:

''(d) APPORTIONMENT OF AMOUNTS IN THE ACCOUNT.—

''(1) DEDUCTION FOR ADMINISTRATIVE EXPENSES.—For each fiscal year, the Secretary may deduct, for payment of administrative expenses incurred by the Secretary in carrying out activities funded from the Account, not more than 3 percent of the total amount of the Account available for apportionment for the fiscal year.

''(2) APPORTIONMENT TO DISTRICT OF COLUMBIA, TERRITORIES, AND INDIAN TRIBES.—

''(A) IN GENERAL.—For each fiscal year, after making the deduction under paragraph (1), the Secretary shall apportion from the amount in the Account remaining available for apportionment—

''(i) to each of the District of Columbia and the Commonwealth of Puerto Rico, a sum equal to not more than ½ of 1 percent of that remaining amount;

''(ii) to each of Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands, a sum equal to not more than ¼ of 1 percent of that remaining amount; and

''(iii) to Indian tribes, a sum equal to not more than 2¼ percent of that remaining amount, of which, subject to subparagraph (B)—

''(I) ⅓ shall be apportioned among Indian tribes based on the ratio that the trust land area of each Indian tribe bears to the total trust land area of all Indian tribes; and

''(II) ⅔ shall be apportioned among Indian tribes based on the ratio that the population of each Indian tribe bears to the total population of all Indian tribes.

''(B) MAXIMUM APPORTIONMENT FOR EACH INDIAN TRIBE.—For each fiscal year, the amounts apportioned under subparagraph (A)(iii) shall be adjusted proportionately so that no Indian tribe is apportioned a sum that is more than 5 percent of the amount available for apportionment under subparagraph (A)(iii) for the fiscal year.

''(3) APPORTIONMENT TO STATES.—

''(A) IN GENERAL.—Subject to subparagraph (B), for each fiscal year, after making the deduction under paragraph (1) and the apportionment under paragraph (2), the Secretary shall apportion the amount in the Account remaining available for apportionment among States in the following manner:

''(i) ⅓ based on the ratio that the area of each State bears to the total area of all States.

''(ii) ⅔ based on the ratio that the population of each State bears to the total population of all States.

''(B) MINIMUM AND MAXIMUM APPORTIONMENTS.—For each fiscal year, the amounts apportioned under this paragraph shall be adjusted proportionately so that no State is apportioned a sum that is—

''(i) less than 1 percent of the amount available for apportionment under this paragraph for the fiscal year; or

''(ii) more than 5 percent of that amount.

''(4) USE.—

''(A) IN GENERAL.—Apportionments under paragraphs (2) and (3)—

''(i) shall supplement, but not supplant, funds available to States, the District of Columbia, territories, and Indian tribes—

''(I) from the fund; or

''(II) from the Sport Fish Restoration Account established by section 9504(a) of the Internal Revenue Code of 1986; and

''(ii) shall be used to address the unmet needs for wildlife (including species that are not hunted or fished, and giving priority to species that are in decline), and the habitats on which the wildlife depend, for projects authorized to be carried out as part of wildlife conservation and restoration programs in accordance with section 12.

''(B) PROHIBITION ON DIVERSION.—A State, the District of Columbia, a territory, or an Indian tribe shall not be eligible to receive an apportionment under paragraph (2) or (3) if the Secretary determines that the State, the District of Columbia, the territory, or the Indian tribe respectively, diverts funds from any source of revenue (including interest, dividends, and other income earned on the revenue) available to the State, the District of Columbia, the territory, or the Indian tribe after January 1, 2000, for conservation of wildlife for any purpose other than the administration of the State fish and game department in carrying out wildlife conservation activities.

''(5) PERIOD OF AVAILABILITY OF APPORTIONMENTS.—Notwithstanding section 3(a)(1), for each fiscal year, the apportionment to a State, the District of Columbia, a territory, or an Indian tribe from the Account under this subsection shall remain available for obligation until the end of the second following fiscal year.''.

SEC. 105. WILDLIFE CONSERVATION AND RESTORATION PROGRAMS.

(a) IN GENERAL.—The Pittman-Robertson Wildlife Restoration Act is amended—

(1) by redesignating sections 12 and 13 (16 U.S.C. 669i, 669 note) as sections 13 and 15, respectively; and

(2) by inserting after section 11 (16 U.S.C. 669h–2) the following:

"SEC. 12. WILDLIFE CONSERVATION AND RESTORATION PROGRAMS.

''(a) DEFINITION OF STATE.—In this section, the term 'State' means a State, the District of Columbia, a territory, and an Indian tribe.

''(b) WILDLIFE CONSERVATION AND RESTORATION PROGRAMS.—

''(1) IN GENERAL.—A State, acting through the State fish and game department, may apply to the Secretary—

''(A) for approval of a wildlife conservation and restoration program; and

''(B) to receive funds from the apportionment to the State under section 4(d) to develop and implement the wildlife conservation and restoration program.

''(2) APPLICATION CONTENTS.—As part of an application under paragraph (1), a State shall provide documentation demonstrating that the wildlife conservation and restoration program of the State includes—

''(A) provisions vesting in the State fish and game department overall responsibility and accountability for the wildlife conservation and restoration program of the State;

''(B) provisions to identify which species in the State are in greatest need of conservation; and

''(C) provisions for the development, implementation, and maintenance, under the wildlife conservation and restoration program, of—

''(i) wildlife conservation projects—

''(I) that expand and support other wildlife programs; and

''(II) that are selected giving appropriate consideration to all species of wildlife in accordance with subsection (c);

''(ii) wildlife-associated recreation projects; and

''(iii) wildlife conservation education projects.

''(3) PUBLIC PARTICIPATION.—A State shall provide an opportunity for public participation in the development, implementation, and revision of the wildlife conservation and restoration program of the State and projects carried out under the wildlife conservation and restoration program.

''(4) APPROVAL FOR FUNDING.—If the Secretary finds that the application submitted by a State meets the requirements of paragraph (2), the Secretary shall approve the wildlife conservation and restoration program of the State.

''(5) PAYMENT OF FEDERAL SHARE.—

''(A) IN GENERAL.—Subject to subparagraph (D), after the Secretary approves a wildlife conservation and restoration program of a State, the Secretary may use the apportionment to the State under section 4(d) to pay the Federal share of—

''(i) the cost of implementation of the wildlife conservation and restoration program; and

''(ii) the cost of development, implementation, and maintenance of each project that is part of the wildlife conservation and restoration program.

''(B) FEDERAL SHARE.—The Federal share shall not exceed 75 percent.

''(C) TIMING OF PAYMENTS.—Under such regulations as the Secretary may promulgate, the Secretary—

''(i) shall make payments to a State under subparagraph (A) during the course of a project; and

''(ii) may advance funds to pay the Federal share of the costs described in subparagraph (A).

''(D) MAXIMUM AMOUNT FOR CERTAIN ACTIVITIES.—

''(i) IN GENERAL.—Notwithstanding section 8(a), except as provided in clause (ii), for each fiscal year, not more than 10 percent of the apportionment to a State under section 4(d) for the wildlife conservation and restoration program of the State may be used for each of the following activities:

''(I) Law enforcement activities.

''(II) Wildlife-associated recreation projects.

''(ii) EXCEPTION.—For any fiscal year, the limitation under clause (i) shall not apply to law enforcement activities or wildlife-associated recreation projects in a State if the State demonstrates to the satisfaction of the Secretary that law enforcement activities or wildlife-associated recreation projects, respectively, have a significant impact on high priority conservation activities.

''(6) METHOD OF IMPLEMENTATION OF PROJECTS.—A State may implement a project that is part of the wildlife conservation and restoration program of the State through—

''(A) a grant made by the State to, or a contract entered into by the State with—

''(i) any Federal, State, or local agency (including an agency that gathers, evaluates, and disseminates information on wildlife and wildlife habitats);

''(ii) an Indian tribe;

''(iii) a wildlife conservation organization, sportsmen's organization, land trust, or other nonprofit organization; or

''(iv) an outdoor recreation or conservation education entity; and

''(B) any other method determined appropriate by the State.

''(c) WILDLIFE CONSERVATION STRATEGY.—

''(1) IN GENERAL.—Not later than 5 years after the date of the initial apportionment to a State under section 4(d), to be eligible to continue to receive funds from the apportionment to the State under section 4(d), the State shall, as part of the wildlife conservation and restoration program of the State, develop and implement a wildlife conservation strategy that is based on the best available and appropriate scientific information.

''(2) REQUIRED ELEMENTS.—A wildlife conservation strategy shall—

''(A) use such information on the distribution and abundance of species of wildlife as is indicative of the diversity and health of the wildlife of the State, including such information on species with low populations and declining numbers of individuals as the State fish and game department determines to be appropriate;

''(B) identify the extent and condition of wildlife habitats and community types essential to conservation of the species of wildlife of the State identified using information described in subparagraph (A);

''(C)(i) identify the problems that may adversely affect—

''(I) the species identified using information described in subparagraph (A); and

''(II) the habitats of the species identified under subparagraph (B); and

''(ii) provide for high priority research and surveys to identify factors that may assist in the restoration and more effective conservation of—

''(I) the species identified using information described in subparagraph (A); and

''(II) the habitats of the species identified under subparagraph (B);

''(D)(i) describe which actions should be taken to conserve—

''(I) the species identified using information described in subparagraph (A); and

''(II) the habitats of the species identified under subparagraph (B); and

''(ii) establish priorities for implementing those actions; and

''(E) provide for—

''(i) periodic monitoring of—

''(I) the species identified using information described in subparagraph (A);

''(II) the habitats of the species identified under subparagraph (B); and

''(III) the effectiveness of the conservation actions described under subparagraph (D); and

''(ii) adaptation of conservation actions as appropriate to respond to new information or changing conditions.

''(3) PUBLIC PARTICIPATION IN DEVELOPMENT OF STRATEGY.—A State shall provide an opportunity for public participation in the development and implementation of the wildlife conservation strategy of the State.

''(4) REVIEW AND REVISION.—Not less often than once every 7 years, a State shall review the wildlife conservation strategy of the State and make any appropriate revisions.

''(5) COORDINATION.—During the development, implementation, review, and revision of the wildlife conservation strategy of the State, a State shall provide for coordination between—

''(A) the State fish and game department; and

''(B) Federal, State, and local agencies and Indian tribes that—

''(i) manage significant areas of land or water within the State; or

''(ii) administer programs that significantly affect the conservation of—

''(I) the species identified using information described in paragraph (2)(A); or

''(II) the habitats of the species identified under paragraph (2)(B).

''(6) EFFECT OF FAILURE TO DEVELOP OR CARRY OUT WILDLIFE CONSERVATION STRATEGY.—

''(A) IN GENERAL.—If, in any fiscal year, a State fails to develop, implement, obtain the approval of the Secretary for, review, or revise a wildlife conservation strategy as required under this subsection, the apportionment to the State under section 4(d) for the following fiscal year shall be reapportioned in accordance with section 4(d) to States that carry out those activities as required under this subsection.

''(B) CORRECTION OF DEFICIENCIES.—If a State whose apportionment for a fiscal year is reapportioned under subparagraph (A) subsequently carries out the activities described in that subparagraph as required under this subsection, the State shall be eligible to receive an apportionment under section 4(d) for the fiscal year following the fiscal year of the reapportionment.

''(d) USE OF FUNDS FOR NEW AND EXISTING PROGRAMS AND PROJECTS.—Funds made available from the Account to carry out activities under this section may be used—

''(1) to carry out new programs and projects; and

''(2) to enhance existing programs and projects.

''(e) PRIORITY FOR FUNDING.—In using funds made available from the Account to carry out activities under this section, a State shall give priority to species that are in greatest need of conservation—

''(1) as evidenced by—

''(A) a low population and declining numbers of individuals;

''(B) a current threat or reasonably anticipated threat to the habitat of the species; or

''(C) any other similar indicator of need of conservation; or

''(2) as identified in the wildlife conservation strategy of the State under subsection (c).

''(f) LIMITATION ON USE OF FUNDS FOR WILDLIFE CONSERVATION EDUCATION PROJECTS.—Funds made available from the Account to carry out wildlife conservation education projects shall not be used to fund, in whole or in part, any activity that promotes or encourages opposition to the regulated hunting or trapping of wildlife.''.

(b) CONFORMING AMENDMENT.—Section 8(a) of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669g) is amended by striking the last sentence.

SEC. 106. NONAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.

(a) PITTMAN-ROBERTSON WILDLIFE RESTORATION ACT.—The Pittman-Robertson Wildlife Restoration Act (as amended by section 105(a)(1)) is amended by inserting after section 13 the following:

"SEC. 14. NONAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.

''Coordination with State fish and game department personnel or with personnel of any other agency of a State, the District of Columbia, a territory, or an Indian tribe under this Act shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).''.

(b) DINGELL-JOHNSON SPORT FISH RESTORATION ACT.—The Dingell-Johnson Sport Fish Restoration Act is amended—

(1) by redesignating section 15 (16 U.S.C. 777 note) as section 16; and

(2) by inserting after section 14 (16 U.S.C. 777m) the following:

"SEC. 15. NONAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.

''Coordination with State fish and game department personnel or with personnel of any other State agency under this Act shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).''.

SEC. 107. TECHNICAL AMENDMENTS.

(a) The first section of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669) is amended by striking ''That the'' and inserting the following:

"SECTION 1. COOPERATION OF SECRETARY OF THE INTERIOR WITH STATES.

''The''.

(b) Section 5 of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669d) is amended by striking ''SEC. 5.'' and inserting the following:

"SEC. 5. CERTIFICATION OF AMOUNTS DEDUCTED OR APPORTIONED.".

(c) Section 6 of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669e) is amended by striking ''SEC. 6.'' and inserting the following:

"SEC. 6. SUBMISSION AND APPROVAL OF PLANS AND PROJECTS.".

(d) Section 7 of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669f) is amended by striking ''SEC. 7.'' and inserting the following:

"SEC. 7. PAYMENT OF FUNDS TO STATES.".

(e) Section 8 of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669g) is amended by striking ''SEC. 8.'' and inserting the following:

"SEC. 8. MAINTENANCE OF PROJECTS; FUNDING OF HUNTER SAFETY PROGRAMS AND PUBLIC TARGET RANGES.".

(f) Section 8A of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669g–1) is amended by striking ''SEC. 8A.'' and inserting the following:

"SEC. 8A. APPORTIONMENTS TO TERRITORIES.".

(g) Section 13 of the Pittman-Robertson Wildlife Restoration Act (as redesignated by section 105(a)(1)) is amended by striking ''SEC. 13.'' and inserting the following:

"SEC. 13. RULES AND REGULATIONS.".

SEC. 108. EFFECTIVE DATE.

This title takes effect on October 1, 2001.

TITLE II—ENDANGERED AND THREATENED SPECIES RECOVERY

SEC. 201. PURPOSE.

The purpose of this title is to promote involvement by non-Federal entities in the recovery of—

(1)(A) the endangered species of the United States;

(B) the threatened species of the United States; and

(C) the species of the United States that may become endangered species or threatened species if conservation actions are not taken to conserve and protect the species; and

(2) the habitats on which the species depend.

SEC. 202. ENDANGERED AND THREATENED SPECIES RECOVERY ASSISTANCE.

(a) IN GENERAL.—Section 13 of the Endangered Species Act of 1973 (87 Stat. 902) is amended to read as follows:

"SEC. 13. ENDANGERED AND THREATENED SPECIES RECOVERY ASSISTANCE.

''(a) DEFINITIONS.—In this section:

''(1) CONSERVATION ENTITY.—

''(A) IN GENERAL.—The term 'conservation entity' means a nonprofit entity that engages in activities to conserve or protect fish, wildlife, or plants, or habitats for fish, wildlife, or plants.

''(B) INCLUSIONS.—The term 'conservation entity' includes—

''(i) a sportsmen's organization;

''(ii) an environmental organization; and

''(iii) a land trust.

''(2) FARM OR RANCH.—The term 'farm or ranch' means an activity with respect to which not less than $1,000 in income is derived from agricultural production within a census year.

''(3) PERSON.—The term 'person' includes a conservation entity.

''(4) SMALL LANDOWNER.—The term 'small landowner' means—

''(A) an individual who owns land in a State that—

''(i) is used as a farm or ranch; and

''(ii) has an acreage of not more than the greater of—

''(I) 50 percent of the average acreage of a farm or ranch in the State; or

''(II) 160 acres of land; and

''(B) an individual who owns land that—

''(i) is not used as a farm or ranch; and

''(ii) has an acreage of not more than 160 acres.

''(5) SPECIES AT RISK.—The term 'species at risk' means a species that may become an endangered species or a threatened species if conservation actions are not taken to conserve and protect the species.

''(6) SPECIES RECOVERY AGREEMENT.—The term 'species recovery agreement' means an endangered and threatened species recovery agreement entered into under subsection (c).

''(b) ENDANGERED AND THREATENED SPECIES RECOVERY ASSISTANCE.—

''(1) FINANCIAL ASSISTANCE.—The Secretary may provide financial assistance to any person for development and implementation of an endangered and threatened species recovery agreement entered into by the Secretary and the person under subsection (c).

''(2) PRIORITY.—In providing financial assistance under this subsection, the Secretary shall give priority to the development and implementation of species recovery agreements that—

''(A) implement actions identified under recovery plans approved by the Secretary under section 4(f);

''(B) have the greatest potential for contributing to the recovery of endangered species, threatened species, or species at risk;

''(C) benefit multiple endangered species, threatened species, or species at risk;

''(D) carry out activities specified in State or local conservation plans; or

''(E) are proposed by small landowners.

''(3) PROHIBITION ON ASSISTANCE FOR REQUIRED ACTIVITIES.—The Secretary shall not provide financial assistance under this subsection for any activity that is required—

''(A) by a permit issued under section 10(a)(1)(B);

''(B) by an incidental taking statement provided under section 7(b)(4) (other than an incidental taking statement with respect to a species recovery agreement entered into by the Secretary under subsection (c)); or

''(C) under another provision of this Act, any other Federal law, or any State law.

''(4) PAYMENTS UNDER OTHER PROGRAMS.—

''(A) OTHER PAYMENTS NOT AFFECTED.—Financial assistance provided to a person under this subsection shall be in addition to, and shall not affect, the total amount of payments that the person is eligible to receive under—

''(i) the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.);

''(ii) the wetlands reserve program established under subchapter C of that chapter (16 U.S.C. 3837 et seq.);

''(iii) the environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3839aa et seq.); or

''(iv) the Wildlife Habitat Incentive Program established under section 387 of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3836a).

''(B) LIMITATION.—A person shall not receive financial assistance under a species recovery agreement for any activity for which the person receives a payment under a program referred to in subparagraph (A) unless the species recovery agreement imposes on the person a financial or management obligation in addition to the obligations of the person under that program.

''(c) ENDANGERED AND THREATENED SPECIES RECOVERY AGREEMENTS.—

''(1) IN GENERAL.—In accordance with this subsection, the Secretary may enter into endangered and threatened species recovery agreements.

''(2) REQUIRED TERMS.—The Secretary shall include in each species recovery agreement with a person provisions that—

''(A) require the person—

''(i) to carry out on real property owned or leased by the person, or on Federal or State land, activities (such as activities that, consistent with applicable State water law (including regulations), make water available for endangered species, threatened species, or species at risk) that—

''(I) are not required by Federal or State law; and

''(II) contribute to the recovery of an endangered species, threatened species, or species at risk; or

''(ii) to refrain from carrying out on real property owned or leased by the person otherwise lawful activities that would inhibit the recovery of an endangered species, threatened species, or species at risk, such as refraining from carrying out activities that, consistent with applicable State water law (including regulations), directly reduce the availability of water for such a species;

''(B) describe the real property referred to in clauses (i) and (ii) of subparagraph (A);

''(C) specify species recovery goals for the species recovery agreement, and activities for attaining the goals;

''(D)(i) require the person to make demonstrable progress in accomplishing the species recovery goals; and

''(ii) specify a schedule for implementation of the species recovery agreement;

''(E) specify actions to be taken by the Secretary or the person to monitor the effectiveness of the species recovery agreement in attaining the species recovery goals;

''(F) require the person to notify the Secretary if any right or obligation of the person under the species recovery agreement is assigned to any other person;

''(G) require the person to notify the Secretary if any term of the species recovery agreement is breached;

''(H) specify the date on which the species recovery agreement takes effect and the period of time during which the species recovery agreement shall remain in effect;

''(I) schedule the disbursement of financial assistance provided under subsection (b) for implementation of the species recovery agreement, on an annual or other basis during the period in which the species recovery agreement is in effect, based on the schedule for implementation required under subparagraph (D)(ii); and

''(J) provide that the Secretary shall, subject to paragraph (4)(C), terminate the species recovery agreement if the person fails to carry out the species recovery agreement.

''(3) REVIEW AND APPROVAL OF PROPOSED SPECIES RECOVERY AGREEMENTS.—On submission by any person of a proposed species recovery agreement under this subsection, the Secretary shall—

''(A) review the proposed species recovery agreement and determine whether the species recovery agreement—

''(i) complies with this subsection; and

''(ii) will contribute to the recovery of each endangered species, threatened species, or species at risk that is the subject of the proposed species recovery agreement;

''(B) propose to the person any additional provisions that are necessary for the species recovery agreement to comply with this subsection; and

''(C) if the Secretary determines that the species recovery agreement complies with this subsection, enter into the species recovery agreement with the person.

''(4) MONITORING OF IMPLEMENTATION OF SPECIES RECOVERY AGREEMENTS.—The Secretary shall—

''(A) periodically monitor the implementation of each species recovery agreement;

''(B) based on the information obtained from the monitoring, annually or otherwise disburse financial assistance under this section to implement the species recovery agreement as the Secretary determines to be appropriate under the species recovery agreement; and

''(C) if the Secretary determines that the person is not making demonstrable progress in accomplishing the species recovery goals specified under paragraph (2)(C)—

''(i) propose 1 or more modifications to the species recovery agreement that are necessary to accomplish the species recovery goals; or

''(ii) terminate the species recovery agreement.

''(5) LIMITATION WITH RESPECT TO FEDERAL OR STATE LAND.—The Secretary may enter into a species recovery agreement with a person with respect to Federal or State land only if the United States or the State, respectively, is a party to the species recovery agreement.

''(d) ALLOCATION OF FUNDS.—Of the amounts made available to carry out this section for a fiscal year—

''(1) ⅓ shall be made available to provide financial assistance for development and implementation of species recovery agreements by small landowners, subject to subparagraphs (A) through (D) of subsection (b)(2);

''(2) ⅓ shall be made available to provide financial assistance for development and implementation of species recovery agreements on public land, subject to subparagraphs (A) through (D) of subsection (b)(2); and

''(3) ⅓ shall be made available to provide financial assistance for development and implementation of species recovery agreements, subject to subsection (b)(2).

''(e) LIMITATION ON ADMINISTRATIVE EXPENSES.—Of the amounts made available to carry out this section for a fiscal year, not more than 3 percent may be used to pay administrative expenses incurred in carrying out this section.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 15 of the Endangered Species Act of 1973 (16 U.S.C. 1542) is amended by adding at the end the following:

''(d) ENDANGERED AND THREATENED SPECIES RECOVERY ASSISTANCE.—There is authorized to be appropriated to carry out section 13 $150,000,000 for each of fiscal years 2002 through 2006.''.

(c) CONFORMING AMENDMENT.—The table of contents in the first section of the Endangered Species Act of 1973 (16 U.S.C. prec. 1531) is amended by striking the item relating to section 13 and inserting the following:

''Sec. 13. Endangered and threatened species recovery assistance.''.

TITLE III—NON-FEDERAL LAND CONSERVATION GRANT PROGRAM

SEC. 301. NON-FEDERAL LAND CONSERVATION GRANT PROGRAM.

(a) IN GENERAL.—The Partnerships for Wildlife Act (16 U.S.C. 3741 et seq.) is amended by adding at the end the following:

''SEC. 7106. NON-FEDERAL LAND CONSERVATION GRANT PROGRAM.

''(a) ESTABLISHMENT.—In consultation with appropriate State, regional, and other units of government, the Secretary shall establish a competitive grant program, to be known as the 'Non-Federal Land Conservation Grant Program' (referred to in this section as the 'program'), to make grants to States or groups of States to pay the Federal share determined under subsection (c)(4) of the costs of conservation of non-Federal land or water of regional or national significance.

''(b) RANKING CRITERIA.—In selecting among applications for grants for projects under the program, the Secretary shall—

''(1) rank projects according the extent to which a proposed project will protect watersheds and important scenic, cultural, recreational, fish, wildlife, and other ecological resources; and

''(2) subject to paragraph (1), give preference to proposed projects—

''(A) that seek to protect ecosystems;

''(B) that are developed in collaboration with other States;

''(C) with respect to which there has been public participation in the development of the project proposal;

''(D) that are supported by communities and individuals that are located in the immediate vicinity of the proposed project or that would be directly affected by the proposed project; or

''(E) that the State considers to be a State priority.

''(c) GRANTS TO STATES.—

''(1) NOTICE OF DEADLINE FOR APPLICATIONS.—The Secretary shall give reasonable advance notice of each deadline for submission of applications for grants under the program by publication of a notice in the Federal Register.

''(2) SUBMISSION OF APPLICATIONS.—

''(A) IN GENERAL.—A State or group of States may submit to the Secretary an application for a grant under the program.

''(B) REQUIRED CONTENTS OF APPLICATIONS.—Each application shall include—

''(i) a detailed description of each proposed project;

''(ii) a detailed analysis of project costs, including costs associated with—

''(I) planning;

''(II) administration;

''(III) property acquisition; and

''(IV) property management;

''(iii) a statement describing how the project is of regional or national significance; and

''(iv) a plan for stewardship of any land or water, or interest in land or water, to be acquired under the project.

''(3) SELECTION OF GRANT RECIPIENTS.—Not later than 90 days after the date of receipt of an application, the Secretary shall—

''(A) review the application; and

''(B)(i) notify the State or group of States of the decision of the Secretary on the application; and

''(ii) if the application is denied, provide an explanation of the reasons for the denial.

''(4) COST SHARING.—The Federal share of the costs of a project under the program shall be—

''(A) in the case of a project to acquire an interest in land or water that is not a permanent conservation easement, not more than 50 percent of the costs of the project;

''(B) in the case of a project to acquire a permanent conservation easement, not more than 70 percent of the costs of the project; and

''(C) in the case of a project involving 2 or more States, not more than 75 percent of the costs of the project.

''(5) EFFECT OF INSUFFICIENCY OF FUNDS.—If the Secretary determines that there are insufficient funds available to make grants with respect to all applications that meet the requirements of this subsection, the Secretary shall give priority to those projects that best meet the ranking criteria established under subsection (b).

''(6) GRANTS TO STATE OF NEW HAMPSHIRE.—Notwithstanding subsection (b) and paragraphs (3) and (5), the Secretary shall make grants under the program to the State of New Hampshire to pay the Federal share determined under paragraph (4) of the costs of acquiring conservation easements with respect to land or water located in northern New Hampshire and sold by International Paper to the Trust for Public Land.

''(d) REPORT.—Not later than 60 days after the end of each fiscal year, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Resources of the House of Representatives a report describing the grants made under this section, including an analysis of how projects were ranked under subsection (b).

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

''(1) to carry out this section (other than subsection (c)(6)) $50,000,000 for each of fiscal years 2002 through 2006; and

''(2) to carry out subsection (c)(6) $9,000,000 for the period of fiscal years 2002 and 2003.''.

(b) CONFORMING AMENDMENT.—Section 7105(g)(2) of the Partnerships for Wildlife Act (16 U.S.C. 3744(g)(2)) is amended by striking ''this chapter'' and inserting ''this section''.

TITLE IV—CONSERVATION AND RESTORATION OF SHRUBLAND AND GRASSLAND

SEC. 401. CONSERVATION AND RESTORATION OF SHRUBLAND AND GRASSLAND.

The Partnerships for Wildlife Act (16 U.S.C. 3741 et seq.) (as amended by section 301(a)) is amended by adding at the end the following:

''SEC. 7107. CONSERVATION AND RESTORATION OF SHRUBLAND AND GRASSLAND.

''(a) DEFINITIONS.—In this section:

''(1) CONSERVATION ACTIVITY.—The term 'conservation activity' means—

''(A) a project or activity to reduce erosion;

''(B) a prescribed burn;

''(C) the restoration of riparian habitat;

''(D) the control or elimination of invasive or exotic species;

''(E) the reestablishment of native grasses; and

''(F) any other project or activity that restores or enhances habitat for endangered

species, threatened species, or species at risk.

''(2) CONSERVATION AGREEMENT.—The term 'conservation agreement' means an agreement entered into under subsection (c).

''(3) CONSERVATION ENTITY.—

''(A) IN GENERAL.—The term 'conservation entity' means a nonprofit entity that engages in activities to conserve or protect fish, wildlife, or plants, or habitats for fish, wildlife, or plants.

''(B) INCLUSIONS.—The term 'conservation entity' includes—

''(i) a sportsmen's organization;

''(ii) an environmental organization; and

''(iii) a land trust.

''(4) COVERED LAND.—The term 'covered land' means public or private—

''(A) natural grassland or shrubland that serves as habitat for endangered species, threatened species, or species at risk, as determined by the Secretary; or

''(B) other land that—

''(i) is located in an area that has been historically dominated by natural grassland or shrubland; and

''(ii) if restored to natural grassland or shrubland, would have the potential to serve as habitat for endangered species, threatened species, or species at risk, as determined by the Secretary.

''(5) ENDANGERED SPECIES.—The term 'endangered species' has the meaning given the term in section 3 of the Endangered Species Act of 1973 (16 U.S.C. 1532).

''(6) PERMIT HOLDER.—The term 'permit holder' means an individual who holds a grazing permit for covered land that is the subject of a conservation agreement.

''(7) PROGRAM.—The term 'program' means the conservation assistance program established under subsection (b).

''(8) SPECIES AT RISK.—The term 'species at risk' means a species that may become an endangered species or a threatened species if conservation actions are not taken to conserve and protect the species.

''(9) THREATENED SPECIES.—The term 'threatened species' has the meaning given the term in section 3 of the Endangered Species Act of 1973 (16 U.S.C. 1532).

''(b) ESTABLISHMENT OF PROGRAM.—As soon as practicable after the date of enactment of this section, the Secretary shall establish a conservation assistance program to encourage the conservation and restoration of covered land.

''(c) CONSERVATION AGREEMENTS.—

''(1) IN GENERAL.—In carrying out the program, the Secretary shall enter into a conservation agreement with a landowner, permit holder, or conservation entity with respect to covered land under which—

''(A) the Secretary shall award a grant to the landowner, permit holder, or conservation entity; and

''(B) the landowner, permit holder, or conservation entity shall use the grant to carry out 1 or more conservation activities on the covered land that is the subject of the conservation agreement.

''(2) PERMITTED ACTIVITIES.—

''(A) IN GENERAL.—Subject to subparagraph (B), a conservation agreement may permit on the covered land subject to the conservation agreement—

''(i) operation of a managed grazing system;

''(ii) haying or mowing (except during the nesting season for birds);

''(iii) fire rehabilitation; and

''(iv) the construction of fire breaks and fences.

''(B) LIMITATION.—An activity described in subparagraph (A) may be permitted only if the activity contributes to maintaining the viability of natural grass and shrub plant communities on the covered land subject to the conservation agreement.

''(d) PAYMENTS UNDER OTHER PROGRAMS.—

''(1) OTHER PAYMENTS NOT AFFECTED.—A grant awarded to a landowner, permit holder, or conservation entity under this section shall be in addition to, and shall not affect, the total amount of payments that the landowner, permit holder, or conservation entity is eligible to receive under—

''(A) the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.);

''(B) the wetlands reserve program established under subchapter C of that chapter (16 U.S.C. 3837 et seq.);

''(C) the environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3839aa et seq.); or

''(D) the Wildlife Habitat Incentive Program established under section 387 of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3836a).

''(2) LIMITATION.—A landowner, permit holder, or conservation entity shall not receive a grant under a conservation agreement for any activity for which the landowner, permit holder, or conservation entity receives a payment under a program referred to in paragraph (1) unless the conservation agreement imposes on the landowner, permit holder, or conservation entity a financial or management obligation in addition to the obligations of the landowner, permit holder, or conservation entity under that program.

''(e) PROHIBITION ON ASSISTANCE FOR REQUIRED ACTIVITIES.—The Secretary shall not award a grant under this section for any activity that is required under Federal or State law.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $50,000,000 for each of fiscal years 2002 through 2006.''.

Passed the Senate December 20 (legislative day, December 18), 2001.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. HANSEN

Mr. HANSEN. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. HANSEN:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''American Wildlife Enhancement Act of 2002''.

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

Sec. 1. Short title; table of contents.

TITLE I—ENDANGERED AND THREATENED SPECIES RECOVERY

Sec. 101. Purpose.
Sec. 102. Endangered and threatened species recovery assistance.

TITLE II—COOPERATIVE REGIONAL CONSERVATION PROGRAM

Sec. 201. Cooperative Regional Conservation Program.

TITLE III—CONSERVATION AND RESTORATION OF SHRUBLAND AND GRASSLAND

Sec. 301. Conservation and restoration of shrubland and grassland.

TITLE IV—CIBOLA NATIONAL WILDLIFE REFUGE, CALIFORNIA

Sec. 401. Revocation of public land order with respect to lands erroneously included in Cibola National Wildlife Refuge, California.
Sec. 402. Resurvey and notice of modified boundaries.

TITLE V—NUTRIA ERADICATION OR CONTROL

Sec. 501. Findings and purposes.
Sec. 502. Nutria eradication program.
Sec. 503. Report.

TITLE VI—ACQUISITION OF GARRETT ISLAND, MARYLAND

Sec. 601. Short title.
Sec. 602. Findings.
Sec. 603. Authority to acquire property for inclusion in the Blackwater National Wildlife Refuge.

TITLE VII—OTTAWA NATIONAL WILDLIFE REFUGE COMPLEX EXPANSION

Sec. 701. Short title.
Sec. 702. Findings.
Sec. 703. Definitions.
Sec. 704. Expansion of boundaries.
Sec. 705. Acquisition and transfer of lands for Refuge Complex.
Sec. 706. Administration of Refuge Complex.
Sec. 707. Study of associated area.
Sec. 708. Authorization of appropriations.

TITLE VIII—BEAR RIVER MIGRATORY BIRD REFUGE CLAIMS SETTLEMENT

Sec. 801. Short title.
Sec. 802. Findings.
Sec. 803. Definitions.
Sec. 804. Required terms of land claims settlement, Bear River Migratory Bird Refuge, Utah.

TITLE IX—EDUCATION AND ADMINISTRATIVE CENTER AT BEAR RIVER MIGRATORY BIRD REFUGE, UTAH

Sec. 901. Short title.
Sec. 902. Findings.
Sec. 903. Definitions.
Sec. 904. Authorization of construction of the education center.
Sec. 905. Matching contributions requirements.

TITLE X—ACCOKEEK CREEK NATIONAL WILDLIFE REFUGE.

Sec. 1001. Accokeek National Wildlife Refuge Establishment.

TITLE XI—MISCELLANEOUS

Sec. 1101. Amendments to the National Fish and Wildlife Foundation Establishment Act.

TITLE XII—MARINE TURTLE CONSERVATION

Sec. 1201. Short title.
Sec. 1202. Findings and purposes.
Sec. 1203. Definitions.
Sec. 1204. Marine turtle conservation assistance.
Sec. 1205. Marine Turtle Conservation Fund.
Sec. 1206. Advisory group.
Sec. 1207. Authorization of appropriations.

TITLE I—ENDANGERED AND THREATENED SPECIES STEWARDSHIP PROGRAM

SEC. 101. PURPOSE.

The purpose of this title is to promote involvement by non-Federal entities in the recovery of—

(1)(A) the endangered species of the United States;

(B) the threatened species of the United States; and

(C) the species of the United States that may become endangered species or threatened species if conservation actions are not taken to conserve and protect the species; and

(2) the habitats on which the species depend.

SEC. 102. ENDANGERED AND THREATENED SPECIES RECOVERY ASSISTANCE.

(a) IN GENERAL.—Section 13 of the Endangered Species Act of 1973 (87 Stat. 902) is amended to read as follows:

"SEC. 13. ENDANGERED AND THREATENED SPECIES RECOVERY ASSISTANCE.

''(a) DEFINITIONS.—In this section:

''(1) CONSERVATION ENTITY.—

''(A) IN GENERAL.—The term 'conservation entity' means a nonprofit entity that engages in activities to conserve or protect fish, wildlife, or plants, or habitats for fish, wildlife, or plants.

''(B) INCLUSIONS.—The term 'conservation entity' includes—

''(i) a sportsmen's organization;

''(ii) an environmental organization; and

''(iii) a land trust.

''(2) FARM OR RANCH.—The term 'farm or ranch' means an area where there occurs an activity with respect to which not less than $1,000 in income is derived from agricultural production within a census year.

''(3) SMALL LANDOWNER.—The term 'small landowner' means—

''(A) an individual who owns land in a State that—

''(i) is used as a farm or ranch; and

''(ii) has an acreage of not more than the greater of—

''(I) 50 percent of the average acreage of a farm or ranch in the State; or

''(II) 160 acres of land; or

''(B) an individual who owns land in a State that—

''(i) is not used as a farm or ranch; and

''(ii) has an acreage of not more than 160 acres.

''(4) SPECIES AT RISK.—The term 'species at risk' means a species that has been identified by the Secretary of the Interior and the Secretary of Commerce to be a candidate species for listing as an endangered species or threatened species.

''(5) SPECIES RECOVERY AGREEMENT.—The term 'species recovery agreement' means an endangered and threatened species recovery agreement entered into under subsection (c).

''(b) ENDANGERED AND THREATENED SPECIES RECOVERY ASSISTANCE.—

''(1) FINANCIAL ASSISTANCE.—The Secretary may provide financial assistance to any person for development and implementation of an endangered and threatened species recovery agreement entered into by the Secretary and the person under subsection (c) and carried out on real property referred to in subsection (c)(2)(A).

''(2) PRIORITY.—In providing financial assistance under this subsection, the Secretary shall give priority to the development and implementation of species recovery agreements that—

''(A) implement actions identified under recovery plans approved by the Secretary under section 4(f);

''(B) have the greatest potential for contributing to the recovery of endangered species, threatened species, or species at risk;

''(C) benefit multiple endangered species, threatened species, or species at risk;

''(D) carry out activities specified in State or local conservation plans; or

''(E) are proposed by small landowners.

''(3) PROHIBITION ON ASSISTANCE FOR REQUIRED ACTIVITIES.—The Secretary shall not provide financial assistance under this subsection for any activity that is required—

''(A) by a permit issued under section 10(a)(1)(B);

''(B) by an incidental taking statement provided under section 7(b)(4) (other than an incidental taking statement with respect to a species recovery agreement entered into by the Secretary under subsection (c)); or

''(C) under another provision of this Act, any Federal lease, permit, or law, or any State lease, permit, or law.

''(4) PAYMENTS UNDER OTHER PROGRAMS.—

''(A) OTHER PAYMENTS NOT AFFECTED.—Financial assistance provided to a person under this subsection shall be in addition to, and shall not affect, the total amount of payments that the person is eligible to receive under—

''(i) the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.);

''(ii) the wetlands reserve program established under subchapter C of that chapter (16 U.S.C. 3837 et seq.);

''(iii) the environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3839aa et seq.); or

''(iv) the Wildlife Habitat Incentive Program established under section 387 of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3836a).

''(B) LIMITATION.—A person shall not receive financial assistance under a species recovery agreement for any activity for which the person receives a payment under a program referred to in subparagraph (A) unless the species recovery agreement imposes on the person a financial or management obligation in addition to the obligations of the person under that program.

''(c) ENDANGERED AND THREATENED SPECIES RECOVERY AGREEMENTS.—

''(1) IN GENERAL.—In accordance with this subsection, the Secretary may enter into endangered and threatened species recovery agreements.

''(2) REQUIRED TERMS.—The Secretary shall include in each species recovery agreement with a person provisions that—

''(A) require the person—

''(i) to carry out on real property owned or leased by the person, or on Federal or State land leased by the person, activities (including, but not limited to, activities that make water available, consistent with applicable State water law (including regulations); restore and manage habitat; or control invasive species) that—

''(I) are not required by Federal or State law; and

''(II) contribute to the recovery of an endangered species, threatened species, or species at risk; or

''(ii) to refrain from carrying out on real property owned or leased by the person otherwise lawful activities that would inhibit the recovery of an endangered species, threatened species, or species at risk, including, but not limited to, activities that would result in habitat destruction or activities that, consistent with applicable State water law including regulations), directly reduce the availability of water for such species;

''(B) describe the real property referred to in clauses (i) and (ii) of subparagraph (A);

''(C) specify species recovery goals for the species recovery agreement, and activities for attaining the goals;

''(D)(i) require the person to make demonstrable progress in accomplishing the species recovery goals; and

''(ii) specify a schedule for implementation of the species recovery agreement;

''(E) specify actions to be taken by the Secretary or the person to monitor the effectiveness of the species recovery agreement in attaining the species recovery goals;

''(F) require the person to notify the Secretary if any right or obligation of the person under the species recovery agreement is assigned to any other person;

''(G) require the person to notify the Secretary if any term of the species recovery agreement is breached;

''(H) specify the date on which the species recovery agreement takes effect and the period of time during which the species recovery agreement shall remain in effect;

''(I) schedule the disbursement of financial assistance provided under subsection (b) for implementation of the species recovery agreement, on an annual or other basis during the period in which the species recovery agreement is in effect, based on the schedule for implementation required under subparagraph (D)(ii); and

''(J) provide that the Secretary shall, subject to paragraph (4)(C), terminate the species recovery agreement if the person fails to carry out the species recovery agreement.

''(3) REVIEW AND APPROVAL OF PROPOSED SPECIES RECOVERY AGREEMENTS.—On submission by any person of a proposed species recovery agreement under this subsection, the Secretary shall—

''(A) review the proposed species recovery agreement and determine whether the species recovery agreement—

''(i) complies with this subsection; and

''(ii) will contribute to the recovery of each endangered species, threatened species, or species at risk that is the subject of the proposed species recovery agreement;

''(B) propose to the person any additional provisions that are necessary for the species recovery agreement to comply with this subsection; and

''(C) if the Secretary determines that the species recovery agreement complies with this subsection, enter into the species recovery agreement with the person.

''(4) MONITORING OF IMPLEMENTATION OF SPECIES RECOVERY AGREEMENTS.—The Secretary shall—

''(A) periodically monitor the implementation of each species recovery agreement;

''(B) based on the information obtained from the monitoring, annually or otherwise disburse financial assistance under this section to implement the species recovery agreement as the Secretary determines to be appropriate under the species recovery agreement; and

''(C) if the Secretary determines that the person is not making demonstrable progress in accomplishing the species recovery goals specified under paragraph (2)(C)—

''(i) propose 1 or more modifications to the species recovery agreement that are necessary to accomplish the species recovery goals; or

''(ii) terminate the species recovery agreement.

''(5) LIMITATION WITH RESPECT TO FEDERAL OR STATE LAND.—The Secretary may enter into a species recovery agreement with a person with respect to Federal or State land only if the United States or the State, respectively, is a party to the species recovery agreement.

''(d) ALLOCATION OF FUNDS.—Of the amounts made available to carry out this section for a fiscal year—

''(1) ⅓ shall be made available to provide financial assistance for development and implementation of species recovery agreements by small landowners, subject to subparagraphs (A) through (E) of subsection (b)(2);

''(2) ⅓ shall be made available to provide financial assistance for development and implementation of species recovery agreements on public land, subject to subparagraphs (A) through (D) of subsection (b)(2); and

''(3) ⅓ shall be made available to provide financial assistance for development and implementation of species recovery agreements, subject to subsection (b)(2).

''(e) LIMITATION ON ADMINISTRATIVE EXPENSES.—Of the amounts made available to carry out this section for a fiscal year, not more than 3 percent may be used to pay administrative expenses incurred in carrying out this section.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 15 of the Endangered Species Act of 1973 (16 U.S.C. 1542) is amended by adding at the end the following:

''(d) ENDANGERED AND THREATENED SPECIES RECOVERY ASSISTANCE.—There is authorized

to be appropriated to carry out section 13 $150,000,000 for each of fiscal years 2003 through 2007.''.

(c) CONFORMING AMENDMENT.—The table of contents in the first section of the Endangered Species Act of 1973 (16 U.S.C. prec. 1531) is amended by striking the item relating to section 13 and inserting the following:

''Sec. 13. Endangered and threatened species recovery assistance.''.

TITLE II—COOPERATIVE REGIONAL CONSERVATION PROGRAM

SEC. 201. COOPERATIVE REGIONAL CONSERVATION PROGRAM.

(a) IN GENERAL.—The Partnerships for Wildlife Act (16 U.S.C. 3741 et seq.) is amended by adding at the end the following:

''SEC. 7106. COOPERATIVE REGIONAL CONSERVATION PROGRAM.

''(a) ESTABLISHMENT.—In consultation with appropriate State, regional, and other units of government, the Secretary shall establish a competitive grant program, to be known as the 'Cooperative Regional Conservation Program' (referred to in this section as the 'program'), to make grants to States or groups of States to pay the Federal share determined under subsection (c)(4) of the costs of conservation of non-Federal land or water of regional or national significance any water rights acquired under the program shall be done so in compliance with the procedural and substantive requirements of the applicable state's water laws, and all interstate compacts and court decrees that may affect water or water rights.

''(b) RANKING CRITERIA.—In selecting among applications for grants for projects under the program, the Secretary shall—

''(1) rank projects according the extent to which a proposed project will protect watersheds and important scenic, cultural, recreational, fish, wildlife, and other ecological resources; and

''(2) subject to paragraph (1), give preference to proposed projects—

''(A) that seek to protect ecosystems;

''(B) that are developed in collaboration with other States;

''(C) with respect to which there has been public participation in the development of the project proposal;

''(D) that are supported by communities and individuals that are located in the immediate vicinity of the proposed project or that would be directly affected by the proposed project; or

''(E) that the State considers to be a State priority.

''(c) GRANTS TO STATES.—

''(1) NOTICE OF DEADLINE FOR APPLICATIONS.—The Secretary shall give reasonable advance notice of each deadline for submission of applications for grants under the program by publication of a notice in the Federal Register.

''(2) SUBMISSION OF APPLICATIONS.—

''(A) IN GENERAL.—A State or group of States may submit to the Secretary an application for a grant under the program.

''(B) REQUIRED CONTENTS OF APPLICATIONS.—Each application shall include—

''(i) a detailed description of each proposed project;

''(ii) a detailed analysis of project costs, including costs associated with—

''(I) planning;

''(II) administration;

''(III) property acquisition; and

''(IV) property management;

''(iii) a statement describing how the project is of regional or national significance; and

''(iv) a plan for stewardship of any land or water, or interest in land or water, including conservation easements, to be acquired under the project.

''(3) SELECTION OF GRANT RECIPIENTS.—Not later than 90 days after the date of receipt of an application, the Secretary shall—

''(A) review the application; and

''(B)(i) notify the State or group of States of the decision of the Secretary on the application; and

''(ii) if the application is denied, provide an explanation of the reasons for the denial.

''(4) COST SHARING.—The Federal share of the costs of a project under the program shall be—

''(A) in the case of a project to acquire an interest in land or water that is not a permanent conservation easement, not more than 50 percent of the costs of the project;

''(B) in the case of a project to acquire a permanent conservation easement, not more than 70 percent of the costs of the project; and

''(C) in the case of a project involving 2 or more States, not more than 75 percent of the costs of the project.

''(5) EFFECT OF INSUFFICIENCY OF FUNDS.—If the Secretary determines that there are insufficient funds available to make grants with respect to all applications that meet the requirements of this subsection, the Secretary shall give priority to those projects that best meet the ranking criteria established under subsection (b).

''(6) GRANTS TO STATE OF NEW HAMPSHIRE.—Notwithstanding subsection (b) and paragraphs (3) and (5), the Secretary shall make grants under the program to the State of New Hampshire to pay the Federal share determined under paragraph (4) of the costs of acquiring conservation easements with respect to land or water located in northern New Hampshire and sold by International Paper to the Trust for Public Land.

''(d) REPORT.—Not later than 60 days after the end of each fiscal year, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Resources of the House of Representatives a report describing the grants made under this section, including an analysis of how projects were ranked under subsection (b).

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

''(1) to carry out this section (other than subsection (c)(6)) $50,000,000 for each of fiscal years 2003 through 2007; and

''(2) to carry out subsection (c)(6) $9,000,000 for the period of fiscal years 2003 and 2004.''.

(b) CONFORMING AMENDMENT.—Section 7105(g)(2) of the Partnerships for Wildlife Act (16 U.S.C. 3744(g)(2)) is amended by striking ''this chapter'' and inserting ''this section''.

TITLE III—CONSERVATION AND RESTORATION OF SHRUBLAND AND GRASSLAND

SEC. 301. CONSERVATION AND RESTORATION OF SHRUBLAND AND GRASSLAND.

The Partnerships for Wildlife Act (16 U.S.C. 3741 et seq.) (as amended by section 301(a)) is amended by adding at the end the following:

''SEC. 7107. CONSERVATION AND RESTORATION OF SHRUBLAND AND GRASSLAND.

''(a) DEFINITIONS.—In this section:

''(1) CONSERVATION ACTIVITY.—The term 'conservation activity' means—

''(A) a project or activity to reduce erosion;

''(B) a prescribed burn;

''(C) the restoration of riparian habitat;

''(D) the control or elimination of invasive or exotic species;

''(E) the reestablishment of native grasses; and

''(F) any other project or activity that restores or enhances habitat for endangered species, threatened species, or species at risk.

''(2) CONSERVATION AGREEMENT.—The term 'conservation agreement' means an agreement entered into under subsection (c).

''(3) CONSERVATION ENTITY.—

''(A) IN GENERAL.—The term 'conservation entity' means a nonprofit entity that engages in activities to conserve or protect fish, wildlife, or plants, or habitats for fish, wildlife, or plants.

''(B) INCLUSIONS.—The term 'conservation entity' includes—

''(i) a sportsmen's organization;

''(ii) an environmental organization; and

''(iii) a land trust.

''(4) COVERED LAND.—The term 'covered land' means public or private—

''(A) natural grassland or shrubland that serves as habitat for endangered species, threatened species, or species at risk, as determined by the Secretary; or

''(B) other land that—

''(i) is located in an area that has been historically dominated by natural grassland or shrubland; and

''(ii) if restored to natural grassland or shrubland, would have the potential to serve as habitat for endangered species, threatened species, or species at risk, as determined by the Secretary.

''(5) ENDANGERED SPECIES.—The term 'endangered species' has the meaning given the term in section 3 of the Endangered Species Act of 1973 (16 U.S.C. 1532).

''(6) PERMIT HOLDER.—The term 'permit holder' means an individual who holds a grazing permit for covered land that is the subject of a conservation agreement.

''(7) PROGRAM.—The term 'program' means the conservation assistance program established under subsection (b).

''(8) SPECIES AT RISK.—The term 'species at risk' means a species that may become an endangered species or a threatened species if conservation actions are not taken to conserve and protect the species.

''(9) THREATENED SPECIES.—The term 'threatened species' has the meaning given the term in section 3 of the Endangered Species Act of 1973 (16 U.S.C. 1532).

''(b) ESTABLISHMENT OF PROGRAM.—As soon as practicable after the date of enactment of this section, the Secretary shall establish a conservation assistance program to encourage the conservation and restoration of covered land.

''(c) CONSERVATION AGREEMENTS.—

''(1) IN GENERAL.—In carrying out the program, the Secretary shall enter into a conservation agreement with a landowner, permit holder, or conservation entity with respect to covered land under which—

''(A) the Secretary shall award a grant to the landowner, permit holder, or conservation entity; and

''(B) the landowner, permit holder, or conservation entity shall use the grant to carry out 1 or more conservation activities on the covered land that is the subject of the conservation agreement.

''(2) PERMITTED ACTIVITIES.—

''(A) IN GENERAL.—Subject to subparagraph (B), a conservation agreement may permit on the covered land subject to the conservation agreement—

''(i) operation of a managed grazing system;

''(ii) haying or mowing (except during the nesting season for birds);

''(iii) fire rehabilitation; and

''(iv) the construction of fire breaks and fences.

''(B) LIMITATION.—An activity described in subparagraph (A) may be permitted only if the activity contributes to maintaining the viability of natural grass and shrub plant communities on the covered land subject to the conservation agreement.

''(d) PAYMENTS UNDER OTHER PROGRAMS.—

''(1) OTHER PAYMENTS NOT AFFECTED.—A grant awarded to a landowner, permit holder, or conservation entity under this section shall be in addition to, and shall not affect, the total amount of payments that the landowner, permit holder, or conservation entity is eligible to receive under—

''(A) the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.);

''(B) the wetlands reserve program established under subchapter C of that chapter (16 U.S.C. 3837 et seq.);

''(C) the environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3839aa et seq.); or

''(D) the Wildlife Habitat Incentive Program established under section 387 of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3836a).

''(2) LIMITATION.—A landowner, permit holder, or conservation entity shall not receive a grant under a conservation agreement for any activity for which the landowner, permit holder, or conservation entity receives a payment under a program referred to in paragraph (1) unless the conservation agreement imposes on the landowner, permit holder, or conservation entity a financial or management obligation in addition to the obligations of the landowner, permit holder, or conservation entity under that program.

''(e) PROHIBITION ON ASSISTANCE FOR REQUIRED ACTIVITIES.—The Secretary shall not award a grant under this section for any activity that is required under Federal or State law.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $50,000,000 for each of fiscal years 2003 through 2007.''.

TITLE IV—CIBOLA NATIONAL WILDLIFE REFUGE, CALIFORNIA

SEC. 401. REVOCATION OF PUBLIC LAND ORDER WITH RESPECT TO LANDS ERRONEOUSLY INCLUDED IN CIBOLA NATIONAL WILDLIFE REFUGE, CALIFORNIA.

Public Land Order 3442, dated August 21, 1964, is revoked insofar as it applies to the following described lands: San Bernardino Meridian, T11S, R22E, sec. 6, all of lots 1, 16, and 17, and SE¼ of SW¼ in Imperial County, California, aggregating approximately 140.32 acres.

SEC. 402. RESURVEY AND NOTICE OF MODIFIED BOUNDARIES.

The Secretary of the Interior shall, by not later than 6 months after the date of the enactment of this Act—

(1) resurvey the boundaries of the Cibola National Wildlife Refuge, as modified by the revocation under section 401;

(2) publish notice of, and post conspicuous signs marking, the boundaries of the refuge determined in such resurvey; and

(3) prepare and publish a map showing the boundaries of the refuge.

TITLE V—NUTRIA ERADICATION OR CONTROL

SEC. 501. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds the following:

(1) Wetlands and tidal marshes of the Chesapeake Bay and in Louisiana provide significant cultural, economic, and ecological benefits to the Nation.

(2) The South American nutria (Myocastor coypus) is directly contributing to substantial marsh loss in Maryland and Louisiana on Federal, State, and private land.

(3) Traditional harvest methods to control or eradicate nutria have failed in Maryland and have had limited success in the eradication of nutria in Louisiana. Consequently, marsh loss is accelerating.

(4) The nutria eradication and control pilot program authorized by Public Law 105–322 is to develop new and effective methods for eradication of nutria.

(b) PURPOSE.—The purpose of this title is to authorize the Secretary of the Interior to provide financial assistance to the State of Maryland and the State of Louisiana for a program to implement measures to eradicate or control nutria and restore marshland damaged by nutria.

SEC. 502. NUTRIA ERADICATION PROGRAM.

(a) GRANT AUTHORITY.—The Secretary of the Interior (in this title referred to as the ''Secretary''), subject to the availability of appropriations, may provide financial assistance to the State of Maryland and the State of Louisiana for a program to implement measures to eradicate or control nutria and restore marshland damaged by nutria.

(b) GOALS.—The goals of the program shall be to—

(1) eradicate nutria in Maryland;

(2) eradicate or control nutria in Louisiana and other States; and

(3) restore marshland damaged by nutria.

(c) ACTIVITIES.—In the State of Maryland, the Secretary shall require that the program consist of management, research, and public education activities carried out in accordance with the document published by the United States Fish and Wildlife Service entitled ''Eradication Strategies for Nutria in the Chesapeake and Delaware Bay Watersheds'', dated March 2002.

(d) COST SHARING.—

(1) FEDERAL SHARE.—The Federal share of the costs of the program may not exceed 75 percent of the total costs of the program.

(2) IN-KIND CONTRIBUTIONS.—The non-Federal share of the costs of the program may be provided in the form of in-kind contributions of materials or services.

(e) LIMITATION ON ADMINISTRATIVE EXPENSES.—Not more than 5 percent of financial assistance provided by the Secretary under this section may be used for administrative expenses.

(f) AUTHORIZATION OF APPROPRIATIONS.—For financial assistance under this section, there is authorized to be appropriated to the Secretary $4,000,000 for the State of Maryland program and $2,000,000 for the State of Louisiana program for each of fiscal years 2003, 2004, 2005, 2006, and 2007.

SEC. 503. REPORT.

No later than 6 months after the date of the enactment of this Act, the Secretary and the National Invasive Species Council shall—

(1) give consideration to the 2002 report for the Louisiana Department of Wildlife and Fisheries titled ''Nutria in Louisiana'', and the 2002 document entitled ''Eradication Strategies for Nutria in the Chesapeake and Delaware Bay Watersheds''; and

(2) develop, in cooperation with the State of Louisiana Department of Wildlife and Fisheries and the State of Maryland Department of Natural Resources, a long-term nutria control or eradication program, as appropriate, with the objective to significantly reduce and restore the damage nutria cause to coastal wetlands in the States of Louisiana and Maryland.

TITLE VI—ACQUISITION OF GARRETT ISLAND, MARYLAND

SEC. 601. SHORT TITLE.

This title may be cited as the ''Blackwater National Wildlife Refuge Expansion Act''.

SEC. 602. FINDINGS.

The Congress finds the following:

(1) Garrett Island, located at the mouth of the Susquehanna River in Cecil County, Maryland, is a microcosm of the geology and geography of the region, including hard rock piedmont, coastal plain, and volcanic formations.

(2) Garrett Island is the only rocky island in the tidal waters of the Chesapeake.

(3) Garrett Island and adjacent waters provide high-quality habitat for bird and fish species.

(4) Garrett Island contains significant archeological sites reflecting human history and prehistory of the region.

SEC. 603. AUTHORITY TO ACQUIRE PROPERTY FOR INCLUSION IN THE BLACKWATER NATIONAL WILDLIFE REFUGE.

(a) ACQUISITION.—The Secretary of the Interior may use otherwise available amounts to acquire the area known as Garrett Island, consisting of approximately 198 acres located at the mouth of the Susquehanna River in Cecil County, Maryland.

(b) ADMINISTRATION.—Lands and interests acquired by the United States under this section shall be managed by the Secretary as the Garrett Island Unit of the Blackwater National Wildlife Refuge.

(c) PURPOSES.—The purposes for which the Garrett Island Unit is established and shall be managed are the following:

(1) To support the Delmarva Conservation Corridor Demonstration Program.

(2) To conserve, restore, and manage habitats as necessary to contribute to the migratory bird populations prevalent in the Atlantic Flyway.

(3) To conserve, restore, and manage the significant aquatic resource values associated with submerged land adjacent to the unit and to achieve the habitat objectives of the agreement known as the Chesapeake 2000 Agreement.

(4) To conserve the archeological resources on the unit.

(5) To provide public access to the unit in a manner that does not adversely impact natural resources on and around the unit.

TITLE VII—OTTAWA NATIONAL WILDLIFE REFUGE COMPLEX EXPANSION

SEC. 701. SHORT TITLE.

This title may be cited as the ''Ottawa National Wildlife Refuge Complex Expansion and Detroit River International Wildlife Refuge Expansion Act''.

SEC. 702. FINDINGS.

The Congress finds the following:

(1) The western basin of Lake Erie, as part of the Great Lakes ecosystem, the largest freshwater ecosystem on the face of the Earth, is vitally important to the economic and environmental future of the United States.

(2) Over the past three decades, the citizens and governmental institutions of both the United States and Canada have devoted increasing attention and resources to the restoration of the water quality and fisheries of the Great Lakes, including the western basin. This increased awareness has been accompanied by a gradual shift to a holistic ''ecosystem approach'' that highlights a growing recognition that shoreline areas—the nearshore terrestrial ecosystems—are an integral part of the western basin and the Great Lakes ecosystem as a whole.

(3) The Great Lakes account for more than 90 percent of the surface freshwater in the nation. The western basin receives approximately 90 percent of its flow from the Detroit River and only approximately 10 percent from tributaries.

(4) The western basin of Lake Erie is an important ecosystem that includes a number of distinct islands, channels, rivers, and shoals that support dense populations of fish, wildlife, and aquatic plants.

(5) The coastal wetlands of Lake Erie support the largest diversity of plant and wildlife species in the Great Lakes. The moderate climate of Lake Erie and its more southern latitude allow for many species

that are not found in or along the northern Great Lakes. More than 300 species of plants, including 37 significant species, have been identified in the aquatic and wetland habitats of the western basin.

(6) The shallow western basin of Lake Erie, from the Lower Detroit River to Sandusky Bay, is home to the largest concentration of marshes in Lake Erie, including Mouille, Metzger, and Magee marshes, the Maumee Bay wetland complex, the wetland complexes flanking Locust Point, and the wetlands in Sandusky Bay. The larger United States islands in western Lake Erie have wetlands in their small embayments.

(7) The wetlands in the western basin of Lake Erie comprise as some of the most important waterfowl habitat in the Great Lakes. Waterfowl, wading birds, shore birds, gulls and terns, raptors, and perching birds all use the western basin wetlands for migration, nesting, and feeding. Hundreds of thousands of diving ducks stop to rest in the Lake Erie area on their fall migration from Canada to the east and south. The wetlands of the western basin of Lake Erie provide a major stopover for ducks such as migrating bufflehead, common goldeneye, common mergansers, and ruddy duck.

(8) The international importance of Lake Erie is manifested in the United States congressional designation of the Ottawa and Cedar Point National Wildlife Refuges.

(9) Lake Erie has an international reputation for walleye, perch, and bass fishing, recreational boating, birding, photography, and duck hunting. On an economic basis, Lake Erie tourism accounts for an estimated $1,500,000,000 in retail sales and more than 50,000 jobs.

(10) Many of the 417,000 boats that are registered in Ohio are used in the western basin of Lake Erie, in part to fish for the estimated 10,000,000 walleye that migrate from other areas of the lake to spawn. This internationally renowned walleye fishery drives much of Ohio's $2,000,000,000 sport fishing industry.

(11) Coastal wetlands in the western basin of Lake Erie have been subjected to intense pressure for 150 years. Prior to 1850, the western basin was part of an extensive coastal marsh and swamp system of approximately 122,000 hectares that comprised a portion of the Great Black Swamp. By 1951, only 12,407 wetland hectares remained in the western basin. Half of that acreage was destroyed between 1972 and 1987. Therefore, today only approximately 5,000 hectares remain. Along the Michigan shoreline, coastal wetlands were reduced by 62 percent between 1916 and the early 1970s. The development of the city of Monroe, Michigan, has had a particularly significant impact on the coastal wetlands at the mouth of the Raisin River: only approximately 100 hectares remain physically unaltered today in an area where 70 years ago marshes were 10 times more extensive. In addition to the actual loss of coastal wetland acreage along the shores of Lake Erie, the quality of many remaining diked wetlands has been degraded by numerous stressors, especially excessive loadings of sediments and nutrients, contaminants, shoreline modification, exotic species, and the diking of wetlands. Protective peninsula beach systems, such as the former Bay Point and Woodtick, at the border of Ohio and Michigan near the mouth of the Ottawa River and Maumee Bay, have been eroded over the years, exacerbating erosion along the shorelines and impacting the breeding and spawning grounds.

SEC. 703. DEFINITIONS.

For purposes of this title:

(1) The term ''Refuge Complex'' means the Ottawa National Wildlife Refuge Complex and the lands and waters therein, as described in the document entitled ''The Comprehensive Conservation Plan for the Ottawa National Wildlife Refuge Complex'' and dated September 22, 2000, including Ottawa National Wildlife Refuge, West Sister Island National Wildlife Refuge, and Cedar Point National Wildlife Refuge.

(2) The term ''Secretary'' means the Secretary of the Interior.

(3) The term ''International Refuge'' means the Detroit River International Wildlife Refuge established by the Detroit River International Wildlife Refuge Establishment Act (Public Law 107–91).

SEC. 704. EXPANSION OF BOUNDARIES.

(a) REFUGE COMPLEX BOUNDARIES.—

(1) EXPANSION.—The boundaries of the Refuge Complex are expanded to include lands and waters in the State of Ohio from the eastern boundary of Maumee Bay State Park to the eastern boundary of the Darby Unit, including the Bass Island archipelago, as depicted on the map entitled ''Ottawa National Wildlife Refuge Complex Expansion and Detroit River International Wildlife Refuge Complex Expansion Act'' dated September 6, 2002.

(2) BOUNDARY REVISIONS.—The Secretary may make such revisions to the boundaries of the Refuge Complex as may be appropriate to carry out the purposes of the Refuge Complex or to facilitate the acquisition of property within the Refuge Complex.

(b) INTERNATIONAL REFUGE BOUNDARIES.—The southern boundary of the International Refuge is extended south to include additional lands and waters in the State of Michigan east of Interstate Highway 75 from the southern boundary of Sterling State Park to the Ohio State boundary, as depicted on the map referred to in subsection (a)(1).

(c) AVAILABILITY OF MAP.—The Secretary shall keep the map referred to in subsection (a)(1) available for inspection in appropriate offices of the United States Fish and Wildlife Service.

SEC. 705. ACQUISITION AND TRANSFER OF LANDS FOR REFUGE COMPLEX.

(a) ACQUISITIONS.—The Secretary may acquire by donation, purchase with donated or appropriated funds, or exchange the lands and waters, or interests therein (including conservation easements), within the boundaries of the Refuge Complex as expanded by this title. No such lands, waters, or interests therein may be acquired without the consent of the owner thereof.

(b) TRANSFERS FROM OTHER AGENCIES.—Any Federal property located within the boundaries of the Refuge Complex, as expanded by this title, that is under the administrative jurisdiction of a department or agency of the United States other than the Department of the Interior may, with the concurrence of the head of administering department or agency, be transferred without consideration to the administrative jurisdiction of the Secretary for the purposes of this title.

SEC. 706. ADMINISTRATION OF REFUGE COMPLEX.

(a) IN GENERAL.—The Secretary shall administer all federally owned lands, waters, and interests therein that are within the boundaries of the Refuge Complex, as expanded by this title, in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.) and this title. The Secretary may use such additional statutory authority as may be available for the conservation of fish and wildlife, and the provision of fish and wildlife dependent recreational opportunities as the Secretary considers appropriate to implement this title.

(b) ADDITIONAL PURPOSES.—In addition to the purposes of the Refuge Complex under other laws, regulations, executive orders, and comprehensive conservation plans, the Refuge Complex shall be managed for the following purposes:

(1) To strengthen and complement existing resource management, conservation, and education programs and activities at the Refuge Complex in a manner consistent with the primary purpose of the Refuge Complex to provide major resting, feeding, and wintering habitats for migratory birds and other wildlife, and to enhance national resource conservation and management in the western basin of Lake Erie.

(2) To conserve, enhance, and restore the native aquatic and terrestrial community characteristics of the western basin of Lake Erie (including associated fish, wildlife, and plant species), both in the United States and Canada in partnership with nongovernmental and private organizations, as well as private individuals dedicated to habitat enhancement.

(3) To facilitate partnerships among the United States Fish and Wildlife Service, Canadian national and provincial authorities, State and local governments, local communities in the United States and in Canada, conservation organizations, and other non-Federal entities to promote public awareness of the resources of the western basin of Lake Erie.

(4) To advance the collective goals and priorities established in the ''Great Lakes Strategy 2002—A Plan for the New Millennium'', by the United States Policy Committee comprised of various Federal agencies, including the United States Fish and Wildlife Service, the National Oceanic and Atmospheric Administration, the United States Geological Survey, the Forest Service, and the Great Lakes Fishery Commission, as well as the State governments and tribal governments in the Great Lakes. These goals, broadly stated, include working together to protect and restore the chemical, physical, and biological integrity of the Great Lakes basin ecosystem.

(c) PRIORITY USES.—In providing opportunities for compatible fish and wildlife dependent recreation, the Secretary, in accordance with paragraphs (3) and (4) of section 4(a) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(a)), shall ensure that hunting, fishing, wildlife observation and photography, and environmental education and interpretation are the priority public uses of the Refuge Complex.

(d) COOPERATIVE AGREEMENTS REGARDING NON-FEDERAL LANDS.—The Secretary may enter into cooperative agreements with the State of Ohio or the State of Michigan, or any political subdivision thereof, and with any other person or entity for the management in a manner consistent with this title of lands that are owned by such State, subdivision, or other person or entity and located within the boundaries of the Refuge Complex and to promote public awareness of the resources of the western basin of Lake Erie and encourage public participation in the conservation of those resources.

(e) USE OF EXISTING GREENWAY AUTHORITY.—The Secretary shall encourage the State of Ohio to use existing authorities under the Transportation Equity Act for the 21st Century to provide funding for acquisition and development of trails within the boundaries of the Refuge Complex.

SEC. 707. STUDY OF ASSOCIATED AREA.

(a) IN GENERAL.—The Secretary, acting through the Director of the United States Fish and Wildlife Service, shall conduct a study of fish and wildlife habitat and aquatic and terrestrial communities of the 2 dredge spoil disposal sites referred to by the Toledo-

Lucas County Port Authority as Port Authority Facility Number Three and Grassy Island, located within Toledo Harbor near the mouth of the Maumee River.

(b) REPORT.—Not later than 18 months after the date of the enactment of the Act, the Secretary shall complete such study and submit a report containing the results thereof to the Congress.

SEC. 708. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of the Interior—

(1) such sums as may be necessary for the acquisition of lands and waters within the Refuge Complex;

(2) such sums as may be necessary for the development, operation, and maintenance of the Refuge Complex; and

(3) such sums as may be necessary to carry out the study under section 707.

TITLE VIII—BEAR RIVER MIGRATORY BIRD REFUGE CLAIMS SETTLEMENT

SEC. 801. SHORT TITLE.

This title may be cited as the ''Bear River Migratory Bird Refuge Settlement Act of 2002''.

SEC. 802. FINDINGS.

The Congress finds the following:

(1) The Secretary of the Interior and the State of Utah have negotiated a preliminary agreement concerning the ownership of lands within the Bear River Migratory Bird Refuge located in Bear River Bay of the Great Salt Lake, Utah.

(2) The State is entitled to ownership of those sovereign lands constituting the bed of the Great Salt Lake, and, generally, the location of the sovereign lands boundary was set by an official survey of the Great Salt Lake meander line.

(3) The establishment of the Refuge in 1928 along the shore of the Great Salt Lake, and lack of a meander line survey within the Refuge, has led to uncertainty of ownership of some those sovereign lands.

(4) In order to settle the uncertainty concerning the sovereign land boundary caused by the gap in the surveyed Great Salt Lake meander line within the Refuge, the Secretary and the State have agreed to the establishment of a fixed sovereign land boundary along the southern boundary of the Refuge and the State has agreed to release any claim to the lake bed above such boundary line.

(5) The Secretary and the State have expressed their intentions to establish a mutually agreed upon procedure to address the conflicting claims to ownership of the lands and interests in land within the Refuge.

SEC. 803. DEFINITIONS.

In this title:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(2) REFUGE.—The term ''Refuge'' means the Bear River Migratory Bird Refuge located in Bear River Bay of the Great Salt Lake, Utah.

(3) AGREEMENT.—The term ''agreement'' means the agreement to be signed by the Secretary and the State to establish a mutually agreeable procedure for addressing the conflicting claims to ownership of the lands and interests in land within the Refuge.

(4) STATE.—The term ''State'' means the State of Utah.

SEC. 804. REQUIRED TERMS OF LAND CLAIMS SETTLEMENT, BEAR RIVER MIGRATORY BIRD REFUGE, UTAH.

(a) SPECIFIC TERMS REQUIRED IN AGREEMENT.—The Secretary shall not enter into an agreement with the State for the quitclaim or other transfer of lands or interests in lands within the Refuge unless the terms of the agreement include each of the following provisions:

(1) Nothing in the agreement shall be construed to impose upon the State or any of agency of the State any obligation to convey to the United States any interest in water owned or controlled by the State, except upon appropriate terms and for adequate consideration.

(2) Nothing in the agreement shall constitute admission or denial of the United States claim to a Federal reserved water right.

(3) The State shall support the United States application to add an enlarged Hyrum Reservoir, or another storage facility, as an alternate place of storage under the Refuge's existing 1000 cubic feet per second State certified water right. Such support shall be contingent upon demonstration by the United States that no injury to water rights shall occur as a result of the addition.

(4) Nothing in the agreement shall affect jurisdiction by the State or the United States Fish and Wildlife Service over wildlife resources management, including fishing, hunting and trapping, within the Refuge.

(5) If the State elects to bring suit against the United States challenging the validity of the deed issued pursuant to the agreement, and if such suit is successful in invalidating such deed, the State will—

(A) pay the United States for the fair market value of all real property improvements on the property at the time of invalidation, such as dikes, water control structures and buildings;

(B) repay any amounts paid by the United States because of ownership of the land by the United States from the date of establishment of the Refuge, such as payments in lieu of taxes; and

(C) repay any amounts paid to the State pursuant to the agreement.

(6) Subject to the availability of funds for this purpose, the Secretary shall agree to pay $15,000,000 to the State upon delivery by the State of a quitclaim deed that meets all applicable standards of the Department of Justice and covers all lands and interests in lands claimed by the State within the Refuge. Such payment shall be subject to the condition that the State use the payment for the purposes, and in the amounts, specified in subsections (b) and (c).

(b) WETLANDS AND WILDLIFE PROTECTION PROGRAMS.—

(1) DEPOSIT.—The State shall deposit $10,000,000 of the amount paid pursuant to the agreement, as required by subsection (a)(6), in a restricted account, known as the Wetlands and Habitat Protection Account, to be used as provided in paragraph (2).

(2) AUTHORIZED USES.—The Executive Director of the Utah Department of Natural Resources may withdraw from the Wetlands and Habitat Protection Account, on an annual basis, amounts equal to the interest earned on the amount deposited under paragraph (1) for the following purposes:

(A) Wetland or open space protection in and near the Great Salt Lake.

(B) Enhancement and acquisition of wildlife habitat in and near the Great Salt Lake.

(c) RECREATIONAL TRAILS DEVELOPMENT.—The Utah Department of Natural Resources shall use $5,000,000 of the amount paid pursuant to the agreement, as required by subsection (a)(6), as follows:

(1) $2,000,000 for the development, improvement, and expansion of the James V. Hansen Shoshone Trail.

(2) $1,000,000 for the development, improvement, and expansion of the Ogden-Weber Trail System.

(3) $1,000,000 for the non-motorized trails program managed by the Utah State Division of Parks and Recreation.

(4) $1,000,000 for the preservation, reclamation, enhancement, and conservation of streams in the State of Utah.

(d) COORDINATION OF PROJECTS.—The Executive Director of the Utah Department of Natural Resources shall seek to maximize the use of funds under subsections (b) and (c) through coordination with nonprofit organizations, Federal agencies, other agencies of the State, and local governments, and shall give priority to those projects under such subsections that include Federal, State, or private matching funds.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $15,000,000 for the payment required by subsection (a)(6) to be included as a term of the agreement.

TITLE IX—EDUCATION AND ADMINISTRATIVE CENTER AT BEAR RIVER MIGRATORY BIRD REFUGE, UTAH

SEC. 901. SHORT TITLE.

This title may be cited as the ''Bear River Migratory Bird Refuge Visitor Center Act''.

SEC. 902. FINDINGS.

The Congress finds the following:

(1) The Bear River marshes have been a historical waterfowl oasis and an important inland waterfowl flyway for thousands of years.

(2) The Congress created the Bear River Migratory Bird Refuge as one of the first National Wildlife Refuges, for the purpose of protecting waterfowl habitat and migratory birds, educating the public regarding, and enhancing public appreciation of, waterfowl habitat and migratory birds.

(3) The Bear River Migratory Bird Refuge was virtually destroyed by devastating floods that occurred between 1983 and 1985.

(4) Refuge employees, aided by volunteers, have taken valiant actions to rebuild the Refuge by restoring habitat, increasing its attractiveness to waterfowl, reducing waterfowl botulism, and providing recreational and educational opportunities to the public.

(5) The Bear River Migratory Bird Refuge lacks a functional education and administrative center.

(6) The creation of such a facility would significantly enhance public appreciation of waterfowl and the need to preserve waterfowl habitat.

(7) The Congress has taken significant steps to provide funding for the construction of an education and administrative center.

SEC. 903. DEFINITIONS.

For the purpose of this title, the following definitions apply:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(2) REFUGE.—The term ''Refuge'' means the Bear River Migratory Bird Refuge in Box Elder County, Utah.

(3) EDUCATION AND ADMINISTRATIVE CENTER.—The term ''Education and Administrative Center'' means the facility identified in the Environmental Assessment dated 1991 and entitled ''Restoration and Expansion of the Bear River Migratory Bird Refuge''.

SEC. 904. AUTHORIZATION OF CONSTRUCTION OF THE EDUCATION CENTER.

(a) CONSTRUCTION.—The Secretary shall construct the Education and Administrative Center at the Refuge for the purposes of providing for the interpretation of resources of the Refuge for the education and benefit of the public, for the advancement of research, protection, and health of waterfowl habitat, and for the administration of the Bear River Migratory Bird Refuge.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $11,000,000 to carry out subsection (a).

SEC. 905. MATCHING CONTRIBUTIONS REQUIREMENTS.

(a) DONATION OF FUNDS AND SERVICES.—The Secretary may accept donations of funds and

services from nonprofit organizations, State and local governments, and private citizens for the construction of the Education and Administrative Center.

(b) MATCHING FUNDS.—The Secretary may not require matching funds or contributions in kind with a combined total value of more than $1,500,000 for construction of the Education and Administrative Center.

TITLE X—ACCOKEEK CREEK NATIONAL WILDLIFE REFUGE

SEC. 1001. ACCOKEEK CREEK NATIONAL WILDLIFE REFUGE ESTABLISHMENT.

(a) SHORT TITLE.—This title may be cited as the ''Accokeek Creek National Wildlife Refuge Establishment Act''.

(b) ESTABLISHMENT.—The Secretary of the Interior (in this section referred to as the ''Secretary'') shall establish the Accokeek Creek National Wildlife Refuge. The refuge shall consist of any lands and waters owned or managed by the Secretary and located within the refuge acquisition boundary depicted on a map entitled ''Accokeek Creek National Wildlife Refuge, Land Acquisition Boundary, Stafford County, Virginia'' and dated August 2000.

(c) PURPOSES.—The purposes for which the Refuge is established are the following:

(1) To provide long-term protection of ecologically unique habitats of the peninsula between Accokeek and Potomac Creeks in Stafford County, Virginia, known as the Crow's Nest, and certain adjacent property that supports numerous species of neotropical migratory birds, waterfowl, and sport and commercial fish, and numerous rare and endangered plant species.

(2) To provide appropriate public access to, and compatible fish and wildlife dependent recreation in, the Refuge.

(d) ACQUISITION.—

(1) IN GENERAL.—(A) The Secretary may acquire by donation, purchase with donated or appropriated funds, or exchange the lands and waters, or interests therein (including conservation easements), within the boundaries of the Refuge.

(B) No such lands, waters, or interests therein may be acquired without the consent of the owner thereof.

(2) TRANSFERS FROM OTHER AGENCIES.—The head of any Federal agency having administrative jurisdiction over Federal property located within the boundaries of the Refuge may, with the approval of the Secretary, transfer such property without consideration to the administrative jurisdiction of the Secretary for inclusion in the Refuge.

(e) ADMINISTRATION.—

(1) IN GENERAL.—The Secretary shall administer all federally owned lands, waters, and interests therein that are within the boundaries of the Refuge in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.) and this section. The Secretary may use such additional statutory authority as may be available for the conservation of fish and wildlife, and the provision of fish and wildlife dependent recreational opportunities, as the Secretary considers appropriate to carry out the purposes described in subsection (c).

(2) PRIORITY USES.—In providing opportunities for compatible fish and wildlife dependent recreation, the Secretary, in accordance with paragraphs (3) and (4) of section 4(a) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(a)), shall ensure that hunting, fishing, wildlife observation and photography, and environmental education and interpretation are the priority public uses of the Refuge.

TITLE XI—MISCELLANEOUS

SEC. 1101. AMENDMENTS TO THE NATIONAL FISH AND WILDLIFE FOUNDATION ESTABLISHMENT ACT.

(a) REQUIREMENT TO NOTIFY CONGRESS REGARDING GRANTS.—Section 4(i) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3703(i)) is amended byadding ''in excess of $5,000'' after ''a grant of funds''.

(b) MATCHING CONTRIBUTIONS BY SUBRECIPIENTS.—Section 10(a)(3) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3709(a)(3)) is amended by adding ''or subrecipient'' after ''made to the Foundation''.

TITLE XII—MARINE TURTLE CONSERVATION

SEC. 1201. SHORT TITLE.

This title may be cited as the ''Marine Turtle Conservation Act of 2002''.

SEC. 1202. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) marine turtle populations have declined to the point that the long-term survival of the loggerhead, green, hawksbill, Kemp's ridley, olive ridley, and leatherback turtle in the wild is in serious jeopardy;

(2) 6 of the 7 recognized species of marine turtles are listed as threatened or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and all 7 species have been included in Appendix I of CITES;

(3) because marine turtles are long-lived, late-maturing, and highly migratory, marine turtles are particularly vulnerable to the impacts of human exploitation and habitat loss;

(4) illegal international trade seriously threatens wild populations of some marine turtle species, particularly the hawksbill turtle;

(5) the challenges facing marine turtles are immense, and the resources available have not been sufficient to cope with the continued loss of nesting habitats caused by human activities and the consequent diminution of marine turtle populations;

(6) because marine turtles are flagship species for the ecosystems in which marine turtles are found, sustaining healthy populations of marine turtles provides benefits to many other species of wildlife, including many other threatened or endangered species;

(7) marine turtles are important components of the ecosystems that they inhabit, and studies of wild populations of marine turtles have provided important biological insights;

(8) changes in marine turtle populations are most reliably indicated by changes in the numbers of nests and nesting females; and

(9) the reduction, removal, or other effective addressing of the threats to the long-term viability of populations of marine turtles will require the joint commitment and effort of—

(A) countries that have within their boundaries marine turtle nesting habitats; and

(B) persons with expertise in the conservation of marine turtles.

(b) PURPOSE.—The purpose of this title is to assist in the conservation of marine turtles and the nesting habitats of marine turtles in foreign countries by supporting and providing financial resources for projects to conserve the nesting habitats, conserve marine turtles in those habitats, and address other threats to the survival of marine turtles.

SEC. 1203. DEFINITIONS.

In this title:

(1) CITES.—The term ''CITES'' means the Convention on International Trade in Endangered Species of Wild Fauna and Flora (27 UST 1087; TIAS 8249).

(2) CONSERVATION.—The term ''conservation'' means the use of all methods and procedures necessary to protect nesting habitats of marine turtles in foreign countries and of marine turtles in those habitats, including—

(A) protection, restoration, acquisition, and management of nesting habitats;

(B) onsite research and monitoring of nesting populations, nesting habitats, annual reproduction, and species population trends;

(C) assistance in the development, implementation, and improvement of national and regional management plans for nesting habitat ranges;

(D) enforcement and implementation of CITES and laws of foreign countries to—

(i) protect and manage nesting populations and nesting habitats; and

(ii) prevent illegal trade of marine turtles;

(E) training of local law enforcement officials in the interdiction and prevention of—

(i) the illegal killing of marine turtles on nesting habitat; and

(ii) illegal trade in marine turtles;

(F) initiatives to resolve conflicts between humans and marine turtles over habitat used by marine turtles for nesting;

(G) community outreach and education; and

(H) strengthening of the ability of local communities to implement nesting population and nesting habitat conservation programs.

(3) FUND.—The term ''Fund'' means the Marine Turtle Conservation Fund established by section 1205.

(4) MARINE TURTLE.—

(A) IN GENERAL.—The term ''marine turtle'' means any member of the family Cheloniidae or Dermochelyidae.

(B) INCLUSIONS.—The term ''marine turtle'' includes—

(i) any part, product, egg, or offspring of a turtle described in subparagraph (A); and

(ii) a carcass of such a turtle.

(5) MULTINATIONAL SPECIES CONSERVATION FUND.—The term ''Multinational Species Conservation Fund'' means the fund established under the heading ''MULTINATIONAL SPECIES CONSERVATION FUND'' in title I of the Department of the Interior and Related Agencies Appropriations Act, 1999 (16 U.S.C. 4246).

(6) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 1204. MARINE TURTLE CONSERVATION ASSISTANCE.

(a) IN GENERAL.—Subject to the availability of funds and in consultation with other Federal officials, the Secretary shall use amounts in the Fund to provide financial assistance for projects for the conservation of marine turtles for which project proposals are approved by the Secretary in accordance with this section.

(b) PROJECT PROPOSALS.—

(1) ELIGIBLE APPLICANTS.—A proposal for a project for the conservation of marine turtles may be submitted to the Secretary by—

(A) any wildlife management authority of a foreign country that has within its boundaries marine turtle nesting habitat if the activities of the authority directly or indirectly affect marine turtle conservation; or

(B) any other person or group with the demonstrated expertise required for the conservation of marine turtles.

(2) REQUIRED ELEMENTS.—A project proposal shall include—

(A) a statement of the purposes of the project;

(B) the name of the individual with overall responsibility for the project;

(C) a description of the qualifications of the individuals that will conduct the project;

(D) a description of—

(i) methods for project implementation and outcome assessment;

(ii) staff and community management for the project; and

(iii) the logistics of the project;

(E) an estimate of the funds and time required to complete the project;

(F) evidence of support for the project by appropriate governmental entities of the countries in which the project will be conducted, if the Secretary determines that such support is required for the success of the project;

(G) information regarding the source and amount of matching funding available for the project; and

(H) any other information that the Secretary considers to be necessary for evaluating the eligibility of the project for funding under this title.

(c) PROJECT REVIEW AND APPROVAL.—

(1) IN GENERAL.—The Secretary shall—

(A) not later than 30 days after receiving a project proposal, provide a copy of the proposal to other Federal officials, as appropriate; and

(B) review each project proposal in a timely manner to determine whether the proposal meets the criteria specified in subsection (d).

(2) CONSULTATION; APPROVAL OR DISAPPROVAL.—Not later than 180 days after receiving a project proposal, and subject to the availability of funds, the Secretary, after consulting with other Federal officials, as appropriate, shall—

(A) consult on the proposal with the government of each country in which the project is to be conducted;

(B) after taking into consideration any comments resulting from the consultation, approve or disapprove the project proposal; and

(C) provide written notification of the approval or disapproval to the person that submitted the project proposal, other Federal officials, and each country described in subparagraph (A).

(d) CRITERIA FOR APPROVAL.—The Secretary may approve a project proposal under this section if the project will help recover and sustain viable populations of marine turtles in the wild by assisting efforts in foreign countries to implement marine turtle conservation programs.

(e) PROJECT SUSTAINABILITY.—To the maximum extent practicable, in determining whether to approve project proposals under this section, the Secretary shall give preference to conservation projects that are designed to ensure effective, long-term conservation of marine turtles and their nesting habitats.

(f) MATCHING FUNDS.—In determining whether to approve project proposals under this section, the Secretary shall give preference to projects for which matching funds are available.

(g) PROJECT REPORTING.—

(1) IN GENERAL.—Each person that receives assistance under this section for a project shall submit to the Secretary periodic reports (at such intervals as the Secretary may require) that include all information that the Secretary, after consultation with other government officials, determines is necessary to evaluate the progress and success of the project for the purposes of ensuring positive results, assessing problems, and fostering improvements.

(2) AVAILABILITY TO THE PUBLIC.—Reports under paragraph (1), and any other documents relating to projects for which financial assistance is provided under this title, shall be made available to the public.

SEC. 1205. MARINE TURTLE CONSERVATION FUND.

(a) ESTABLISHMENT.—There is established in the Multinational Species Conservation Fund a separate account to be known as the ''Marine Turtle Conservation Fund'', consisting of—

(1) amounts transferred to the Secretary of the Treasury for deposit into the Fund under subsection (e);

(2) amounts appropriated to the Fund under section 1206; and

(3) any interest earned on investment of amounts in the Fund under subsection (c).

(b) EXPENDITURES FROM FUND.—

(1) IN GENERAL.—Subject to paragraph (2), on request by the Secretary, the Secretary of the Treasury shall transfer from the Fund to the Secretary, without further appropriation, such amounts as the Secretary determines are necessary to carry out section 1204.

(2) ADMINISTRATIVE EXPENSES.—Of the amounts in the account available for each fiscal year, the Secretary may expand not more than 3 percent, or up to $80,000, whichever is greater, to pay the administrative expenses necessary to carry out this title.

(c) INVESTMENT OF AMOUNTS.—

(1) IN GENERAL.—The Secretary of the Treasury shall invest such portion of the Fund as is not, in the judgment of the Secretary of the Treasury, required to meet current withdrawals. Investments may be made only in interest-bearing obligations of the United States.

(2) ACQUISITION OF OBLIGATIONS.—For the purpose of investments under paragraph (1), obligations may be acquired—

(A) on original issue at the issue price; or

(B) by purchase of outstanding obligations at the market price.

(3) SALE OF OBLIGATIONS.—Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

(4) CREDITS TO FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

(d) TRANSFERS OF AMOUNTS.—

(1) IN GENERAL.—The amounts required to be transferred to the Fund under this section shall be transferred at least monthly from the general fund of the Treasury to the Fund on the basis of estimates made by the Secretary of the Treasury.

(2) ADJUSTMENTS.—Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(e) ACCEPTANCE AND USE OF DONATIONS.—The Secretary may accept and use donations to provide assistance under section 1204. Amounts received by the Secretary in the form of donations shall be transferred to the Secretary of the Treasury for deposit in the Fund.

SEC. 1206. ADVISORY GROUP.

(a) IN GENERAL.—To assist in carrying out this title, the Secretary may convene an advisory group consisting of individuals representing public and private organizations actively involved in the conservation of marine turtles.

(b) PUBLIC PARTICIPATION.—

(1) MEETINGS.—The Advisory Group shall—

(A) ensure that each meeting of the advisory group is open to the public; and

(B) provide, at each meeting, an opportunity for interested persons to present oral or written statements concerning items on the agenda.

(2) NOTICE.—The Secretary shall provide to the public timely notice of each meeting of the advisory group.

(3) MINUTES.—Minutes of each meeting of the advisory group shall be kept by the Secretary and shall be made available to the public.

(c) EXEMPTION FROM FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory group.

SEC. 1207. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Fund $5,000,000 for each of fiscal years 2004 through 2008.

Mr. HANSEN (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

The amendment in the nature of a substitute was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: ''A bill to amend the Endangered Species Act of 1973 to promote involvement by non-Federal entities in the recovery of endangered species, threatened species, and species that may become endangered or threatened species, and for other purposes.''.

A motion to reconsider was laid on the table.

POW/MIA MEMORIAL FLAG ACT OF 2002

Mr. HANSEN. Mr. Speaker, I ask unanimous consent that the Committee on Resources be discharged from further consideration of the Senate bill (S. 1226) 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, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1226

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 ''POW/MIA Memorial Flag Act of 2002''.

SEC. 2. DISPLAY OF POW/MIA FLAG AT WORLD WAR II MEMORIAL, KOREAN WAR MEMORIAL, AND VIETNAM VETERANS MEMORIAL.

(a) REQUIREMENT FOR DISPLAY.—Subsection (d)(3) of section 902 of title 36, United States Code, is amended by striking ''The Korean War Veterans Memorial and the Vietnam Veterans Memorial'' and inserting ''The World War II memorial, the Korean War Veterans Memorial, and the Vietnam Veterans Memorial''.

(b) DAYS FOR DISPLAY.—Subsection (c)(2) of that section is amended—

(1) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and

(2) by inserting before subparagraph (B), as so redesignated, the following new subparagraph (A):

''(A) in the case of display at the World War II memorial, Korean War Veterans Memorial, and Vietnam Veterans Memorial (required by subsection (d)(3) of this section), any day on which the United States flag is displayed;''.

(c) DISPLAY ON EXISTING FLAGPOLE.—No element of the United States Government may construe the amendments made by this section as requiring the acquisition of erection of a new or additional flagpole for purposes of the display of the POW/MIA flag.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CITY OF HAINES, OREGON LAND CONVEYANCE

Mr. HANSEN. Mr. Speaker, I ask unanimous consent that the Committee on Resources be discharged from further consideration of the Senate bill (S. 1907) to direct the Secretary of the Interior to convey certain land to the city of Haines, Oregon, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1907

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

SECTION 1. CONVEYANCE TO THE CITY OF HAINES, OREGON.

(a) CONVEYANCE.—As soon as practicable after the date of enactment of this Act, the Secretary of the Interior shall convey, without consideration, all right, title, and interest of the United States in and to the parcel of land described in subsection (b) to the city of Haines, Oregon.

(b) DESCRIPTION OF LAND.—The parcel of land referred to in subsection (a) is the parcel of Bureau of Land Management land consisting of approximately 40 acres, as indicated on the map entitled ''S. 1907: Conveyance to the City of Haines, Oregon'' and dated May 9, 2002.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

OLD SPANISH TRAIL RECOGNITION ACT OF 2002

Mr. HANSEN. Mr. Speaker, I ask unanimous consent that the Committee on Resources be discharged from further consideration of the Senate bill (S. 1946) to amend the National Trails System Act to designate the Old Spanish Trail as a National Historic Trail, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1946

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 ''Old Spanish Trail Recognition Act of 2002''.

SEC. 2. AUTHORIZATION AND ADMINISTRATION.

Section 5(a) of the National Trails System Act (16 U.S.C. 1244(a)) is amended—

(1) by redesignating the second paragraph (21) as paragraph (22); and

(2) by adding at the end the following:

''(23) OLD SPANISH NATIONAL HISTORIC TRAIL.—

''(A) IN GENERAL.—The Old Spanish National Historic Trail, an approximately 2,700 mile long trail extending from Santa Fe, New Mexico, to Los Angeles, California, that served as a major trade route between 1829 and 1848, as generally depicted on the maps numbered 1 through 9, as contained in the report entitled ''Old Spanish Trail National Historic Trail Feasibility Study'', dated July 2001, including the Armijo Route, Northern Route, North Branch, and Mojave Road''.

''(B) MAP.—A map generally depicting the trail shall be on file and available for public inspection in the appropriate offices of the Department of the Interior.''.

''(C) ADMINISTRATION.—The trail shall be administered by the Secretary of the Interior (referred to in this paragraph as the 'Secretary').

''(D) LAND ACQUISITION.—The United States shall not acquire for the trail any land or interest in land outside the exterior boundary of any federally-managed area without the consent of the owner of the land or interest in land.

''(E) CONSULTATION.—The Secretary shall consult with other Federal, State, local, and tribal agencies in the administration of the trail.

''(F) ADDITIONAL ROUTES.—The Secretary may designate additional routes to the trail if—

''(i) the additional routes were included in the Old Spanish Trail National Historic Trail Feasibility Study, but were not recommended for designation as a national historic trail; and

''(ii) the Secretary determines that the additional routes were used for trade and commerce between 1829 and 1848.''.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

□ 0230

INDIAN FINANCING AMENDMENTS ACT OF 2002

Mr. HANSEN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2017) to amend the Indian Financing Act of 1974 to improve the effectiveness of the Indian loan guarantee and insurance program, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentleman from Utah?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2017

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 ''Indian Financing Amendments Act of 2002''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the Indian Financing Act of 1974 (25 U.S.C. 1451 et seq.) was intended to provide Native American borrowers with access to commercial sources of capital that otherwise would not be available through the guarantee or insurance of loans by the Secretary of the Interior;

(2) although the Secretary of the Interior has made loan guarantees and insurance available, use of those guarantees and that insurance by lenders to benefit Native American business borrowers has been limited;

(3) 27 years after the date of enactment of the Indian Financing Act of 1974 (25 U.S.C. 1451 et seq.), the promotion and development of Native American-owned business remains an essential foundation for growth of economic and social stability of Native Americans;

(4) use by commercial lenders of the available loan insurance and guarantees may be limited by liquidity and other capital market-driven concerns; and

(5) it is in the best interest of the insured and guaranteed loan program of the Department of the Interior—

(A) to encourage the orderly development and expansion of a secondary market for loans guaranteed or insured by the Secretary of the Interior; and

(B) to expand the number of lenders originating loans under the Indian Financing Act of 1974 (25 U.S.C. 1451 et seq.).

(b) PURPOSE.—The purpose of this Act is to reform and clarify the Indian Financing Act of 1974 (25 U.S.C. 1451 et seq.) in order to—

(1) stimulate the use by lenders of secondary market investors for loans guaranteed or insured under a program administered by the Secretary of the Interior;

(2) preserve the authority of the Secretary to administer the program and regulate lenders;

(3) clarify that a good faith investor in loans insured or guaranteed by the Secretary will receive appropriate payments;

(4) provide for the appointment by the Secretary of a qualified fiscal transfer agent to establish and administer a system for the orderly transfer of those loans; and

(5)(A) authorize the Secretary to promulgate regulations to encourage and expand a secondary market program for loans guaranteed or insured by the Secretary; and

(B) allow the pooling of those loans as the secondary market develops.

SEC. 3. AMENDMENTS TO INDIAN FINANCING ACT.

(a) LIMITATION ON LOAN AMOUNTS WITHOUT PRIOR APPROVAL.—Section 204 of the Indian Financing Act of 1974 (25 U.S.C. 1484) is amended in the last sentence by striking ''$100,000'' and inserting ''$250,000''.

(b) SALE OR ASSIGNMENT OF LOANS AND UNDERLYING SECURITY.—Section 205 of the Indian Financing Act of 1974 (25 U.S.C. 1485) is amended—

(1) by striking ''Any loan guaranteed'' and inserting the following:

''(a) IN GENERAL.—Any loan guaranteed or insured''; and

(2) by adding at the end the following:

''(b) INITIAL TRANSFERS.—

''(1) IN GENERAL.—The lender of a loan guaranteed or insured under this title may transfer to any individual or legal entity—

''(A) all rights and obligations of the lender in the loan or in the unguaranteed or uninsured portion of the loan; and

''(B) any security given for the loan.

''(2) ADDITIONAL REQUIREMENTS.—With respect to a transfer described in paragraph (1)—

''(A) the transfer shall be consistent with such regulations as the Secretary shall promulgate under subsection (i); and

''(B) the lender shall give notice of the transfer to the Secretary.

''(3) RESPONSIBILITIES OF TRANSFEREE.—On any transfer under paragraph (1), the transferee shall—

''(A) be deemed to be the lender for the purpose of this title;

''(B) become the secured party of record; and

''(C) be responsible for—

''(i) performing the duties of the lender; and

''(ii) servicing the loan in accordance with the terms of the guarantee by the Secretary of the loan.

''(c) SECONDARY TRANSFERS.—

''(1) IN GENERAL.—Any transferee under subsection (b) of a loan guaranteed or insured under this title may transfer to any individual or legal entity—

''(A) all rights and obligations of the transferee in the loan or in the unguaranteed or uninsured portion of the loan; and

''(B) any security given for the loan.

''(2) ADDITIONAL REQUIREMENTS.—With respect to a transfer described in paragraph (1)—

''(A) the transfer shall be consistent with such regulations as the Secretary shall promulgate under subsection (i); and

''(B) the transferor shall give notice of the transfer to the Secretary.

''(3) ACKNOWLEDGMENT BY SECRETARY.—On receipt of a notice of a transfer under paragraph (2)(B), the Secretary shall issue to the transferee an acknowledgement by the Secretary of—

''(A) the transfer; and

''(B) the interest of the transferee in the guaranteed or insured portion of the loan.

''(4) RESPONSIBILITIES OF LENDER.—Notwithstanding any transfer permitted by this subsection, the lender shall—

''(A) remain obligated on the guarantee agreement or insurance agreement between the lender and the Secretary;

''(B) continue to be responsible for servicing the loan in a manner consistent with that guarantee agreement or insurance agreement; and

''(C) remain the secured creditor of record.

''(d) FULL FAITH AND CREDIT.—

''(1) IN GENERAL.—The full faith and credit of the United States is pledged to the payment of all loan guarantees and loan insurance made under this title after the date of enactment of this subsection.

''(2) VALIDITY.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the validity of a guarantee or insurance of a loan under this title shall be incontestable if the obligations of the guarantee or insurance held by a transferee have been acknowledged under subsection (c)(3).

''(B) EXCEPTION FOR FRAUD OR MISREPRESENTATION.—Subparagraph (A) shall not apply in a case in which a transferee has actual knowledge of fraud or misrepresentation, or participates in or condones fraud or misrepresentation, in connection with a loan.

''(e) DAMAGES.—Notwithstanding section 3302 of title 31, United States Code, the Secretary may recover from a lender of a loan under this title any damages suffered by the Secretary as a result of a material breach of the obligations of the lender with respect to a guarantee or insurance by the Secretary of the loan.

''(f) FEES.—The Secretary may collect a fee for any loan or guaranteed or insured portion of a loan that is transferred in accordance with this section.

''(g) CENTRAL REGISTRATION OF LOANS.—On promulgation of final regulations under subsection (i), the Secretary shall—

''(1) provide for a central registration of all guaranteed or insured loans transferred under this section; and

''(2) enter into 1 or more contracts with a fiscal transfer agent—

''(A) to act as the designee of the Secretary under this section; and

''(B) to carry out on behalf of the Secretary the central registration and fiscal transfer agent functions, and issuance of acknowledgements, under this section.

''(h) POOLING OF LOANS.—

''(1) IN GENERAL.—Nothing in this title prohibits the pooling of whole loans or interests in loans transferred under this section.

''(2) REGULATIONS.—In promulgating regulations under subsection (i), the Secretary may include such regulations to effect orderly and efficient pooling procedures as the Secretary determines to be necessary.

''(i) REGULATIONS.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall develop such procedures and promulgate such regulations as are necessary to facilitate, administer, and promote transfers of loans and guaranteed and insured portions of loans under this section.''.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. HANSEN

Mr. HANSEN. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. HANSEN:

Strike all after the enacting clause and insert the following:

SECTION 1. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

TITLE I—INDIAN FINANCING ACT AMENDMENTS

Sec. 101. Short title.
Sec. 102. Findings and purpose.
Sec. 103. Amendments to Indian Financing Act.

TITLE II—YANKTON SIOUX AND SANTEE SIOUX TRIBES EQUITABLE COMPENSATION

Sec. 201. Short title.
Sec. 202. Findings.
Sec. 203. Definitions.
Sec. 204. Yankton Sioux Tribe Development Trust Fund.
Sec. 205. Santee Sioux Tribe Development Trust Fund.
Sec. 206. Tribal plans.
Sec. 207. Eligibility of tribe for certain programs and services.
Sec. 208. Statutory construction.
Sec. 209. Authorization of appropriations.
Sec. 210. Extinguishment of claims.

TITLE III—OKLAHOMA NATIVE AMERICAN CULTURAL CENTER AND MUSEUM

Sec. 301. Oklahoma Native American Cultural Center and Museum.

TITLE IV—TRANSMISSION OF POWER FROM INDIAN LANDS IN OKLAHOMA

Sec. 401. Transmission of power from Indian lands in Oklahoma.

TITLE V—PECHANGA TRIBE

Sec. 501. Land of Pechanga Band of Luiseno Mission Indians.

TITLE VI—CHEROKEE, CHOCTAW, AND CHICKASAW NATIONS CLAIMS SETTLEMENT ACT

Sec. 601. Short title.
Sec. 602. Findings.
Sec. 603. Purposes.
Sec. 604. Definitions.
Sec. 605. Settlement and claims; appropriations; allocation of funds.
Sec. 606. Tribal trust funds.
Sec. 607. Attorney fees.
Sec. 608. Release of other tribal claims and filing of claims.
Sec. 609. Effect on claims.

TITLE VII—SEMINOLE TRIBE

Sec. 701. Approval not required to validate certain land transactions.

TITLE VIII—JICARILLA APACHE RESERVATION RURAL WATER SYSTEM

Sec. 801. Short title.
Sec. 802. Purposes.
Sec. 803. Definitions.
Sec. 804. Jicarilla Apache Reservation rural water system.
Sec. 805. General authority.
Sec. 806. Project requirements.
Sec. 807. Authorization of appropriations.
Sec. 808. Prohibition on use of funds for irrigation purposes.
Sec. 809. Water rights.

TITLE IX—ROCKY BOY'S RURAL WATER SYSTEM

Sec. 901. Short title.
Sec. 902. Findings and purposes.
Sec. 903. Definitions.
Sec. 904. Rocky Boy's rural water system.
Sec. 905. Noncore system.
Sec. 906. Limitation on availability of construction funds.
Sec. 907. Connection charges.
Sec. 908. Authorization of contracts.
Sec. 909. Tiber Reservoir allocation to the tribe.
Sec. 910. Use of Pick-Sloan power.
Sec. 911. Water conservation plan.
Sec. 912. Water rights.
Sec. 913. Chippewa Cree Water System Operation, Maintenance, and Replacement Trust Fund.
Sec. 914. Authorization of appropriations.

TITLE X—MISCELLANEOUS

Sec. 1001. Santee Sioux Tribe, Nebraska, water system study.
Sec. 1002. Yurok Tribe and Hopland Band included in long term leasing.

TITLE I—INDIAN FINANCING ACT AMENDMENTS

SEC. 101. SHORT TITLE.

This Act may be cited as the ''Indian Financing Amendments Act of 2002''.

SEC. 102. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the Indian Financing Act of 1974 (25 U.S.C. 1451 et seq.) was intended to provide Native American borrowers with access to commercial sources of capital that otherwise would not be available through the guarantee or insurance of loans by the Secretary of the Interior;

(2) although the Secretary of the Interior has made loan guarantees and insurance available, use of those guarantees and that insurance by lenders to benefit Native American business borrowers has been limited;

(3) 27 years after the date of enactment of the Indian Financing Act of 1974 (25 U.S.C. 1451 et seq.), the promotion and development of Native American-owned business remains an essential foundation for growth of economic and social stability of Native Americans;

(4) use by commercial lenders of the available loan insurance and guarantees may be limited by liquidity and other capital market-driven concerns; and

(5) it is in the best interest of the insured and guaranteed loan program of the Department of the Interior—

(A) to encourage the orderly development and expansion of a secondary market for

loans guaranteed or insured by the Secretary of the Interior; and

(B) to expand the number of lenders originating loans under the Indian Financing Act of 1974 (25 U.S.C. 1451 et seq.).

(b) PURPOSE.—The purpose of this Act is to reform and clarify the Indian Financing Act of 1974 (25 U.S.C. 1451 et seq.) in order to—

(1) stimulate the use by lenders of secondary market investors for loans guaranteed or insured under a program administered by the Secretary of the Interior;

(2) preserve the authority of the Secretary to administer the program and regulate lenders;

(3) clarify that a good faith investor in loans insured or guaranteed by the Secretary will receive appropriate payments;

(4) provide for the appointment by the Secretary of a qualified fiscal transfer agent to establish and administer a system for the orderly transfer of those loans; and

(5)(A) authorize the Secretary to promulgate regulations to encourage and expand a secondary market program for loans guaranteed or insured by the Secretary; and

(B) allow the pooling of those loans as the secondary market develops.

SEC. 103. AMENDMENTS TO INDIAN FINANCING ACT.

(a) LIMITATION ON LOAN AMOUNTS WITHOUT PRIOR APPROVAL.—Section 204 of the Indian Financing Act of 1974 (25 U.S.C. 1484) is amended in the last sentence by striking ''$100,000'' and inserting ''$250,000''.

(b) SALE OR ASSIGNMENT OF LOANS AND UNDERLYING SECURITY.—Section 205 of the Indian Financing Act of 1974 (25 U.S.C. 1485) is amended—

(1) by striking ''Any loan guaranteed'' and inserting the following:

''(a) IN GENERAL.—Any loan guaranteed or insured''; and

(2) by adding at the end the following:

''(b) INITIAL TRANSFERS.—

''(1) IN GENERAL.—The lender of a loan guaranteed or insured under this title may transfer to any individual or legal entity—

''(A) all rights and obligations of the lender in the loan or in the unguaranteed or uninsured portion of the loan; and

''(B) any security given for the loan.

''(2) ADDITIONAL REQUIREMENTS.—With respect to a transfer described in paragraph (1)—

''(A) the transfer shall be consistent with such regulations as the Secretary shall promulgate under subsection (i); and

''(B) the lender shall give notice of the transfer to the Secretary.

''(3) RESPONSIBILITIES OF TRANSFEREE.—On any transfer under paragraph (1), the transferee shall—

''(A) be deemed to be the lender for the purpose of this title;

''(B) become the secured party of record; and

''(C) be responsible for—

''(i) performing the duties of the lender; and

''(ii) servicing the loan in accordance with the terms of the guarantee by the Secretary of the loan.

''(c) SECONDARY TRANSFERS.—

''(1) IN GENERAL.—Any transferee under subsection (b) of a loan guaranteed or insured under this title may transfer to any individual or legal entity—

''(A) all rights and obligations of the transferee in the loan or in the unguaranteed or uninsured portion of the loan; and

''(B) any security given for the loan.

''(2) ADDITIONAL REQUIREMENTS.—With respect to a transfer described in paragraph (1)—

''(A) the transfer shall be consistent with such regulations as the Secretary shall promulgate under subsection (i); and

''(B) the transferor shall give notice of the transfer to the Secretary.

''(3) ACKNOWLEDGMENT BY SECRETARY.—On receipt of a notice of a transfer under paragraph (2)(B), the Secretary shall issue to the transferee an acknowledgement by the Secretary of—

''(A) the transfer; and

''(B) the interest of the transferee in the guaranteed or insured portion of the loan.

''(4) RESPONSIBILITIES OF LENDER.—Notwithstanding any transfer permitted by this subsection, the lender shall—

''(A) remain obligated on the guarantee agreement or insurance agreement between the lender and the Secretary;

''(B) continue to be responsible for servicing the loan in a manner consistent with that guarantee agreement or insurance agreement; and

''(C) remain the secured creditor of record.

''(d) FULL FAITH AND CREDIT.—

''(1) IN GENERAL.—The full faith and credit of the United States is pledged to the payment of all loan guarantees and loan insurance made under this title after the date of enactment of this subsection.

''(2) VALIDITY.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the validity of a guarantee or insurance of a loan under this title shall be incontestable if the obligations of the guarantee or insurance held by a transferee have been acknowledged under subsection (c)(3).

''(B) EXCEPTION FOR FRAUD OR MISREPRESENTATION.—Subparagraph (A) shall not apply in a case in which a transferee has actual knowledge of fraud or misrepresentation, or participates in or condones fraud or misrepresentation, in connection with a loan.

''(e) DAMAGES.—Notwithstanding section 3302 of title 31, United States Code, the Secretary may recover from a lender of a loan under this title any damages suffered by the Secretary as a result of a material breach of the obligations of the lender with respect to a guarantee or insurance by the Secretary of the loan.

''(f) FEES.—The Secretary may collect a fee for any loan or guaranteed or insured portion of a loan that is transferred in accordance with this section.

''(g) CENTRAL REGISTRATION OF LOANS.—On promulgation of final regulations under subsection (i), the Secretary shall—

''(1) provide for a central registration of all guaranteed or insured loans transferred under this section; and

''(2) enter into 1 or more contracts with a fiscal transfer agent—

''(A) to act as the designee of the Secretary under this section; and

''(B) to carry out on behalf of the Secretary the central registration and fiscal transfer agent functions, and issuance of acknowledgements, under this section.

''(h) POOLING OF LOANS.—

''(1) IN GENERAL.—Nothing in this title prohibits the pooling of whole loans or interests in loans transferred under this section.

''(2) REGULATIONS.—In promulgating regulations under subsection (i), the Secretary may include such regulations to effect orderly and efficient pooling procedures as the Secretary determines to be necessary.

''(i) REGULATIONS.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall develop such procedures and promulgate such regulations as are necessary to facilitate, administer, and promote transfers of loans and guaranteed and insured portions of loans under this section.''.

TITLE II—YANKTON SIOUX AND SANTEE SIOUX TRIBES EQUITABLE COMPENSATION

SEC. 201. SHORT TITLE.

This title may be cited as the ''Yankton Sioux Tribe and Santee Sioux Tribe Equitable Compensation Act''.

SEC. 202. FINDINGS.

Congress finds that—

(1) by enacting the Act of December 22, 1944, commonly known as the ''Flood Control Act of 1944'' (58 Stat. 887, chapter 665; 33 U.S.C. 701–1 et seq.) Congress approved the Pick-Sloan Missouri River Basin program (referred to in this section as the ''Pick-Sloan program'')—

(A) to promote the general economic development of the United States;

(B) to provide for irrigation above Sioux City, Iowa;

(C) to protect urban and rural areas from devastating floods of the Missouri River; and

(D) for other purposes;

(2) the waters impounded for the Fort Randall and Gavins Point projects of the Pick-Sloan program have inundated the fertile, wooded bottom lands along the Missouri River that constituted the most productive agricultural and pastoral lands of, and the homeland of, the members of the Yankton Sioux Tribe and the Santee Sioux Tribe;

(3) the Fort Randall project (including the Fort Randall Dam and Reservoir) overlies the western boundary of the Yankton Sioux Tribe Indian Reservation;

(4) the Gavins Point project (including the Gavins Point Dam and Reservoir) overlies the eastern boundary of the Santee Sioux Tribe;

(5) although the Fort Randall and Gavins Point projects are major components of the Pick-Sloan program, and contribute to the economy of the United States by generating a substantial amount of hydropower and impounding a substantial quantity of water, the reservations of the Yankton Sioux Tribe and the Santee Sioux Tribe remain undeveloped;

(6) the United States Army Corps of Engineers took the Indian lands used for the Fort Randall and Gavins Point projects by condemnation proceedings;

(7) the Federal Government did not give the Yankton Sioux Tribe and the Santee Sioux Tribe an opportunity to receive compensation for direct damages from the Pick-Sloan program, even though the Federal Government gave 5 Indian reservations upstream from the reservations of those Indian tribes such an opportunity;

(8) the Yankton Sioux Tribe and the Santee Sioux Tribe did not receive just compensation for the taking of productive agricultural Indian lands through the condemnation referred to in paragraph (6);

(9) the settlement agreement that the United States entered into with the Yankton Sioux Tribe and the Santee Sioux Tribe to provide compensation for the taking by condemnation referred to in paragraph (6) did not take into account the increase in property values over the years between the date of taking and the date of settlement; and

(10) in addition to the financial compensation provided under the settlement agreements referred to in paragraph (9)—

(A) the Yankton Sioux Tribe should receive an aggregate amount equal to $23,023,743 for the loss value of 2,851.40 acres of Indian land taken for the Fort Randall Dam and Reservoir of the Pick-Sloan program; and

(B) the Santee Sioux Tribe should receive an aggregate amount equal to $4,789,010 for the loss value of 593.10 acres of Indian land located near the Santee village.

SEC. 203. DEFINITIONS.

In this title:

(1) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given that term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(2) SANTEE SIOUX TRIBE.—The term ''Santee Sioux Tribe'' means the Santee Sioux Tribe of Nebraska.

(3) YANKTON SIOUX TRIBE.—The term ''Yankton Sioux Tribe'' means the Yankton Sioux Tribe of South Dakota.

SEC. 204. YANKTON SIOUX TRIBE DEVELOPMENT TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the ''Yankton Sioux Tribe Development Trust Fund'' (referred to in this section as the ''Fund''). The Fund shall consist of any amounts deposited in the Fund under this title.

(b) FUNDING.—On the first day of the 11th fiscal year that begins after the date of enactment of this Act, the Secretary of the Treasury shall, from the General Fund of the Treasury, deposit into the Fund established under subsection (a)—

(1) $23,023,743; and

(2) an additional amount that equals the amount of interest that would have accrued on the amount described in paragraph (1) if such amount had been invested in interest-bearing obligations of the United States, or in obligations guaranteed as to both principal and interest by the United States, on the first day of the first fiscal year that begins after the date of enactment of this Act and compounded annually thereafter.

(c) INVESTMENT OF TRUST FUND.—It shall be the duty of the Secretary of the Treasury to invest such portion of the Fund as is not, in the Secretary of Treasury's judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. The Secretary of the Treasury shall deposit interest resulting from such investments into the Fund.

(d) PAYMENT OF INTEREST TO TRIBE.—

(1) WITHDRAWAL OF INTEREST.—Beginning on the first day of the 11th fiscal year after the date of enactment of this Act and, on the first day of each fiscal year thereafter, the Secretary of the Treasury shall withdraw the aggregate amount of interest deposited into the Fund for that fiscal year and transfer that amount to the Secretary of the Interior for use in accordance with paragraph (2). Each amount so transferred shall be available without fiscal year limitation.

(2) PAYMENTS TO YANKTON SIOUX TRIBE.—

(A) IN GENERAL.—The Secretary of the Interior shall use the amounts transferred under paragraph (1) only for the purpose of making payments to the Yankton Sioux Tribe, as such payments are requested by that Indian tribe pursuant to tribal resolution.

(B) LIMITATION.—Payments may be made by the Secretary of the Interior under subparagraph (A) only after the Yankton Sioux Tribe has adopted a tribal plan under section 206.

(C) USE OF PAYMENTS BY YANKTON SIOUX TRIBE.—The Yankton Sioux Tribe shall use the payments made under subparagraph (A) only for carrying out projects and programs under the tribal plan prepared under section 206.

(e) TRANSFERS AND WITHDRAWALS.—Except as provided in subsections (c) and (d)(1), the Secretary of the Treasury may not transfer or withdraw any amount deposited under subsection (b).

SEC. 205. SANTEE SIOUX TRIBE DEVELOPMENT TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the ''Santee Sioux Tribe Development Trust Fund'' (referred to in this section as the ''Fund''). The Fund shall consist of any amounts deposited in the Fund under this title.

(b) FUNDING.—On the first day of the 11th fiscal year that begins after the date of enactment of this Act, the Secretary of the Treasury shall, from the General Fund of the Treasury, deposit into the Fund established under subsection (a)—

(1) $4,789,010; and

(2) an additional amount that equals the amount of interest that would have accrued on the amount described in paragraph (1) if such amount had been invested in interest-bearing obligations of the United States, or in obligations guaranteed as to both principal and interest by the United States, on the first day of the first fiscal year that begins after the date of enactment of this Act and compounded annually thereafter.

(c) INVESTMENT OF TRUST FUND.—It shall be the duty of the Secretary of the Treasury to invest such portion of the Fund as is not, in the Secretary of Treasury's judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. The Secretary of the Treasury shall deposit interest resulting from such investments into the Fund.

(d) PAYMENT OF INTEREST TO TRIBE.—

(1) WITHDRAWAL OF INTEREST.—Beginning on the first day of the 11th fiscal year after the date of enactment of this Act and, on the first day of each fiscal year thereafter, the Secretary of the Treasury shall withdraw the aggregate amount of interest deposited into the Fund for that fiscal year and transfer that amount to the Secretary of the Interior for use in accordance with paragraph (2). Each amount so transferred shall be available without fiscal year limitation.

(2) PAYMENTS TO SANTEE SIOUX TRIBE.—

(A) IN GENERAL.—The Secretary of the Interior shall use the amounts transferred under paragraph (1) only for the purpose of making payments to the Santee Sioux Tribe, as such payments are requested by that Indian tribe pursuant to tribal resolution.

(B) LIMITATION.—Payments may be made by the Secretary of the Interior under subparagraph (A) only after the Santee Sioux Tribe has adopted a tribal plan under section 206.

(C) USE OF PAYMENTS BY SANTEE SIOUX TRIBE.—The Santee Sioux Tribe shall use the payments made under subparagraph (A) only for carrying out projects and programs under the tribal plan prepared under section 206.

(e) TRANSFERS AND WITHDRAWALS.—Except as provided in subsections (c) and (d)(1), the Secretary of the Treasury may not transfer or withdraw any amount deposited under subsection (b).

SEC. 206. TRIBAL PLANS.

(a) IN GENERAL.—Not later than 24 months after the date of enactment of this Act, the tribal council of each of the Yankton Sioux and Santee Sioux Tribes shall prepare a plan for the use of the payments to the tribe under section 204(d) or 205(d) (referred to in this subsection as a ''tribal plan'').

(b) CONTENTS OF TRIBAL PLAN.—Each tribal plan shall provide for the manner in which the tribe covered under the tribal plan shall expend payments to the tribe under section 204(d) or 205(d) to promote—

(1) economic development;

(2) infrastructure development;

(3) the educational, health, recreational, and social welfare objectives of the tribe and its members; or

(4) any combination of the activities described in paragraphs (1), (2), and (3).

(c) TRIBAL PLAN REVIEW AND REVISION.—

(1) IN GENERAL.—Each tribal council referred to in subsection (a) shall make available for review and comment by the members of the tribe a copy of the tribal plan for the Indian tribe before the tribal plan becomes final, in accordance with procedures established by the tribal council.

(2) UPDATING OF TRIBAL PLAN.—Each tribal council referred to in subsection (a) may, on an annual basis, revise the tribal plan prepared by that tribal council to update the tribal plan. In revising the tribal plan under this paragraph, the tribal council shall provide the members of the tribe opportunity to review and comment on any proposed revision to the tribal plan.

(3) CONSULTATION.—In preparing the tribal plan and any revisions to update the plan, each tribal council shall consult with the Secretary of the Interior and the Secretary of Health and Human Services.

(4) ANNUAL REPORTS.—Each tribe shall submit an annual report to the Secretary describing any expenditures of funds withdrawn by that tribe under this title.

(d) PROHIBITION ON PER CAPITA PAYMENTS.—No portion of any payment made under this title may be distributed to any member of the Yankton Sioux Tribe or the Santee Sioux Tribe of Nebraska on a per capita basis.

SEC. 207. ELIGIBILITY OF TRIBE FOR CERTAIN PROGRAMS AND SERVICES.

(a) IN GENERAL.—No payment made to the Yankton Sioux Tribe or Santee Sioux Tribe pursuant to this title shall result in the reduction or denial of any service or program to which, pursuant to Federal law—

(1) the Yankton Sioux Tribe or Santee Sioux Tribe is otherwise entitled because of the status of the tribe as a federally recognized Indian tribe; or

(2) any individual who is a member of a tribe under paragraph (1) is entitled because of the status of the individual as a member of the tribe.

(b) EXEMPTIONS FROM TAXATION.—No payment made pursuant to this title shall be subject to any Federal or State income tax.

(c) POWER RATES.—No payment made pursuant to this title shall affect Pick-Sloan Missouri River Basin power rates.

SEC. 208. STATUTORY CONSTRUCTION.

Nothing in this title may be construed as diminishing or affecting any water right of an Indian tribe, except as specifically provided in another provision of this title, any treaty right that is in effect on the date of enactment of this Act, or any authority of the Secretary of the Interior or the head of any other Federal agency under a law in effect on the date of enactment of this Act.

SEC. 209. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title, including such sums as may be necessary for the administration of the Yankton Sioux Tribe Development Trust Fund under section 204 and the Santee Sioux Tribe Development Trust Fund under section 205.

SEC. 210. EXTINGUISHMENT OF CLAIMS.

Upon the deposit of funds under sections 204(b) and 205(b), all monetary claims that the Yankton Sioux Tribe or the Santee Sioux Tribe of Nebraska has or may have against the United States for loss of value or use of land related to lands described in section 202(a)(10) resulting from the Fort Randall and Gavins Point projects of the Pick-Sloan Missouri River Basin program shall be extinguished.

TITLE III—OKLAHOMA NATIVE AMERICAN CULTURAL CENTER AND MUSEUM

SEC. 301. OKLAHOMA NATIVE AMERICAN CULTURAL CENTER AND MUSEUM.

(a) FINDINGS.—Congress makes the following findings:

(1) In order to promote better understanding between Indian and non-Indian citizens of the United States, and in light of the Federal Government's continuing trust responsibilities to Indian tribes, it is appropriate, desirable, and a proper function of the Federal Government to provide grants for the development of a museum designated to display the heritage and culture of Indian tribes.

(2) In recognition of the unique status and history of Indian tribes in the State of Oklahoma and the role of the Federal Government in such history, it is appropriate and proper for the museum referred to in paragraph (1) to be located in the State of Oklahoma.

(b) GRANT.—

(1) IN GENERAL.—The Secretary shall offer to award financial assistance equaling not more than $33,000,000 and technical assistance to the Authority to be used for the development and construction of a Native American Cultural Center and Museum in Oklahoma City, Oklahoma.

(2) AGREEMENT.—To be eligible to receive a grant under paragraph (1), the appropriate official of the Authority shall—

(A) enter into a grant agreement with the Secretary which shall specify the duties of the Authority under this section, including provisions for continual maintenance of the Center by the Authority without the use of Federal funds; and

(B) demonstrate, to the satisfaction of the Secretary, that the Authority has raised, or has commitments from private persons or State or local government agencies for, an amount that is equal to not less than 66 percent of the cost to the Authority of the activities to be carried out under the grant.

(3) LIMITATION.—The amount of any grant awarded under paragraph (1) shall not exceed 33 percent of the cost of the activities to be funded under the grant.

(4) IN-KIND CONTRIBUTION.—When calculating the cost share of the Authority under this title, the Secretary shall reduce such cost share obligation by the fair market value of the approximately 300 acres of land donated by Oklahoma City for the Center, if such land is used for the Center.

(c) DEFINITIONS.—For the purposes of this title:

(1) AUTHORITY.—The term ''Authority'' means the Native American Cultural and Educational Authority of Oklahoma, an agency of the State of Oklahoma.

(2) CENTER.—The term ''Center'' means the Native American Cultural Center and Museum authorized pursuant to this section.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to grant assistance under subsection (b)(1), $8,250,000 for each of fiscal years 2003 through 2006.

TITLE IV—TRANSMISSION OF POWER FROM INDIAN LANDS IN OKLAHOMA

SEC. 401. TRANSMISSION OF POWER FROM INDIAN LANDS IN OKLAHOMA.

To the extent the Southwestern Power Administration makes transmission capacity available without replacing the present capacity of existing users of the Administration's transmission system, the Administrator of the Southwestern Power Administration shall take such actions as may be necessary, in accordance with all applicable Federal law, to make the transmission services of the Administration available for the transmission of electric power generated at facilities located on land within the jurisdictional area of any Oklahoma Indian tribe (as determined by the Secretary of the Interior) recognized by the Secretary as eligible for trust land status under 25 CFR Part 151. The owner or operator of the generation facilities concerned shall reimburse the Administrator for all costs of such actions in accordance with standards applicable to payment of such costs by other users of the Southwestern Power Administration transmission system.

TITLE V—PECHANGA TRIBE

SEC. 501. LAND OF PECHANGA BAND OF LUISENO MISSION INDIANS.

(a) LIMITATION ON CONVEYANCE.—Land described in subsection (b) (or any interest in that land) shall not be voluntarily or involuntarily transferred or otherwise made available for condemnation until the date on which—

(1)(A) the Secretary of the Interior renders a final decision on the fee to trust application pending on the date of the enactment of this title concerning the land; and

(B) final decisions have been rendered regarding all appeals relating to that application decision; or

(2) the fee to trust application described in paragraph (1)(A) is withdrawn.

(b) DESCRIPTION OF LAND.—The land referred to in subsection (a) is land located in Riverside County, California, that is held in fee by the Pechanga Band of Luiseno Mission Indians, as described in Document No. 211130 of the Office of the Recorder, Riverside County, California, and recorded on May 15, 2001.

(c) RULE OF CONSTRUCTION.—Nothing in this section designates, or shall be used to construe, any land described in subsection (b) (or any interest in that land) as an Indian reservation, Indian country, Indian land, or reservation land (as those terms are defined under any Federal law (including a regulation)) for any purpose under any Federal law.

TITLE VI—CHEROKEE, CHOCTAW, AND CHICKASAW NATIONS CLAIMS SETTLEMENT ACT

SEC. 601. SHORT TITLE.

This title may be cited as the ''Cherokee, Choctaw, and Chickasaw Nations Claims Settlement Act''.

SEC. 602. FINDINGS.

The Congress finds the following:

(1) It is the policy of the United States to promote tribal self-determination and economic self-sufficiency and to encourage the resolution of disputes over historical claims through mutually agreed-to settlements between Indian Nations and the United States.

(2) There are pending before the United States Court of Federal Claims certain lawsuits against the United States brought by the Cherokee, Choctaw, and Chickasaw Nations seeking monetary damages for the alleged use and mismanagement of tribal resources along the Arkansas River in eastern Oklahoma.

(3) The Cherokee Nation, a federally recognized Indian tribe with its present tribal headquarters south of Tahlequah, Oklahoma, having adopted its most recent constitution on June 26, 1976, and having entered into various treaties with the United States, including but not limited to the Treaty at Hopewell, executed on November 28, 1785 (7 Stat. 18), and the Treaty at Washington, D.C., executed on July 19, 1866 (14 Stat. 799), has maintained a continuous government-to-government relationship with the United States since the earliest years of the Union.

(4) The Choctaw Nation, a federally recognized Indian tribe with its present tribal headquarters in Durant, Oklahoma, having adopted its most recent constitution on July 9, 1983, and having entered into various treaties with the United States of America, including but not limited to the Treaty at Hopewell, executed on January 3, 1786 (7 Stat. 21), and the Treaty at Washington, D.C., executed on April 28, 1866 (7 Stat. 21), has maintained a continuous government-to-government relationship with the United States since the earliest years of the Union.

(5) The Chickasaw Nation, a federally recognized Indian tribe with its present tribal headquarters in Ada, Oklahoma, having adopted its most recent constitution on August 27, 1983, and having entered into various treaties with the United States of America, including but not limited to the Treaty at Hopewell, executed on January 10, 1786 (7 Stat. 24), and the Treaty at Washington, D.C., executed on April 28, 1866 (7 Stat. 21), has maintained a continuous government-to-government relationship with the United States since the earliest years of the Union.

(6) In the first half of the 19th century, the Cherokee, Choctaw, and Chickasaw Nations were forcibly removed from their homelands in the southeastern United States to lands west of the Mississippi in the Indian Territory that were ceded to them by the United States. From the ''Three Forks'' area near present day Muskogee, Oklahoma, downstream to the point of confluence with the Canadian River, the Arkansas River flowed entirely within the territory of the Cherokee Nation. From that point of confluence downstream to the Arkansas territorial line, the Arkansas River formed the boundary between the Cherokee Nation on the left side of the thread of the river and the Choctaw and Chickasaw Nations on the right.

(7) Pursuant to the Act of April 30, 1906 (34 Stat. 137), tribal property not allotted to individuals or otherwise disposed of, including the bed and banks of the Arkansas River, passed to the United States in trust for the use and benefit of the respective Indian Nations in accordance with their respective interests therein.

(8) For more than 60 years after Oklahoma statehood, the Bureau of Indian Affairs believed that Oklahoma owned the Riverbed from the Arkansas State line to Three Forks, and therefore took no action to protect the Indian Nations' Riverbed resources such as oil, gas, and Drybed Lands suitable for grazing and agriculture.

(9) Third parties with property near the Arkansas River began to occupy the Indian Nations' Drybed Lands—lands that were under water at the time of statehood but that are now dry due to changes in the course of the river.

(10) In 1966, the Indian Nations sued the State of Oklahoma to recover their lands. In 1970, the Supreme Court of the United States decided in the case of Choctaw Nation vs. Oklahoma (396 U.S. 620), that the Indian Nations retained title to their respective portions of the Riverbed along the navigable reach of the river.

(11) In 1987, the Supreme Court of the United States in the case of United States vs. Cherokee Nation (480 U.S. 700) decided that the riverbed lands did not gain an exemption from the Federal Government's navigational servitude and that the Cherokee Nation had no right to compensation for damage to its interest by exercise of the Government's servitude.

(12) In 1989, the Indian Nations filed lawsuits against the United States in the United States Court of Federal Claims (Case Nos. 218–89L and 630–89L), seeking damages for the United States' use and mismanagement of tribal trust resources along the Arkansas River. Those actions are still pending.

(13) In 1997, the United States filed quiet title litigation against individuals occupying some of the Indian Nations' Drybed Lands. That action, filed in the United States District Court for the Eastern District of Oklahoma, was dismissed without prejudice on technical grounds.

(14) Much of the Indian Nations' Drybed Lands have been occupied by a large number of adjacent landowners in Oklahoma. Without Federal legislation, further litigation against thousands of such landowners would be likely and any final resolution of disputes would take many years and entail great expense to the United States, the Indian Nations, and the individuals and entities occupying the Drybed Lands and would seriously impair long-term economic planning and development for all parties.

(15) The Councils of the Cherokee and Choctaw Nations and the Legislature of the Chickasaw Nation have each enacted tribal resolutions which would, contingent upon the passage of this title and the satisfaction of its terms and in exchange for the moneys appropriated hereunder—

(A) settle and forever release their respective claims against the United States asserted by them in United States Court of Federal Claims Case Nos. 218–89L and 630–89L; and

(B) forever disclaim any and all right, title, and interest in and to the Disclaimed Drybed Lands, as set forth in those enactments of the respective councils of the Indian Nations.

(16) The resolutions adopted by the respective Councils of the Cherokee, Choctaw, and Chickasaw Nations each provide that, contingent upon the passage of the settlement legislation and satisfaction of its terms, each Indian Nation agrees to dismiss, release, and forever discharge its claims asserted against the United States in the United State Court of Federal Claims, Case Nos. 218–89L and 630–89L, and to forever disclaim any right, title, or interest of the Indian Nation in the Disclaimed Drybed Lands, in exchange for the funds appropriated and allocated to the Indian Nation under the provisions of the settlement legislation, which funds the Indian Nation agrees to accept in full satisfaction and settlement of all claims against the United States for the damages sought in the aforementioned claims asserted in the United States Court of Federal Claims, and as full and fair compensation for disclaiming its right, title, and interest in the Disclaimed Drybed Lands.

(17) In those resolutions, each Indian Nation expressly reserved all of its beneficial interest and title to all other Riverbed lands, including minerals, as determined by the Supreme Court in Choctaw Nation v. Oklahoma, 397 U.S. 620 (1970), and further reserved any and all right, title, or interest that each Nation may have in and to the water flowing in the Arkansas River and its tributaries.

SEC. 603. PURPOSES.

The purposes of this title are to resolve all claims that have been or could have been brought by the Cherokee, Choctaw, and Chickasaw Nations against the United States, and to confirm that the Indian Nations are forever disclaiming any right, title, or interest in the Disclaimed Drybed Lands, which are contiguous to the channel of the Arkansas River as of the date of the enactment of this title in certain townships in eastern Oklahoma.

SEC. 604. DEFINITIONS.

For the purposes of this title, the following definitions apply:

(1) DISCLAIMED DRYBED LANDS.—The term ''Disclaimed Drybed Lands'' means all Drybed Lands along the Arkansas River that are located in Township 10 North in Range 24 East, Townships 9 and 10 North in Range 25 East, Township 10 North in Range 26 East, and Townships 10 and 11 North in Range 27 East, in the State Oklahoma.

(2) DRYBED LANDS.—The term ''Drybed Lands'' means those lands which, on the date of enactment of this title, lie above and contiguous to the mean high water mark of the Arkansas River in the State of Oklahoma. The term ''Drybed Lands'' is intended to have the same meaning as the term ''Upland Claim Area'' as used by the Bureau of Land Management Cadastral Survey Geographic Team in its preliminary survey of the Arkansas River. The term ''Drybed Lands'' includes any lands so identified in the ''Holway study.''

(3) INDIAN NATION; INDIAN NATIONS.—The term ''Indian Nation'' means the Cherokee Nation, Choctaw Nation, or Chickasaw Nation, and the term ''Indian Nations'' means all 3 tribes collectively.

(4) RIVERBED.—The term ''Riverbed'' means the Drybed Lands and the Wetbed Lands and includes all minerals therein.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(6) WETBED LANDS.—The term ''Wetbed Lands'' means those Riverbed lands which lie below the mean high water mark of the Arkansas River in the State of Oklahoma as of the date of the enactment of this title, exclusive of the Drybed Lands. The term Wetbed Land is intended to have the same meaning as the term ''Present Channel Claim Areas'' as utilized by the Bureau of Land Management Cadastral Survey Geographic Team in its preliminary survey of the Arkansas River.

SEC. 605. SETTLEMENT AND CLAIMS; APPROPRIATIONS; ALLOCATION OF FUNDS.

(a) EXTINGUISHMENT OF CLAIMS.—Pursuant to their respective tribal resolutions, and in exchange for the benefits conferred under this title, the Indian Nations shall, on the date of enactment of this title, enter into a consent decree with the United States that waives, releases, and dismisses all the claims they have asserted or could have asserted in their cases numbered 218–89L and 630–89L pending in the United States Court of Federal Claims against the United States, including but not limited to claims arising out of any and all of the Indian Nations' interests in the Disclaimed Drybed Lands and arising out of construction, maintenance and operation of the McClellan-Kerr Navigation Way. The Indian Nations and the United States shall lodge the consent decree with the Court of Federal Claims within 30 days of the enactment of this title, and shall move for entry of the consent decree at such time as all appropriations by Congress pursuant to the authority of this title have been made and deposited into the appropriate tribal trust fund account of the Indian Nations as described in section 606. Upon entry of the consent decree, all the Indian Nations' claims and all their past, present, and future right, title, and interest to the Disclaimed Drybed Lands, shall be deemed extinguished. No claims may be asserted in the future against the United States pursuant to sections 1491, 1346(a)(2), or 1505 of title 28, United States Code, for actions taken or failed to have been taken by the United States for events occurring prior to the date of the extinguishment of claims with respect to the Riverbed.

(b) RELEASE OF TRIBAL CLAIMS TO CERTAIN DRYBED LANDS.—

(1) IN GENERAL.—Upon the deposit of all funds authorized for appropriation under subsection (c) for an Indian Nation into the appropriate trust fund account described in section 606—

(A) all claims now existing or which may arise in the future with respect to the Disclaimed Drybed lands and all right, title, and interest that the Indian Nations and the United States as trustee on behalf of the Indian Nation may have to the Disclaimed Drybed Lands, shall be deemed extinguished;

(B) any interest of the Indian Nations or the United States as trustee on their behalf in the Disclaimed Drybed Lands shall further be extinguished pursuant to the Trade and Intercourse Act of 1790, Act of July 22, 1790 (ch. 33, 1 Stat. 137), and all subsequent amendments thereto (as codified at 25 U.S.C. 177);

(C) to the extent parties other than the Indian Nations have transferred interests in the Disclaimed Drybed Lands in violation of the Trade and Intercourse Act, Congress does hereby approve and ratify such transfers of interests in the Disclaimed Drybed Lands to the extent that such transfers otherwise are valid under law; and

(D) the Secretary is authorized to execute an appropriate document citing this title, suitable for filing with the county clerks, or such other county official as appropriate, of those counties wherein the foregoing described lands are located, disclaiming any tribal or Federal interest on behalf of the Indian Nations in such Disclaimed Drybed Lands. The Secretary is authorized to file with the counties a plat or map of the disclaimed lands should the Secretary determine that such filing will clarify the extent of lands disclaimed. Such a plat or map may be filed regardless of whether the map or plat has been previously approved for filing, whether or not the map or plat has been filed, and regardless of whether the map or plat constitutes a final determination by the Secretary of the extent of the Indian Nations' original claim to the Disclaimed Drybed Lands. The disclaimer filed by the United States shall constitute a disclaimer of the Disclaimed Drybed Lands for purposes of the Trade and Intercourse Act (25 U.S.C. 177).

(2) SPECIAL PROVISIONS.—Notwithstanding any provision of this title—

(A) the Indian Nations do not relinquish any right, title, or interest in any lands which constitute the Wetbed Lands subject to the navigational servitude exercised by the United States on the Wetbed Lands. By virtue of the exercise of the navigational servitude, the United States shall not be liable to the Indian Nations for any loss they may have related to the minerals in the Wetbed Lands;

(B) no provision of this title shall be construed to extinguish or convey any water rights of the Indian Nations in the Arkansas River or any other stream or the beneficial interests or title of any of the Indian Nations in and to lands held in trust by the United States on the date of enactment of this title which lie above or below the mean high water mark of the Arkansas River, except for the Disclaimed Drybed Lands; and

(C) the Indian Nations do not relinquish any right, title, or interest in any lands or minerals of certain unallotted tracts which are identified in the official records of the Eastern Oklahoma Regional Office, Bureau of Indian Affairs. The disclaimer to be filed by the Secretary of the Interior under section 605(b)(1) of this title shall reflect the legal description of the unallotted tracts retained by the Nations.

(3) SETOFF.—In the event the Court of Federal Claims does not enter the consent decree as set forth in subsection (a), the United States shall be entitled to setoff against any claims of the Indian Nations as set forth in subsection (a), any funds transferred to the Indian Nations pursuant to section 606, and any interest accrued thereon up to the date of setoff.

(4) QUIET TITLE ACTIONS.—Notwithstanding any other provision of law, neither the United States nor any department of the United States nor the Indian Nations shall be made parties to any quiet title lawsuit or other lawsuit to determine ownership of or an interest in the Disclaimed Drybed Lands

initiated by any private person or private entity after execution of the disclaimer set out in section 605(b)(1). The United States will have no obligation to undertake any future quiet title actions or actions for the recovery of lands or funds relating to any Drybed Lands retained by the Indian Nation or Indian Nations under this title, including any lands which are Wetbed Lands on the date of enactment of this title, but which subsequently lie above the mean high water mark of the Arkansas River and the failure or declination to initiate any quiet title action or to manage any such Drybed Lands shall not constitute a breach of trust by the United States or be compensable to the Indian Nation or Indian Nations in any manner.

(5) LAND TO BE CONVEYED IN FEE.—To the extent that the United States determines that it is able to effectively maintain the McClellan-Kerr Navigation Way without retaining title to lands above the high water mark of the Arkansas River as of the date of enactment of this title, said lands, after being declared surplus, shall be conveyed in fee to the Indian Nation within whose boundary the land is located. The United States shall not be obligated to accept such property in trust.

(c) AUTHORIZATION FOR SETTLEMENT APPROPRIATIONS.—There is authorized to be appropriated an aggregate sum of $40,000,000 as follows:

(1) $10,000,000 for fiscal year 2004.

(2) $10,000,000 for fiscal year 2005.

(3) $10,000,000 for fiscal year 2006.

(4) $10,000,000 for fiscal year 2007.

(d) ALLOCATION AND DEPOSIT OF FUNDS.—After payment pursuant to section 607, the remaining funds authorized for appropriation under subsection (c) shall be allocated among the Indian Nations as follows:

(1) 50 percent to be deposited into the trust fund account established under section 606 for the Cherokee Nation.

(2) 37.5 percent to be deposited into the trust fund account established under section 606 for the Choctaw Nation.

(3) 12.5 percent to be deposited into the trust fund account established under section 606 for the Chickasaw Nation.

SEC. 606. TRIBAL TRUST FUNDS.

(a) ESTABLISHMENT, PURPOSE, AND MANAGEMENT OF TRUST FUNDS.—

(1) ESTABLISHMENT.—There are hereby established in the United States Treasury 3 separate tribal trust fund accounts for the benefit of each of the Indian Nations, respectively, for the purpose of receiving all appropriations made pursuant to section 605(c), and allocated pursuant to section 605(d).

(2) AVAILABILITY OF AMOUNTS IN TRUST FUND ACCOUNTS.—Amounts in the tribal trust fund accounts established by this section shall be available to the Secretary for management and investment on behalf of the Indian Nations and distribution to the Indian Nations in accordance with this title. Funds made available from the tribal trust funds under this section shall be available without fiscal year limitation.

(b) MANAGEMENT OF FUNDS.—

(1) LAND ACQUISITION.—

(A) TRUST LAND STATUS PURSUANT TO REGULATIONS.—The funds appropriated and allocated to the Indian Nations pursuant to sections 205(c) and (d), and deposited into trust fund accounts pursuant to section 606(a), together with any interest earned thereon, may be used for the acquisition of land by the Indian Nations. The Secretary may accept such lands into trust for the beneficiary Indian Nation pursuant to the authority provided in section 5 of the Act of June 18, 1934 (25 U.S.C. 465) and in accordance with the Secretary's trust land acquisition regulations at part 151 of title 25, Code of Federal Regulations, in effect at the time of the acquisition, except for those acquisitions covered by paragraph (1)(B).

(B) REQUIRED TRUST LAND STATUS.—Any such trust land acquisitions on behalf of the Cherokee Nation shall be mandatory if the land proposed to be acquired is located within Township 12 North, Range 21 East, in Sequoyah County, Township 11 North, Range 18 East, in McIntosh County, Townships 11 and 12 North, Range 19 East, or Township 12 North, Range 20 East, in Muskogee County, Oklahoma, and not within the limits of any incorporated municipality as of January 1, 2002, if—

(i) the land proposed to be acquired meets the Department of the Interior's minimum environmental standards and requirements for real estate acquisitions set forth in 602 DM 2.6, or any similar successor standards or requirements for real estate acquisitions in effect on the date of acquisition; and

(ii) the title to such land meets applicable Federal title standards in effect on the date of the acquisition.

(C) OTHER EXPENDITURE OF FUNDS.—The Indian Nations may elect to expend all or a portion of the funds deposited into its trust account for any other purposes authorized under paragraph (2).

(2) INVESTMENT OF TRUST FUNDS; NO PER CAPITA PAYMENT.—

(A) NO PER CAPITA PAYMENTS.—No money received by the Indian Nations hereunder may be used for any per capita payment.

(B) INVESTMENT BY SECRETARY.—Except as provided in this section and section 607, the principal of such funds deposited into the accounts established hereunder and any interest earned thereon shall be invested by the Secretary in accordance with current laws and regulations for the investing of tribal trust funds.

(C) USE OF PRINCIPAL FUNDS.—The principal amounts of said funds and any amounts earned thereon shall be made available to the Indian Nation for which the account was established for expenditure for purposes which may include construction or repair of health care facilities, law enforcement, cultural or other educational activities, economic development, social services, and land acquisition. Land acquisition using such funds shall be subject to the provisions of subsections (b) and (d).

(3) DISBURSEMENT OF FUNDS.—The Secretary shall disburse the funds from a trust account established under this section pursuant to a budget adopted by the Council or Legislature of the Indian Nation setting forth the amount and an intended use of such funds.

(4) ADDITIONAL RESTRICTION ON USE OF FUNDS.—None of the funds made available under this title may be allocated or otherwise assigned to authorized purposes of the Arkansas River Multipurpose Project as authorized by the River and Harbor Act of 1946, as amended by the Flood Control Act of 1948 and the Flood Control Act of 1950.

SEC. 607. ATTORNEY FEES.

(a) PAYMENT.—At the time the funds are paid to the Indian Nations, from funds authorized to be appropriated pursuant to section 605(c), the Secretary shall pay to the Indian Nations' attorneys those fees provided for in the individual tribal attorney fee contracts as approved by the respective Indian Nations.

(b) LIMITATIONS.—Notwithstanding subsection (a), the total fees payable to attorneys under such contracts with an Indian Nation shall not exceed 10 percent of that Indian Nation's allocation of funds appropriated under section 605(c).

SEC. 608. RELEASE OF OTHER TRIBAL CLAIMS AND FILING OF CLAIMS.

(a) EXTINGUISHMENT OF OTHER TRIBAL CLAIMS.—

(1) IN GENERAL.—As of the date of enactment of this title—

(A) all right, title, and interest of any Indian nation or tribe other than any Indian Nation defined in section 604 (referred to in this section and section 609 as a ''claimant tribe'') in or to the Disclaimed Drybed Lands, and any such right, title, or interest held by the United States on behalf of such a claimant tribe, shall be considered to be extinguished in accordance with section 177 of title 25, United States Code (section 2116 of the Revised Statutes);

(B) if any party other than a claimant tribe holds transferred interests in or to the Disclaimed Drybed Lands in violation of section 177 of title 25, United States Code (section 2116 of the Revised Statutes), Congress approves and ratifies those transfers of interests to the extent that the transfers are in accordance with other applicable law; and

(C) the documents described in section 605(b)(1)(D) shall serve to identify the geographic scope of the interests extinguished by subparagraph (A).

(2) QUIET TITLE ACTIONS.—

(A) IN GENERAL.—Notwithstanding any other provision of law, after the date of enactment of this title, neither the United States (or any department or agency of the United States) nor any Indian Nation shall be included as a party to any civil action brought by any private person or private entity to quiet title to, or determine ownership of an interest in or to, the Disclaimed Drybed Lands.

(B) FUTURE ACTIONS.—As of the date of enactment of this title, the United States shall have no obligation to bring any civil action to quiet title to, or to recover any land or funds relating to, the Drybed Lands (including any lands that are Wetbed Lands as of the date of enactment of this title but that are located at any time after that date above the mean high water mark of the Arkansas River).

(C) NO BREACH OF TRUST.—The failure or declination by the United States to initiate any civil action to quiet title to or manage any Drybed Lands under this paragraph shall not—

(i) constitute a breach of trust by the United States; or

(ii) be compensable to a claimant tribe in any manner.

(b) CLAIMS OF OTHER INDIAN TRIBES.—

(1) LIMITED PERIOD FOR FILING CLAIMS.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of this title, any claimant tribe that claims that any title, interest, or entitlement held by the claimant tribe has been extinguished by operation of section 605(a) or subsection 608(a) may file a claim against the United States relating to the extinguishment in the United States Court of Federal Claims.

(B) FAILURE TO FILE.—After the date described in subparagraph (A), a claimant tribe described in that subparagraph shall be barred from filing any claim described in that subparagraph.

(2) SPECIAL HOLDING ACCOUNT.—

(A) ESTABLISHMENT.—There is established in the Treasury, in addition to the accounts established by section 606(a), an interest-bearing special holding account for the benefit of the Indian Nations.

(B) DEPOSITS.—Notwithstanding any other provision of this title or any other law, of any funds that would otherwise be deposited in a tribal trust account established by section 606(a), 10 percent shall—

(i) be deposited in the special holding account established by subparagraph (A); and

(ii) be held in that account for distribution under paragraph (3).

(3) DISTRIBUTION OF FUNDS.—

(A) IN GENERAL.—Funds deposited in the special holding account established by paragraph (2)(A) shall be distributed in accordance with subparagraphs (B) through (D).

(B) CLAIM FILED.—If a claim under paragraph (1)(A) is filed by the deadline specified in that paragraph, on final adjudication of that claim—

(i) if the final judgment awards to a claimant an amount that does not exceed the amount of funds in the special holding account under paragraph (2) attributable to the Indian Nation from the allocation of which under section 605(d) the funds in the special holding account are derived—

(I) that amount shall be distributed from the special holding account to the claimant tribe that filed the claim; and

(II) any remaining amount in the special holding account attributable to the claim shall be transferred to the appropriate tribal trust account for the Indian Nation established by section 606(a); and

(ii) if the final judgment awards to a claimant an amount that exceeds the amount of funds in the special holding account attributable to the Indian Nation from the allocation of which under section 605(d) the funds in the special holding account are derived—

(I) the balance of funds in the special holding account attributable to the Indian Nation shall be distributed to the claimant tribe that filed the claim; and

(II) payment of the remainder of the judgment amount awarded to the claimant tribe shall be made from the permanent judgment appropriation established pursuant to section 1304 of title 31, United States Code.

(C) NO CLAIMS FILED.—If no claims under paragraph (1)(A) are filed by the deadline specified that paragraph—

(i) any funds held in the special holding account under paragraph (2) and attributed to that Indian Nation shall be deposited in the appropriate tribal trust account established by section 6(a); and

(ii) after the date that is 180 days after the date of enactment of this title, paragraph (2)(B) shall not apply to appropriations attributed to that Indian Nation.

(c) DECLARATION WITH RESPECT TO SCOPE OF RIGHTS, TITLE, AND INTERESTS.—Congress declares that—

(1) subsection (b) is intended only to establish a process by which alleged claims may be resolved; and

(2) nothing in this section acknowledges, enhances, or establishes any prior right, title, or interest of any claimant tribe in or to the Arkansas Riverbed.

SEC. 609. EFFECT ON CLAIMS.

This title shall not be construed to resolve any right, title, or interest of any Indian nation or of any claimant tribe, except their past, present, or future claims relating to right, title, or interest in or to the Riverbed and the obligations and liabilities of the United States thereto.

TITLE VII—SEMINOLE TRIBE

SEC. 701. APPROVAL NOT REQUIRED TO VALIDATE CERTAIN LAND TRANSACTIONS.

(a) TRANSACTIONS.—The Seminole Tribe of Florida may mortgage, lease, sell, convey, warrant, or otherwise transfer all or any part of any interest in any real property that—

(1) was held by the Tribe on September 1, 2002; and

(2) is not held in trust by the United States for the benefit of the Tribe.

(b) NO FURTHER APPROVAL REQUIRED.—Transactions under subsection (a) shall be valid without further approval, ratification, or authorization by the United States.

(c) TRUST LAND NOT AFFECTED.—Nothing in this section is intended or shall be construed to—

(1) authorize the Seminole Tribe of Florida to mortgage, lease, sell, convey, warrant, or otherwise transfer all or any part of an interest in any real property that is held in trust by the United States for the benefit of the Tribe; or

(2) affect the operation of any law governing mortgaging, leasing, selling, conveying, warranting, or otherwise transferring any interest in such trust land.

TITLE VIII—JICARILLA APACHE RESERVATION RURAL WATER SYSTEM

SEC. 801. SHORT TITLE.

This title may be cited as the ''Jicarilla Apache Reservation Rural Water System Act''.

SEC. 802. PURPOSES.

The purposes of this title are as follows:

(1) To ensure a safe and adequate rural, municipal, and water supply and wastewater systems for the residents of the Jicarilla Apache Reservation in the State of New Mexico in accordance with Public Law 106–243.

(2) To authorize the Secretary of the Interior, through the Bureau of Reclamation, in consultation and collaboration with the Jicarilla Apache Nation—

(A) to plan, design, and construct the water supply, delivery, and wastewater collection systems on the Jicarilla Apache Reservation in the State of New Mexico; and

(B) to include service connections to facilities within the town of Dulce and the surrounding area, and to individuals as part of the construction.

(3) To require the Secretary, at the request of the Jicarilla Apache Nation, to enter into a self-determination contract with the Jicarilla Apache Nation under title I of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f et seq.) under which—

(A) the Jicarilla Apache Nation shall plan, design, and construct the water supply, delivery, and wastewater collection systems, including service connections to communities and individuals; and

(B) the Bureau of Reclamation shall provide technical assistance and oversight responsibility for such project.

(4) To establish a process in which the Jicarilla Apache Nation shall assume title and responsibility for the ownership, operation, maintenance, and replacement of the system.

SEC. 803. DEFINITIONS.

As used in this title:

(1) BIA.—The term ''BIA'' means the Bureau of Indian Affairs, an agency within the Department of the Interior.

(2) IRRIGATION.—The term ''irrigation'' means the commercial application of water to land for the purpose of establishing or maintaining commercial agriculture in order to produce field crops and vegetables for sale.

(3) RECLAMATION.—The term ''Reclamation'' means the Bureau of Reclamation, an agency within the Department of the Interior.

(4) REPORT.—The term ''Report'' means the report entitled ''Planning Report/Environmental Assessment, Water and Wastewater Improvements, Jicarilla Apache Nation, Dulce, New Mexico'', dated September 2001, which was completed pursuant to Public Law 106–243.

(5) RESERVATION.—The term ''Reservation'' means the Jicarilla Apache Reservation in the State of New Mexico, including all lands and interests in land that are held in trust by the United States for the Tribe.

(6) RURAL WATER SUPPLY PROJECT.—The term ''Rural Water Supply Project'' means a municipal, domestic, rural, and industrial water supply and wastewater facility area and project identified to serve a group of towns, communities, cities, tribal reservations, or dispersed farmsteads with access to clean, safe domestic and industrial water, to include the use of livestock.

(7) STATE.—The term ''State'' means the State of New Mexico.

(8) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Bureau of Reclamation.

(9) TRIBE.—The term ''Tribe'' means the Jicarilla Apache Nation.

SEC. 804. JICARILLA APACHE RESERVATION RURAL WATER SYSTEM.

(a) CONSTRUCTION.—The Secretary, in consultation and collaboration with the Tribe, shall plan, design, and construct the Rural Water Supply Project to improve the water supply, delivery, and wastewater facilities to the town of Dulce, New Mexico, and surrounding communities for the purpose of providing the benefits of clean, safe, and reliable water supply, delivery, and wastewater facilities.

(b) SCOPE OF PROJECT.—The Rural Water Supply Project shall consist of the following:

(1) Facilities to provide water supply, delivery, and wastewater services for the community of Dulce, the Mundo Ranch Development, and surrounding areas on the Reservation.

(2) Pumping and treatment facilities located on the Reservation.

(3) Distribution, collection, and treatment facilities to serve the needs of the Reservation, including, but not limited to, construction, replacement, improvement, and repair of existing water and wastewater systems, including systems owned by individual tribal members and other residents on the Reservation.

(4) Appurtenant buildings and access roads.

(5) Necessary property and property rights.

(6) Such other electrical power transmission and distribution facilities, pipelines, pumping plants, and facilities as the Secretary deems necessary or appropriate to meet the water supply, economic, public health, and environmental needs of the Reservation, including, but not limited to, water storage tanks, water lines, maintenance equipment, and other facilities for the Tribe on the Reservation.

(c) COST SHARING.—

(1) TRIBAL SHARE.—Subject to paragraph (3) and subsection (d), the tribal share of the cost of the Rural Water Supply Project is comprised of the costs to design and initiate construction of the wastewater treatment plant, to replace the diversion structure on the Navajo River, and to construct raw water settling ponds, a water treatment plant, water storage plants, a water transmission pipeline, and distribution pipelines, and has been satisfied.

(2) FEDERAL SHARE.—Subject to paragraph (3) and subsection (d), the Federal share of the cost of the Rural Water Supply Project shall be all remaining costs of the project identified in the Report.

(3) OPERATION AND MAINTENANCE.—The Federal share of the cost of operation and maintenance of the Rural Water Supply Project shall continue to be available for operation and maintenance in accordance with the Indian Self-Determination Act, as set forth in this title.

(d) OPERATION, MAINTENANCE, AND REPLACEMENT AFTER COMPLETION.—Upon determination by the Secretary that the Rural Water Supply Project is substantially complete, the Tribe shall assume responsibility

for and liability related to the annual operation, maintenance, and replacement cost of the project in accordance with this title and the Operation, Maintenance, and Replacement Plan under chapter IV of the Report.

SEC. 805. GENERAL AUTHORITY.

The Secretary is authorized to enter into contracts, grants, cooperative agreements, and other such agreements and to promulgate such regulations as may be necessary to carry out the purposes and provisions of this title and the Indian Self-Determination Act (Public Law 93–638; 25 U.S.C. 450 et seq.).

SEC. 806. PROJECT REQUIREMENTS.

(a) PLANS.—

(1) PROJECT PLAN.—Not later than 60 days after funds are made available for this purpose, the Secretary shall prepare a recommended project plan, which shall include a general map showing the location of the proposed physical facilities, conceptual engineering drawings of structures, and general standards for design for the Rural Water Supply Project.

(2) OM&R PLAN.—The Tribe shall develop an operation, maintenance, and replacement plan, which shall provide the necessary framework to assist the Tribe in establishing rates and fees for customers of the Rural Water Supply Project.

(b) CONSTRUCTION MANAGER.—The Secretary, through Reclamation and in consultation with the Tribe, shall select a project construction manager to work with the Tribe in the planning, design, and construction of the Rural Water Supply Project.

(c) MEMORANDUM OF AGREEMENT.—The Secretary shall enter into a memorandum of agreement with the Tribe that commits Reclamation and BIA to a transition plan that addresses operations and maintenance of the Rural Water Supply Project while the facilities are under construction and after completion of construction.

(d) OVERSIGHT.—The Secretary shall have oversight responsibility with the Tribe and its constructing entity and shall incorporate value engineering analysis as appropriate to the Rural Water Supply Project.

(e) TECHNICAL ASSISTANCE.—The Secretary shall provide such technical assistance as may be necessary to the Tribe to plan, develop, and construct the Rural Water Supply Project, including, but not limited to, operation and management training.

(f) SERVICE AREA.—The service area of the Rural Water Supply Project shall be within the boundaries of the Reservation.

(g) OTHER LAW.—The planning, design, construction, operation, and maintenance of the Rural Water Supply Project shall be subject to the provisions of the Indian Self-Determination Act (25 U.S.C. 450 et seq.).

(h) REPORT.—During the year that construction of the Rural Water Supply Project begins and annually until such construction is completed, the Secretary, through Reclamation and in consultation with the Tribe, shall report to Congress on the status of the planning, design, and construction of the Rural Water Supply Project.

(i) TITLE.—Title to the Rural Water Supply Project shall be held in trust for the Tribe by the United States and shall not be transferred or encumbered without a subsequent Act of Congress.

SEC. 807. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this title $45,000,000 (January 2002 dollars) plus or minus such amounts, if any, as may be justified by reason of changes in construction costs as indicated by engineering cost indexes applicable to the types of construction involved for the planning, design, and construction of the Rural Water Supply Project as generally described in the Report dated September 2001.

(b) CONDITIONS.—Funds may not be appropriated for the construction of any project authorized under this title until after—

(1) an appraisal investigation and a feasibility study have been completed by the Secretary and the Tribe; and

(2) the Secretary has determined that the plan required by section 806(a)(2) is completed.

(c) NEPA.—The Secretary shall not obligate funds for construction until after the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) are met with respect to the Rural Water Supply Project.

SEC. 808. PROHIBITION ON USE OF FUNDS FOR IRRIGATION PURPOSES.

None of the funds made available to the Secretary for planning or construction of the Rural Water Supply Project may be used to plan or construct facilities used to supply water for the purposes of irrigation.

SEC. 809. WATER RIGHTS.

The water rights of the Tribe are part of and included in the Jicarilla Apache Tribe Water Rights Settlement Act (Public Law 102–441). These rights are adjudicated under New Mexico State law as a partial final judgment and decree entered in the Eleventh Judicial District Court of New Mexico. That Act and decree provide for sufficient water rights under ''historic and existing uses'' to supply water for the municipal water system. These water rights are recognized depletions within the San Juan River basin and no new depletions are associated with the Rural Water Supply Project. In consultation with the United States Fish and Wildlife Service, Reclamation has determined that there shall be no significant impact to endangered species as a result of water depletions associated with this project. No other water rights of the Tribe shall be impacted by the Rural Water Supply Project.

TITLE IX—ROCKY BOY'S RURAL WATER SYSTEM

SEC. 901. SHORT TITLE.

This title may be cited as the ''Rocky Boy's/North Central Montana Regional Water System Act of 2002''.

SEC. 902. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the water systems serving residents of the Rocky Boy's Reservation in the State of Montana—

(A) do not meet minimum health and safety standards;

(B) pose a threat to public health and safety; and

(C) are inadequate to supply the water needs of the Chippewa Cree Tribe;

(2) the United States has a responsibility to ensure that adequate and safe water supplies are available to meet the economic, environmental, water supply, and public health needs of the Reservation;

(3) the entities administering the rural and municipal water systems in North Central Montana are having difficulty complying with regulations promulgated under the Safe Drinking Water Act (42 U.S.C. 300f et seq.); and

(4) The study, defined in section 903(k), identifies Lake Elwell, near Chester, Montana, as an available, reliable, and safe rural and municipal water supply for serving the needs of the Reservation and North Central Montana.

(b) PURPOSES.—The purposes of this title are—

(1) to ensure a safe and adequate rural, municipal, and industrial water supply for the residents of the Rocky Boy's Reservation in the State of Montana;

(2) to assist the citizens residing in Chouteau, Glacier, Hill, Liberty, Pondera, Teton, and Toole Counties, Montana, but outside the Reservation, in developing safe and adequate rural, municipal, and industrial water supplies;

(3) to authorize the Secretary of the Interior—

(A) acting through the Commissioner of Reclamation to plan, design, and construct the core and noncore systems of the Rocky Boy's/North Central Montana Regional Water System in the State of Montana; and

(B) acting through the Bureau of Indian Affairs to operate, maintain, and replace the core system and the on-Reservation water distribution systems, including service connections to communities and individuals; and

(4) to authorize the Secretary, at the request of the Chippewa Cree Tribe, to enter into self-governance agreements with the Tribe under title IV of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458aa et seq.), under which the Tribe—

(A) through the Bureau of Reclamation, will plan, design, and construct the core system of the Rocky Boy's/North Central Montana Regional Water System, and

(B) through the Bureau of Indian Affairs, will operate, maintain, and replace (including service connections to communities and individuals) the core system and the on-Reservation water distribution systems.

SEC. 903. DEFINITIONS.

In this title:

(a) AUTHORITY.—The term ''Authority'' means the North Central Montana Regional Water Authority established under State law, Mont. Code Ann. Sec. 75–6–301, et. seq. (2001), to allow public agencies to join together to secure and provide water for resale.

(b) CORE SYSTEM.—The term ''core system'' means a component of the water system as described in section 904(d) and the final engineering report.

(c) FINAL ENGINEERING REPORT.—The term ''final engineering report'' means the final engineering report prepared for the Rocky Boy's/North Central Montana Regional Water System, as approved by the Secretary of the Interior.

(d) FUND.—The term ''fund'' means the Chippewa Cree Water System Operation, Maintenance, and Replacement Trust Fund.

(e) ON-RESERVATION WATER DISTRIBUTION SYSTEMS.—The term ''on-reservation water distribution systems'' means that portion of the Rocky Boy's/North Central Montana Regional Water system served by the core system and within the boundaries of the Rocky Boy's Reservation. The on-reservation water distribution systems are described in section 904(f) and the final engineering report.

(f) NONCORE SYSTEM.—The term ''noncore system'' means the rural water system for Chouteau, Glacier, Hill, Liberty, Pondera, Teton, and Toole Counties, Montana, described in section 905(c) and the final engineering report.

(g) RESERVATION.—

(1) IN GENERAL.—The term ''Reservation'' means the Rocky Boy's Reservation in the State of Montana.

(2) INCLUSIONS.—The term ''Reservation'' includes all land and interests in land that are held in trust by the United States for the Tribe at the time of the enactment of this title.

(h) ROCKY BOY'S/NORTH CENTRAL MONTANA REGIONAL WATER SYSTEM.—The term ''Rocky Boy's/North Central Montana Regional Water System'' means—

(1) the core system;

(2) the on-reservation water distribution systems; and

(3) the non-core system.

(i) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(j) STATE.—The term ''State'' means the State of Montana.

(k) STUDY.—The term ''study'' means the study entitled ''North Central Montana Regional Water System Planning/Environmental Report'' dated May 2000.

(l) TRIBE.—The term ''Tribe'' means—

(1) the Chippewa Cree Tribe of the Rocky Boy's Reservation; and

(2) all officers, agents, and departments of the Tribe.

SEC. 904. ROCKY BOY'S RURAL WATER SYSTEM.

(a) FINAL ENGINEERING REPORT.—The following reports will serve as the basis for the final engineering report for the Rocky Boy's/North Central Montana Regional Water System—

(1) pursuant to Public Law 104–204, a study, described in section 903(k), that was conducted to study the water and related resources in North Central Montana and to evaluate alternatives for providing a municipal, rural and industrial supply of water to the citizens residing in Chouteau, Glacier, Hill, Liberty, Pondera, Teton, and Toole Counties, Montana, residing both on and off the Reservation; and

(2) pursuant to section 202 of Public Law 106–163, the Tribe has conducted, through a self-governance agreements with the Secretary of Interior, acting through the Bureau of Reclamation, a feasibility study to evaluate alternatives for providing a municipal, rural and industrial supply of water to the Reservation.

(3) The Secretary of Interior may require, through the agreements described in subsection (g) and section 905(d), that the final engineering report include appropriate additional study and analyses.

(b) CORE SYSTEM.—

(1) IN GENERAL.—The Secretary is authorized to plan, design, construct, operate, maintain, and replace the core system.

(2) FEDERAL SHARE.—

(A) The Federal share of the cost of planning, design, and construction of the core system shall be—

(i) 100 percent of the Tribal share of costs as identified in section 914; and

(ii) 80 percent of the authority's share of the total cost for the core system as identified in section 914; and

(iii) funded through annual appropriations to the Bureau of Reclamation.

(3) AGREEMENTS.—Federal funds made available to carry out this subsection may be obligated and expended only in accordance with the Agreements entered into under subsection (g).

(c) OPERATION, MAINTENANCE, AND REPLACEMENT (OM&R) CORE SYSTEM.—The cost of operation, maintenance, and replacement of the core system shall be allocated as follows—

(1) 100 percent of the Tribe's share of the OM&R costs, as negotiated in the Agreements, shall be funded through the Chippewa Cree Water System Operation, Maintenance, and Replacement Trust Fund established in section 913;

(2) 100 percent of the Authority's share of the OM&R costs, as negotiated in the Cooperative Agreements, shall be funded by the Authority and fully reimbursable to the Secretary.

Federal funds made available to carry out this subsection may be obligated and expended only in accordance with the Agreements entered into under subsection (g) and section 905(d).

(d) CORE SYSTEM COMPONENTS.—As described in the final engineering report, the core system shall consist of—

(1) intake, pumping, water storage, and treatment facilities;

(2) transmission pipelines, pumping stations, and storage facilities;

(3) appurtenant buildings, maintenance equipment, and access roads;

(4) all property and property rights necessary for the facilities described in this subsection;

(5) all interconnection facilities at the core pipeline to the noncore system; and

(6) electrical power transmission and distribution facilities necessary for services to core system facilities.

(e) AUTHORITY TO ACQUIRE PROPERTY.—Where, in carrying out the provisions of this title for construction of the core system, it becomes necessary to acquire any rights or property, the Authority, acting pursuant to State law, Mont. Code Ann. Sec. 75–6–313 (2001), is hereby authorized to acquire the same by condemnation under judicial process, and to pay such sums which may be needed for that purpose. Nothing in this section shall apply to land held in trust by the United States.

(f) ON-RESERVATION WATER DISTRIBUTION SYSTEMS—

(1) IN GENERAL.—The Secretary is authorized to operate, maintain, and replace the water distribution systems of the Reservation.

(2) OPERATION, MAINTENANCE, AND REPLACEMENT.—The cost of operation, maintenance, and replacement of the on-reservation water distribution systems shall be allocated as follows:

(A) Up to 100 percent of the Tribe's share of the OM&R costs, as negotiated in the Agreements, shall be funded through the Chippewa Cree Water System Operation, Maintenance, and Replacement Trust Fund established in section 913; and

(3) AGREEMENTS.—Federal funds made available to carry out this subsection may be obligated and expended only in accordance with the Agreements entered into under subsection (g).

(4) COMPONENTS.—As described in the final engineering report, the on-reservation water distribution systems shall consist of—

(A) water systems in existence on the date of enactment of this title that may be purchased, improved, and repaired in accordance with the Agreements entered into under subsection (g);

(B) water systems owned by individual members of the Tribe and other residents of the Reservation;

(C) any water distribution system that is upgraded to current standards, disconnected from low-quality wells; and

(D) connections.

(5) CONSTRUCTION OF NEW FACILITIES, OR EXPANSION OR REHABILITATION OF CURRENT FACILITIES.—The Tribe shall use $10,000,000 of the $15,000,000 appropriated pursuant to the Chippewa Cree Tribe of the Rocky Boy's Reservation Indian Reserved Water Rights Settlement and Water Supply Enhancement Act of 1999 (Public Law 106–163), plus accrued interest, in the purchase, construction, expansion, or rehabilitation of the on-reservation water distribution systems.

(g) AGREEMENTS.—Federal funds made available to carry out subsections (b), (c), and (f) may be obligated and expended only in accordance with the agreements entered into under this subsection.

(1) IN GENERAL.—At the request of the Tribe, the Secretary shall enter into self-governance agreements under title IV of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458aa et seq.) with the Tribe, in accordance with this title—

(A) through the Bureau of Reclamation, to plan, design, and construct the core system; and

(B) through the Bureau of Indian Affairs, to operate, maintain, and replace the core system and the on-Reservation water distribution systems.

(2) PROJECT OVERSIGHT ADMINISTRATION.—The amount of Federal funds that may be used to provide technical assistance and conduct the necessary construction oversight, inspection, and administration of activities in paragraph (1)(A) shall be negotiated with the Tribe and shall be an allowable project cost.

(h) SERVICE AREA.—The service area of the Rocky Boy's Rural Water System shall be the core system and the Reservation.

(i) TITLE TO CORE SYSTEM.—Title to the core system—

(1) shall be held in trust by the United States for the Tribe; and

(2) shall not be transferred unless a transfer is authorized by an Act of Congress enacted after the date of enactment of this title.

(j) TECHNICAL ASSISTANCE.—The Secretary is authorized to provide such technical assistance as is necessary to enable the Tribe to—

(1) plan, design, and construct the core system, including management training. Such technical assistance shall be deemed as a core system project construction cost; and

(2) operate, maintain, and replace the core system and the on-reservation water distribution systems. Such technical assistance shall be deemed as a core system and an on-reservation water distribution systems operation, maintenance, and replacement cost, as appropriate.

SEC. 905. NONCORE SYSTEM.

(a) IN GENERAL.—The Secretary is authorized to enter into Cooperative Agreements with the Authority to provide Federal funds for the planning, design, and construction of the noncore system in Chouteau, Glacier, Hill, Liberty, Pondera, Teton, and Toole Counties, Montana, outside the Reservation.

(b) FEDERAL SHARE.—

(1) PLANNING, DESIGN, AND CONSTRUCTION.—The Federal share of the cost of planning, design, and construction of the noncore system shall be 80 percent and will be funded through annual appropriations to the Bureau of Reclamation.

(2) OPERATION, MAINTENANCE, AND REPLACEMENT OF NON-CORE SYSTEM COMPONENTS.—The cost of operation, maintenance, and replacement associated with water deliveries to the noncore system shall not be a Federal responsibility and shall be borne by the Authority.

(3) COOPERATIVE AGREEMENTS.—Federal funds made available to carry out this section may be obligated and expended only in accordance with the Cooperative Agreements entered into under subsection (d).

(c) COMPONENTS.—As described in the final engineering report, the components of the noncore system on which Federal funds may be obligated and expended under this section shall include—

(1) storage, pumping, and pipeline facilities;

(2) appurtenant buildings, maintenance equipment, and access roads;

(3) all property and property rights necessary for the facilities described in this subsection;

(4) electrical power transmission and distribution facilities necessary for service to noncore system facilities; and

(5) other facilities and services customary to the development of a rural water distribution system in the State.

(d) COOPERATIVE AGREEMENTS.—

(1) IN GENERAL.—The Secretary is authorized to enter into the Cooperative Agreements with the Authority to provide Federal funds and necessary assistance for the planning, design, and construction of the noncore system. The Secretary is further authorized to enter into a tri-partite Cooperative Agreement with the Authority and the

Tribe addressing the allocation of operation, maintenance and replacement costs for the core system and action that can be undertaken to keep those costs within reasonable levels.

(2) MANDATORY PROVISIONS.—The Cooperative Agreements under paragraph (1) shall specify, in a manner that is acceptable to the Secretary and the Authority—

(A) the responsibilities of each party to the agreements for—

(i) the final engineering report;

(ii) engineering and design;

(iii) construction;

(iv) water conservation measures;

(v) environmental and cultural resource compliance activities; and

(vi) administration of contracts relating to performance of the activities described in clauses (i) through (v);

(B) the procedures and requirements for approval and acceptance of the design and construction and for carrying out other activities described in subparagraph (A); and

(C) the rights, responsibilities, and liabilities of each party to the agreements.

(3) PROJECT OVERSIGHT ADMINISTRATION.—The amount of Federal funds that may be used to provide technical assistance and to conduct the necessary construction oversight, inspection, and administration of activities in paragraph (1) shall be negotiated with the Authority, and shall be an allowable project cost.

(e) SERVICE AREA.—

(1) IN GENERAL.—Except as provided in paragraph (2), the service area of the noncore system shall be generally defined as the area—

(A) north of the Missouri River and Dutton, Montana;

(B) south of the border between the United States and Canada;

(C) west of Havre, Montana; –

(D) east of Cut Bank Creek in Glacier County, Montana; and

(E) as further defined in the final engineering report, referenced in section 904(a).

(2) EXCLUSIONS FROM SERVICE AREA.—The service area of the noncore system shall not include the area inside the Reservation.

(f) LIMITATION ON USE OF FEDERAL FUNDS.—The operation, maintenance, and replacement expenses for the noncore system—

(1) shall not be a Federal responsibility;

(2) shall be borne by the Authority; and

(3) the Secretary may not obligate or expend any Federal funds for the OM&R of the non-core system.

(g) TITLE TO NONCORE SYSTEM.—Title to the noncore system shall be held by the Authority.

(h) AUTHORITY TO ACQUIRE PROPERTY.—Where, in carrying out the provisions of this title for construction of the noncore system, it becomes necessary to acquire any rights or property, the Authority, acting pursuant to State law, Mont. Code Ann. Sec. 75–6–313 (2001), is hereby authorized to acquire the same by condemnation under judicial process, and to pay such sums which may be needed for that purpose. Nothing in this section shall apply to land held in trust by the United States.

SEC. 906. LIMITATION ON AVAILABILITY OF CONSTRUCTION FUNDS.

The Secretary shall not obligate funds for construction of the core system or the noncore system until—

(1) the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) are met with respect to the core system and the noncore system;

(2) the date that is 90 days after the date of submission to Congress of a final engineering report approved and transmitted by the Secretary; and

(3) the Secretary publishes a written finding that the water conservation plan developed under section 911(a) includes prudent and reasonable water conservation measures for the operation of the Rocky Boy's/North Central Montana Regional Water System that have been shown to be economically and financially feasible.

SEC. 907. CONNECTION CHARGES.

The cost of connection of nontribal community water distribution systems and individual service systems to transmission lines of the core system and noncore system shall be the responsibility of the entities receiving water from the transmission lines.

SEC. 908. AUTHORIZATION OF CONTRACTS.

The Secretary is authorized to enter into contracts with the Authority for water from Lake Elwell providing for the repayment of its respective share of the construction, operation, maintenance and replacement costs of Tiber dam and reservoir, as determined by the Secretary, in accordance with Federal Reclamation Law (Act of June 17, 1902, 32 Stat. 388, and acts amendatory thereof and supplemental thereto).

SEC. 909. TIBER RESERVOIR ALLOCATION TO THE TRIBE.

(a) NO DIMINISHMENT OF STORAGE.—In providing for the delivery of water to the noncore system, the Secretary shall not diminish the 10,000 acre-feet per year of water stored for the Tribe pursuant to section 201 of the Chippewa Cree Tribe of The Rocky Boy's Reservation Indian Reserved Water Rights Settlement and Water Supply Enhancement Act of 1999 (Public Law 106–163) in Lake Elwell, Lower Marias Unit, Upper Missouri Division, Pick-Sloan Missouri Basin Program, Montana.

(b) DRAW OF SUPPLY; PURCHASE OF ADDITIONAL WATER.—In providing for delivery of water to Rocky Boy's Indian Reservation for the purposes of this title, the Tribe shall draw its supply from the 10,000 acre-feet per year of water stored for the Tribe pursuant to section 201 of the Chippewa Cree Tribe of The Rocky Boy's Reservation Indian Reserved Water Rights Settlement and Water Supply Act of 1999 (Public Law 106–163) in Lake Elwell, Lower Marias Unit, Upper Missouri Division, Pick-Sloan Missouri Basin Program, Montana. Nothing in this title shall prevent the Tribe from entering into contracts with the Secretary for the purchase of additional water from Lake Elwell.

SEC. 910. USE OF PICK-SLOAN POWER.

The Secretary of the Interior, in cooperation with the Secretary of Energy, is directed to make Pick-Sloan Missouri Basin Program preference power available, for the purposes of this title. Power shall be made available when pumps are energized and/or upon completion of the Project.

SEC. 911. WATER CONSERVATION PLAN.

(a) IN GENERAL.—The Tribe and the Authority shall develop and incorporate into the final engineering report a water conservation plan that contains—

(1) a description of water conservation objectives;

(2) a description of appropriate water conservation measures; and

(3) a time schedule for implementing the water conservation measures to meet the water conservation objectives.

(b) PURPOSE.—The water conservation plan under subsection (a) shall be designed to ensure that users of water from the core system, on-reservation water distribution systems, and the noncore system will use the best practicable technology and management techniques to conserve water.

(c) COORDINATION OF PROGRAMS.—Section 210(a) and (c) of the Reclamation Reform Act of 1982 (43 U.S.C. 390jj(a) and (c)) shall apply to activities under Section 911 of this title.

SEC. 912. WATER RIGHTS.

This title does not—

(1) impair the validity of or preempt any provision of State water law or any interstate compact governing water;

(2) alter the right of any State to any appropriated share of the water of any body of surface or ground water, whether determined by any past or future interstate compact or by any past or future legislative or final judicial allocation;

(3) preempt or modify any Federal or State law or interstate compact concerning water quality or disposal;

(4) confer on any non-Federal entity the authority to exercise any Federal right to the water of any stream or to any ground water resource; or

(5) affect any right of the Tribe to water, located within or outside the external boundaries of the Reservation, based on a treaty, compact, Executive Order, Agreements, Act of Congress, aboriginal title, the decision in Winters v. United States, 207 U.S. 564 (1908) (commonly known as the 'Winters Doctrine'), or other law.

SEC. 913. CHIPPEWA CREE WATER SYSTEM OPERATION, MAINTENANCE, AND REPLACEMENT TRUST FUND.

(a) ESTABLISHMENT OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the ''Chippewa Cree Water System Operation, Maintenance, and Replacement Trust Fund'', to be managed and invested by the Secretary.

(b) CONTENTS OF FUND.—The Fund shall consist of—

(1) the amount of $15,000,000 as the Federal share, as authorized to be appropriated in section 914(c);

(2) the Tribe shall deposit into the Fund $5,000,000 of the $15,000,000 appropriated pursuant to the Chippewa Cree Tribe of the Rocky Boy's Reservation Indian Reserved Water Rights Settlement and Water Supply Enhancement Act of 1999 (Public Law 106–163); and

(3) such interest as may accrue, until expended according to subsections (d) and (f).

(c) MANAGEMENT OF THE FUND.—The Secretary shall manage the Fund, make investments from the Fund, and make monies available from the Fund for distribution to the Tribe consistent with the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.) (referred to in this section as the ''Trust Fund Reform Act''), and this title.

(d) USE OF FUND.—The Tribe shall use accrued interest, only, from the Fund for operation, maintenance, and replacement of the core system and the on-reservation distribution, only, pursuant to an operation, maintenance and replacement plan approved by the Secretary.

(e) INVESTMENT OF FUND.—The Secretary shall, after consulting with the Tribe on the investment of the Fund, invest amounts in the Fund in accordance with—

(1) the Act of April 1, 1880 (21 Stat. 70, chapter 41; 25 U.S.C. 161);

(2) the first section of the Act of February 12, 1929 (25 U.S.C. 161a);

(3) the first section of the Act of June 24, 1938 (25 U.S.C. 162a); and

(4) subsection (b).

(f) EXPENDITURES AND WITHDRAWAL.—

(1) TRIBAL MANAGEMENT PLAN.—

(A) WITHDRAWAL BY TRIBE.—The Tribe may withdraw all or part of the Fund on approval by the Secretary of a tribal management plan as described in the Trust Fund Reform Act.

(B) REQUIREMENTS.—In addition to the requirements under the Trust Fund Reform Act, the tribal management plan shall require that the Tribe spend any funds only in

accordance with the purposes described in subsections 913(d) and (f).

(2) ENFORCEMENT.—The Secretary may take judicial or administrative action to enforce the provisions of any tribal management plan to ensure that any monies withdrawn from the Fund under the plan are used in accordance with this title.

(3) LIABILITY.—If the Tribe exercises the right to withdraw monies from the Fund pursuant to the Trust Fund Reform Act, neither the Secretary nor the Secretary of the Treasury shall retain any liability for the expenditure or investment of the monies withdrawn.

(4) OPERATION, MAINTENANCE, AND REPLACEMENT PLAN.—Expenditures of accrued interest, only, from the Fund may be made for operation, maintenance, and replacement plan approved by the Secretary.

(A) IN GENERAL.—The Tribe shall submit to the Secretary for approval an operation, maintenance, and replacement plan for any funds made available to it under this section.

(B) DESCRIPTION.—The plan shall describe the manner in which, and the purposes for which, funds made available to the Tribe will be used.

(C) APPROVAL.—On receipt of an expenditure plan under subparagraph (A), the Secretary shall, in a timely manner, approve the plan if the Secretary determines that the plan is reasonable and consistent with this title.

(5) AVAILABILITY.—Funds made available from the fund under this section shall be available without fiscal year limitation.

(6) ANNUAL REPORT.—The Tribe shall submit to the Secretary an annual report that describes all expenditures from the Fund during the year covered by the report.

(g) NO PER CAPITA DISTRIBUTIONS.—No part of the Fund shall be distributed on a per capita basis to members of the Tribe.

SEC. 914. AUTHORIZATION OF APPROPRIATIONS.

(a) CORE SYSTEM.—There is authorized to be appropriated $129,280,000 to the Bureau of Reclamation for the planning, design, and construction of the core system. The Tribal portion of the costs shall be 76 percent. The Authority's portion of the costs shall be 24 percent.

(b) ON-RESERVATION WATER DISTRIBUTION SYSTEMS.—The Tribe shall use $10,000,000 of the $15,000,000 appropriated pursuant to the Chippewa Cree Tribe of the Rocky Boy's Reservation Indian Reserved Water Rights Settlement and Water Supply Enhancement Act of 1999 (Public Law 106–163), plus accrued interest, in the purchase, construction, expansion or rehabilitation of the on-reservation water distribution systems.

(c) CHIPPEWA CREE WATER SYSTEM OPERATION, MAINTENANCE, AND REPLACEMENT TRUST FUND.—For the Federal contribution to the Fund, established in section 913, there is authorized to be appropriated to the Bureau of Indian Affairs the sum of $7,500,000 each year for fiscal year 2005 and 2006.

(d) NONCORE SYSTEM.—There is authorized to be appropriated $73,600,000 to the Bureau of Reclamation for the planning, design, and construction of the noncore system.

(e) COST INDEXING.—The sums authorized to be appropriated under this section may be increased or decreased by such amounts as are justified by reason of ordinary fluctuations in development costs incurred after the date of enactment of this title, as indicated by engineering cost indices applicable for the type of construction involved.

TITLE X—MISCELLANEOUS

SEC. 1001. SANTEE SIOUX TRIBE, NEBRASKA, WATER SYSTEM STUDY.

(a) STUDY.—Pursuant to reclamation laws, the Secretary of the Interior (hereafter in this section referred to as the ''Secretary''), through the Bureau of Reclamation and in consultation with the Santee Sioux Tribe of Nebraska (hereafter in this section referred to as the ''Tribe''), shall conduct a feasibility study to determine the most feasible method of developing a safe and adequate municipal, rural, and industrial water treatment and distribution system for the Santee Sioux Tribe of Nebraska that could serve the tribal community and adjacent communities and incorporate population growth and economic development activities for a period of 40 years.

(b) COOPERATIVE AGREEMENT.—At the request of the Tribe, the Secretary shall enter into a cooperative agreement with the Tribe for activities necessary to conduct the study required by subsection (a) regarding which the Tribe has unique expertise or knowledge.

(c) REPORT.—Not later than 1 year after funds are made available to carry out this section, the Secretary shall transmit to Congress a report containing the results of the study required by subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary $500,000 to carry out this section.

SEC. 1002. YUROK TRIBE AND HOPLAND BAND INCLUDED IN LONG TERM LEASING.

(a) IN GENERAL.—The first section of the Act entitled ''An Act to authorize the leasing of restricted Indian lands for public, religious, educational, recreational, residential, business, and other purposes requiring the grant of long-term leases'', approved August 9, 1955 (25 U.S.C. 415(a)) is amended by inserting ''lands held in trust for the Yurok Tribe, lands held in trust for the Hopland Band of Pomo Indians of the Hopland Rancheria,'' after ''Pueblo of Santa Clara,''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any lease entered into or renewed after the date of the enactment of this title.

Mr. HANSEN (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

The amendment in the nature of a substitute was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

BIG SUR WILDERNESS AND CONSERVATION ACT OF 2002

Mr. HANSEN. Mr. Speaker, I ask unanimous consent that the Committee on Resources be discharged from further consideration of the bill (H.R. 4750) to designate certain lands in the State of California as components of the National Wilderness Preservation System, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

The Clerk read the bill, as follows:

H.R. 4750

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

SECTION 1. SHORT TITLE AND DEFINITIONS.

(a) SHORT TITLE.—This Act may be cited as the ''Big Sur Wilderness and Conservation Act of 2002''.

(b) DEFINITIONS.—As used in this Act, the term ''Secretary'' means the Secretary of the Interior or the Secretary of Agriculture, as appropriate.

SEC. 2. ADDITIONS TO THE WILDERNESS PRESERVATION SYSTEM.

(a) ADDITIONS TO VENTANA WILDERNESS.—

(1) IN GENERAL.—The areas described in paragraph (2)—

(A) are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System; and

(B) are hereby incorporated in and shall be deemed to be a part of the Ventana Wilderness designated by Public Law 91–58.

(2) AREAS DESCRIBED.—The areas referred to in paragraph (1) are the following lands in the State of California administered by the Bureau of Land Management or the United States Forest Service:

(A) Certain lands which comprise approximately 995 acres, as generally depicted on a map entitled ''Anastasia Canyon Proposed Wilderness Additions to the Ventana Wilderness'' and dated March 22, 2002.

(B) Certain lands which comprise approximately 3,530 acres, as generally depicted on a map entitled ''Arroyo Seco Corridor Proposed Wilderness Addition to the Ventana Wilderness'' and dated March 22, 2002.

(C) Certain lands which comprise approximately 14,550 acres, as generally depicted on a map entitled ''Bear Canyon Proposed Wilderness Addition to the Ventana Wilderness'' and dated March 22, 2002.

(D) Certain lands which comprise approximately 855 acres, as generally depicted on a map entitled ''Black Rock Proposed Wilderness Additions to the Ventana Wilderness'' and dated March 22, 2002.

(E) Certain lands which comprise approximately 6,550 acres, as generally depicted on a map entitled ''Chalk Peak Proposed Wilderness Addition to the Ventana Wilderness'' and dated March 22, 2002.

(F) Certain lands which comprise approximately 1,345 acres, as generally depicted on a map entitled ''Chews Ridge Proposed Wilderness Addition to the Ventana Wilderness'' and dated March 22, 2002.

(G) Certain lands which comprise approximately 2,130 acres, as generally depicted on a map entitled ''Coast Ridge Proposed Wilderness Additions to the Ventana Wilderness'' and dated March 22, 2002.

(H) Certain lands which comprise approximately 2,270 acres, as generally depicted on a map entitled ''Horse Canyon Proposed Wilderness Addition to the Ventana Wilderness'' and dated March 22, 2002.

(I) Certain lands which comprise approximately 755 acres, as generally depicted on a map entitled ''Little Sur Proposed Wilderness Addition to the Ventana Wilderness'' and dated March 22, 2002.

(J) Certain lands which comprise approximately 4,130 acres, as generally depicted on a map entitled ''San Antonio Proposed Wilderness Addition to the Ventana Wilderness'' and dated March 22, 2002.

(b) ADDITIONS TO SILVER PEAK WILDERNESS.—

(1) IN GENERAL.—The areas described in paragraph (2)—

(A) are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System; and

(B) are hereby incorporated in and shall be deemed to be a part of the Silver Peak Wilderness designated by Public Law 102–301.

(2) AREAS DESCRIBED.—The areas referred to in paragraph (1) are the following lands in the State of California administered by the United States Forest Service:

(A) Certain lands which comprise approximately 8,235 acres, as generally depicted on a map entitled ''San Carpoforo Proposed Wilderness Addition to the Silver Peak Wilderness'' and dated March 22, 2002.

(B) Certain lands which comprise approximately 8,820 acres, as generally depicted on a map entitled ''Willow Creek Proposed Wilderness Addition to the Silver Peak Wilderness'' and dated March 22, 2002.

(c) ADDITIONS TO PINNACLES WILDERNESS.—

(1) IN GENERAL.—The areas described in paragraph (2)—

(A) are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System; and

(B) are hereby incorporated in and shall be deemed to be a part of the Pinnacles Wilderness designated by Public Law 94–567.

(2) AREAS DESCRIBED.—The areas referred to in paragraph (1) are the lands in the State of California administered by the National Park Service which comprise approximately 2,715 acres, as generally depicted on a map entitled ''Pinnacles Proposed Wilderness Additions'' and dated October 30, 2001.

(d) MAPS AND DESCRIPTIONS.—

(1) FILING.—As soon as practicable after the date of enactment of this Act, the appropriate Secretary shall file a map and a boundary description of each area designated as wilderness by this Act with the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(2) EFFECT.—Each map and description shall have the same force and effect as if included in this Act, except that the appropriate Secretary is authorized to correct clerical and typographical errors in such boundary descriptions and maps.

(3) AVAILABILITY.—Such maps and boundary descriptions shall be on file and available for public inspection in the Office of the Director of the Bureau of Land Management and in the Office of the Chief of the Forest Service, as appropriate.

(e) STATE AND PRIVATE LANDS.—Lands within the exterior boundaries of any area added to a wilderness area under this section that are owned by the State or by a private entity shall be included within such wilderness area if such lands are acquired by the United States. Such lands may be acquired by the United States only as provided in the Wilderness Act (16 U.S.C. 1131 and following).

SEC. 3. ADMINISTRATIVE PROVISIONS.

(a) IN GENERAL.—Subject to valid existing rights, lands designated as wilderness by this Act shall be managed by the Secretary of Agriculture or the Secretary of the Interior, as appropriate, in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.) and this Act, except that, with respect to any wilderness areas designated by this Act, any reference in the Wilderness Act to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

(b) GRAZING.—Grazing of livestock in wilderness areas designated by this Act shall be administered in accordance with the provisions of section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)), as further interpreted by section 108 of Public Law 96–560, and, the guidelines set forth in Appendix A of House Report 101–405 of the 101st Congress.

(c) STATE JURISDICTION.—As provided in section 4(d)(7) of the Wilderness Act (16 U.S.C. 1133(d)(7)), nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State of California with respect to wildlife and fish in California.

(d) WATER.—

(1) RESERVATION OF WATER.—With respect to each wilderness area designated by this Act, Congress hereby reserves a quantity of water sufficient to fulfill the purposes of this Act. The priority date of such reserved rights shall be the date of enactment of this Act.

(2) REQUIREMENT TO PROTECT RIGHTS.—The appropriate Secretary and all other officers of the United States shall take steps necessary to protect the rights reserved by paragraph (1), including the filing by the Secretary of a claim for the quantification of such rights in any present or future appropriate stream adjudication in the courts of the State of California in which the United States is or may be joined and which is conducted in accordance with the McCarran Amendment (43 U.S.C. 666).

(3) NO REDUCTION OR RELINQUISHMENT.—Nothing in this Act shall be construed as a relinquishment or reduction of any water rights reserved or appropriated by the United States in the State of California on or before the date of enactment of this Act.

(4) LIMITATION ON EFFECT.—The Federal water rights reserved by this Act are specific to the wilderness areas located in the State of California designated by this Act. Nothing in this Act related to reserved Federal water rights shall be construed as establishing a precedent with regard to any future designations, nor shall it constitute an interpretation of any other Act or any designation made pursuant thereto.

SEC. 4. WILDERNESS FIRE MANAGEMENT.

(a) REVISION OF MANAGEMENT PLANS.—The Secretary of Agriculture shall, by not later than 1 year after the date of the enactment of this Act, amend the management plans that apply to each of the Ventana Wilderness and the Silver Peak Wilderness, respectively, to authorize the Forest Supervisor of the Los Padres National Forest to take whatever appropriate actions in such wilderness areas are necessary for fire prevention and watershed protection consistent with wilderness values, including best management practices for fire presuppression and fire suppression measures and techniques.

(b) INCORPORATION INTO FOREST PLANNING.—Any special provisions contained in the management plan for the Ventana Wilderness and Silver Peak Wilderness pursuant to subsection (a) shall be incorporated into the management plan for the Los Padres National Forest.

SEC. 5. MILITARY TRAINING AT FORT HUNTER-LIGGETT.

(a) OVERFLIGHTS.—Nothing in this Act shall preclude low level overflights of military aircraft, the designation of new units of special airspace, or the use or establishment of military flight training routes over wilderness areas designated by this Act.

(b) MILITARY ACCESS.—Nonmotorized access to and use of the wilderness areas designated by this Act for military training shall be authorized to continue in wilderness areas designated by this Act in the same manner and degree as authorized prior to enactment of this Act.

SEC. 6. BIG SUR INVASIVE SPECIES ERADICATION.

(a) IN GENERAL.—The Secretary of Agriculture may conduct a 5-year pilot program to target the eradication of invasive plant and animal species in the Monterey District of the Los Padres National Forest.

(b) APPLICATION TO OTHER PROPERTY.—Activities under the program may include actions to address invasive species problems on nearby private land or other land that is not Forest Service property, if—

(1) the land owner, or the head of the governmental agency having administrative jurisdiction over the land in the case of State, local, or Federal government-owned land, seeks to participate in the program; and

(2) the invasive species concerned occurs on the land and poses a threat to national forest lands.

(c) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section there is authorized to be appropriated $1,000,000 for each of 5 fiscal years.

SEC. 8. SILVER PEAK WILDERNESS WATER SYSTEM SPLIT.

The Secretary of Agriculture may authorize the construction and maintenance of a new water line and corresponding spring box improvements adjacent to an existing domestic water service in the Silver Peak Wilderness.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HANSEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bills and resolutions just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

(Mr. WATKINS of Oklahoma asked and was given permission to speak out of order.)

GRATITUDE AND THANKS

Mr. WATKINS of Oklahoma. Mr. Speaker, I would like to express my personal gratitude and thanks to the gentleman from Utah (Mr. HANSEN) for his tremendous years of service, 20 years, and for his great leadership on the Committee on Standards of Official Conduct as well as the Committee on Resources. I would like to also thank, and we would be remiss if we did not thank, the staff for the tremendous work they have done in trying to put things together so they would be workable and also so we could pass something.

So, I thank the chairman and thanks to all of the staff for all of their tremendous work and help. It has been wonderful being in this body. This is my last remarks as an official Member and I just want to thank all of my colleagues for allowing me to come and be with you and serve over these years.

(Mr. DAVIS of Virginia asked and was given permission to speak out of order.)

TRIBUTE TO MR. ARMEY

Mr. DAVIS of Virginia. Mr. Speaker, before we get to the majority leader being recognized, this is his final night on the job. I wanted to pay tribute to the gentleman from Texas (Mr. ARMEY) and his contribution to this House just in the short time I have been here.

First elected in 1984, an article in the Texas Observer called him one of the Texas 6-packs that year, 6 new Republican Members that had been elected and the consensus was these Members are never going to amount to anything,

if you read the article. But the gentleman from Texas (Mr. ARMEY) has made a tremendous difference in this House, with the crowning achievement I think just this week with the Homeland Security legislation which he worked so long on, arbitrating between committees of jurisdiction, negotiating with the Senate, moving a bill that was considered dead just a week ago, bringing life to it, and bringing it to a very successful conclusion here in the House and sending it to the Senate.

Mr. Speaker, I congratulate the gentleman for this most important piece of legislation that I think is going to change the course of this Nation for a long time.

He has also been active in passing the Government Performance Results Act. This is an act that not every Member understands, but it tries to hold Federal agencies accountable for performance and results, and with this administration we are starting to see some of those results come in as we exercise legislative oversight over the executive branch.

We think of BRACs and the base closing commissions, something that this body has struggled with for a generation and could not work out because of the political wheeling and dealing it went through. This has saved billions of dollars in the defense budget. We have been able to transfer those dollars into other defense items and into domestic purposes, and this was Mr. ARMEY's idea, though not even on the committee of jurisdiction, that he brought forward to this body, because a good idea will win any day. You do not have to be strong and powerful and in a leadership position to get it through. This was done early in his career.

The Contract With America, something that I signed as a candidate in 1984, was the brainchild of Mr. ARMEY, something that came through this body. Much of that legislation became law, everything from welfare reform, unfunded mandates and a number of areas, balancing the budget, as a part of that Contract With America. DICK ARMEY was the author of that and the leader of that as we moved it through the 104th Congress.

The gentleman from Texas (Mr. ARMEY) is a native of Cando, North Dakota with a doctorate in economics. Many of us do not realize that he ran in and completed six marathons. I also want to congratulate him for just over the last few weeks having lost over 40 pounds, getting down to that marathon weight again. Maybe perhaps we will see him do some others.

DICK, I wish you the best in your retirement. You have made a lasting contribution to this country. You have set a high standard for your success here, and Mr. Majority Leader, it has been my great privilege to serve with you.

Mr. NUSSLE. Mr. Speaker, will the gentleman yield?

Mr. DAVIS of Virginia. I yield to the gentleman from Iowa.

Mr. NUSSLE. Mr. Speaker, I would like to add my words as well to a brief tribute to our majority leader. We would not be a majority if it was not for DICK ARMEY. There are many people who know that. Unfortunately, there are too many people who do not know that. His work and his labor oftentimes is done behind the scenes and oftentimes I think many people, many people are allowed to take the credit because of his work. I think it was Ronald Reagan that said that if you are willing to share the credit, you can get anything done in Washington, or something like that, and DICK ARMEY has always been willing to share the credit, to allow somebody to move up, to be elevated, to get their work done, to facilitate a dream on their behalf. His famous phrase or his motto has always been ''Freedom works,'' and it does work. America works because freedom works, and America is better off because of the freedom that DICK ARMEY has come to fight for in the Congress of the United States.

This is a terrible way to end at 2:30 in the morning, because there were so many things done at 2:30 in the afternoon to be proud of, but you can be proud of all of the things that you have done from the moment you came here to the moment that you depart, and I think probably the one thing that I will always know is that you will always be there as a friend, not only to me, but to all of us. That is what I will know the most and that is what I will remember the most, is your friendship and the pat on the back and sometimes the kick in the drawers, and we all need that from time to time. That is what friends are for. I hope that friendship will continue with all of us.

We wish you Godspeed and we also wish Susan and your family Godspeed, because we know there are great things ahead, because freedom does work and you will ensure that freedom continues to work in America, no matter what ventures you undertake. So Godspeed, friend. Thank you so much for your service. We love you.

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DISPOSING OF VARIOUS LEGISLATIVE MEASURES

Mr. ARMEY. Mr. Speaker, in accordance with the Boyle-Turton precedent, I ask unanimous consent that the House.

(1) Be considered to have discharged from the committee and passed H.R. 5334, H.R. 5436, H.R. 5738, S. 1010, H.R. 5716, H.R. 5499, S. 2239, H.R. 5280, H.R. 5586, H.R. 5609, H.R. 628, H.R. 629, H.R. 3775, H.R. 5495, H.R. 5604, H.R. 5611, H.R. 5728, and H.R. 5436;

(2) Be considered to have taken from the Speaker's table and passed S. 2712, S. 3044, and S. 3156;

(3) Be considered to have discharged from committee and agreed to H. Res. 604, H. Con. Res. 499, H. Res. 582, H. Res. 599, and H. Res. 612;

(4) Be considered to have discharged from committee, amended, and passed S. 1843, in the form placed at the desk;

(5) Be considered to have passed H.R. 5504 as amended by the committee amendment;

(6) Be considered to have passed H.R. 3429 and H.R. 2458 as amended by the committee amendment as further amended by the form placed at the desk;

(7) Be considered to have discharged from committee, amended, and agreed to H. Con. Res. 466 in the form placed at the desk;

(8) Be considered to have taken from the Speaker's table and concurred in the respective Senate amendments to H.R. 4664, H.R. 2621, H.R. 3609, H.R. 5469, and H.R. 3833;

(9) Be considered to have taken from the Speaker's table and amended S. 2237 in the form placed at the desk; and

(10) That the committees being discharged be printed in the RECORD, the texts of each measure and any amendments thereto be considered as read and printed in the RECORD, and that motions to reconsider each of these actions be laid upon the table.

The SPEAKER pro tempore (Mr. SIMPSON). The Chair will entertain this combined request under the Speaker's guidelines as recorded on page 712 of the House Rules and Manual with assurances that it has been cleared by the bipartisan floor and all committee leadership.

The Clerk will report the titles of the various bills and resolutions.

The Clerk read as follows:

DISCHARGED FROM THE COMMITTEE ON THE JUDICIARY AND PASSED

H.R. 5334, to ensure that a public safety officer who suffers a fatal heart attack or stroke while on duty shall be presumed to have died in the line of duty for purposes of public safety officer survivor benefits.

H.R. 5334

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 ''Hometown Heroes Survivors Benefits Act of 2002''.

SEC. 2. FATAL HEART ATTACK OR STROKE ON DUTY PRESUMED TO BE DEATH IN LINE OF DUTY FOR PURPOSES OF PUBLIC SAFETY OFFICER SURVIVOR BENEFITS.

Section 1201 of the Omibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796) is amended by adding at the end the following new subsection:

''(k) For purposes of this section, if a public safety officer dies as the direct and proximate result of a heart attack or stroke suffered while on duty or within 24 hours after participating in a training exercise or responding to an emergency situation, that officer shall be presumed to have died as the direct and proximate result of a personal injury sustained in the line of duty.''.

SEC. 3. APPLICABILITY.

Subsection (k) of section 1201 of such Act (as added by section 2) shall apply to deaths occurring on or after January 1, 2002.

DISCHARGED FROM THE COMMITTEE ON ENERGY AND COMMERCE AND PASSED

H.R. 5436, to extend the deadline for commencement of construction of a hydroelectric project in the State of Oregon.

H.R. 5436

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

SECTION 1. EXTENSION OF TIME FOR FEDERAL ENERGY REGULATORY COMMISSION PROJECT.

(a) IN GENERAL.—Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission project number 11509, the Commission shall, at the request of the licensee for the project, and after reasonable notice, extend the time period during which the licensee is required to commence the construction of the project for 3 consecutive 2-year periods.

(b) EFFECTIVE DATE.—Subsection (a) takes effect on the date of the expiration of the extension issued by the Commission under section 13 of the Federal Power Act (16 U.S.C. 806) for Federal Energy Regulatory Commission project number 11509.

(c) REINSTATEMENT OF EXPIRED LICENSE.—If the period required for commencement of construction of the project described in subsection (a) has expired prior to the date of the enactment of this act, the commission shall reinstate the license effective as of the date of its expiration and the first extension authorized under subsection (a) shall take effect on the date of such expiration

DISCHARGED FROM THE COMMITTEE ON ENERGY AND COMMERCE AND PASSED

H.R. 5738, to amend the Public Health Service Act with respect to special diabetes programs for Type 1 diabetes and Indians.

H.R. 5738

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

SECTION 1. SPECIAL DIABETES PROGRAMS FOR TYPE I DIABETES AND INDIANS.

(a) SPECIAL DIABETES PROGRAMS FOR TYPE I DIABETES.—Section 330B(b)(2) of the Public Health Service Act (42 U.S.C. 254c–2(b)(2)) is amended—

(1) in subparagraph (A), by striking ''and'' at the end;

(2) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following new subparagraph:

''(C) $150,000,000 for each of fiscal years 2004 through 2008.''.

(b) SPECIAL DIABETES PROGRAMS FOR INDIANS.—Section 330C(c)(2) of the Public Health Service Act (42 U.S.C. 254c–3(c)(2)) is amended—

(1) in subparagraph (A), by striking ''and'' at the end;

(2) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following new subparagraph:

''(C) $150,000,000 for each of fiscal years 2004 through 2008.''.

(c) EXTENSION OF FINAL REPORT ON GRANT PROGRAMS.—Section 4923(b)(2) of the Balanced Budget Act of 1997 (Public Law 105–33; 111 Stat. 251), as amended by section 931(c) of BIPA (114 Stat. 2763A–585), is amended by striking ''2003'' and inserting ''2007''.

DISCHARGED FROM THE COMMITTEE ON ENERGY AND COMMERCE AND PASSED

S. 1010, to extend the deadline for commencement of construction of a hydroelectric project in the State of North Carolina.

S. 1010

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

SECTION 1. EXTENSION OF TIME FOR FEDERAL ENERGY REGULATORY COMMISSION PROJECT.

(a) IN GENERAL.—Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission project number 11437, the Commission may, at the request of the licensee for the project, and after reasonable notice, in accordance with the requirements of that section and the Commission's procedures under that section, extend the time period during which the licensee is required to commence the construction of the project for 3 consecutive 2-year periods.

(b) EFFECTIVE DATE.—Subsection (a) takes effect on the date of the expiration of the extension issued by the Commission before the date of the enactment of this Act under section 13 of the Federal Power Act (16 U.S.C. 806).

DISCHARGED FROM THE COMMITTEE ON ENERGY AND COMMERCE AND FROM THE COMMITTEE ON EDUCATION AND THE WORKFORCE AND PASSED

H.R. 5716, to amend the Employee Retirement Income Security Act of 1974 and the Public Health Service Act to extend the mental health benefits parity provisions for an additional year.

H.R. 5716

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 ''Mental Health Parity Reauthorization Act of 2002''.

SEC. 2. EXTENSION OF MENTAL HEALTH PROVISIONS.

(a) ERISA.—Section 712(f) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185a(f)) is amended by striking ''December 31, 2002'' and inserting ''December 31, 2003''.

(b) PHSA.—Section 2705(f) of the Public Health Service Act (42 U.S.C. 300gg-5(f)) is amended by striking ''December 31, 2002'' and inserting ''December 31, 2003''.

Mr. BOEHNER. Mr. Speaker, in 1996, Congress enacted the Mental Health Parity Act to prevent employers and health insurers from establishing annual and lifetime limits on mental health insurance coverage unless similar limits were also established for medical and surgical health coverage. These mental health parity benefits offered through the Employee Retirement Income Security Act (ERISA) were set to expire on December 31, 2002.

Today the House will take an important step to extend mental health parity benefits for another year. Over the past six years, the parity law has made significant improvements in mental health coverage. It did so by striking a good balance—providing important mental health benefits to patients without placing unworkable mandates on employers.

I committed last year to give the issue of mental health parity serious and substantial consideration at the Committee on Education and the Workforce. As part of that commitment, the Subcommittee on Employer-Employee Relations held the first House hearing on the issue of mental health parity on March 13, 2002. At this hearing, the Subcommittee heard testimony from both mental health advocates and employers concerning current federal mental health parity law, state laws that impact the issue, and the implications of expanding mental health parity for other employers and employees.

The Committee will continue to examine the issue of mental health parity in a balanced manner that doesn't jeopardize workers' existing health care benefits of discourage employers from voluntarily providing quality benefits to their employees. It is important to remember that the number of uninsured Americans increased to 41.2 million last year, and health insurance costs are expected to rise by 15 percent this year. Congress should carefully consider the implications of any new or expanded federal regulations before enacting proposals that increase health care costs and force more Americans to lose their health insurance.

However, today's vote on H.R. 5716 is a vote to preserve the mental health benefits that workers currently enjoy. I hope you will join me in support of this bill.

DISCHARGED FROM THE COMMITTEE ON FINANCIAL SERVICES AND PASSED

H.R. 5499, to reauthorize the HOPE VI program for revitalization of severely distressed public housing, and for other purposes.

H.R. 5499

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''HOPE VI Program Reauthorization Act of 2002''.

SEC. 2. SELECTION CRITERIA.

Section 24(e)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437v(e)(2)) is amended—

(1) by striking the matter preceding subparagraph (A) and inserting the following:

''(2) SELECTION CRITERIA.—The Secretary shall establish criteria for the award of grants under this section and shall include among the factors—'';

(2) in subparagraph (B), by striking ''large-scale'';

(3) in subparagraph (D), by inserting ''and ongoing implementation'' after ''development'';

(4) in subparagraph (H), by striking ''and'' at the end;

(5) by redesignating subparagraph (I) as subparagraph (M); and

(6) by inserting after subparagraph (H) the following new subparagraphs:

''(I) the extent to which the applicant can commence and complete the revitalization plan expeditiously;

''(J) the extent to which the plan minimizes temporary or permanent displacement of current residents of the public housing site who wish to remain in or return to the revitalized community;

''(K) the extent to which the plan sustains or creates more project-based housing units available to persons eligible for public housing in markets where there is demand for the maintenance or creation of such units;

''(L) the extent to which the plan gives to existing residents priority for occupancy in dwelling units in the revitalized community; and''.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

Paragraph (1) of section 24(m) of the United States Housing Act of 1937 (42 U.S.C. 1437v(m)(1)) is amended to read as follows:

''(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under this section such sums as may be necessary for each of fiscal years 2003 and 2004.''.

SEC. 4. EXTENSION OF PROGRAM.

Section 24(n) of the United States Housing Act of 1937 (42 U.S.C. 1437v(n)) is amended by striking ''September 30, 2002'' and inserting ''September 30, 2004''.

DISCHARGED FROM THE COMMITTEE ON FINANCIAL SERVICES AND PASSED

S. 2239, to amend the National Housing Act to simplify the downpayment requirements for FHA mortgage insurance for single family homebuyers.

S. 2239

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 ''FHA Downpayment Simplification Act of 2002''.

SEC. 2. DOWNPAYMENT SIMPLIFICATION.

Section 203 of the National Housing Act (12 U.S.C. 1709) is amended—

(1) in subsection (b)—

(A) by striking ''shall—'' and inserting ''shall comply with the following:'';

(B) in paragraph (2)—

(i) in subparagraph (A), in the matter that precedes clause (ii), by moving the margin 2 ems to the right;

(ii) in the undesignated matter immediately following subparagraph (B)(iii)—

(I) by striking the second and third sentences of such matter;

(II) by striking the seventh sentence (relating to principal obligation) and all that follows through the end of the ninth sentence (relating to charges and fees); and

(III) by striking the eleventh sentence (relating to disclosure notice) and all that follows through the end of the last undesignated paragraph (relating to disclosure notice requirements); and

(iii) by striking subparagraph (B) and inserting the following:

''(B) not to exceed an amount equal to the sum of—

''(i) the amount of the mortgage insurance premium paid at the time the mortgage is insured; and

''(ii) in the case of—

''(I) a mortgage for a property with an appraised value equal to or less than $50,000, 98.75 percent of the appraised value of the property;

''(II) a mortgage for a property with an appraised value in excess of $50,000 but not in excess of $125,000, 97.65 percent of the appraised value of the property;

''(III) a mortgage for a property with an appraised value in excess of $125,000, 97.15 percent of the appraised value of the property; or

''(IV) notwithstanding subclauses (II) and (III), a mortgage for a property with an appraised value in excess of $50,000 that is located in an area of the State for which the average closing cost exceeds 2.10 percent of the average, for the State, of the sale price of properties located in the State for which mortgages have been executed, 97.75 percent of the appraised value of the property.'';

(C) by transferring and inserting the text of paragraph (10)(B) after the period at the end of the first sentence of the undesignated paragraph that immediately follows paragraph (2)(B) (relating to the definition of ''area''); and

(D) by striking paragraph (10); and

(2) by inserting after subsection (e), the following:

''(f) DISCLOSURE OF OTHER MORTGAGE PRODUCTS.—

''(1) IN GENERAL.—In conjunction with any loan insured under this section, an original lender shall provide to each prospective borrower a disclosure notice that provides a 1-page analysis of mortgage products offered by that lender and for which the borrower would qualify.

''(2) NOTICE.—The notice required under paragraph (1) shall include—

''(A) a generic analysis comparing the note rate (and associated interest payments), insurance premiums, and other costs and fees that would be due over the life of the loan for a loan insured by the Secretary under subsection (b) with the note rates, insurance premiums (if applicable), and other costs and fees that would be expected to be due if the mortgagor obtained instead other mortgage products offered by the lender and for which the borrower would qualify with a similar loan-to-value ratio in connection with a conventional mortgage (as that term is used in section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) or section 302(b)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(2)), as applicable), assuming prevailing interest rates; and

''(B) a statement regarding when the requirement of the mortgagor to pay the mortgage insurance premiums for a mortgage insured under this section would terminate, or a statement that the requirement shall terminate only if the mortgage is refinanced, paid off, or otherwise terminated.''.

SEC. 3. CONFORMING AMENDMENTS.

Section 245 of the National Housing Act (12 U.S.C. 1715z–10) is amended—

(1) in subsection (a), by striking '', or if the mortgagor'' and all that follows through ''case of veterans''; and

(2) in subsection (b)(3), by striking '', or, if the'' and all that follows through ''for veterans,''.

SEC. 4. REPEAL OF GNMA GUARANTEE FEE INCREASE.

Section 972 of the Higher Education Amendments of 1998 (Public Law 105–244; 112 Stat. 1837) is hereby repealed.

SEC. 5. INDEXING OF FHA MULTIFAMILY HOUSING LOAN LIMITS.

(a) The National Housing Act (12 U.S.C. 1701 et seq.) is amended by inserting after section 206 the following new section 206A (12 U.S.C. 1712A):

''SEC. 206A. INDEXING OF FHA MULTIFAMILY HOUSING LOAN LIMITS.

''(a) METHOD OF INDEXING.—The dollar amounts set forth in—

''(1) section 207(c)(3)(A) (12 U.S.C. 1713(c)(3)(A));

''(2) section 213(b)(2)(A) (12 U.S.C. 1715e(b)(2)(A));

''(3) section 220(d)(3)(B)(iii)(I) (12 U.S.C. 1715k(d)(3)(B)(iii)(I));

''(4) section 221(d)(3)(ii)(I) (12 U.S.C. 1715l(d)(3)(ii)(I));

''(5) section 221(d)(4)(ii)(I) (12 U.S.C. 1715l(d)(4)(ii)(I));

''(6) section 231(c)(2)(A) (12 U.S.C. 1715v(c)(2)(A)); and

''(7) section 234(e)(3)(A) (12 U.S.C. 1715y(e)(3)(A));

(collectively hereinafter referred to as the ''Dollar Amounts'') shall be adjusted annually (commencing in 2004) on the effective date of the Federal Reserve Board's adjustment of the $400 figure in the Home Ownership and Equity Protection Act of 1994 (HOEPA). The adjustment of the Dollar Amounts shall be calculated using the percentage change in the Consumer Price Index for All Urban Consumers (CPI–U) as applied by the Federal Reserve Board for purposes of the above-described HOEPA adjustment.

''(b) NOTIFICATION.—The Federal Reserve Board on a timely basis shall notify the Secretary, or his designee, in writing of the adjustment described in subsection (a) and of the effective date of such adjustment in order to permit the Secretary to undertake publication in the Federal Register of corresponding adjustments to the Dollar Amounts. The dollar amount of any adjustment shall be rounded to the next lower dollar.''.

(b) TECHNICAL AND CONFORMING CHANGES.—(1) Section 207(c)(3) of the National Housing Act (12 U.S.C. 1713(c)(3)) is amended—

(A) by inserting ''(A)'' after ''(3)'';

(B) by striking ''and accept that the Secretary'' through and including ''in this paragraph'' and inserting in lieu thereof:

''(B) the Secretary may, by regulation, increase any of the dollar amount limitations in subparagraph (A) (as such limitations may have been adjusted in accordance with section 206A of this Act)''.

(2) Section 213(b)(2) of the National Housing Act (12 U.S.C. 1715e(b)(2)) is amended—

(A) by inserting ''(A)'' following ''(2)'';

(B) by striking '': *Provided further,* That'' the first time that it occurs, through and including ''contained in this paragraph'' and inserting in lieu thereof: ''; (B)(i) the Secretary may, by regulation, increase any of the dollar amount limitations in subparagraph (A) (as such limitations may have been adjusted in accordance with section 206A of this Act)'';

(C) by striking '': *Provided further,* That'' the second time it occurs and inserting in lieu thereof: ''; and (ii)'';

(D) by striking '': *And provided further,* That'' and inserting in lieu thereof'' ''; and (iii)'';

(E) by striking ''with this subsection without regard to the preceding proviso'' at the end of that subsection and inserting in lieu thereof: ''with this subparagraph (B)(i).''.

(3) Section 220(d)(3)(B)(iii) of the National Housing Act (12 U.S.C. 1715k(d)(3)(B)(iii)) is amended—

(A) by inserting ''(I)'' following ''(iii)'';

(B) by striking ''design; and except that'' and inserting in lieu thereof: ''design; and (II)'';

(C) by striking ''any of the foregoing dollar amount limitations contained in this clause'' and inserting in lieu thereof: ''any of the dollar amount limitations in subparagraph (B)(iii)(I) (as such limitations may have been adjusted in accordance with section 206A of this Act)'';

(D) by striking '': *Provided,* That'' through and including ''proviso'' and inserting in lieu thereof: ''with respect to dollar amount limitations applicable to rehabilitation projects described in subclause (II), the Secretary may, by regulation, increase the dollar amount limitations contained in subparagraph (B)(iii)(I) (as such limitations may have been adjusted in accordance with section 206A of this Act)'';

(E) by striking '': *Provided further,*'' and inserting in lieu thereof: ''; (III)'';

(F) by striking ''subparagraph'' in the second proviso and inserting in lieu thereof ''subparagraph (B)(iii)(I)'';

(G) in the last proviso, by striking '': *And provided further,* That'' and all that follows through and including ''this clause'' and inserting in lieu thereof: ''; (IV) with respect to rehabilitation projects involving not more than five family units, the Secretary may further increase any of the dollar limitations which would otherwise apply to such projects''.

(4) Section 221(d)(3)(ii) of the National Housing Act (12 U.S.C. 1715l(d)(3)(ii)) is amended—

(A) by inserting ''(I)'' following ''(ii)'';

(B) by striking ''; and except that'' and all that follows through and including ''in this clause'' and inserting in lieu thereof: ''; (II) the Secretary may, by regulation, increase any of the dollar amount limitations in subclause (I) (as such limitations may have been adjusted in accordance with section 206A of this Act)''.

(5) Section 221(d)(4)(ii) of the National Housing Act (12 U.S.C. 1715l(d)(4)(ii)) is amended—

(A) by inserting ''(I)'' following ''(ii)'';

(B) by striking ''; and except that'' and all that follows through and including ''in this clause'' and inserting in lieu thereof: ''; (II)

the Secretary may, by regulation, increase any of the dollar limitations in subclause (I) (as such limitations may have been adjusted in accordance with section 206A of this Act)''.

(6) Section 231(c)(2) of the National Housing Act (12 U.S.C. 1715v(c)(2)) is amended—

(A) by inserting ''(A)'' following ''(2)'';

(B) by striking ''; and except that'' and all that follows through and including ''in this paragraph'' and inserting in lieu thereof: ''; (B) the Secretary may, by regulation, increase any of the dollar limitations in subparagraph (A) (as such limitations may have been adjusted in accordance with section 206A of this Act)'';

(C) by striking '': *Provided*, That'' and all that follows through and including ''of this section'' and inserting in lieu thereof: ''; (C) the Secretary may, by regulation, increase any of the dollar limitations in subparagraph (A) (as such limitations may have been adjusted in accordance with section 206A of this Act)''.

(7) Section 234(e)(3) of the National Housing Act (12 U.S.C. 1715y(e)(3)) is amended—

(A) by inserting ''(A)'' following ''(3)'';

(B) by replacing ''$38,025'' with ''$42,048''; ''$42,120'' with ''$48,481''; ''$50,310'' with ''$58,469''; ''$62,010'' with ''$74,840''; ''$70,200'' with ''$83,375''; ''$43,875'' with ''$44,250''; ''$49,140'' with ''$50,724''; ''$60,255'' with ''$61,680''; ''$75,465'' with ''$79,793''; and ''$85,328'' with ''$87,588'';

(C) by striking ''; except that each'' and all that follows through and including ''contained in this paragraph'' and inserting in lieu thereof: ''; (B) the Secretary may, by regulation, increase any of the dollar limitations in subparagraph (A) (as such limitations may have been adjusted in accordance with section 206A of this Act)''.

DISCHARGED FROM THE COMMITTEE ON GOVERNMENT REFORM AND PASSED

H.R. 5280, to designate the facility of the United States Postal Service located at 2001 East Willard Street in Philadelphia, Pennsylvania, as the ''Robert A. Borski Post Office Building''.

H.R. 5280

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

SECTION 1. ROBERT A. BORSKI POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 2001 East Willard Street in Philadelphia, Pennsylvania, shall be known and designated as the ''Robert A. Borski Post Office Building''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Robert A. Borski Post Office Building.

DISCHARGED FROM THE COMMITTEE ON GOVERNMENT REFORM AND PASSED

H.R. 5586, to designate the facility of the United States Postal Service located at 141 Erie Street in Linesville, Pennsylvania, as the ''James R. Merry Post Office Building''.

H.R. 5586

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

SECTION 1. JAMES R. MERRY POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 141 Erie Street in Linesville, Pennsylvania, shall be known and designated as the ''James R. Merry Post Office Building''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the James R. Merry Post Office Building.

DISCHARGED FROM THE COMMITTEE ON GOVERNMENT REFORM AND PASSED

H.R. 5609, to designate the facility of the United States Postal Service located at 600 East 1st Street in Rome, Georgia, as the ''Martha Berry Post Office''.

H.R. 5609

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

SECTION 1. MARTHA BERRY POST OFFICE.

(a) DESIGNATION.—The facility of the United States Postal Service located at 600 East 1st Street in Rome, Georgia, shall be known and designated as the ''Martha Berry Post Office''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Martha Berry Post Office.

DISCHARGED FROM THE COMMITTEE ON GOVERNMENT REFORM AND PASSED

H.R. 628, to designate the facility of the United States Postal Service located at 440 South Orange Blossom Trail in Orlando, Florida, as the ''Arthur 'Pappy' Kennedy Post Office''.

H.R. 628

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

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 440 South Orange Blossom Trail in Orlando, Florida, shall be known and designated as the ''Arthur 'Pappy' Kennedy Post Office''.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the Arthur ''Pappy'' Kennedy Post Office.

DISCHARGED FROM THE COMMITTEE ON GOVERNMENT REFORM AND PASSED

H.R. 629, to designate the facility of the United States Postal Service located at 1601–1 Main Street in Jacksonville, Florida, as the ''Eddie Mae Steward Post Office''.

H.R. 629

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

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 1601–1 Main Street in Jacksonville, Florida, shall be known and designated as the ''Eddie Mae Steward Post Office''.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the Eddie Mae Steward Post Office.

DISCHARGED FROM THE COMMITTEE ON GOVERNMENT REFORM AND PASSED

H.R. 3775, to designate the facility of the United States Postal Service located at 1502 East Kiest Boulevard in Dallas, Texas, as the ''Dr. Caesar A.W. Clark, Sr. Post Office Building''.

H.R. 3775

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

SECTION 1. DR. CAESAR A.W. CLARK, SR. POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 1502 East Kiest Boulevard in Dallas, Texas, shall be known and designated as the ''Dr. Caesar A.W. Clark, Sr. Post Office Building''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Dr. Caesar A.W. Clark, Sr. Post Office Building.

DISCHARGED FROM THE COMMITTEE ON GOVERNMENT REFORM AND PASSED

H.R. 5495, to designate the facility of the United States Postal Service located at 115 West Pine Street in Hattiesburg, Mississippi, as the ''Major Henry A. Commiskey, Sr. Post Office Building''.

H.R. 5495

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

SECTION 1. MAJOR HENRY A. COMMISKEY, SR. POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 115 West Pine Street in Hattiesburg, Mississippi, shall be known and designated as the ''Major Henry A. Commiskey, Sr. Post Office Building''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Major Henry A. Commiskey, Sr. Post Office Building.

DISCHARGED FROM THE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE AND PASSED

H.R. 5604, to designate the Federal building and United States courthouse located at 46 East Ohio Street in Indianapolis, Indiana, as the ''Birch Bayh Federal Building and United States Courthouse''.

H.R. 5604

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

SECTION 1. DESIGNATION.

The Federal building and United States courthouse located at 46 East Ohio Street in Indianapolis, Indiana, shall be known and designated as the ''Birch Bayh Federal Building and United States Courthouse''.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building and United States courthouse referred to in section 1 shall be deemed to be a reference to the ''Birch Bayh Federal Building and United States Courthouse''.

Mr. OBERSTAR. Mr. Speaker, H.R. 5604 is a bill to designate the federal building located at 46 East Ohio St., Indianapolis, Indiana, as the ''Birch Bayh Federal Building and United States Courthouse.'' This bill is sponsored by the entire Indiana delegation in the U.S. House of Representatives.

Birch Bayh was born on January 22, 1928, in Terre Haute, Indiana. He attended public schools in Indiana and joined the army in

1946. In 1954, he was elected to the Indiana House of Representatives where he served for eight years, including terms as Minority Leader and later, as Speaker of the House.

In 1962, when he was only 34 years old, Birch Bayh was elected to the first of three terms in the U.S. Senate. Senator Bayh quickly became a leader on issues of education, equal rights, and Constitutional law. As Chairman of the Constitutional Subcommittee of the Senate Judiciary Committee, Senator Bayh authored two amendments to the Constitution—the 25th Amendment setting forth the order of Presidential succession, and the 26th Amendment lowering the voting age from 21 to 18 years of age. During his time in the Senate, Senator Bayh also served on the Appropriations Committee and the Select Committee on Intelligence.

Senator Bayh was a champion of equal rights for women and minorities. He authored Title IX to the Higher Education Act, which mandates equal opportunities for women students and faculty in our Nation's schools. Further, Senator Bayh was a strong supporter of two pieces of landmark legislation—the 1964 Civil Rights Act and the 1965 Voting Rights Act. He was also instrumental in enacting the Juvenile Justice Act, which mandates the separation of juvenile offenders from adult prison populations.

Since leaving the Senate in the 1980s, Senator Bayh has continued his commitment to public service. He serves as a member of the William Fulbright Foreign Scholarship Board, National Institute Against Prejudice and Violence, and the University of Virginia's Miller Center Commission on Presidential Disability and the 25th Amendment.

It is entirely fitting and proper to honor the contributions of Senator Birch Bayh with this designation and I urge my colleagues to support H.R. 5604.

DISCHARGED FROM THE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE AND PASSED

H.R. 5611, to designate the Federal building located at 324 Twenty-Fifth Street in Ogden, Utah, as the ''James V. Hansen Federal Building''.

H.R. 5611

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

SECTION 1. DESIGNATION.

The Federal building located at 324 Twenty-Fifth Street in Ogden, Utah, shall be known and designated as the ''James V. Hansen Federal Building''.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the ''James V. Hansen Federal Building''.

SEC. 3. EFFECTIVE DATE.

This Act shall take effect on January 1, 2003.

Mr. OBERSTAR. Mr. Speaker, H.R. 5611 is a bill to designate the federal building located at 324 Twenty-Fifth Street in Ogden, Utah as the James V. Hansen Federal Building.

Congressman HANSEN began his career in public service in local government in Farmington, Utah. He later served four terms in the Utah House of Representatives, where he served as Speaker of the House in his final term. In 1980, he was elected to the United States Congress from Utah's First Congressional District, and has served 11 consecutive terms.

During his service in the House, Congressman HANSEN has been an active member of the Armed Services Committee, Chairman of the Ethics Committee, and most recently, Chairman of the Resources Committee. He has fought for legislation to revise the private mortgage insurance program to benefit American homeowners, and has been instrumental in the development of environmental and natural resources policy.

After 22 years of service in the U.S. House of Representatives, Congressman HANSEN has decided to retire. It is both fitting and proper that on this, the last day of the Session for this Body in the 107th Congress, we honor the career of Congressman HANSEN with this designation.

I urge my colleagues to support H.R. 5611.

DISCHARGED FROM THE COMMITTEE ON WAYS AND MEANS AND PASSED

H.R. 5728, to amend the Internal Revenue Code of 1986 to provide fairness in tax collection procedures and improved administrative efficiency and confidentiality and to reform its penalty and interest provisions.

H.R. 5728

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

SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This Act may be cited as the ''Tax Administration Reform Act of 2002''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; etc.

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Sec. 102. Extension of time for return of property.
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Sec. 105. Study of liens and levies.
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TITLE II—IMPROVED ADMINISTRATIVE EFFICIENCY AND CONFIDENTIALITY

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TITLE I—FAIRNESS IN TAX COLLECTION PROCEDURES

SEC. 101. PARTIAL PAYMENT OF TAX LIABILITY IN INSTALLMENT AGREEMENTS.

(a) IN GENERAL.—

(1) Section 6159(a) (relating to authorization of agreements) is amended—

(A) by striking ''satisfy liability for payment of'' and inserting ''make payment on'', and

(B) by inserting ''full or partial'' after ''facilitate''.

(2) Section 6159(c) (relating to Secretary required to enter into installment agreements in certain cases) is amended in the matter preceding paragraph (1) by inserting ''full'' before ''payment''.

(b) REQUIREMENT TO REVIEW PARTIAL PAYMENT AGREEMENTS EVERY TWO YEARS.—Section 6159 is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and inserting after subsection (c) the following new subsection:

''(d) SECRETARY REQUIRED TO REVIEW INSTALLMENT AGREEMENTS FOR PARTIAL COLLECTION EVERY TWO YEARS.—In the case of an agreement entered into by the Secretary under subsection (a) for partial collection of a tax liability, the Secretary shall review the agreement at least once every 2 years.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements entered into on or after the date of the enactment of this Act.

SEC. 102. EXTENSION OF TIME FOR RETURN OF PROPERTY.

(a) EXTENSION OF TIME FOR RETURN OF PROPERTY SUBJECT TO LEVY.—Subsection (b)

of section 6343 (relating to return of property) is amended by striking ''9 months'' and inserting ''2 years''.

(b) PERIOD OF LIMITATION ON SUITS.—Subsection (c) of section 6532 (relating to suits by persons other than taxpayers) is amended—

(1) in paragraph (1) by striking ''9 months'' and inserting ''2 years'', and

(2) in paragraph (2) by striking ''9-month'' and inserting ''2-year''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) levies made after the date of the enactment of this Act, and

(2) levies made on or before such date if the 9-month period has not expired under section 6343(b) of the Internal Revenue Code of 1986 (without regard to this section) as of such date.

SEC. 103. INDIVIDUALS HELD HARMLESS ON WRONGFUL LEVY, ETC., ON INDIVIDUAL RETIREMENT PLAN.

(a) IN GENERAL.—Section 6343 (relating to authority to release levy and return property) is amended by adding at the end the following new subsection:

''(f) INDIVIDUALS HELD HARMLESS ON WRONGFUL LEVY, ETC., ON INDIVIDUAL RETIREMENT PLAN.—

''(1) IN GENERAL.—If the Secretary determines that an individual retirement plan has been levied upon in a case to which subsection (b) or (d)(2)(A) applies, an amount equal to the sum of—

''(A) the amount of money returned by the Secretary on account of such levy, and

''(B) interest paid under subsection (c) on such amount of money,

may be deposited into an individual retirement plan (other than an endowment contract) to which a rollover from the plan levied upon is permitted.

''(2) TREATMENT AS ROLLOVER.—The distribution on account of the levy and any deposit under paragraph (1) with respect to such distribution shall be treated for purposes of this title as if such distribution and deposit were part of a rollover described in section 408(d)(3)(A)(i); except that—

''(A) interest paid under subsection (c) shall be treated as part of such distribution and as not includible in gross income,

''(B) the 60-day requirement in such section shall be treated as met if the deposit is made not later than the 60th day after the day on which the individual receives an amount under paragraph (1) from the Secretary, and

''(C) such deposit shall not be taken into account under section 408(d)(3)(B).

''(3) REFUND, ETC., OF INCOME TAX ON LEVY.—If any amount is includible in gross income for a taxable year by reason of a levy referred to in paragraph (1) and any portion of such amount is treated as a rollover under paragraph (2), any tax imposed by chapter 1 on such portion shall not be assessed, and if assessed shall be abated, and if collected shall be credited or refunded as an overpayment made on the due date for filing the return of tax for such taxable year.

''(4) INTEREST.—Notwithstanding subsection (d), interest shall be allowed under subsection (c) in a case in which the Secretary makes a determination described in subsection (d)(2)(A) with respect to a levy upon an individual retirement plan.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid under subsections (b), (c), and (d)(2)(A) of section 6343 of the Internal Revenue Code of 1986 after December 31, 2002.

SEC. 104. SEVEN-DAY THRESHOLD ON TOLLING OF STATUTE OF LIMITATIONS DURING TAX REVIEW.

(a) IN GENERAL.—Section 7811(d)(1) (relating to suspension of running of period of limitation) is amended by inserting after ''application,'' the following: ''but only if the date of such decision is at least 7 days after the date of the taxpayer's application''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to applications filed after the date of the enactment of this Act.

SEC. 105. STUDY OF LIENS AND LEVIES.

The Secretary of the Treasury, or the Secretary's delegate, shall conduct a study of the practices of the Internal Revenue Service concerning liens and levies. The study shall examine—

(1) the declining use of liens and levies by the Internal Revenue Service, and

(2) the practicality of recording liens and levying against property in cases in which the cost of such actions exceeds the amount to be realized from such property.

Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit such study to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

SEC. 106. LOW-INCOME TAXPAYER CLINICS.

(a) LIMITATION ON AMOUNT OF GRANTS.—Paragraph (1) of section 7526(c) (relating to special rules and limitations) is amended by striking ''$6,000,000 per year'' and inserting ''$9,000,000 for 2002, $12,000,000 for 2003, and $15,000,000 for each year thereafter''.

(b) PROMOTION OF CLINICS.—Section 7526(c) is amended by adding at the end the following new paragraph:

''(7) PROMOTION OF CLINICS.—The Secretary is authorized to promote the benefits of and encourage the use of low-income taxpayer clinics through the use of mass communications, referrals, and other means.''.

TITLE II—IMPROVED ADMINISTRATIVE EFFICIENCY AND CONFIDENTIALITY

Subtitle A—Efficiency of Tax Administration

SEC. 201. REVISIONS RELATING TO TERMINATION OF EMPLOYMENT OF INTERNAL REVENUE SERVICE EMPLOYEES FOR MISCONDUCT.

(a) IN GENERAL.—Subchapter A of chapter 80 (relating to application of internal revenue laws) is amended by inserting after section 7804 the following new section:

''SEC. 7804A. DISCIPLINARY ACTIONS FOR MISCONDUCT.

''(a) DISCIPLINARY ACTIONS.—

''(1) IN GENERAL.—Subject to subsection (c), the Commissioner shall take an action in accordance with the guidelines established under paragraph (2) against any employee of the Internal Revenue Service if there is a final administrative or judicial determination that such employee committed any act or omission described under subsection (b) in the performance of the employee's official duties or where a nexus to the employee's position exists.

''(2) GUIDELINES.—The Commissioner shall issue guidelines for determining the appropriate level of discipline, up to and including termination of employment, for committing any act or omission described under subsection (b).

''(b) ACTS OR OMISSIONS.—The acts or omissions described under this subsection are—

''(1) willful failure to obtain the required approval signatures on documents authorizing the seizure of a taxpayer's home, personal belongings, or business assets;

''(2) willfully providing a false statement under oath with respect to a material matter involving a taxpayer or taxpayer representative;

''(3) with respect to a taxpayer or taxpayer representative, the willful violation of—

''(A) any right under the Constitution of the United States;

''(B) any civil right established under—

''(i) title VI or VII of the Civil Rights Act of 1964;

''(ii) title IX of the Education Amendments of 1972;

''(iii) the Age Discrimination in Employment Act of 1967;

''(iv) the Age Discrimination Act of 1975;

''(v) section 501 or 504 of the Rehabilitation Act of 1973; or

''(vi) title I of the Americans with Disabilities Act of 1990; or

''(C) the Internal Revenue Service policy on unauthorized inspection of returns or return information;

''(4) willfully falsifying or destroying documents to conceal mistakes made by any employee with respect to a matter involving a taxpayer or taxpayer representative;

''(5) assault or battery on a taxpayer or taxpayer representative, but only if there is a criminal conviction, or a final adverse judgment by a court in a civil case, with respect to the assault or battery;

''(6) willful violations of this title, Department of the Treasury regulations, or policies of the Internal Revenue Service (including the Internal Revenue Manual) for the purpose of retaliating against, or harassing, a taxpayer or taxpayer representative;

''(7) willful misuse of the provisions of section 6103 for the purpose of concealing information from a congressional inquiry;

''(8) willful failure to file any return of tax required under this title on or before the date prescribed therefor (including any extensions) when a tax is due and owing, unless such failure is due to reasonable cause and not due to willful neglect;

''(9) willful understatement of Federal tax liability, unless such understatement is due to reasonable cause and not due to willful neglect; and

''(10) threatening to audit a taxpayer, or to take other action under this title, for the purpose of extracting personal gain or benefit.

''(c) DETERMINATIONS OF COMMISSIONER.—

''(1) IN GENERAL.—The Commissioner may take a personnel action other than a disciplinary action provided for in the guidelines under subsection (a)(2) for an act or omission described under subsection (b).

''(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may not be delegated to any other officer. The Commissioner, in his sole discretion, may establish a procedure to determine if an individual should be referred to the Commissioner for a determination by the Commissioner under paragraph (1).

''(3) NO APPEAL.—Notwithstanding any other provision of law, any determination of the Commissioner under this subsection may not be reviewed in any administrative or judicial proceeding. A finding that an act or omission described under subsection (b) occurred may be reviewed.

''(d) DEFINITION.—For the purposes of the provisions described in clauses (i), (ii), and (iv) of subsection (b)(3)(B), references to a program or activity regarding Federal financial assistance or an education program or activity receiving Federal financial assistance shall include any program or activity conducted by the Internal Revenue Service for a taxpayer.

''(e) ANNUAL REPORT.—The Commissioner shall submit to Congress annually a report on disciplinary actions under this section.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 80 is amended by inserting after the item relating to section 7804 the following new item:

''Sec. 7804A. Disciplinary actions for misconduct.''.

(c) REPEAL OF SUPERSEDED SECTION.—Section 1203 of the Internal Revenue Service Restructuring and Reform Act of 1998 (Public Law 105–206; 112 Stat. 720) is repealed.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 202. CONFIRMATION OF AUTHORITY OF TAX COURT TO APPLY DOCTRINE OF EQUITABLE RECOUPMENT.

(a) CONFIRMATION OF AUTHORITY OF TAX COURT TO APPLY DOCTRINE OF EQUITABLE RECOUPMENT.—Subsection (b) of section 6214 (relating to jurisdiction over other years and quarters) is amended by adding at the end the following new sentence: ''Notwithstanding the preceding sentence, the Tax Court may apply the doctrine of equitable recoupment to the same extent that it is available in civil tax cases before the district courts of the United States and the United States Court of Federal Claims.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any action or proceeding in the Tax Court with respect to which a decision has not become final (as determined under section 7481 of the Internal Revenue Code of 1986) as of the date of the enactment of this Act.

SEC. 203. JURISDICTION OF TAX COURT OVER COLLECTION DUE PROCESS CASES.

(a) IN GENERAL.—Section 6330(d)(1) (relating to judicial review of determination) is amended to read as follows:

''(1) JUDICIAL REVIEW OF DETERMINATION.—The person may, within 30 days of a determination under this section, appeal such determination to the Tax Court (and the Tax Court shall have jurisdiction with respect to such matter).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to judicial appeals filed after the date of the enactment of this Act.

SEC. 204. OFFICE OF CHIEF COUNSEL REVIEW OF OFFERS IN COMPROMISE.

(a) IN GENERAL.—Section 7122(b) (relating to record) is amended by striking ''Whenever a compromise'' and all that follows through ''his delegate'' and inserting ''If the Secretary determines that an opinion of the General Counsel for the Department of the Treasury, or the Counsel's delegate, is required with respect to a compromise, there shall be placed on file in the office of the Secretary such opinion''.

(b) CONFORMING AMENDMENTS.—Section 7122(b) is amended by striking the second and third sentences.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to offers-in-compromise submitted or pending on or after the date of the enactment of this Act.

SEC. 205. 15-DAY DELAY IN DUE DATE FOR ELECTRONICALLY FILED INDIVIDUAL INCOME TAX RETURNS.

(a) IN GENERAL.—Section 6072 (relating to time for filing income tax returns) is amended by adding at the end the following new subsection:

''(f) ELECTRONICALLY FILED RETURNS OF INDIVIDUALS.—

''(1) IN GENERAL.—Returns of an individual under section 6012 or 6013 (other than an individual to whom subsection (c) applies) which are filed electronically—

''(A) in the case of returns filed on the basis of a calendar year, shall be filed on or before the 30th day of April following the close of the calendar year, and

''(B) in the case of returns filed on the basis of a fiscal year, shall be filed on or before the last day of the 4th month following the close of the fiscal year.

''(2) ELECTRONIC FILING.—Paragraph (1) shall not apply to any return unless—

''(A) such return is accepted by the Secretary, and

''(B) the balance due (if any) shown on such return is paid electronically in a manner prescribed by the Secretary.

''(3) SPECIAL RULES.—

''(A) ESTIMATED TAX.—If—

''(i) paragraph (1) applies to an individual for any taxable year, and

''(ii) there is an overpayment of tax shown on the return for such year which the individual allows against the individual's obligation under section 6641,

then, with respect to the amount so allowed, any reference in section 6641 to the April 15 following such taxable year shall be treated as a reference to April 30.

''(B) REFERENCES TO DUE DATE.—Paragraph (1) shall apply solely for purposes of determining the due date for the individual's obligation to file and pay tax and, except as otherwise provided by the Secretary, shall be treated as an extension of the due date for any other purpose under this title.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2001.

Subtitle B—Confidentiality and Disclosure

SEC. 211. COLLECTION ACTIVITIES WITH RESPECT TO JOINT RETURN DISCLOSABLE TO EITHER SPOUSE BASED ON ORAL REQUEST.

(a) IN GENERAL.—Paragraph (8) of section 6103(e) (relating to disclosure of collection activities with respect to joint return) is amended by striking ''in writing'' the first place it appears.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to requests made after the date of the enactment of this Act.

SEC. 212. TAXPAYER REPRESENTATIVES NOT SUBJECT TO EXAMINATION ON SOLE BASIS OF REPRESENTATION OF TAXPAYERS.

(a) IN GENERAL.—Subsection (h) of section 6103 (relating to disclosure to certain Federal officers and employees for purposes of tax administration, etc.) is amended by adding at the end the following new paragraph:

''(7) TAXPAYER REPRESENTATIVES.—Notwithstanding paragraph (1), the return of the representative of a taxpayer whose return is being examined by an officer or employee of the Department of the Treasury shall not be open to inspection by such officer or employee on the sole basis of the representative's relationship to the taxpayer unless a supervisor of such officer or employee has approved the inspection of the return of such representative on a basis other than by reason of such relationship.''.

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

SEC. 213. COMPLIANCE BY CONTRACTORS WITH CONFIDENTIALITY SAFEGUARDS.

(a) IN GENERAL.—Section 6103(p) (relating to State law requirements) is amended by adding at the end the following new paragraph:

''(9) DISCLOSURE TO CONTRACTORS.—Notwithstanding any other provision of this section, no return or return information shall be disclosed by any officer or employee of any Federal agency or State to any contractor of such agency or State unless such agency or State—

''(A) has requirements in effect which require each contractor of such agency or State which would have access to returns or return information to provide safeguards (within the meaning of paragraph (4)) to protect the confidentiality of such returns or return information,

''(B) agrees to conduct an annual, on-site review (mid-point review in the case of contracts of less than 1 year in duration) of each contractor to determine compliance with such requirements,

''(C) submits the findings of the most recent review conducted under subparagraph (B) to the Secretary as part of the report required by paragraph (4)(E), and

''(D) certifies to the Secretary for the most recent annual period that all contractors are in compliance with all such requirements.

The certification required by subparagraph (D) shall include the name and address of each contractor, a description of the contract of the contractor with the Federal agency or State, and the duration of such contract.''.

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 6103(p)(8) is amended by inserting ''or paragraph (9)'' after ''subparagraph (A)''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to disclosures made after December 31, 2002.

(2) CERTIFICATIONS.—The first certification under section 6103(p)(9)(D) of the Internal Revenue Code of 1986, as added by subsection (a), shall be made with respect to calendar year 2003.

SEC. 214. HIGHER STANDARDS FOR REQUESTS FOR AND CONSENTS TO DISCLOSURE.

(a) IN GENERAL.—Subsection (c) of section 6103 (relating to disclosure of returns and return information to designee of taxpayer) is amended by adding at the end the following new paragraphs:

''(2) REQUIREMENTS FOR VALID REQUESTS AND CONSENTS.—A request for or consent to disclosure under paragraph (1) shall only be valid for purposes of this section or sections 7213, 7213A, or 7431 if—

''(A) at the time of execution, such request or consent designates a recipient of such disclosure and is dated, and

''(B) at the time such request or consent is submitted to the Secretary, the submitter of such request or consent certifies, under penalty of perjury, that such request or consent complied with subparagraph (A).

''(3) RESTRICTIONS ON PERSONS OBTAINING INFORMATION.—Any person shall, as a condition for receiving return or return information under paragraph (1)—

''(A) ensure that such return and return information is kept confidential,

''(B) use such return and return information only for the purpose for which it was requested, and

''(C) not disclose such return and return information except to accomplish the purpose for which it was requested, unless a separate consent from the taxpayer is obtained.

''(4) REQUIREMENTS FOR FORM PRESCRIBED BY SECRETARY.—For purposes of this subsection, the Secretary shall prescribe a form for requests and consents which shall—

''(A) contain a warning, prominently displayed, informing the taxpayer that the form should not be signed unless it is completed,

''(B) state that if the taxpayer believes there is an attempt to coerce him to sign an incomplete or blank form, the taxpayer should report the matter to the Treasury Inspector General for Tax Administration, and

''(C) contain the address and telephone number of the Treasury Inspector General for Tax Administration.''.

(b) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Treasury Inspector General for Tax Administration shall submit a report to the Congress on compliance with the designation and certification requirements applicable to requests for or consent to disclosure of returns and return information under section 6103(c) of the Internal Revenue Code of 1986, as amended by subsection (a). Such report shall—

(1) evaluate (on the basis of random sampling) whether—

(A) the amendment made by subsection (a) is achieving the purposes of this section;

(B) requesters and submitters for such disclosure are continuing to evade the purposes of this section and, if so, how; and

(C) the sanctions for violations of such requirements are adequate; and

(2) include such recommendations that the Treasury Inspector General for Tax Administration considers necessary or appropriate to better achieve the purposes of this section.

(c) CONFORMING AMENDMENT.—Section 6103(c) is amended by striking ''TAXPAYER.—The Secretary'' and inserting ''TAXPAYER.—

''(1) IN GENERAL.—The Secretary''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to requests and consents made after 3 months after the date of the enactment of this Act.

SEC. 215. NOTICE TO TAXPAYER CONCERNING ADMINISTRATIVE DETERMINATION OF BROWSING; ANNUAL REPORT.

(a) NOTICE TO TAXPAYER.—Subsection (e) of section 7431 (relating to notification of unlawful inspection and disclosure) is amended by adding at the end the following: ''The Secretary shall also notify such taxpayer if the Treasury Inspector General for Tax Administration determines that such taxpayer's return or return information was inspected or disclosed in violation of any of the provisions specified in paragraph (1), (2), or (3).''.

(b) REPORTS.—Subsection (p) of section 6103 (relating to procedure and recordkeeping), as amended by section 245, is further amended by adding at the end the following new paragraph:

''(10) REPORT ON UNAUTHORIZED DISCLOSURE AND INSPECTION.—As part of the report required by paragraph (3)(C) for each calendar year, the Secretary shall furnish information regarding the unauthorized disclosure and inspection of returns and return information, including the number, status, and results of—

''(A) administrative investigations,

''(B) civil lawsuits brought under section 7431 (including the amounts for which such lawsuits were settled and the amounts of damages awarded), and

''(C) criminal prosecutions.''.

(c) EFFECTIVE DATE.—

(1) NOTICE.—The amendment made by subsection (a) shall apply to determinations made after the date of the enactment of this Act.

(2) REPORTS.—The amendment made by subsection (b) shall apply to calendar years ending after the date of the enactment of this Act.

SEC. 216. EXPANDED DISCLOSURE IN EMERGENCY CIRCUMSTANCES.

(a) IN GENERAL.—Section 6103(i)(3)(B) (relating to danger of death or physical injury) is amended by striking ''or State'' and inserting '', State, or local''.

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

SEC. 217. DISCLOSURE TO STATE OFFICIALS OF PROPOSED ACTIONS RELATED TO SECTION 501(c)(3) ORGANIZATIONS.

(a) IN GENERAL.—Subsection (c) of section 6104 is amended by striking paragraph (2) and inserting the following new paragraphs:

''(2) DISCLOSURE OF PROPOSED ACTIONS.—

''(A) SPECIFIC NOTIFICATIONS.—In the case of an organization to which paragraph (1) applies, the Secretary may disclose to the appropriate State officer—

''(i) a notice of proposed refusal to recognize such organization as an organization described in section 501(c)(3) or a notice of proposed revocation of such organization's recognition as an organization exempt from taxation,

''(ii) the issuance of a letter of proposed deficiency of tax imposed under section 507 or chapter 41 or 42, and

''(iii) the names and taxpayer identification numbers of organizations that have applied for recognition as organizations described in section 501(c)(3).

''(B) ADDITIONAL DISCLOSURES.—Returns and return information of organizations with respect to which information is disclosed under subparagraph (A) may be made available for inspection by or disclosed to an appropriate State officer.

''(C) PROCEDURES FOR DISCLOSURE.—Information may be inspected or disclosed under subparagraph (A) or (B) only—

''(i) upon written request by an appropriate State officer, and

''(ii) for the purpose of, and only to the extent necessary in, the administration of State laws regulating such organizations.

Such information may only be inspected by or disclosed to representatives of the appropriate State officer designated as the individuals who are to inspect or to receive the returns or return information under this paragraph on behalf of such officer.

''(D) DISCLOSURES OTHER THAN BY REQUEST.—The Secretary may make available for inspection or disclose returns and return information of an organization to which paragraph (1) applies to an appropriate State officer of any State if the Secretary determines that such inspection or disclosure may facilitate the resolution of State and Federal issues relating to such organization.

''(3) USE IN JUDICIAL AND ADMINISTRATIVE PROCEEDINGS.—Returns and return information disclosed pursuant to this subsection may be disclosed in civil administrative and judicial proceedings pertaining to the enforcement of State laws regulating such organizations in a manner prescribed by the Secretary similar to that for tax administration proceedings under section 6103(h)(4).

''(4) NO DISCLOSURE IF IMPAIRMENT.—Returns and return information shall not be disclosed under this subsection, or in any proceeding described in paragraph (3), to the extent that the Secretary determines that such disclosure would seriously impair Federal tax administration.

''(5) DEFINITIONS.—For purposes of this subsection—

''(A) RETURN AND RETURN INFORMATION.—The terms 'return' and 'return information' have the respective meanings given to such terms by section 6103(b).

''(B) APPROPRIATE STATE OFFICER.—The term 'appropriate State officer' means—

''(i) the State attorney general, or

''(ii) the head of any State agency, body, or commission which is charged under the laws of such State with responsibility for overseeing organizations of the type described in section 501(c)(3).''.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 6103 is amended—

(A) by inserting ''or section 6104(c)'' after ''this section'' in paragraph (2), and

(B) by striking ''or subsection (n)'' in paragraph (3) and inserting ''subsection (n), or section 6104(c)''.

(2) Subparagraph (A) of section 6103(p)(3) is amended by inserting ''and section 6104(c)'' after ''section'' in the first sentence.

(3) Paragraph (4) of section 6103(p) is amended—

(A) in the matter preceding subparagraph (A), by striking ''(16) or any other person described in subsection (l)(16)'' and inserting ''(16), any other person described in subsection (l)(16), or any appropriate State officer (as defined in section 6104(c))'', and

(B) in subparagraph (F), by striking ''or any other person described in subsection (l)(16)'' and inserting ''any other person described in subsection (l)(16), or any appropriate State officer (as defined in section 6104(c))''.

(4) Paragraph (2) of section 7213(a) is amended by inserting ''or under section 6104(c)'' after ''6103''.

(5) Paragraph (2) of section 7213A(a) is amended by inserting ''or 6104(c)'' after ''6103''.

(6) Paragraph (2) of section 7431(a) is amended by inserting ''(including any disclosure in violation of section 6104(c))'' after ''6103''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act but shall not apply to requests made before such date.

Subtitle C—Other Provisions

SEC. 221. BETTER MEANS OF COMMUNICATING WITH TAXPAYERS.

Not later than 18 months after the date of the enactment of this Act, the Treasury Inspector General for Tax Administration shall submit a report to Congress evaluating whether technological advances, such as e-mail and facsimile transmission, permit the use of alternative means for the Internal Revenue Service to communicate with taxpayers.

SEC. 222. ENROLLED AGENTS.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

''SEC. 7527. ENROLLED AGENTS.

''(a) IN GENERAL.—The Secretary may prescribe such regulations as may be necessary to regulate the conduct of enrolled agents in regards to their practice before the Internal Revenue Service.

''(b) USE OF CREDENTIALS.—Any enrolled agents properly licensed to practice as required under rules promulgated under section (a) herein shall be allowed to use the credentials or designation as 'enrolled agent', 'EA', or 'E.A.'.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end the following new item:

''Sec. 7525. Enrolled agents.''.

(c) PRIOR REGULATIONS.—Nothing in the amendments made by this section shall be construed to have any effect on part 10 of title 31, Code of Federal Regulations, or any other Federal rule or regulation issued before the date of the enactment of this Act.

SEC. 223. FINANCIAL MANAGEMENT SERVICE FEES.

Notwithstanding any other provision of law, the Financial Management Service may charge the Internal Revenue Service, and the Internal Revenue Service may pay the Financial Management Service, a fee sufficient to cover the full cost of implementing a continuous levy program under subsection (h) of section 6331 of the Internal Revenue Code of 1986. Any such fee shall be based on actual levies made and shall be collected by the Financial Management Service by the retention of a portion of amounts collected by levy pursuant to that subsection. Amounts received by the Financial Management Service as fees under that subsection shall be deposited into the account of the Department of the Treasury under section 3711(g)(7) of title 31, United States Code, and shall be collected and accounted for in accordance with the provisions of that section. The amount credited against the taxpayer's liability on account of the continuous levy shall be the amount levied, without reduction for the amount paid to the Financial Management Service as a fee.

SEC. 224. AMENDMENT TO TREASURY AUCTION REFORMS.

(a) IN GENERAL.—Clause (i) of section 202(c)(4)(B) of the Government Securities Act

Amendments of 1993 (31 U.S.C. 3121 note) is amended by inserting before the semicolon ''(or, if earlier, at the time the Secretary releases the minutes of the meeting in accordance with paragraph (2))''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to meetings held after the date of the enactment of this Act.

TITLE III—REFORM OF PENALTY AND INTEREST PROVISIONS

SEC. 301. FAILURE TO PAY ESTIMATED TAX PENALTY CONVERTED TO INTEREST CHARGE ON ACCUMULATED UNPAID BALANCE.

(a) PENALTY MOVED TO INTEREST CHAPTER OF CODE.—The Internal Revenue Code of 1986 is amended by redesignating section 6654 as section 6641 and by moving section 6641 (as so redesignated) from part I of subchapter A of chapter 68 to the end of subchapter E of chapter 67 (as added by subsection (e)(1) of this section).

(b) PENALTY CONVERTED TO INTEREST CHARGE.—The heading and subsections (a) and (b) of section 6641 (as so redesignated) are amended to read as follows:

''SEC. 6641. INTEREST ON FAILURE BY INDIVIDUAL TO PAY ESTIMATED INCOME TAX.

''(a) IN GENERAL.—Interest shall be paid on any underpayment of estimated tax by an individual for a taxable year for each day of such underpayment. The amount of such interest for any day shall be the product of the underpayment rate established under subsection (b)(2) multiplied by the amount of the underpayment.

''(b) AMOUNT OF UNDERPAYMENT; INTEREST RATE.—For purposes of subsection (a)—

''(1) AMOUNT.—The amount of the underpayment on any day shall be the excess of—

''(A) the sum of the required installments for the taxable year the due dates for which are on or before such day, over

''(B) the sum of the amounts (if any) of estimated tax payments made on or before such day on such required installments.

''(2) DETERMINATION OF INTEREST RATE.—

''(A) IN GENERAL.—The underpayment rate with respect to any day in an installment underpayment period shall be the underpayment rate established under section 6621 for the first day of the calendar quarter in which such installment underpayment period begins.

''(B) INSTALLMENT UNDERPAYMENT PERIOD.—For purposes of subparagraph (A), the term 'installment underpayment period' means the period beginning on the day after the due date for a required installment and ending on the due date for the subsequent required installment (or in the case of the 4th required installment, the 15th day of the 4th month following the close of a taxable year).

''(C) DAILY RATE.—The rate determined under subparagraph (A) shall be applied on a daily basis and shall be based on the assumption of 365 days in a calendar year.

''(3) TERMINATION OF ESTIMATED TAX INTEREST.—No day after the end of the installment underpayment period for the 4th required installment specified in paragraph (2)(B) for a taxable year shall be treated as a day of underpayment with respect to such taxable year.''.

(c) INCREASE IN SAFE HARBOR WHERE TAX IS SMALL.—

(1) IN GENERAL.—Clause (i) of section 6641(d)(1)(B) (as so redesignated) is amended to read as follows:

''(i) the lesser of—

''(I) 90 percent of the tax shown on the return for the taxable year (or, if no return is filed, 90 percent of the tax for such year), or

''(II) the tax shown on the return for the taxable year (or, if no return is filed, the tax for such year) reduced (but not below zero) by $2,000, or''.

(2) CONFORMING AMENDMENT.—Subsection (e) of section 6641 (as so redesignated) is amended by striking paragraph (1) and redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(d) CONFORMING AMENDMENTS.—

(1) Paragraphs (1) and (2) of subsection (e) (as redesignated by subsection (c)(2)) and subsection (h) of section 6641 (as so designated) are each amended by striking ''addition to tax'' each place it occurs and inserting ''interest''.

(2) Section 167(g)(5)(D) is amended by striking ''6654'' and inserting ''6641''.

(3) Section 460(b)(1) is amended by striking ''6654'' and inserting ''6641''.

(4) Section 3510(b) is amended—

(A) by striking ''section 6654'' in paragraph (1) and inserting ''section 6641'';

(B) by amending paragraph (2)(B) to read as follows:

''(B) no interest would be required to be paid (but for this section) under 6641 for such taxable year by reason of the $2,000 amount specified in section 6641(d)(1)(B)(i)(II).'';

(C) by striking ''section 6654(d)(2)'' in paragraph (3) and inserting ''section 6641(d)(2)''; and

(D) by striking paragraph (4).

(5) Section 6201(b)(1) is amended by striking ''6654'' and inserting ''6641''.

(6) Section 6601(h) is amended by striking ''6654'' and inserting ''6641''.

(7) Section 6621(b)(2)(B) is amended by striking ''addition to tax under section 6654'' and inserting ''interest required to be paid under section 6641''.

(8) Section 6622(b) is amended—

(A) by striking ''PENALTY FOR'' in the heading; and

(B) by striking ''addition to tax under section 6654 or 6655'' and inserting ''interest required to be paid under section 6641 or addition to tax under section 6655''.

(9) Section 6658(a) is amended—

(A) by striking ''6654, or 6655'' and inserting ''or 6655, and no interest shall be required to be paid under section 6641,''; and

(B) by inserting ''or paying interest'' after ''the tax'' in paragraph (2)(B)(ii).

(10) Section 6665(b) is amended—

(A) in the matter preceding paragraph (1) by striking '', 6654,''; and

(B) in paragraph (2) by striking ''6654 or''.

(11) Section 7203 is amended by striking ''section 6654 or 6655'' and inserting ''section 6655 or interest required to be paid under section 6641''.

(e) CLERICAL AMENDMENTS.—

(1) Chapter 67 is amended by inserting after subchapter D the following:

''Subchapter E—Interest on Failure by Individual to Pay Estimated Income Tax

''Sec. 6641. Interest on failure by individual to pay estimated income tax.''.

(2) The table of subchapters for chapter 67 is amended by adding at the end the following new items:

''Subchapter D. Notice requirements.

''Subchapter E. Interest on failure by individual to pay estimated income tax.''.

(3) The table of sections for part I of subchapter A of chapter 68 is amended by striking the item relating to section 6654.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to installment payments for taxable years beginning after December 31, 2002.

SEC. 302. EXCLUSION FROM GROSS INCOME FOR INTEREST ON OVERPAYMENTS OF INCOME TAX BY INDIVIDUALS.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by inserting after section 139 the following new section:

''SEC. 139A. EXCLUSION FROM GROSS INCOME FOR INTEREST ON OVERPAYMENTS OF INCOME TAX BY INDIVIDUALS.

''(a) IN GENERAL.—In the case of an individual, gross income shall not include interest paid under section 6611 on any overpayment of tax imposed by this subtitle.

''(b) EXCEPTION.—Subsection (a) shall not apply in the case of a failure to claim items resulting in the overpayment on the original return if the Secretary determines that the principal purpose of such failure is to take advantage of subsection (a).

''(c) SPECIAL RULE FOR DETERMINING MODIFIED ADJUSTED GROSS INCOME.—For purposes of this title, interest not included in gross income under subsection (a) shall not be treated as interest which is exempt from tax for purposes of sections 32(i)(2)(B) and 6012(d) or any computation in which interest exempt from tax under this title is added to adjusted gross income.''.

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by inserting after the item relating to section 139 the following new item:

''Sec. 139A. Exclusion from gross income for interest on overpayments of income tax by individuals.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to interest received in calendar years beginning after the date of the enactment of this Act.

SEC. 303. ABATEMENT OF INTEREST.

(a) ABATEMENT OF INTEREST WITH RESPECT TO ERRONEOUS REFUND CHECK WITHOUT REGARD TO SIZE OF REFUND.—Paragraph (2) of section 6404(e) is amended by striking ''unless—'' and all that follows and inserting ''unless the taxpayer (or a related party) has in any way caused such erroneous refund.''.

(b) ABATEMENT OF INTEREST TO EXTENT INTEREST IS ATTRIBUTABLE TO TAXPAYER RELIANCE ON WRITTEN STATEMENTS OF THE IRS.—Subsection (f) of section 6404 is amended—

(1) in the subsection heading, by striking ''PENALTY OR ADDITION'' and inserting ''INTEREST, PENALTY, OR ADDITION''; and

(2) in paragraph (1) and in subparagraph (B) of paragraph (2), by striking ''penalty or addition'' and inserting ''interest, penalty, or addition''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to interest accruing on or after the date of the enactment of this Act.

SEC. 304. DEPOSITS MADE TO SUSPEND RUNNING OF INTEREST ON POTENTIAL UNDERPAYMENTS.

(a) IN GENERAL.—Subchapter A of chapter 67 (relating to interest on underpayments) is amended by adding at the end the following new section:

''SEC. 6603. DEPOSITS MADE TO SUSPEND RUNNING OF INTEREST ON POTENTIAL UNDERPAYMENTS, ETC.

''(a) AUTHORITY TO MAKE DEPOSITS OTHER THAN AS PAYMENT OF TAX.—A taxpayer may make a cash deposit with the Secretary which may be used by the Secretary to pay any tax imposed under subtitle A or B or chapter 41, 42, 43, or 44 which has not been assessed at the time of the deposit. Such a deposit shall be made in such manner as the Secretary shall prescribe.

''(b) NO INTEREST IMPOSED.—To the extent that such deposit is used by the Secretary to pay tax, for purposes of section 6601 (relating to interest on underpayments), the tax shall be treated as paid when the deposit is made.

''(c) RETURN OF DEPOSIT.—Except in a case where the Secretary determines that collection of tax is in jeopardy, the Secretary shall

return to the taxpayer any amount of the deposit (to the extent not used for a payment of tax) which the taxpayer requests in writing.

''(d) PAYMENT OF INTEREST.—

''(1) IN GENERAL.—For purposes of section 6611 (relating to interest on overpayments), a deposit which is returned to a taxpayer shall be treated as a payment of tax for any period to the extent (and only to the extent) attributable to a disputable tax for such period. Under regulations prescribed by the Secretary, rules similar to the rules of section 6611(b)(2) shall apply.

''(2) DISPUTABLE TAX.—

''(A) IN GENERAL.—For purposes of this section, the term 'disputable tax' means the amount of tax specified at the time of the deposit as the taxpayer's reasonable estimate of the maximum amount of any tax attributable to disputable items.

''(B) SAFE HARBOR BASED ON 30-DAY LETTER.—In the case of a taxpayer who has been issued a 30-day letter, the maximum amount of tax under subparagraph (A) shall not be less than the amount of the proposed deficiency specified in such letter.

''(3) OTHER DEFINITIONS.—For purposes of paragraph (2)—

''(A) DISPUTABLE ITEM.—The term 'disputable item' means any item of income, gain, loss, deduction, or credit if the taxpayer—

''(i) has a reasonable basis for its treatment of such item, and

''(ii) reasonably believes that the Secretary also has a reasonable basis for disallowing the taxpayer's treatment of such item.

''(B) 30-DAY LETTER.—The term '30-day letter' means the first letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals.

''(4) RATE OF INTEREST.—The rate of interest allowable under this subsection shall be the Federal short-term rate determined under section 6621(b), compounded daily.

''(e) USE OF DEPOSITS.—

''(1) PAYMENT OF TAX.—Except as otherwise provided by the taxpayer, deposits shall be treated as used for the payment of tax in the order deposited.

''(2) RETURNS OF DEPOSITS.—Deposits shall be treated as returned to the taxpayer on a last-in, first-out basis.''.

(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 67 is amended by adding at the end the following new item:

''Sec. 6603. Deposits made to suspend running of interest on potential underpayments, etc.''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to deposits made after the date of the enactment of this Act.

(2) COORDINATION WITH DEPOSITS MADE UNDER REVENUE PROCEDURE 84–58.—In the case of an amount held by the Secretary of the Treasury or his delegate on the date of the enactment of this Act as a deposit in the nature of a cash bond deposit pursuant to Revenue Procedure 84–58, the date that the taxpayer identifies such amount as a deposit made pursuant to section 6603 of the Internal Revenue Code (as added by this Act) shall be treated as the date such amount is deposited for purposes of such section 6603.

SEC. 305. EXPANSION OF INTEREST NETTING FOR INDIVIDUALS.

(a) IN GENERAL.—Subsection (d) of section 6621 (relating to elimination of interest on overlapping periods of tax overpayments and underpayments) is amended by adding at the end the following: ''Solely for purposes of the preceding sentence, section 6611(e) shall not apply in the case of an individual.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to interest accrued after December 31, 2002.

SEC. 306. WAIVER OF CERTAIN PENALTIES FOR FIRST-TIME UNINTENTIONAL MINOR ERRORS.

(a) IN GENERAL.—Section 6651 (relating to failure to file tax return or to pay tax) is amended by adding at the end the following new subsection:

''(i) TREATMENT OF FIRST-TIME UNINTENTIONAL MINOR ERRORS.—

''(1) IN GENERAL.—In the case of a return of tax imposed by subtitle A filed by an individual, the Secretary may waive an addition to tax under subsection (a) if—

''(A) the individual has a history of compliance with the requirements of this title,

''(B) it is shown that the failure is due to an unintentional minor error,

''(C) the penalty would be grossly disproportionate to the action or expense that would have been needed to avoid the error, and imposing the penalty would be against equity and good conscience,

''(D) waiving the penalty would promote compliance with the requirements of this title and effective tax administration, and

''(E) the taxpayer took all reasonable steps to remedy the error promptly after discovering it.

''(2) EXCEPTIONS.—Paragraph (1) shall not apply if—

''(A) the Secretary has waived any addition to tax under this subsection with respect to any prior failure by such individual,

''(B) the failure is a mathematical or clerical error (as defined in section 6213(g)(2)), or

''(C) the failure is the lack of a required signature.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on January 1, 2003.

SEC. 307. FRIVOLOUS TAX SUBMISSIONS.

(a) CIVIL PENALTIES.—Section 6702 is amended to read as follows:

''SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.

''(a) CIVIL PENALTY FOR FRIVOLOUS TAX RETURNS.—A person shall pay a penalty of $5,000 if—

''(1) such person files what purports to be a return of a tax imposed by this title but which—

''(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

''(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

''(2) the conduct referred to in paragraph (1)—

''(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or

''(B) reflects a desire to delay or impede the administration of Federal tax laws.

''(b) CIVIL PENALTY FOR SPECIFIED FRIVOLOUS SUBMISSIONS.—

''(1) IMPOSITION OF PENALTY.—Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of $5,000.

''(2) SPECIFIED FRIVOLOUS SUBMISSION.—For purposes of this section—

''(A) SPECIFIED FRIVOLOUS SUBMISSION.—The term 'specified frivolous submission' means a specified submission if any portion of such submission—

''(i) is based on a position which the Secretary has identified as frivolous under subsection (c), or

''(ii) reflects a desire to delay or impede the administration of Federal tax laws.

''(B) SPECIFIED SUBMISSION.—The term 'specified submission' means—

''(i) a request for a hearing under—

''(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or

''(II) section 6330 (relating to notice and opportunity for hearing before levy), and

''(ii) an application under—

''(I) section 7811 (relating to taxpayer assistance orders),

''(II) section 6159 (relating to agreements for payment of tax liability in installments), or

''(III) section 7122 (relating to compromises).

''(3) OPPORTUNITY TO WITHDRAW SUBMISSION.—If the Secretary provides a person with notice that a submission is a specified frivolous submission and such person withdraws such submission promptly after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission.

''(c) LISTING OF FRIVOLOUS POSITIONS.—The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection. The Secretary shall not include in such list any position that the Secretary determines meets the requirement of section 6662(d)(2)(B)(ii)(II).

''(d) REDUCTION OF PENALTY.—The Secretary may reduce the amount of any penalty imposed under this section if the Secretary determines that such reduction would promote compliance with and administration of the Federal tax laws.

''(e) PENALTIES IN ADDITION TO OTHER PENALTIES.—The penalties imposed by this section shall be in addition to any other penalty provided by law.''.

(b) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS BEFORE LEVY.—

(1) FRIVOLOUS REQUESTS DISREGARDED.—Section 6330 (relating to notice and opportunity for hearing before levy) is amended by adding at the end the following new subsection:

''(g) FRIVOLOUS REQUESTS FOR HEARING, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of a request for a hearing under this section or section 6320 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.''.

(2) PRECLUSION FROM RAISING FRIVOLOUS ISSUES AT HEARING.—Section 6330(c)(4) is amended—

(A) by striking ''(A)'' and inserting ''(A)(i)'';

(B) by striking ''(B)'' and inserting ''(ii)'';

(C) by striking the period at the end of the first sentence and inserting ''; or''; and

(D) by inserting after subparagraph (A)(ii) (as so redesignated) the following:

''(B) the issue meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A).''.

(3) STATEMENT OF GROUNDS.—Section 6330(b)(1) is amended by striking ''under subsection (a)(3)(B)'' and inserting ''in writing under subsection (a)(3)(B) and states the grounds for the requested hearing''.

(c) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS UPON FILING OF NOTICE OF LIEN.—Section 6320 is amended—

(1) in subsection (b)(1), by striking ''under subsection (a)(3)(B)'' and inserting ''in writing under subsection (a)(3)(B) and states the grounds for the requested hearing'', and

(2) in subsection (c), by striking ''and (e)'' and inserting ''(e), and (g)''.

(d) TREATMENT OF FRIVOLOUS APPLICATIONS FOR OFFERS-IN-COMPROMISE AND INSTALLMENT AGREEMENTS.—Section 7122 is amended by adding at the end the following new subsection:

''(e) FRIVOLOUS SUBMISSIONS, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of an application for an offer-in-compromise or installment agreement submitted under this section or section 6159 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.''.

(e) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6702 and inserting the following new item:

''Sec. 6702. Frivolous tax submissions.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to submissions made and issues raised after the date on which the Secretary first prescribes a list under section 6702(c) of the Internal Revenue Code of 1986, as amended by subsection (a).

SEC. 308. CLARIFICATION OF APPLICATION OF FEDERAL TAX DEPOSIT PENALTY.

Nothing in section 6656 of the Internal Revenue Code of 1986 shall be construed to permit the percentage specified in subsection (b)(1)(A)(iii) thereof to apply other than in a case where the failure is for more than 15 days.

DISCHARGED FROM THE COMMITTEE ON ENERGY AND COMMERCE AND PASSED

H.R. 5436, to extend the deadline for commencement of construction of a hydroelectric project in the State of Oregon.

H.R. 5436

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

SECTION 1. EXTENSION OF TIME FOR FEDERAL ENERGY REGULATORY COMMISSION PROJECT.

(a) IN GENERAL.—Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission project number 11509, the Commission shall, at the request of the licensee for the project, and after reasonable notice, extend the time period during which the licensee is required to commence the construction of the project for 3 consecutive 2-year periods.

(b) EFFECTIVE DATE.—Subsection (a) takes effect on the date of the expiration of the extension issued by the Commission under section 13 of the Federal Power Act (16 U.S.C. 806) for Federal Energy Regulatory Commission project number 11509.

(c) REINSTATEMENT OF EXPIRED LICENSE.—If the period required for commencement of construction of the project described in subsection (a) has expired prior to the date of the enactment of this act, the commission shall reinstate the license effective as of the date of its expiration and the first extension authorized under subsection (a) shall take effect on the date of such expiration

TAKEN FROM THE SPEAKER'S TABLE AND PASSED

S. 2712, to authorize economic and democratic development assistance for Afghanistan and to authorize military assistance for Afghanistan and certain other foreign countries.

S. 2712

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; DEFINITION.

(a) SHORT TITLE.—This Act may be cited as the ''Afghanistan Freedom Support Act of 2002''.

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

Sec. 1. Short title; table of contents; definition.

TITLE I—ECONOMIC AND DEMOCRATIC DEVELOPMENT ASSISTANCE FOR AFGHANISTAN

Sec. 101. Declaration of policy.
Sec. 102. Purposes of assistance.
Sec. 103. Principles of assistance.
Sec. 104. Authorization of assistance.
Sec. 105. Coordination of assistance.
Sec. 106. Administrative provisions.
Sec. 107. Authorization of appropriations.

TITLE II—MILITARY ASSISTANCE FOR AFGHANISTAN AND CERTAIN OTHER FOREIGN COUNTRIES AND INTERNATIONAL ORGANIZATIONS

Sec. 201. Support for security during transition in Afghanistan.
Sec. 202. Authorization of assistance.
Sec. 203. Eligible foreign countries and eligible international organizations.
Sec. 204. Reimbursement for assistance.
Sec. 205. Authority to provide assistance.
Sec. 206. Promoting secure delivery of humanitarian and other assistance in Afghanistan.
Sec. 207. Sunset.

TITLE III—ADDITIONAL REQUIREMENTS WITH RESPECT TO ASSISTANCE FOR AFGHANISTAN

Sec. 301. Prohibition on United States involvement in poppy cultivation or illicit narcotics growth, production, or trafficking.
Sec. 302. Requirement to report by certain United States officials.
Sec. 303. Report by the President.

(c) DEFINITION.—In this Act, the term ''Government of Afghanistan'' includes—

(1) the government of any political subdivision of Afghanistan; and

(2) any agency or instrumentality of the Government of Afghanistan.

TITLE I—ECONOMIC AND DEMOCRATIC DEVELOPMENT ASSISTANCE FOR AFGHANISTAN

SEC. 101. DECLARATION OF POLICY.

Congress makes the following declarations:

(1) The United States and the international community should support efforts that advance the development of democratic civil authorities and institutions in Afghanistan and the establishment of a new broad-based, multi-ethnic, gender-sensitive, and fully representative government in Afghanistan.

(2) The United States, in particular, should provide its expertise to meet immediate humanitarian and refugee needs, fight the production and flow of illicit narcotics, and aid in the reconstruction of Afghanistan's agriculture, health care, civil service, financial, and educational systems.

(3) By promoting peace and security in Afghanistan and preventing a return to conflict, the United States and the international community can help ensure that Afghanistan does not again become a source for international terrorism.

(4) The United States should support the objectives agreed to on December 5, 2001, in Bonn, Germany, regarding the provisional arrangement for Afghanistan as it moves toward the establishment of permanent institutions and, in particular, should work intensively toward ensuring the future neutrality of Afghanistan, establishing the principle that neighboring countries and other countries in the region do not threaten or interfere in one another's sovereignty, territorial integrity, or political independence, including supporting diplomatic initiatives to support this goal.

(5) The special emergency situation in Afghanistan, which from the perspective of the American people combines security, humanitarian, political, law enforcement, and development imperatives, requires that the President should receive maximum flexibility in designing, coordinating, and administering efforts with respect to assistance for Afghanistan and that a temporary special program of such assistance should be established for this purpose.

(6) To foster stability and democratization and to effectively eliminate the causes of terrorism, the United States and the international community should also support efforts that advance the development of democratic civil authorities and institutions in the broader Central Asia region.

SEC. 102. PURPOSES OF ASSISTANCE.

The purposes of assistance authorized by this title are—

(1) to help assure the security of the United States and the world by reducing or eliminating the likelihood of violence against United States or allied forces in Afghanistan and to reduce the chance that Afghanistan will again be a source of international terrorism;

(2) to support the continued efforts of the United States and the international community to address the humanitarian crisis in Afghanistan and among Afghan refugees in neighboring countries;

(3) to fight the production and flow of illicit narcotics, to control the flow of precursor chemicals used in the production of heroin, and to enhance and bolster the capacities of Afghan governmental authorities to control poppy cultivation and related activities;

(4) to help achieve a broad-based, multiethnic, gender-sensitive, and fully representative government in Afghanistan that is freely chosen by the people of Afghanistan and that respects the human rights of all Afghans, particularly women, including authorizing assistance for the rehabilitation and reconstruction of Afghanistan with a particular emphasis on meeting the educational, health, and sustenance needs of women and children to better enable their full participation in Afghan society;

(5) to support the Government of Afghanistan in its development of the capacity to facilitate, organize, develop, and implement projects and activities that meet the needs of the Afghan people;

(6) to foster the participation of civil society in the establishment of the new Afghan government in order to achieve a broad-based, multiethnic, gender-sensitive, fully representative government freely chosen by the Afghan people, without prejudice to any decisions which may be freely taken by the Afghan people about the precise form in which their government is to be organized in the future;

(7) to support the reconstruction of Afghanistan through, among other things, programs that create jobs, facilitate clearance of landmines, and rebuild the agriculture sector, the health care system, and the educational system of Afghanistan; and

(8) to include specific resources to the Ministry for Women's Affairs of Afghanistan to carry out its responsibilities for legal advocacy, education, vocational training, and women's health programs.

SEC. 103. PRINCIPLES OF ASSISTANCE.

The following principles should guide the provision of assistance authorized by this title:

(1) TERRORISM AND NARCOTICS CONTROL.—Assistance should be designed to reduce the likelihood of harm to United States and other allied forces in Afghanistan and the region, the likelihood of additional acts of international terrorism emanating from Afghanistan, and the cultivation, production,

trafficking, and use of illicit narcotics in Afghanistan.

(2) ROLE OF WOMEN.—Assistance should increase the participation of women at the national, regional, and local levels in Afghanistan, wherever feasible, by enhancing the role of women in decisionmaking processes, as well as by providing support for programs that aim to expand economic and educational opportunities and health programs for women and educational and health programs for girls.

(3) AFGHAN OWNERSHIP.—Assistance should build upon Afghan traditions and practices. The strong tradition of community responsibility and self-reliance in Afghanistan should be built upon to increase the capacity of the Afghan people and institutions to participate in the reconstruction of Afghanistan.

(4) STABILITY.—Assistance should encourage the restoration of security in Afghanistan, including, among other things, the disarmament, demobilization, and reintegration of combatants, and the establishment of the rule of law, including the establishment of a police force and an effective, independent judiciary.

(5) COORDINATION.—Assistance should be part of a larger donor effort for Afghanistan. The magnitude of the devastation—natural and man-made—to institutions and infrastructure make it imperative that there be close coordination and collaboration among donors. The United States should endeavor to assert its leadership to have the efforts of international donors help achieve the purposes established by this title.

SEC. 104. AUTHORIZATION OF ASSISTANCE.

(a) IN GENERAL.—The President is authorized to provide assistance for Afghanistan for the following activities:

(1) URGENT HUMANITARIAN NEEDS.—To assist in meeting the urgent humanitarian needs of the people of Afghanistan, including assistance such as—

(A) emergency food, shelter, and medical assistance;

(B) clean drinking water and sanitation;

(C) preventative health care, including childhood vaccination, therapeutic feeding, maternal child health services, and infectious diseases surveillance and treatment;

(D) family tracing and reunification services; and

(E) clearance of landmines.

(2) REPATRIATION AND RESETTLEMENT OF REFUGEES AND INTERNALLY DISPLACED PERSONS.—To assist refugees and internally displaced persons as they return to their home communities in Afghanistan and to support their reintegration into those communities, including assistance such as—

(A) assistance identified in paragraph (1);

(B) assistance to communities, including those in neighboring countries, that have taken in large numbers of refugees in order to rehabilitate or expand social, health, and educational services that may have suffered as a result of the influx of large numbers of refugees;

(C) assistance to international organizations and host governments in maintaining security by screening refugees to ensure the exclusion of armed combatants, members of foreign terrorist organizations, and other individuals not eligible for economic assistance from the United States; and

(D) assistance for voluntary refugee repatriation and reintegration inside Afghanistan and continued assistance to those refugees who are unable or unwilling to return, and humanitarian assistance to internally displaced persons, including those persons who need assistance to return to their homes, through the United Nations High Commissioner for Refugees and other organizations charged with providing such assistance.

(3) COUNTERNARCOTICS EFFORTS.—(A) To assist in the eradication of poppy cultivation, the disruption of heroin production, and the reduction of the overall supply and demand for illicit narcotics in Afghanistan and the region, with particular emphasis on assistance to—

(i) eradicate opium poppy, establish crop substitution programs, purchase nonopium products from farmers in opium-growing areas, quick-impact public works programs to divert labor from narcotics production, develop projects directed specifically at narcotics production, processing, or trafficking areas to provide incentives to cooperation in narcotics suppression activities, and related programs;

(ii) establish or provide assistance to one or more entities within the Government of Afghanistan, including the Afghan State High Commission for Drug Control, and to provide training and equipment for the entities, to help enforce counternarcotics laws in Afghanistan and limit illicit narcotics growth, production, and trafficking in Afghanistan;

(iii) train and provide equipment for customs, police, and other border control entities in Afghanistan and the region relating to illicit narcotics interdiction and relating to precursor chemical controls and interdiction to help disrupt heroin production in Afghanistan and the region;

(iv) continue the annual opium crop survey and strategic studies on opium crop planting and farming in Afghanistan; and

(v) reduce demand for illicit narcotics among the people of Afghanistan, including refugees returning to Afghanistan.

(B) For each of the fiscal years 2002 through 2005, $15,000,000 of the amount made available to carry out this title is authorized to be made available for a contribution to the United Nations Drug Control Program for the purpose of carrying out activities described in clauses (i) through (v) of subparagraph (A). Amounts made available under the preceding sentence are in addition to amounts otherwise available for such purposes.

(4) REESTABLISHMENT OF FOOD SECURITY, REHABILITATION OF THE AGRICULTURE SECTOR, IMPROVEMENT IN HEALTH CONDITIONS, AND THE RECONSTRUCTION OF BASIC INFRASTRUCTURE.—To assist in expanding access to markets in Afghanistan, to increase the availability of food in markets in Afghanistan, to rehabilitate the agriculture sector in Afghanistan by creating jobs for former combatants, returning refugees, and internally displaced persons, to improve health conditions, and assist in the rebuilding of basic infrastructure in Afghanistan, including assistance such as—

(A) rehabilitation of the agricultural infrastructure, including irrigation systems and rural roads;

(B) extension of credit;

(C) provision of critical agricultural inputs, such as seeds, tools, and fertilizer, and strengthening of seed multiplication, certification, and distribution systems;

(D) improvement in the quantity and quality of water available through, among other things, rehabilitation of existing irrigation systems and the development of local capacity to manage irrigation systems;

(E) livestock rehabilitation through market development and other mechanisms to distribute stocks to replace those stocks lost as a result of conflict or drought;

(F) mine awareness and demining programs and programs to assist mine victims, war orphans, and widows;

(G) programs relating to infant and young child feeding, immunizations, vitamin A supplementation, and prevention and treatment of diarrheal diseases and respiratory infections;

(H) programs to improve maternal and child health and reduce maternal and child mortality;

(I) programs to improve hygienic and sanitation practices and for the prevention and treatment of infectious diseases, such as tuberculosis and malaria;

(J) programs to reconstitute the delivery of health care, including the reconstruction of health clinics or other basic health infrastructure, with particular emphasis on health care for children who are orphans;

(K) programs for housing, rebuilding urban infrastructure, and supporting basic urban services; and

(L) disarmament, demobilization, and reintegration of armed combatants into society, particularly child soldiers.

(5) REESTABLISHMENT OF AFGHANISTAN AS A VIABLE NATION-STATE.—(A) To assist in the development of the capacity of the Government of Afghanistan to meet the needs of the people of Afghanistan through, among other things, support for the development and expansion of democratic and market-based institutions, including assistance such as—

(i) support for international organizations that provide civil advisers to the Government of Afghanistan;

(ii) support for an educated citizenry through improved access to basic education, with particular emphasis on basic education for children who are orphans, with particular emphasis on basic education for children;

(iii) programs to enable the Government of Afghanistan to recruit and train teachers, with special focus on the recruitment and training of female teachers;

(iv) programs to enable the Government of Afghanistan to develop school curriculum that incorporates relevant information such as landmine awareness, food security and agricultural education, human rights awareness, and civic education;

(v) support for the activities of the Government of Afghanistan to draft a new constitution, other legal frameworks, and other initiatives to promote the rule of law in Afghanistan;

(vi) support to increase the transparency, accountability, and participatory nature of governmental institutions, including programs designed to combat corruption and other programs for the promotion of good governance;

(vii) support for an independent media;

(viii) programs that support the expanded participation of women and members of all ethnic groups in government at national, regional, and local levels;

(ix) programs to strengthen civil society organizations that promote human rights and support human rights monitoring;

(x) support for national, regional, and local elections and political party development;

(xi) support for the effective administration of justice at the national, regional, and local levels, including the establishment of a responsible and community-based police force; and

(xii) support for establishment of a central bank and central budgeting authority.

(B) For each of the fiscal years 2003 through 2005, not less than $10,000,000 of the amount made available to carry out this title should be made available for the purposes of carrying out a traditional Afghan assembly or ''Loya Jirga'' and for support for national, regional, and local elections and political party development under subparagraph (A)(x).

(6) MARKET ECONOMY.—To support the establishment of a market economy, the establishment of private financial institutions, the adoption of policies to promote foreign

direct investment, the development of a basic telecommunication infrastructure, and the development of trade and other commercial links with countries in the region and with the United States, including policies to—

(A) encourage the return of Afghanistan citizens or nationals living abroad who have marketable and business-related skills;

(B) establish financial institutions, including credit unions, cooperatives, and other entities providing microenterprise credits and other income-generation programs for the poor, with particular emphasis on women;

(C) facilitate expanded trade with countries in the region;

(D) promote and foster respect for basic workers' rights and protections against exploitation of child labor; and

(E) provide financing programs for the reconstruction of Kabul and other major cities in Afghanistan.

(b) LIMITATION.—

(1) IN GENERAL.—Amounts made available to carry out this title (except amounts made available for assistance under paragraphs (1) through (3) and subparagraphs (F) through (I) of paragraph (4) of subsection (a)) may be provided only if the President first determines and certifies to Congress with respect to the fiscal year involved that substantial progress has been made toward adopting a constitution and establishing a democratically elected government for Afghanistan.

(2) WAIVER.—

(A) IN GENERAL.—The President may waive the application of paragraph (1) if the President first determines and certifies to Congress that it is important to the national interest of the United States to do so.

(B) CONTENTS OF CERTIFICATION.—A certification transmitted to Congress under subparagraph (A) shall include a written explanation of the basis for the determination of the President to waive the application of paragraph (1).

SEC. 105. COORDINATION OF ASSISTANCE.

(a) IN GENERAL.—The President is strongly urged to designate, within the Department of State, a coordinator who shall be responsible for—

(1) designing an overall strategy to advance United States interests in Afghanistan;

(2) ensuring program and policy coordination among agencies of the United States Government in carrying out the policies set forth in this title;

(3) pursuing coordination with other countries and international organizations with respect to assistance to Afghanistan;

(4) ensuring that United States assistance programs for Afghanistan are consistent with this title;

(5) ensuring proper management, implementation, and oversight by agencies responsible for assistance programs for Afghanistan; and

(6) resolving policy and program disputes among United States Government agencies with respect to United States assistance for Afghanistan.

(b) RANK AND STATUS OF THE COORDINATOR.—The coordinator designated under subsection (a) shall have the rank and status of ambassador.

SEC. 106. ADMINISTRATIVE PROVISIONS.

(a) APPLICABLE ADMINISTRATIVE AUTHORITIES.—Except to the extent inconsistent with the provisions of this title, the administrative authorities under chapters 1 and 2 of part III of the Foreign Assistance Act of 1961 shall apply to the provision of assistance under this title to the same extent and in the same manner as such authorities apply to the provision of economic assistance under part I of such Act.

(b) USE OF THE EXPERTISE OF AFGHAN-AMERICANS.—In providing assistance authorized by this title, the President should—

(1) maximize the use, to the extent feasible, of the services of Afghan-Americans who have expertise in the areas for which assistance is authorized by this title; and

(2) in the awarding of contracts and grants to implement activities authorized under this title, encourage the participation of such Afghan-Americans (including organizations employing a significant number of such Afghan-Americans).

(c) DONATIONS OF MANUFACTURING EQUIPMENT; USE OF LAND GRANT COLLEGES AND UNIVERSITIES.—In providing assistance authorized by this title, the President, to the maximum extent practicable, should—

(1) encourage the donation of appropriate excess or obsolete manufacturing and related equipment by United States businesses (including small businesses) for the reconstruction of Afghanistan; and

(2) utilize research conducted by United States land grant colleges and universities and the technical expertise of professionals within those institutions, particularly in the areas of agriculture and rural development.

(d) ADMINISTRATIVE EXPENSES.—Not more than 5 percent of the amount made available to a Federal department or agency to carry out this title for a fiscal year may be used by the department or agency for administrative expenses in connection with such assistance.

(e) MONITORING.—

(1) COMPTROLLER GENERAL.—The Comptroller General shall monitor the provision of assistance under this title.

(2) INSPECTOR GENERAL OF USAID.—

(A) IN GENERAL.—The Inspector General of the United States Agency for International Development shall conduct audits, inspections, and other activities, as appropriate, associated with the expenditure of the funds to carry out this title.

(B) FUNDING.—Not more than $1,500,000 of the amount made available to carry out this title for a fiscal year shall be made available to carry out subparagraph (A).

(f) CONGRESSIONAL NOTIFICATION PROCEDURES.—Funds made available to carry out this title may not be obligated until 15 days after notification of the proposed obligation of the funds has been provided to the congressional committees specified in section 634A of the Foreign Assistance Act of 1961 in accordance with the procedures applicable to reprogramming notifications under that section.

SEC. 107. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the President to carry out this title $300,000,000 for each of the fiscal years 2002 through 2004, and $250,000,000 for fiscal year 2005. Amounts authorized to be appropriated pursuant to the preceding sentence for fiscal year 2002 are in addition to amounts otherwise available for assistance for Afghanistan.

(b) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under subsection (a) are—

(1) authorized to remain available until expended; and

(2) in addition to funds otherwise available for such purposes, including, with respect to food assistance under section 104(a)(1), funds available under title II of the Agricultural Trade Development and Assistance Act of 1954, the Food for Progress Act of 1985, and section 416(b) of the Agricultural Act of 1949.

TITLE II—MILITARY ASSISTANCE FOR AFGHANISTAN AND CERTAIN OTHER FOREIGN COUNTRIES AND INTERNATIONAL ORGANIZATIONS

SEC. 201. SUPPORT FOR SECURITY DURING TRANSITION IN AFGHANISTAN.

It is the sense of Congress that, during the transition to a broad-based, multi-ethnic, gender-sensitive, fully representative government in Afghanistan, the United States should support—

(1) the development of a civilian-controlled and centrally-governed standing Afghanistan army that respects human rights and prohibits the use of children as soldiers or combatants;

(2) the creation and training of a professional civilian police force that respects human rights; and

(3) a multinational security force in Afghanistan.

SEC. 202. AUTHORIZATION OF ASSISTANCE.

(a) TYPES OF ASSISTANCE.—

(1) IN GENERAL.—(A) To the extent that funds are appropriated in any fiscal year for the purposes of this Act, the President may provide, consistent with existing United States statutes, defense articles, defense services, counter-narcotics, crime control and police training services, and other support (including training) to the Government of Afghanistan.

(B) To the extent that funds are appropriated in any fiscal year for these purposes, the President may provide, consistent with existing United States statutes, defense articles, defense services, and other support (including training) to eligible foreign countries and eligible international organizations.

(C) The assistance authorized under subparagraph (B) shall be used for directly supporting the activities described in section 203.

(2) DRAWDOWN AUTHORITY.—The President is authorized to direct the drawdown of defense articles, defense services, and military education and training for the Government of Afghanistan, eligible foreign countries, and eligible international organizations.

(3) AUTHORITY TO ACQUIRE BY CONTRACT OR OTHERWISE.—The assistance authorized under paragraphs (1) and (2) and under Public Law 105–338 may include the supply of defense articles, defense services, counter-narcotics, crime control and police training services, other support, and military education and training that are acquired by contract or otherwise.

(b) AMOUNT OF ASSISTANCE.—The aggregate value (as defined in section 644(m) of the Foreign Assistance Act of 1961) of assistance provided under subsection (a)(2) may not exceed $300,000,000, provided that such limitation shall be increased by any amounts appropriated pursuant to the authorization of appropriations in section 204(b)(1).

SEC. 203. ELIGIBLE FOREIGN COUNTRIES AND ELIGIBLE INTERNATIONAL ORGANIZATIONS.

(a) ELIGIBILITY FOR ASSISTANCE.—

(1) IN GENERAL.—Except as provided in paragraph (2), a foreign country or international organization shall be eligible to receive assistance under section 202 if such foreign country or international organization is participating in or directly supporting United States military activities authorized under Public Law 107–40 or is participating in military, peacekeeping, or policing operations in Afghanistan aimed at restoring or maintaining peace and security in that country.

(2) EXCEPTION.—No country the government of which has been determined by the

Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371), section 6(j)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)), or section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)) shall be eligible to receive assistance under section 202.

(b) WAIVER.—The President may waive the application of subsection (a)(2) if the President determines that it is important to the national security interest of the United States to do so.

SEC. 204. REIMBURSEMENT FOR ASSISTANCE.

(a) IN GENERAL.—Defense articles, defense services, and military education and training provided under section 202(a)(2) shall be made available without reimbursement to the Department of Defense except to the extent that funds are appropriated pursuant to the authorization of appropriations in subsection (b)(1).

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the President such sums as may be necessary to reimburse the applicable appropriation, fund, or account for the value (as defined in section 644(m) of the Foreign Assistance Act of 1961) of defense articles, defense services, or military education and training provided under section 202(a)(2).

(2) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended, and are in addition to amounts otherwise available for the purposes described in this title.

SEC. 205. ELIGIBLE FOREIGN COUNTRIES AND ELIGIBLE INTERNATIONAL ORGANIZATIONS.

(a) AUTHORITY.—The President may provide assistance under this title to any eligible foreign country or eligible international organization if the President determines that such assistance is important to the national security interest of the United States and notifies the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate of such determination at least 15 days in advance of providing such assistance.

(b) NOTIFICATION.—The report described in subsection (a) shall be submitted in classified and unclassified form and shall include information relating to the type and amount of assistance proposed to be provided and the actions that the proposed recipient of such assistance has taken or has committed to take.

SEC. 206. PROMOTING SECURE DELIVERY OF HUMANITARIAN AND OTHER ASSISTANCE IN AFGHANISTAN.

(a) FINDINGS.—Congress finds the following:

(1) The President has declared his view that the United States should provide significant assistance to Afghanistan so that it never again becomes a haven for terrorism.

(2) The delivery of humanitarian and reconstruction assistance from the international community is necessary for the safe return of refugees and is critical to the future stability of Afghanistan.

(3) Enhanced stability in Afghanistan through an improved security environment is critical to the fostering of the Afghan Interim Authority and the traditional Afghan assembly or ''Loya Jirga'' process, which is intended to lead to a permanent national government in Afghanistan, and also is essential for the participation of women in Afghan society.

(4) Incidents of violence between armed factions and local and regional commanders, and serious abuses of human rights, including attacks on women and ethnic minorities throughout Afghanistan, create an insecure, volatile, and unsafe environment in parts of Afghanistan, displacing thousands of Afghan civilians from their local communities.

(5) The violence and lawlessness may jeopardize the ''Loya Jirga'' process, undermine efforts to build a strong central government, severely impede reconstruction and the delivery of humanitarian assistance, and increase the likelihood that parts of Afghanistan will once again become safe havens for al-Qaida, Taliban forces, and drug traffickers.

(6) The lack of security and lawlessness may also perpetuate the need for United States Armed Forces in Afghanistan and threaten the ability of the United States to meet its military objectives.

(7) The International Security Assistance Force in Afghanistan, currently led by Turkey, and composed of forces from other willing countries without the participation of United States Armed Forces, is deployed only in Kabul and currently does not have the mandate or the capacity to provide security to other parts of Afghanistan.

(8) Due to the ongoing military campaign in Afghanistan, the United States does not contribute troops to the International Security Assistance Force but has provided support to other countries that are doing so.

(9) The United States is providing political, financial, training, and other assistance to the Afghan Interim Authority as it begins to build a national army and police force to help provide security throughout Afghanistan, but this effort is not meeting the immediate security needs of Afghanistan.

(10) Because of these immediate security needs, the Afghan Interim Authority, its Chairman, Hamid Karzai, and many Afghan regional leaders have called for the International Security Assistance Force, which has successfully brought stability to Kabul, to be expanded and deployed throughout the country, and this request has been strongly supported by a wide range of international humanitarian organizations, including the International Committee of the Red Cross, Catholic Relief Services, and Refugees International.

(11)(A) On January 29, 2002, the President stated that ''[w]e will help the new Afghan government provide the security that is the foundation of peace''.

(B) On March 25, 2002, the Secretary of Defense stated, with respect to the reconstruction of Afghanistan, that ''the first thing . . . you need for anything else to happen, for hospitals to happen, for roads to happen, for refugees to come back, for people to be fed and humanitarian workers to move on the country . . . [y]ou've got to have security''.

(b) STATEMENT OF POLICY.—It should be the policy of the United States to support measures to help meet the immediate security needs of Afghanistan in order to promote safe and effective delivery of humanitarian and other assistance throughout Afghanistan, further the rule of law and civil order, and support the formation of a functioning, representative Afghan national government.

(c) PREPARATION OF STRATEGY.—Not later than 45 days after the date of the enactment of this Act, and every six months thereafter, the President shall transmit to the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate a strategy for meeting the immediate and long-term security needs of Afghanistan in order to promote safe and effective delivery of humanitarian and other assistance throughout Afghanistan, further the rule of law and civil order, and support the formation of a functioning, representative Afghan national government.

SEC. 207. SUNSET.

The authority of this title shall expire after December 31, 2004.

TITLE III—ADDITIONAL REQUIREMENTS WITH RESPECT TO ASSISTANCE FOR AFGHANISTAN

SEC. 301. PROHIBITION ON UNITED STATES INVOLVEMENT IN POPPY CULTIVATION OR ILLICIT NARCOTICS GROWTH, PRODUCTION, OR TRAFFICKING.

No officer or employee of any Federal department or agency who is involved in the provision of assistance under this Act may knowingly encourage or participate in poppy cultivation or illicit narcotics growth, production, or trafficking in Afghanistan. No United States military or civilian aircraft or other United States vehicle that is used with respect to the provision of assistance under this Act may be used to facilitate the distribution of poppies or illicit narcotics in Afghanistan.

SEC. 302. REQUIREMENT TO REPORT BY CERTAIN UNITED STATES OFFICIALS.

(a) REQUIREMENT.—An officer or employee of any Federal department or agency involved in the provision of assistance under this Act and having knowledge of facts or circumstances that reasonably indicate that any agency or instrumentality of the Government of Afghanistan, or any other individual (including an individual who exercises civil power by force over a limited region) or organization in Afghanistan, that receives assistance under this Act is involved in poppy cultivation or illicit narcotics growth, production, or trafficking shall, notwithstanding any memorandum of understanding or other agreement to the contrary, report such knowledge or facts to the appropriate official.

(b) DEFINITION.—In this section, the term ''appropriate official'' means the Attorney General, the Inspector General of the Federal department or agency involved, or the head of such department or agency.

SEC. 303. REPORT BY THE PRESIDENT.

Not later than 6 months after the date of the enactment of this Act, and annually thereafter, the President shall transmit to Congress a written report on the progress of the Government of Afghanistan toward the eradication of poppy cultivation, the disruption of heroin production, and the reduction of the overall supply and demand for illicit narcotics in Afghanistan in accordance with the provisions of this Act.

TAKEN FROM THE SPEAKER'S TABLE AND PASSED

S. 3044, to authorize the Court Services and Offender Supervision Agency of the District of Columbia to provide for the interstate supervision of offenders on parole, probation, and supervised release.

S. 3044

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 ''Court Services and Offender Supervision Agency Interstate Supervision Act of 2002''.

SEC. 2. INTERSTATE SUPERVISION.

Section 11233(b)(2) of the National Capital Revitalization and Self-Government Improvement Act of 1997 (sec. 24–133(b)(2), D.C. Official Code) is amended—

(1) by amending subparagraph (G) to read as follows:

''(G) arrange for the supervision of District of Columbia offenders on parole, probation,

and supervised release who seek to reside in jurisdictions outside the District of Columbia;'';

(2) by striking the period at the end of subparagraph (H) and inserting a semicolon; and

(3) by adding at the end the following new subparagraphs:

''(I) arrange for the supervision of offenders on parole, probation, and supervised release from jurisdictions outside the District of Columbia who seek to reside in the District of Columbia; and

''(J) have the authority to enter into agreements, including the Interstate Compact for Adult Offender Supervision, with any State or group of States in accordance with the Agency's responsibilities under subparagraphs (G) and (I).''.

TAKEN FROM THE SPEAKER'S TABLE AND PASSED

S. 3156, to provide a grant for the construction of a new community center in St. Paul, Minnesota, in honor of the late Senator Paul Wellstone and his beloved wife, Sheila.

S. 3156

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 ''Paul and Sheila Wellstone Center for Community Building Act''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Senator Paul Wellstone was a tireless advocate for the people of Minnesota, particularly for new immigrants and the economically disadvantaged.

(2) Paul and Sheila Wellstone loved St. Paul, Minnesota, and often walked the neighborhoods of St. Paul to better understand the needs of the people.

(3) Neighborhood House was founded in the late 1800's in St. Paul, Minnesota, by the women of Mount Zion Temple as a settlement house to help newly arrived Eastern European Jewish immigrants establish a new life and thrive in their new community.

(4) Paul and Sheila Wellstone were very committed to Neighborhood House and its mission to improve the lives of its residents.

(5) When Senator Wellstone became aware that the Neighborhood House Community Center was no longer adequate to meet the needs of the St. Paul community, he suggested that Neighborhood House request Federal funding to construct a new facility.

(6) As an honor to Paul and Sheila Wellstone, a Federal grant shall be awarded to Neighborhood House to be used for the design and construction of a new community center in St. Paul, Minnesota, to be known as ''The Paul and Sheila Wellstone Center for Community Building''.

SEC. 3. CONSTRUCTION GRANT.

(a) GRANT AUTHORIZED.—The Secretary of Housing and Urban Development shall award a grant to Neighborhood House of St. Paul, Minnesota, to finance the construction of a new community center in St. Paul, Minnesota, to be known as ''The Paul and Sheila Wellstone Center for Community Building''.

(b) MAXIMUM AMOUNT.—The grant awarded under this section shall be $10,000,000.

(c) USE OF FUNDS.—Funds awarded under this section shall only be used for the design and construction of the Paul and Sheila Wellstone Center for Community Building.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $10,000,000 for fiscal year 2003, which shall remain available until expended, to carry out this Act.

Ms. McCOLLUM. Mr. Speaker, I rise today in support of legislation (S. 3156) to create a living memorial for Paul and Sheila Wellstone in my home district of St. Paul. I am pleased that both the House and Senate were able to agree on such a fitting tribute.

Senator Wellstone was my colleague, but Paul and Sheila were also my constituents and my friends. Over the years, Paul and I have walked the streets door knocking and listening to the concerns of Minnesotans, working together to address the challenges of our communities and neighborhoods. Paul and Sheila's enthusiasm for public service and their commitment to Minnesota were unmatched.

Today, I stand with the Minnesota Congressional delegation to pay tribute to Paul and Sheila with a true living memorial to their lives of serving the people of Minnesota.

This legislation will authorize the design and construction of a new community center in St. Paul at the Neighborhood House. The Neighborhood House has played a long-standing role in building community values among diverse peoples. Since the 19th century, the Neighborhood House has supported ethnic and cultural groups through times of transition or need so that they go beyond mere self-sufficiency, develop critical workforce skills, and become active members of our democratic process. From Hmong immigrants to Hispanic women facing domestic violence, the Neighborhood House provides all those who come an opportunity to improve the quality of their lives.

The new center to be named after Paul and Sheila Wellstone will host youth and family programs, immigrant education programs such as English classes, employment services and workforce development. It will provide a forum for new citizens to learn and integrate themselves into their new society and will strengthen Minnesota's richly diverse community.

Paul and Sheila Wellstone were advocates for people from all walks of life. They were open to all Minnesotans. In the Senate, Paul spoke for those who had no voice and he worked hard to empower those who needed help the most. This new center embodies the ideals and principles that Paul and Sheila lived every day.

I thank all my colleagues in Congress for honoring Paul and Sheila Wellstone in a way that will continue their work and improve the lives of Minnesotans for years to come.

DISCHARGED FROM THE COMMITTEE ON INTERNATIONAL RELATIONS AND AGREED TO

H. Res. 604, expressing the sense of the House of Representatives that the United States should adopt a global strategy to respond to the current coffee crisis, and for other purposes.

H. RES. 604

Whereas since 1997 the price of coffee has declined nearly 70 percent on the world market and has recently reached its lowest level in a century;

Whereas the collapse of coffee prices has resulted in a widespread humanitarian crisis for 25,000,000 coffee growers and for more than 50 developing countries where coffee is a critical source of rural employment and foreign exchange earnings;

Whereas, according to a recent World Bank report, 600,000 permanent and temporary coffee workers in Central America have been left unemployed in the last two years;

Whereas the World Bank has referred to the coffee crisis as ''the silent Mitch'', equating the impact of record-low coffee prices upon Central American countries with the damage done to such countries by Hurricane Mitch in 1998;

Whereas 6 of 14 immigrants who died in the Arizona desert in May 2001 were small coffee farmers from Veracruz, Mexico;

Whereas The Washington Post, The New York Times, and The Wall Street Journal report that cultivation of illicit crops such as coca and opium poppy is increasing in traditional coffee-growing countries, such as Colombia and Peru, which have been adversely affected by low international coffee prices;

Whereas the economies of some of the poorest countries in the world, particularly those in Africa, are highly dependent on trade in coffee;

Whereas coffee accounts for approximately 80 percent of export revenues for Burundi, 54 percent of export revenues for Ethiopia, 34 percent of export revenues for Uganda, and 31 percent of export revenues for Rwanda;

Whereas, according to the Oxfam International Report ''Mugged: Poverty in your Coffee Cup'', in the Dak Lak province of Vietnam, one of the lowest-cost coffee producers in the world, the price farmers receive for their product covers as little as 60 percent of their costs of production and the income derived by the worst-off farmers in that region is categorized as ''pre-starvation'' income;

Whereas on February 1, 2002, the International Coffee Organization (ICO) passed Resolution 407;

Whereas Resolution 407 calls for exporting member countries to observe minimum standards for exportable coffee and provide for the issuance of ICO certificates of origin according to those standards;

Whereas ICO Resolution 407 calls on importing member countries to ''make their best endeavors to support the objectives of the programme'';

Whereas both the Specialty Coffee Association of America (SCAA) and the National Coffee Association (NCA) support ICO Resolution 407 and have publicly advocated for the United States to rejoin the International Coffee Organization;

Whereas on July 24, 2002, the Subcommittee on the Western Hemisphere of the Committee on International Relations of the House of Representatives held a hearing on the coffee crisis in the Western Hemisphere;

Whereas the United States Agency for International Development (USAID) has already established coffee sector assistance programs for Colombia, Bolivia, the Dominican Republic, East Timor, El Salvador, Ethiopia, Guatemala, Haiti, Honduras, Nicaragua, Panama, Peru, Rwanda, Tanzania, and Uganda; and

Whereas the report accompanying the Foreign Operations, Export Financing, and Related Programs Appropriations Bill, 2003 (House Report 107–663), highlights the coffee price crisis as a global issue and ''urges USAID to focus its rural development and relief programs on regions severely affected by the coffee crisis, especially in Colombia'': Now, therefore, be it

Resolved, That—

(1) it is the sense of the House of Representatives that—

(A) the United States should adopt a global strategy to respond to the coffee crisis with coordinated activities in Latin America, Africa, and Asia to address the short-term humanitarian needs and long-term rural development needs of countries adversely affected by the collapse of coffee prices; and

(B) the President should explore measures to support and complement multilateral efforts to respond to the global coffee crisis; and

(2) the House of Representatives urges private sector coffee buyers and roasters to

work with the United States Government to find a solution to the crisis which is economically, socially, and environmentally sustainable for all interested parties, and that will address the fundamental problem of oversupply in the world coffee market.

DISCHARGED FROM THE COMMITTEE ON GOVERNMENT REFORM AND AGREED TO

H. Con. Res. 499, honoring George Rogers Clark.

H. CON. RES. 499

Whereas George Rogers Clark was a colonial frontiersman who succeeded in protecting western colonists through diplomacy and advocacy with the colonial government of Virginia;

Whereas George Rogers Clark doubled the size of colonial America through western exploration and by founding towns in Kentucky;

Whereas George Rogers Clark was an expert negotiator with American Indian tribes, securing trade and security for western colonists;

Whereas George Rogers Clark ensured American control of the Northwest Territory by leading a small band of soldiers during the Revolutionary War and successfully capturing British outposts along the Mississippi and Wabash Rivers;

Whereas George Rogers Clark boldly and courageously led fewer than 200 soldiers to recapture the British Fort Sackville at Vincennes, Indiana, in the winter of 1778–1779;

Whereas the soldiers marched across Illinois through flooded and frozen territory and reached Vincennes on the evening of February 23, 1779;

Whereas upon surrounding Fort Sackville, George Rogers Clark was able to give the impression of having a much larger army convincing the British that they were no match for Clark's forces;

Whereas on the morning of February 25, 1779, the British Lieutenant Governor Henry Hamilton surrendered Fort Sackville to George Rogers Clark and his soldiers;

Whereas this victory foiled British attempts to drive the Americans out of the region west of the Appalachians and pulled vital resources from the eastern theater during the American Revolution;

Whereas George Rogers Clark showed great leadership by commanding an expedition northward in 1782 to control unrest caused by British forces in the region;

Whereas George Rogers Clark continued to offer leadership after the Revolutionary War by serving as an advisor to his community; and

Whereas the 250th anniversary of George Rogers Clark's birth is November 19, 2002: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That Congress honors George Rogers Clark, whose patriotism and bravery helped to secure American independence and liberty.

DISCHARGED FROM THE COMMITTEE ON GOVERNMENT REFORM AND AGREED TO

H. Res. 582, recognizing and supporting the goals and ideals of ''National Runaway Prevention Month''.

H. RES. 582

Whereas the prevalence of runaway and homeless situations among youth is staggering, with studies suggesting that between 1,300,000 and 2,800,000 youth live on the streets of the United States each year;

Whereas running away from home is widespread, with 1 out of every 7 youth in the United States running away from home before the age of 18;

Whereas runaway youth most often are youth who have been expelled from their homes by their families, physically, sexually, and emotionally abused at home, discharged by State custodial systems without adequate transition plans, separated from their parents through death and divorce, too poor to secure their own basic needs, and ineligible or unable to access adequate medical or mental health resources;

Whereas effective programs supporting runaway youth and assisting youth and their families in remaining at home succeed because of partnerships created among families, community-based human service agencies, law enforcement agencies, schools, faith-based organizations, and businesses;

Whereas preventing youth from running away from home and supporting youth in high-risk situations is a family, community, and national priority;

Whereas the future well-being of the Nation is dependent on the opportunities provided for youth and families to acquire the knowledge, skills, and abilities necessary for youth to develop into safe, healthy, and productive adults;

Whereas the National Network for Youth and its members advocate on behalf of runaway and homeless youth and provide an array of community-based supports that address their critical needs;

Whereas the National Runaway Switchboard provides crisis intervention and referrals to reconnect runaway youth to their families and to link youth to local resources that provide positive alternatives to running away from home; and

Whereas the National Network for Youth and National Runaway Switchboard are cosponsoring National Runaway Prevention Month, during the month of November, to increase public awareness of the life circumstances of youth in high-risk situations and the need for safe, healthy, and productive alternatives, resources, and supports for youth, families, and communities: Now, therefore, be it

Resolved, That the House of Representatives recognizes and supports the goals and ideals of ''National Runaway Prevention Month''.

DISCHARGED FROM THE COMMITTEE ON GOVERNMENT REFORM AND AGREED TO

H. Res. 599, congratulating the Anaheim Angels for winning the 2002 World Series.

H. RES. 599

Whereas on October 27, 2002, the Anaheim Angels won the 2002 World Series;

Whereas the Angels captured their first World Series title in the team's 42-year history;

Whereas the Anaheim Angels defeated the Central Division champion Minnesota Twins to win the American League Championship Series;

Whereas the Angels defeated the Eastern Division and defending American League champion New York Yankees to win the American League Division Series;

Whereas the Angels won a team-record 110 games (including 99 games in the regular season);

Whereas the Angels' team of skilled players, including Troy Glaus, Tim Salmon, Scott Spiezio, David Eckstein, Garret Anderson, Darin Erstad, Adam Kennedy, Bengie Molina, Brad Fullmer, John Lackey, Troy Percival, Francisco Rodriguez, Kevin Appier, Jarrod Washburn, Ben Weber, Brendan Donnelly, Alex Ochoa, Ramon Ortiz, Scott Schoeneweis, Shawn Wooten, Jose Molina, Chone Figgins, Benji Gil, Orlando Palmeiro, and Scot Shields, contributed extraordinary performances during the playoffs and the World Series;

Whereas third baseman Troy Glaus, who batted .385 with 3 home runs and 8 RBI, was named Most Valuable Player of the 2002 World Series;

Whereas Manager Mike Scioscia, who provided strong leadership and solid coaching for a baseball team that was dominant in the regular season and in postseason play, was named American League Manager of the Year;

Whereas Bill Stoneman, General Manager of the Anaheim Angels, has shown dedication to the Angels franchise, successfully putting together a team of high-quality, winning players;

Whereas the Anaheim Angels were founded in 1961 by Gene Autry, the famous ''Singing Cowboy'' and star of motion picture and television;

Whereas on the day he became the first country musician to receive a star on the Hollywood Walk of Fame, Gene Autry said, ''There's only one day that will be bigger than this one for me, and that's when we win the World Series'';

Whereas Jackie Autry carries on the spirit of her husband as Honorary President of the American League, and continues to be the Angels' most devoted fan;

Whereas great players and managers, including Nolan Ryan, Gene Mauch, Jim Fregosi, Rod Carew, Don Baylor, and Wally Joyner, have helped the Angels develop a strong baseball tradition in their short history, which includes winning Western Division championships in 1979, 1982, and 1986;

Whereas the Angels fans supported their team with exceptional enthusiasm and spirit, and introduced the power of the Rally Monkey to a once-disbelieving array of opponents; and

Whereas the Angels captivated the Nation and inspired the pride of all Americans with their historic performance: Now, therefore, be it

Resolved, That the House of Representatives—

(1) congratulates—

(A) the Anaheim Angels for winning the 2002 Major League Baseball World Series championship and for their outstanding performance during the 2002 Major League Baseball season; and

(B) all of the eight Major League Baseball teams that played in the postseason;

(2) recognizes the achievements of the Angels players, coaches, and support staff whose hard work, dedication, and never-say-die spirit proved instrumental in the Angels' first-ever World Series victory;

(3) commends the San Francisco Giants for a valiant performance during the World Series and for showing their strength and skill as a team; and

(4) directs the Clerk of the House of Representatives to transmit an enrolled copy of this resolution to—

(A) Angels players;

(B) Angels Manager Mike Scioscia;

(C) Angels General Manager Bill Stoneman;

(D) The Walt Disney Company; and

(E) Jackie Autry.

DISCHARGED FROM COMMITTEE ON EDUCATION AND THE WORKFORCE AND AGREED TO

H. Res. 612, honoring the life of Dr. Roberto Cruz.

H. RES. 612

Whereas Dr. Cruz received a bachelor's degree in Spanish from the Wichita State University, a masters degree in education from the University of California-Berkeley, and a doctoral degree in policy, planning, and administration from the University of California-Berkeley;

Whereas Dr. Cruz was appointed by the Secretary of Education to a national advisory council that dealt with the education of language minority students;

Whereas Dr. Cruz has received many honors from educational and Hispanic organizations for his support of education for limited English proficient children, including introduction into the Hispanic Hall of Fame and the Hispanic Achievement Award in Education;

Whereas Dr. Cruz had the foresight and courage to address the lack of educational opportunities for young Hispanic students coming out of high school by founding the National Hispanic University in Oakland, California, in 1981, and serving as its first President;

Whereas Dr. Cruz developed strong partnerships between the academic and business communities to foster educational opportunities; and

Whereas on September 4, 2002, Dr. Cruz died after a long and distinguished career: Now, therefore, be it

Resolved, That the House of Representatives—

(1) recognizes Dr. Roberto Cruz's professionalism and commitment to education;

(2) honors Dr. Cruz's life; and

(3) extends its condolences to the Cruz family and to the faculty, staff, and students of the National Hispanic University on the occasion of his death.

DISCHARGED FROM COMMITTEE ON ENERGY AND COMMERCE, AMENDED, AND PASSED

S. 1843, to extend certain hydro-electric licenses in the State of Alaska.

Strike all after the enacting clause and insert new text:

SECTION 1. STAY AND REINSTATEMENT OF FERC LICENSE NO. 11393.

(a) Upon the request of the licensee for FERC Project No. 11393, the Federal Energy Regulatory Commission shall issue an order staying the license.

(b) Upon the request of the licensee for FERC Project No. 11393, but not later than 6 years after the date that the Federal Energy Regulatory Commission receives written notice that construction of the Swan-Tyee transmission line is completed, the Federal Energy Regulatory Commission shall issue an order lifting the stay and make the effective date of the license the date on which the stay is lifted.

(c) Upon request of the licensee for FERC Project No. 11393 and notwithstanding the time period specified in section 13 of the Federal Power Act for the commencement of construction, the Commission shall, after reasonable notice and in accordance with the good faith, due diligence, and public interest requirements of that section, extend the time period during which licensee is required to commence the construction of the project for not more than one 2-year time period.

PASSED, AS AMENDED BY THE COMMITTEE AMENDMENT

H.R. 5504, to provide for the improvement of the safety of child restraints in passenger motor vehicles, and for other purposes.

SECTION 1. SHORT TITLE.

This Act may be cited as ''Anton's Law''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) It is the policy of the Department of Transportation that all child occupants of motor vehicles, regardless of seating position, be appropriately restrained in order to reduce the incidence of injuries and fatalities resulting from motor vehicle crashes on the streets, roads, and highways.

(2) Research has shown that very few children between the ages of 4 to 8 years old are in the appropriate restraint for their age when riding in passenger motor vehicles.

(3) Children who have outgrown their child safety seats should ride in a belt-positioning booster seat until an adult seat belt fits properly.

(4) Children who were properly restrained when riding in passenger motor vehicles suffered less severe injuries from accidents than children not properly restrained.

SEC. 3. IMPROVEMENT OF SAFETY OF CHILD RESTRAINTS IN PASSENGER MOTOR VEHICLES.

(a) IN GENERAL.—The Secretary of Transportation (hereafter referred to as the ''Secretary'') shall initiate a rulemaking proceeding to establish performance requirements for child restraints, including booster seats, for the restraint of children weighing more than 50 pounds.

(b) ELEMENTS FOR CONSIDERATION.—In the rulemaking proceeding required by subsection (a), the Secretary shall—

(1) consider whether to include injury performance criteria for child restraints, including booster seats and other products for use in passenger motor vehicles for the restraint of children weighing more than 50 pounds, under the requirements established in the rulemaking proceeding;

(2) consider whether to establish performance requirements for seat belt fit when used with booster seats and other belt guidance devices;

(3) consider whether to address situations where children weighing more than 50 pounds only have access to seating positions with lap belts, such as allowing tethered child restraints for such children; and

(4) review the definition of the term ''booster seat'' in Federal motor vehicle safety standard No. 213 under section 571.213 of title 49, Code of Federal Regulation, to determine if it is sufficiently comprehensive.

(c) COMPLETION.—The Secretary shall complete the rulemaking proceeding required by subsection (a) not later than 30 months after the date of the enactment of this Act.

SEC. 4. DEVELOPMENT OF ANTHROPOMORPHIC TEST DEVICE SIMULATING A 10-YEAR OLD CHILD.

(a) DEVELOPMENT AND EVALUATION.—Not later than 24 months after the date of the enactment of this Act, the Secretary shall develop and evaluate an anthropomorphic test device that simulates a 10-year old child for use in testing child restraints used in passenger motor vehicles.

(b) ADOPTION BY RULEMAKING.—Within 1 year following the development and evaluation carried out under subsection (a), the Secretary shall initiate a rulemaking proceeding for the adoption of an anthropomorphic test device as developed under subsection (a).

SEC. 5. REQUIREMENTS FOR INSTALLATION OF LAP AND SHOULDER BELTS.

(a) IN GENERAL.—Not later than 24 months after the date of the enactment of this Act, the Secretary shall complete a rulemaking proceeding to amend Federal motor vehicle safety standard No. 208 under section 571.208 of title 49, Code of Federal Regulations, relating to occupant crash protection, in order to—

(1) require a lap and shoulder belt assembly for each rear designated seating position in a passenger motor vehicle with a gross vehicle weight rating of 10,000 pounds or less, except that if the Secretary determines that installation of a lap and shoulder belt assembly is not practicable for a particular designated seating position in a particular type of passenger motor vehicle, the Secretary may exclude the designated seating position from the requirement; and

(2) apply that requirement to passenger motor vehicles in phases in accordance with subsection (b).

(b) IMPLEMENTATION SCHEDULE.—The requirement prescribed under subsection (a)(1) shall be implemented in phases on a production year basis beginning with the production year that begins not later than 12 months after the end of the year in which the regulations are prescribed under subsection (a). The final rule shall apply to all passenger motor vehicles with a gross vehicle weight rating of 10,000 pounds or less that are manufactured in the third production year of the implementation phase-in under the schedule.

SEC. 6. EVALUATION OF INTEGRATED CHILD SAFETY SYSTEMS.

(a) EVALUATION.—Not later than 180 days after the date of enactment of this Act, the Secretary shall initiate an evaluation of integrated or built-in child restraints and booster seats. The evaluation should include—

(1) the safety of the child restraint and correctness of fit for the child;

(2) the availability of testing data on the system and vehicle in which the child restraint will be used;

(3) the compatibility of the child restraint with different makes and models;

(4) the cost-effectiveness of mass production of the child restraint for consumers;

(5) the ease of use and relative availability of the child restraint to children riding in motor vehicles; and

(6) the benefits of built-in seats for improving compliance with State child occupant restraint laws.

(b) REPORT.—Not later than 12 months after the date of enactment of this Act, the Secretary shall transmit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report of this evaluation.

SEC. 7. DEFINITIONS.

As used in this Act, the following definitions apply:

(1) CHILD RESTRAINT.—The term ''child restraint'' means any product designed to provide restraint to a child (including booster seats and other products used with a lap and shoulder belt assembly) that meets applicable Federal motor vehicle safety standards prescribed by the National Highway Traffic Safety Administration.

(2) PRODUCTION YEAR.—The term ''production year'' means the 12-month period between September 1 of a year and August 31 of the following year.

(3) PASSENGER MOTOR VEHICLE.—The term ''passenger motor vehicle'' has the meaning given that term in section 405(f)(5) of title 23, United States Code.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated $5,000,000 to the Secretary of Transportation for—

(1) the evaluation required by Section 6 of this Act; and

(2) research of the nature and causes of injury to children involved in motor vehicle crashes.

(b) LIMITATION.—Funds appropriated under subsection (a) shall not be available for the general administrative expenses of the Secretary.

Mr. TAUZIN. Mr. Speaker, today we are considering an important and needed piece of safety legislation, H.R. 5504, the ''Child Safety Enhancement Act of 2002.'' This bill, introduced by Rep. SHIMKUS, aims to protect the ''forgotten child''—those children who are too large for the child safety seat, but too small for adult seat belts. Make no mistake about it, this bill will save the lives of innocent children who are too often the victims of automobile accidents.

This bill will enhance child passenger safety by requiring the National Highway Traffic Safety Administration (NHTSA) to draft a final rule establishing performance requirements for child restraints, including booster seats, for children weighing more than 50 pounds when riding in passenger vehicles, and the installation of three-point lap and shoulder belts in rear seats.

The legislation mandates that NHTSA initiate a rulemaking that will require the installation of the three-point, lap and shoulder belt

assembly in certain rear seats within one year after enactment. This installation requirement must be phased in over three production years. NHTSA may, in accordance with past practice, allow for the earning of credits for early compliance or compliance beyond the mandated phase-in, allowing manufacturers to utilize credits in future model years. This section is intended to maximize occupant safety and it should not be construed to promote or inhibit liability. This legislation does not change the law on liability, and it is not intended to be a sword or a shield in litigation.

Again, I thank Mr. SHIMKUS for shepherding this good bill through the Energy and Commerce Committee, and I strongly support its passage.

PASSED, AS AMENDED BY THE COMMITTEE AMENDMENT AS FURTHER AMENDED

H.R. 3429, to direct the Secretary of Transportation to make grants for security improvements to over-the-road bus operations, and for other purposes.

H.R. 3429

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 ''Over-the-Road Bus Security and Safety Act of 2001''.

SEC. 2. EMERGENCY OVER-THE-ROAD BUS SECURITY ASSISTANCE.

(a) IN GENERAL.—The Secretary of Transportation may make grants to private operators of over-the-road buses for system-wide security improvements to their operations, including the reimbursement of extraordinary security-related costs determined by the Secretary to have been incurred by such operators since September 11, 2001, and including—

(1) constructing and modifying garages, facilities, or over-the-road buses to assure their security;

(2) acquiring, upgrading, installing, or operating equipment, software, or accessorial services for collection, storage, or exchange of passenger and driver information through ticketing systems or otherwise, and information links with government agencies;

(3) training employees in recognizing and responding to terrorist threats, evacuation procedures, passenger screening procedures, and baggage inspection;

(4) hiring and training security officers or ''bus marshals'';

(5) installing cameras and video surveillance equipment on over-the-road buses and at garages and over-the-road bus facilities;

(6) creating a program for employee identification or background investigation;

(7) establishing an emergency communications system linked to police and emergency personnel; and

(8) implementing and operating passenger screening programs at terminals and on over-the-road buses.

(b) FEDERAL SHARE.—The Federal share of the cost for which any grant is made under this Act shall be 90 percent.

(c) RELATIONSHIP TO OTHER LAWS.—Section 5333 of title 49, United States Code, shall apply to a grant made under this Act in the same manner and to the same extent as to a grant made under chapter 53 of such title.

SEC. 3. PLAN REQUIREMENT.

The Secretary may not make a grant under this Act to a private operator of over-the-road buses until the operator has first submitted to the Secretary—

(1) a plan of the operator for making security improvements described in section 2 and the Secretary has approved the plan; and

(2) such additional information as the Secretary may require to ensure accountability for the obligation and expenditure of amounts made available to the operator under the grant.

SEC. 4. OVER-THE-ROAD BUS DEFINED.

In this Act, the term ''over-the-road bus'' means a bus characterized by an elevated passenger deck located over a baggage compartment.

SEC. 5. FUNDING.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Transportation to carry out this Act $200,000,000 for fiscal year 2002. Such sums shall remain available until expended.

(b) IMPOSITION AND COLLECTION OF PASSENGER FEES.—The Secretary shall impose and collect from passengers of private operators of over-the-road buses in fiscal years 2002, 2003, and 2004 a fee to pay the cost of carrying out this Act. Such fee shall be $0.25 for each bus trip of a passenger of a private operator of an over-the-road bus if the cost of the trip is more than $5. Subject to subsection (c) and notwithstanding section 9701 of title 31, United States Code, and the procedural requirements of section 553 of title 5, United States Code, the Secretary shall impose the fee through the publication of notice of such fee in the Federal Register, and begin collection of the fee within 60 days of the date of enactment of this Act, or as soon as possible thereafter.

(c) REQUIREMENT FOR APPROPRIATION BEFORE IMPOSITION OR COLLECTION OF FEES.—The Secretary shall not impose or collect a fee under this section before the date on which all or any portion of the amounts authorized by subsection (a) are appropriated to carry out this Act.

(d) FEES PAYABLE TO SECRETARY.—All fees imposed and amounts collected under this section are payable to the Secretary.

(e) RECEIPTS CREDITED TO ACCOUNT.—Notwithstanding section 3302 of title 31, United States Code, all fees collected under this section—

(1) shall be credited to a separate account established in the Treasury;

(2) shall be available immediately, without further appropriation, for expenditure but only for making grants under section 2 in fiscal years 2003 and 2004; and

(3) shall remain available until expended.

(f) FEES COLLECTED BY BUS OPERATORS.—A fee imposed under this section shall be collected by the private operators of over-the-road buses and shall be remitted by such operators to the Secretary on the last day of each calendar month. The amount to be remitted shall be for the calendar month preceding the calendar month in which the remittance is made.

(g) INFORMATION.—The Secretary may require the provision of such information as the Secretary decides is necessary to verify that fees have been collected and remitted at the proper times and in the proper amounts.

(h) REFUNDS.—The Secretary may refund to a private operator of an over-the-road bus any fee paid by such operator by mistake or any amount paid by such operator in excess of that required.

Further amendment:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Max Cleland Over-the-Road Bus Security and Safety Act of 2002''.

SEC. 2. EMERGENCY OVER-THE-ROAD BUS SECURITY ASSISTANCE.

(a) IN GENERAL.—The Secretary of Transportation, acting through the Administrator of the Federal Motor Carrier Safety Administration, shall establish a program for making grants to private operators of over-the-road buses for system-wide security improvements to their operations, including—

(1) constructing and modifying terminals, garages, facilities, or over-the-road buses to assure their security;

(2) protecting or isolating the driver;

(3) acquiring, upgrading, installing, or operating equipment, software, or accessorial services for collection, storage, or exchange of passenger and driver information through ticketing systems or otherwise, and information links with government agencies;

(4) training employees in recognizing and responding to security threats, evacuation procedures, passenger screening procedures, and baggage inspection;

(5) hiring and training security officers;

(6) installing cameras and video surveillance equipment on over-the-road buses and at terminals, garages, and over-the-road bus facilities;

(7) creating a program for employee identification or background investigation;

(8) establishing an emergency communications system linked to law enforcement and emergency personnel; and

(9) implementing and operating passenger screening programs at terminals and on over-the-road buses.

(b) REIMBURSEMENT.—A grant under this Act may be used to provide reimbursement to private operators of over-the-road buses for extraordinary security-related costs for improvements described in paragraphs (1) through (9) of subsection (a), determined by the Secretary to have been incurred by such operators since September 11, 2001.

(c) FEDERAL SHARE.—The Federal share of the cost for which any grant is made under this Act shall be 90 percent.

(d) DUE CONSIDERATION.—In making grants under this Act, the Secretary shall give due consideration to private operators of over-the-road buses that have taken measures to enhance bus transportation security from those in effect before September 11, 2001.

(e) GRANT REQUIREMENTS.—A grant under this Act shall be subject to all the terms and conditions that a grant is subject to under section 3038(f) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note; 112 Stat. 393).

SEC. 3. PLAN REQUIREMENT.

(a) IN GENERAL.—The Secretary may not make a grant under this Act to a private operator of over-the-road buses until the operator has first submitted to the Secretary—

(1) a plan for making security improvements described in section 2 and the Secretary has approved the plan; and

(2) such additional information as the Secretary may require to ensure accountability for the obligation and expenditure of amounts made available to the operator under the grant.

(b) COORDINATION.—To the extent that an application for a grant under this section proposes security improvements within a specific terminal owned and operated by an entity other than the applicant, the applicant shall demonstrate to the satisfaction of the Secretary that the applicant has coordinated the security improvements for the terminal with that entity.

SEC. 4. OVER-THE-ROAD BUS DEFINED.

In this Act, the term ''over-the-road bus'' means a bus characterized by an elevated passenger deck located over a baggage compartment.

SEC. 5. BUS SECURITY ASSESSMENT.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Transportation shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a preliminary report in accordance with the requirements of this section.

(b) CONTENTS OF PRELIMINARY REPORT.—The preliminary report shall include—

(1) an assessment of the over-the-road bus security grant program;

(2) an assessment of actions already taken to address identified security issues by both public and private entities and recommendations on whether additional safety and security enforcement actions are needed;

(3) an assessment of whether additional legislation is needed to provide for the security of Americans traveling on over-the-road buses;

(4) an assessment of the economic impact that security upgrades of buses and bus facilities may have on the over-the-road bus transportation industry and its employees;

(5) an assessment of ongoing research and the need for additional research on over-the-road bus security, including engine shut-off mechanisms, chemical and biological weapon detection technology, and the feasibility of compartmentalization of the driver; and

(6) an assessment of industry best practices to enhance security.

(c) CONSULTATION WITH INDUSTRY, LABOR, AND OTHER GROUPS.—In carrying out this section, the Secretary shall consult with over-the-road bus management and labor representatives, public safety and law enforcement officials, and the National Academy of Sciences.

SEC. 6. FUNDING.

There is authorized to be appropriated to the Secretary of Transportation to carry out this Act $99,000,000 for fiscal year 2003. Such sums shall remain available until expended.

Mr. OBERSTAR. Mr. Speaker, I rise in strong support of the amendment in the nature of a substitute to H.R. 3429, the Max Cleland Over-the-Road Bus Security and Safety Act of 2002.

I am pleased that the House is moving forward with this important piece of transportation security legislation. Since reporting the bill in June, the Committee has worked aggressively to bring the bill to the Floor. Unfortunately, every Committee effort to advance the bill was blocked by the Republican Leadership. I am pleased, therefore, with the Leadership's recent change of heart, even at this late date, to allow the Committee to advance this important piece of legislation.

The bill has been worked out with our counterparts on the Commerce Committee in the Other Body and has the strong support of our side of the aisle. We expect both bodies will clear the bill for the President's signature.

Since the September 11 terrorist attacks, over-the-road bus drivers and passengers have been the targets of many serious assaults, including two assaults killing a total of nine passengers and another assault injuring 33 passengers. As recently as September 30, 2002, a bus driver was attacked with a knife while transporting 49 passengers on a Greyhound bus in California. As a result of the attack, the bus went off the road and ended up on its side. Although the driver survived, two of the 49 passengers died.

These violent incidents point to the immediate need to improve security measures for intercity buses and bus terminals. On August 2, 2002, the President signed into law the FY2002 Supplemental Appropriations Act (P.L. 107–206). The Act provided $15 million for grants and contracts to enhance security for intercity bus operations. However, the Department of Transportation (DOT) has not released a single penny of these funds. In fact, DOT has not even established an application process by which entities can apply for these security funds.

The Administration's failure to make these funds available is inexcusable. The recent California attack was the fourth attack on an intercity bus driver in the past year. Any further delay in releasing these funds risks the lives of thousands of low-income Americans whose only mode of transportation may be travel by bus. The Administration must take immediate action to make these funds available.

Mr. Speaker, H.R. 3429, as amended, moves us in the right direction. It directs the Secretary of Transportation to establish a program for making grants to private operators of over-the-road buses for system-wide security improvements to their operations, including constructing and modifying terminals, garages, or over-the-road buses to assure their security; protecting the driver; training employees in recognizing security threats; hiring and training security officers; installing camera and video surveillance equipment; and establishing an emergency communications system linked to law enforcement and emergency personnel.

Since September 11, the intercity bus industry has spent millions on enhanced security measures. The funds provided by the bill will supplement measures already undertaken by the industry to increase the security of the bus system and restore the public's confidence in traveling by bus.

H.R. 3429, as amended, authorizes $99 million in fiscal year 2003 to allow the Secretary to make grants to private bus operators for system-wide security improvements to their operations. The federal share of the cost of any grant is 90 percent.

I urge my colleagues to support the amendment in the nature of a substitute to H.R. 3429.

Mr. YOUNG of Alaska. The purposes of this bill are to establish a direct grant program to help improve the system-wide security of over-the-road bus operations, and to authorize the Secretary of Transportation to conduct a security assessment of over-the-road bus operations.

Over-the-road buses, or motorcoaches, operate in both commuter and intercity operations. The motorcoach industry, which includes regularly scheduled point-to-point service and chartered tour operations, carried more than 774 million passengers in the United States in 2000. According to the Bureau of Transportation Statistics, the intercity bus transportation industry serves 5000 locations nationwide, many of which are rural communities that might not have other modes of intercity transportation available to the public. Of the 4,000 bus companies operating in this country, 90 percent operate fewer than 25 buses.

There are worrisome precedents for security breaches on buses. For example, in the Middle East, terrorists have used buses to cause mass casualties in a number of crowded cities. In the United States, Greyhound drivers and passengers were the targets of a least 4 serious assaults last year, one killing 7 passengers and another injuring 33 passengers, and at least 3 other serious security breaches. No other major United States transportation mode had as many incidents of passenger attacks during that period. These incidents occurred in states throughout the country, including Tennessee, Arizona, Utah, Oklahoma, Pennsylvania, and Vermont.

In response to the incidents, bus companies have taken a number of steps to enhance security. These steps include: performing random screening of passengers and baggage at selected terminals; requiring ticket identification; providing cell phones to drivers as an interim emergency communications system; increasing security personnel in terminals; giving the driver the right to limit access to the first row of seats; and establishing information and communications systems to aid and coordinate with law enforcement.

In the 2002 Supplemental Appropriations Act for Further Recovery From and Response to Terrorist Attacks on the United States (P.L. 107–206), $15 million was provided of bus security improvements intended to address the same type of security-related issues as identified in this bill. This appropriation represents the first installment of funds for over-the-road bus security and the Mangers encourage the Secretary to move forward expeditiously to utilize these funds for their intended purpose.

Section-by-section Analysis

Section 1. Short title.

This Act may be cited as the ''Max Cleland Over-the-Road Bus Security and Safety Act of 2002''.

Section 2. Emergency over-the-road bus security assistance.

This section directs the Secretary of Transportation, acting through the Administrator for the Federal Motor Carrier Safety Administration, to establish a program for making grants to private operators of over-the-road buses for system-wide security improvements to their operations. Improvements eligible for grants include: constructing and modifying terminals, garages, facilities and over-the-road buses to assure their security; improvements to protect or isolate the driver; upgrading, purchasing or installing manifest or ticketing systems; hiring security officers; training employees; installing surveillance equipment; conducting employee background checks; establishing emergency communications systems; and implementing passenger screening programs. Operators may also receive grants for eligible projects providing reimbursement for extraordinary security-related costs incurred since September 11, 2001. In making grants, the Secretary is directed to give due consideration to operators of over-the-road buses that have already taken measures to enhance security since September 11, 2001.

This section also makes clear that grants under this bill will adhere to the existing requirements for over-the-road bus operators under section 3038(f) of the Transportation Equity Act for the 21st Century.

The federal share will be 90 percent of the cost of the improvement for which any grant is made.

Section 3. Plan requirement.

This section requires that the Secretary approve a plan for security improvements submitted by an over-the-road bus operator before a grant may be made. The plan submitted by the operator must comply with the uses described in Section 2 and include any additional information the Secretary deems necessary to ensure the accountability for amounts made available through the grant program.

This section also provides that an applicant for a grant for improvements at a terminal owned and operated by an entity other than the applicant must demonstrate to the Secretary that the improvements have been coordinated with the terminal's owner or operator.

Section 4. Over-the-road bus defined.

This section defines an over-the-road bus as a bus characterized by an elevated passenger deck located over a baggage compartment, consistent with the definition used in the Transportation Equity Act for the 21st Century (P.L. 105–178).

Section 5. Bus security assessment.

This section directs the Secretary to submit a preliminary report within 180 days of enactment to the Senate Committee on Commerce, Science and Transportation and the House Committee on Transportation and Infrastructure. The report will include assessments of: the grant program established by the bill; actions taken by public and private entities to address security issues and recommendations on whether additional actions; including legislation are needed; the economic impact of security upgrades on the over-the-road bus industry and its employees; ongoing and needed research on over-the-road bus security; and industry best practices to enhance security. In conducting the assessments, the Secretary is to consult with over-the-road bus management and labor representatives, public safety and law enforcement officials, and the National Academy of Sciences.

Section 6. Funding.

This section authorizes $99 million for the grant program for fiscal year 2003 and provides that such sums shall remain available until expended.

Mr. YOUNG of Alaska. Mr. Speaker, I move to call up H.R. 3429, as amended, from the desk, and pass the bill by unanimous consent.

Mr. Speaker, the Max Cleland Over-the-Road Bus Security and Safety Act, H.R. 3429, will enhance the security of the nation's intercity bus network by directing the Secretary of Transportation to establish a grant program for security improvements to over-the-road operations.

The bipartisan legislation was introduced last December, and was marked up by the full Transportation and Infrastructure Committee on June 13, 2002. The amended bill before you reflects an agreement between the House Transportation and Infrastructure Committee and the Senate Commerce Committee, which reported a companion bill, S. 1739. The Senate bill was introduced and championed by Senator MAX CLELAND, and the bill has been named for him to commemorate his work on this legislation.

Since last year's terrorist attacks on New York and Washington, D.C., the Transportation Committee has re-examined the security of all modes of transportation. The intercity bus industry transports more than 750 million passengers a year, and is an important element of a intermodal national transportation system.

Unfortunately, recent terrorist bombings on foreign buses and bus stations, as well as attacks against bus drivers here in the U.S., demonstrate the need for strengthened bus security.

$15 million has already been appropriated for improvements to bus security in the fiscal year 2002 emergency supplemental, and another $15 million is pending for fiscal year 2003. It is imperative that we authorize this grant program now so the Secretary of Transportation will have direction from Congress on how these funds shall be spent.

H.R. 3429 authorizes a total of $99 million for fiscal year 2003 from the general fund for discretionary grants to private operators of intercity bus service for a number of security-related costs, including: constructing or modifying terminals, bus garages or other facilities to assure security; protecting or isolating the bus driver; upgrading, purchasing, or installing passenger ticketing systems; employee training; hiring security officers; installing cameras and video surveillance equipment on buses and in facilities; creating employee identification and background check programs; establishing emergency communications systems; and implementing passenger screening programs at terminals and on buses.

These grants can be made for new security improvements, or can be used to reimburse extraordinary security costs incurred in the wake of September 11, 2001.

There are number of changes from the House Committee-reported bill, which can be summarized as follows:

1. The Secretary is directed to establish the grant program through the Federal Motor Carrier Safety Administration, the regulatory agency that is responsible for over-the-road bus safety.

2. The total authorization period is one year, rather than three years, and the total amount authorized is $99 million instead of $200 million. This program will be reauthorized in the larger context of TEA 21 reauthorization next year.

3. A new section requested by the Senate is included that requires an assessment of the current status of security issues as they relate to the over-the-road bus industry. This report is due in six months, and will be helpful to the authorizing Committees as we work on TEA 21 reauthorization.

Mr. Speaker, thank you for allowing this bill to move through in these last days of the 107th Congress.

PASSED, AS AMENDED BY THE COMMITTEE AMENDMENT AS FURTHER AMENDED

H.R. 2458, to enhance the management and promotion of electronic Government services and processes by establishing a Federal Chief Information Officer within the Office of Management and Budget, and by establishing a broad framework of measures that require using Internet-based information technology to enhance citizen access to Government information and services, and for other purposes.

H.R. 2458

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''E-Government Act of 2002''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
TITLE I—OFFICE OF MANAGEMENT AND BUDGET ELECTRONIC GOVERNMENT SERVICES
Sec. 101. Management and promotion of electronic government services.
Sec. 102. Conforming amendments.
TITLE II—FEDERAL MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES
Sec. 201. Definitions.
Sec. 202. Federal agency responsibilities.
Sec. 203. Compatibility of executive agency methods for use and acceptance of electronic signatures.
Sec. 204. Federal Internet portal.
Sec. 205. Federal courts.
Sec. 206. Regulatory agencies.
Sec. 207. Accessibility, usability, and preservation of government information.
Sec. 208. Privacy provisions.
Sec. 209. Federal information technology workforce development.
Sec. 210. Share-in-savings initiatives.
Sec. 211. Authorization for acquisition of information technology by State and local governments through Federal supply schedules.
Sec. 212. Integrated reporting study and pilot projects.
Sec. 213. Community technology centers.
Sec. 214. Enhancing crisis management through advanced information technology.
Sec. 215. Disparities in access to the Internet.
TITLE III—INFORMATION SECURITY
Sec. 301. Information security.
Sec. 302. Management of information technology.
Sec. 303. National Institute of Standards and Technology.
Sec. 304. Information Security and Privacy Advisory Board.
Sec. 305. Technical and conforming amendments.
Sec. 306. Construction.
TITLE IV—AUTHORIZATION OF APPROPRIATIONS AND EFFECTIVE DATES
Sec. 401. Authorization of appropriations.
Sec. 402. Effective dates.
TITLE V—CONFIDENTIAL INFORMATION PROTECTION AND STATISTICAL EFFICIENCY
Sec. 501. Short title.
Sec. 502. Definitions.
Sec. 503. Coordination and oversight of policies.
Sec. 504. Effect on other laws.
Subtitle A—Confidential Information Protection
Sec. 511. Findings and purposes.
Sec. 512. Limitations on use and disclosure of data and information.
Sec. 513. Fines and penalties.
Subtitle B—Statistical Efficiency
Sec. 521. Findings and purposes.
Sec. 522. Designation of statistical agencies.
Sec. 523. Responsibilities of designated statistical agencies.
Sec. 524. Sharing of business data among designated statistical agencies.
Sec. 525. Limitations on use of business data provided by designated statistical agencies.
Sec. 526. Conforming amendments.

SEC. 2. 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 Act 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 decisionmaking 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 I—OFFICE OF MANAGEMENT AND BUDGET ELECTRONIC GOVERNMENT SERVICES

SEC. 101. 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. Program to encourage innovative solutions to enhance electronic Government services and processes.
''3606. 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.

''(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 II 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) subtitle III of title 40, United States Code;

''(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); and

''(5) the Federal Information Security Management Act of 2002.

''(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 administer electronic Government initiatives.

''(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.

''(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 11331 of title 40, 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, including the following:

''(A) Standards and guidelines for interconnectivity and interoperability as described under section 3504.

''(B) Consistent with the process under section 207(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 204 of the E-Government Act of 2002.

''(12) Coordinate with the Administrator for 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 this section.

''(17) Assist the Director in preparing the E-Government report established under section 3606.

''(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 II 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 11331 of title 40, and maximize the use of commercial standards as appropriate, including the following:

''(A) Standards and guidelines for interconnectivity and interoperability as described under section 3504.

''(B) Consistent with the process under section 207(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 agencywide 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 204 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 3606.

''(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. Program to encourage innovative solutions to enhance electronic Government services and processes

''(a) ESTABLISHMENT OF PROGRAM.—The Administrator shall establish and promote a Governmentwide program to encourage contractor innovation and excellence in facilitating the development and enhancement of electronic Government services and processes.

''(b) ISSUANCE OF ANNOUNCEMENTS SEEKING INNOVATIVE SOLUTIONS.—Under the program, the Administrator, in consultation with the Council and the Administrator for Federal Procurement Policy, shall issue announcements seeking unique and innovative solutions to facilitate the development and enhancement of electronic Government services and processes.

''(c) MULTIAGENCY TECHNICAL ASSISTANCE TEAM.—(1) The Administrator, in consultation with the Council and the Administrator for Federal Procurement Policy, shall convene a multiagency technical assistance team to assist in screening proposals submitted to the Administrator to provide unique and innovative solutions to facilitate the development and enhancement of electronic Government services and processes. The team shall be composed of employees of the agencies represented on the Council who have expertise in scientific and technical disciplines that would facilitate the assessment of the feasibility of the proposals.

''(2) The technical assistance team shall—

''(A) assess the feasibility, scientific and technical merits, and estimated cost of each proposal; and

''(B) submit each proposal, and the assessment of the proposal, to the Administrator.

''(3) The technical assistance team shall not consider or evaluate proposals submitted in response to a solicitation for offers for a pending procurement or for a specific agency requirement.

''(4) After receiving proposals and assessments from the technical assistance team, the Administrator shall consider recommending appropriate proposals for funding under the E-Government Fund established under section 3604 or, if appropriate, forward the proposal and the assessment of it to the executive agency whose mission most coincides with the subject matter of the proposal.

''§ 3606. 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 202(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. 102. 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 new section:

''§ 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 3 of such title is amended by inserting after the item relating to section 304 the following:

''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 II—FEDERAL MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES

SEC. 201. DEFINITIONS.

Except as otherwise provided, in this title the definitions under sections 3502 and 3601 of title 44, United States Code, shall apply.

SEC. 202. FEDERAL AGENCY RESPONSIBILITIES.

(a) IN GENERAL.—The head of each agency shall be responsible for—

(1) complying with the requirements of this Act (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 Act by the Director, and the information technology standards promulgated under this Act 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 204.

(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, as appropriate, 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 Act 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 Act 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 Act 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.—This section, section 203, and section 214 do apply to national security systems to the extent practicable and consistent with law.

SEC. 203. 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, and for other activities consistent with this section, $8,000,000 or such sums as are necessary in fiscal year 2003, and such sums as are necessary for each fiscal year thereafter.

SEC. 204. 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. 205. 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. 206. 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 paragraphs (1) and (2) of section 552(a) 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 3606 of title 44 (as added by this Act).

SEC. 207. 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 180 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 2 years 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 1 year 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 202(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 2 years 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 1 year 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 202(g), on compliance of that agency with the policies issued under paragraph (2)(A).

(f) AGENCY WEBSITES.—

(1) STANDARDS FOR AGENCY WEBSITES.—Not later than 2 years after the effective date of this title, the Director shall promulgate guidance for agency websites that includes—

(A) requirements that websites include direct links to—

(i) descriptions of the mission and statutory authority of the agency;

(ii) information made available to the public under subsections (a)(1) and (b) of section 552 of title 5, United States Code (commonly referred to as the ''Freedom of Information Act'');

(iii) information about the organizational structure of the agency; and

(iv) the strategic plan of the agency developed under section 306 of title 5, United States Code; and

(B) minimum agency goals to assist public users to navigate agency websites, including—

(i) speed of retrieval of search results;

(ii) the relevance of the results;

(iii) tools to aggregate and disaggregate data; and

(iv) security protocols to protect information.

(2) AGENCY REQUIREMENTS.—(A) Not later than 2 years after the date of enactment of this Act, each agency shall—

(i) consult with the Committee and solicit public comment;

(ii) establish a process for determining which Government information the agency intends to make available and accessible to the public on the Internet and by other means;

(iii) develop priorities and schedules for making Government information available and accessible;

(iv) make such final determinations, priorities, and schedules available for public comment;

(v) post such final determinations, priorities, and schedules on the Internet; and

(vi) submit such final determinations, priorities, and schedules to the Director, in the report established under section 202(g).

(B) Each agency shall update determinations, priorities, and schedules of the agency, as needed, after consulting with the Committee and soliciting public comment, if appropriate.

(3) PUBLIC DOMAIN DIRECTORY OF PUBLIC FEDERAL GOVERNMENT WEBSITES.—

(A) ESTABLISHMENT.—Not later than 2 years after the effective date of this title, the Director and each agency shall—

(i) develop and establish a public domain directory of public Federal Government websites; and

(ii) post the directory on the Internet with a link to the integrated Internet-based system established under section 204.

(B) DEVELOPMENT.—With the assistance of each agency, the Director shall—

(i) 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

(ii) develop a public domain taxonomy of subjects used to review and categorize public Federal Government websites.

(C) UPDATE.—With the assistance of each agency, the Administrator of the Office of Electronic Government shall—

(i) update the directory as necessary, but not less than every 6 months; and

(ii) solicit interested persons for improvements to the directory.

(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 Office of Management and Budget, in consultation 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, consistent with any relevant protections for the information under section 552 of title 5, United States Code, 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 centers; 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 3606 of title 44 (as added by this Act).

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated 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.

SEC. 208. 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 developing or procuring information technology that collects, maintains, or disseminates information that is in an identifiable form.

(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 information that is in an identifiable form 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 information that is in an identifiable form 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.

(d) DEFINITION.—In this section, the term ''identifiable form'' means any representation of information that permits the identity of an individual to whom the information applies to be reasonably inferred by either direct or indirect means.

SEC. 209. 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) WORKFORCE DEVELOPMENT.—

(1) 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—

(A) analyze, on an ongoing basis, the personnel needs of the Federal Government related to information technology and information resource management;

(B) 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

(C) 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.

(2) AUTHORITY TO DETAIL EMPLOYEES TO NON-FEDERAL EMPLOYERS.—In carrying out paragraph (1), the Director of the Office of Personnel Management may provide for a program under which a Federal employee may be detailed to a non-Federal employer. The Director of the Office of Personnel Management shall prescribe regulations for such program, including the conditions for service and duties as the Director considers necessary.

(3) COORDINATION PROVISION.—An assignment described in section 3703 of title 5, United States Code, shall be made only in accordance with the program established under paragraph (2), if any.

(4) 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.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Office of Personnel Management for the implementation of this subsection, $7,000,000 in fiscal year 2003, and such sums as are necessary for each fiscal year thereafter.

(c) INFORMATION TECHNOLOGY EXCHANGE PROGRAM.—

(1) IN GENERAL.—Subpart B of part III of title 5, United States Code, is amended by adding at the end the following:

''CHAPTER 37—INFORMATION TECHNOLOGY EXCHANGE PROGRAM

''Sec.
''3701. Definitions.
''3702. General provisions.
''3703. Assignment of employees to private sector organizations.
''3704. Assignment of employees from private sector organizations.
''3705. Application to Office of the Chief Technology Officer of the District of Columbia.
''3706. Reporting requirement.
''3707. Regulations.

''§ 3701. Definitions

''For purposes of this chapter—

''(1) the term 'agency' means an Executive agency, but does not include the General Accounting Office; and

''(2) the term 'detail' means—

''(A) the assignment or loan of an employee of an agency to a private sector organization without a change of position from the agency that employs the individual, or

''(B) the assignment or loan of an employee of a private sector organization to an agency without a change of position from the private sector organization that employs the individual,

whichever is appropriate in the context in which such term is used.

''§ 3702. General provisions

''(a) ASSIGNMENT AUTHORITY.—On request from or with the agreement of a private sector organization, and with the consent of the employee concerned, the head of an agency may arrange for the assignment of an employee of the agency to a private sector organization or an employee of a private sector organization to the agency. An eligible employee is an individual who—

''(1) works in the field of information technology management;

''(2) is considered an exceptional performer by the individual's current employer; and

''(3) is expected to assume increased information technology management responsibilities in the future.

An employee of an agency shall be eligible to participate in this program only if the employee is employed at the GS–11 level or above (or equivalent) and is serving under a career or career-conditional appointment or an appointment of equivalent tenure in the excepted service, and applicable requirements of section 209(b) of the E-Government Act of 2002 are met with respect to the proposed assignment of such employee.

''(b) AGREEMENTS.—Each agency that exercises its authority under this chapter shall provide for a written agreement between the agency and the employee concerned regarding the terms and conditions of the employee's assignment. In the case of an employee of the agency, the agreement shall—

''(1) require the employee to serve in the civil service, upon completion of the assignment, for a period equal to the length of the assignment; and

''(2) provide that, in the event the employee fails to carry out the agreement (except for good and sufficient reason, as determined by the head of the agency from which assigned) the employee shall be liable to the United States for payment of all expenses of the assignment.

An amount under paragraph (2) shall be treated as a debt due the United States.

''(c) TERMINATION.—Assignments may be terminated by the agency or private sector organization concerned for any reason at any time.

''(d) DURATION.—Assignments under this chapter shall be for a period of between 3 months and 1 year, and may be extended in 3-month increments for a total of not more than 1 additional year, except that no assignment under this chapter may commence after the end of the 5-year period beginning on the date of the enactment of this chapter.

''(e) ASSISTANCE.—The Chief Information Officers Council, by agreement with the Office of Personnel Management, may assist in the administration of this chapter, including by maintaining lists of potential candidates for assignment under this chapter, establishing mentoring relationships for the benefit of individuals who are given assignments under this chapter, and publicizing the program.

''(f) CONSIDERATIONS.—In exercising any authority under this chapter, an agency shall take into consideration—

''(1) the need to ensure that small business concerns are appropriately represented with respect to the assignments described in sections 3703 and 3704, respectively; and

''(2) how assignments described in section 3703 might best be used to help meet the needs of the agency for the training of employees in information technology management.

''§ 3703. Assignment of employees to private sector organizations

''(a) IN GENERAL.—An employee of an agency assigned to a private sector organization under this chapter is deemed, during the period of the assignment, to be on detail to a regular work assignment in his agency.

''(b) COORDINATION WITH CHAPTER 81.—Notwithstanding any other provision of law, an employee of an agency assigned to a private sector organization under this chapter is entitled to retain coverage, rights, and benefits under subchapter I of chapter 81, and employment during the assignment is deemed employment by the United States, except that, if the employee or the employee's dependents receive from the private sector organization any payment under an insurance policy for which the premium is wholly paid by the private sector organization, or other benefit of any kind on account of the same injury or death, then, the amount of such payment or benefit shall be credited against any compensation otherwise payable under subchapter I of chapter 81.

''(c) REIMBURSEMENTS.—The assignment of an employee to a private sector organization under this chapter may be made with or without reimbursement by the private sector organization for the travel and transportation expenses to or from the place of assignment, subject to the same terms and conditions as apply with respect to an employee of a Federal agency or a State or local government under section 3375, and for the pay, or a part thereof, of the employee during assignment. Any reimbursements shall be credited to the appropriation of the agency used for paying the travel and transportation expenses or pay.

''(d) TORT LIABILITY; SUPERVISION.—The Federal Tort Claims Act and any other Federal tort liability statute apply to an employee of an agency assigned to a private sector organization under this chapter. The supervision of the duties of an employee of an agency so assigned to a private sector organization may be governed by an agreement between the agency and the organization.

''(e) SMALL BUSINESS CONCERNS.—

''(1) IN GENERAL.—The head of each agency shall take such actions as may be necessary to ensure that, of the assignments made under this chapter from such agency to private sector organizations in each year, at least 20 percent are to small business concerns.

''(2) DEFINITIONS.—For purposes of this subsection—

''(A) the term 'small business concern' means a business concern that satisfies the definitions and standards specified by the Administrator of the Small Business Administration under section 3(a)(2) of the Small Business Act (as from time to time amended by the Administrator);

''(B) the term 'year' refers to the 12-month period beginning on the date of the enactment of this chapter, and each succeeding 12-month period in which any assignments under this chapter may be made; and

''(C) the assignments 'made' in a year are those commencing in such year.

''(3) REPORTING REQUIREMENT.—An agency which fails to comply with paragraph (1) in a year shall, within 90 days after the end of such year, submit a report to the Committees on Government Reform and Small Business of the House of Representatives and the Committees on Governmental Affairs and Small Business of the Senate. The report shall include—

''(A) the total number of assignments made under this chapter from such agency to private sector organizations in the year;

''(B) of that total number, the number (and percentage) made to small business concerns; and

''(C) the reasons for the agency's noncompliance with paragraph (1).

''(4) EXCLUSION.—This subsection shall not apply to an agency in any year in which it makes fewer than 5 assignments under this chapter to private sector organizations.

''§ 3704. Assignment of employees from private sector organizations

''(a) IN GENERAL.—An employee of a private sector organization assigned to an agency under this chapter is deemed, during the period of the assignment, to be on detail to such agency.

''(b) TERMS AND CONDITIONS.—An employee of a private sector organization assigned to an agency under this chapter—

''(1) may continue to receive pay and benefits from the private sector organization from which he is assigned;

''(2) is deemed, notwithstanding subsection (a), to be an employee of the agency for the purposes of—

''(A) chapter 73;

''(B) sections 201, 203, 205, 207, 208, 209, 603, 606, 607, 643, 654, 1905, and 1913 of title 18;

''(C) sections 1343, 1344, and 1349(b) of title 31;

''(D) the Federal Tort Claims Act and any other Federal tort liability statute;

''(E) the Ethics in Government Act of 1978;

''(F) section 1043 of the Internal Revenue Code of 1986; and

''(G) section 27 of the Office of Federal Procurement Policy Act;

''(3) may not have access to any trade secrets or to any other nonpublic information which is of commercial value to the private sector organization from which he is assigned; and

''(4) is subject to such regulations as the President may prescribe.

The supervision of an employee of a private sector organization assigned to an agency under this chapter may be governed by agreement between the agency and the private sector organization concerned. Such an assignment may be made with or without reimbursement by the agency for the pay, or a part thereof, of the employee during the period of assignment, or for any contribution of the private sector organization to employee benefit systems.

''(c) COORDINATION WITH CHAPTER 81.—An employee of a private sector organization assigned to an agency under this chapter who suffers disability or dies as a result of personal injury sustained while performing duties during the assignment shall be treated, for the purpose of subchapter I of chapter 81, as an employee as defined by section 8101 who had sustained the injury in the performance of duty, except that, if the employee or the employee's dependents receive from the private sector organization any payment under an insurance policy for which the premium is wholly paid by the private sector organization, or other benefit of any kind on account of the same injury or death, then, the amount of such payment or benefit shall be credited against any compensation otherwise payable under subchapter I of chapter 81.

''(d) PROHIBITION AGAINST CHARGING CERTAIN COSTS TO THE FEDERAL GOVERNMENT.—A private sector organization may not charge the Federal Government, as direct or indirect costs under a Federal contract, the costs of pay or benefits paid by the organization to an employee assigned to an agency under this chapter for the period of the assignment.

''§ 3705. Application to Office of the Chief Technology Officer of the District of Columbia

''(a) IN GENERAL.—The Chief Technology Officer of the District of Columbia may arrange for the assignment of an employee of the Office of the Chief Technology Officer to a private sector organization, or an employee of a private sector organization to such Office, in the same manner as the head of an agency under this chapter.

''(b) TERMS AND CONDITIONS.—An assignment made pursuant to subsection (a) shall be subject to the same terms and conditions as an assignment made by the head of an agency under this chapter, except that in applying such terms and conditions to an assignment made pursuant to subsection (a), any reference in this chapter to a provision of law or regulation of the United States shall be deemed to be a reference to the applicable provision of law or regulation of the District of Columbia, including the applicable provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (sec. 1–601.01 et seq., D.C. Official Code) and section 601 of the District of Columbia Campaign Finance Reform and Conflict of Interest Act (sec. 1–1106.01, D.C. Official Code).

''(c) DEFINITION.—For purposes of this section, the term 'Office of the Chief Technology Officer' means the office established in the executive branch of the government of the District of Columbia under the Office of the Chief Technology Officer Establishment Act of 1998 (sec. 1–1401 et seq., D.C. Official Code).

''§ 3706. Reporting requirement

''(a) IN GENERAL.—The Office of Personnel Management shall, not later than April 30 and October 31 of each year, prepare and submit to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate a semiannual report summarizing the operation of this

chapter during the immediately preceding 6-month period ending on March 31 and September 30, respectively.

''(b) CONTENT.—Each report shall include, with respect to the 6-month period to which such report relates—

''(1) the total number of individuals assigned to, and the total number of individuals assigned from, each agency during such period;

''(2) a brief description of each assignment included under paragraph (1), including—

''(A) the name of the assigned individual, as well as the private sector organization and the agency (including the specific bureau or other agency component) to or from which such individual was assigned;

''(B) the respective positions to and from which the individual was assigned, including the duties and responsibilities and the pay grade or level associated with each; and

''(C) the duration and objectives of the individual's assignment; and

''(3) such other information as the Office considers appropriate.

''(c) PUBLICATION.—A copy of each report submitted under subsection (a)—

''(1) shall be published in the Federal Register; and

''(2) shall be made publicly available on the Internet.

''(d) AGENCY COOPERATION.—On request of the Office, agencies shall furnish such information and reports as the Office may require in order to carry out this section.

''§ 3707. Regulations

''The Director of the Office of Personnel Management shall prescribe regulations for the administration of this chapter.''.

(2) REPORT.—Not later than 4 years after the date of the enactment of this Act, the General Accounting Office shall prepare and submit to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate a report on the operation of chapter 37 of title 5, United States Code (as added by this subsection). Such report shall include—

(A) an evaluation of the effectiveness of the program established by such chapter; and

(B) a recommendation as to whether such program should be continued (with or without modification) or allowed to lapse.

(3) CLERICAL AMENDMENT.—The analysis for part III of title 5, United States Code, is amended by inserting after the item relating to chapter 35 the following:

''37. Information Technology Exchange Program ..... 3701''.

(d) ETHICS PROVISIONS.—

(1) ONE-YEAR RESTRICTION ON CERTAIN COMMUNICATIONS.—Section 207(c)(2)(A) of title 18, United States Code, is amended—

(A) by striking ''or'' at the end of clause (iii);

(B) by striking the period at the end of clause (iv) and inserting ''; or''; and

(C) by adding at the end the following:

''(v) assigned from a private sector organization to an agency under chapter 37 of title 5.''.

(2) DISCLOSURE OF CONFIDENTIAL INFORMATION.—Section 1905 of title 18, United States Code, is amended by inserting ''or being an employee of a private sector organization who is or was assigned to an agency under chapter 37 of title 5,'' after ''(15 U.S.C. 1311–1314),''.

(3) CONTRACT ADVICE.—Section 207 of title 18, United States Code, is amended by adding at the end the following:

''(l) CONTRACT ADVICE BY FORMER DETAILS.—Whoever, being an employee of a private sector organization assigned to an agency under chapter 37 of title 5, within one year after the end of that assignment, knowingly represents or aids, counsels, or assists in representing any other person (except the United States) in connection with any contract with that agency shall be punished as provided in section 216 of this title.''.

(4) RESTRICTION ON DISCLOSURE OF PROCUREMENT INFORMATION.—Section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) is amended in subsection (a)(1) by adding at the end the following new sentence: ''In the case of an employee of a private sector organization assigned to an agency under chapter 37 of title 5, United States Code, in addition to the restriction in the preceding sentence, such employee shall not, other than as provided by law, knowingly disclose contractor bid or proposal information or source selection information during the three-year period after the end of the assignment of such employee.''.

(e) REPORT ON EXISTING EXCHANGE PROGRAMS.—

(1) EXCHANGE PROGRAM DEFINED.—For purposes of this subsection, the term ''exchange program'' means an executive exchange program, the program under subchapter VI of chapter 33 of title 5, United States Code, and any other program which allows for—

(A) the assignment of employees of the Federal Government to non-Federal employers;

(B) the assignment of employees of non-Federal employers to the Federal Government; or

(C) both.

(2) REPORTING REQUIREMENT.—Not later than 1 year after the date of the enactment of this Act, the Office of Personnel Management shall prepare and submit to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate a report identifying all existing exchange programs.

(3) SPECIFIC INFORMATION.—The report shall, for each such program, include—

(A) a brief description of the program, including its size, eligibility requirements, and terms or conditions for participation;

(B) specific citation to the law or other authority under which the program is established;

(C) the names of persons to contact for more information, and how they may be reached; and

(D) any other information which the Office considers appropriate.

(f) REPORT ON THE ESTABLISHMENT OF A GOVERNMENTWIDE INFORMATION TECHNOLOGY TRAINING PROGRAM.—

(1) IN GENERAL.—Not later January 1, 2003, the Office of Personnel Management, in consultation with the Chief Information Officers Council and the Administrator of General Services, shall review and submit to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate a written report on the following:

(A) The adequacy of any existing information technology training programs available to Federal employees on a Governmentwide basis.

(B)(i) If one or more such programs already exist, recommendations as to how they might be improved.

(ii) If no such program yet exists, recommendations as to how such a program might be designed and established.

(C) With respect to any recommendations under subparagraph (B), how the program under chapter 37 of title 5, United States Code, might be used to help carry them out.

(2) COST ESTIMATE.—The report shall, for any recommended program (or improvements) under paragraph (1)(B), include the estimated costs associated with the implementation and operation of such program as so established (or estimated difference in costs of any such program as so improved).

(g) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) AMENDMENTS TO TITLE 5, UNITED STATES CODE.—Title 5, United States Code, is amended—

(A) in section 3111, by adding at the end the following:

''(d) Notwithstanding section 1342 of title 31, the head of an agency may accept voluntary service for the United States under chapter 37 of this title and regulations of the Office of Personnel Management.'';

(B) in section 4108, by striking subsection (d); and

(C) in section 7353(b), by adding at the end the following:

''(4) Nothing in this section precludes an employee of a private sector organization, while assigned to an agency under chapter 37, from continuing to receive pay and benefits from such organization in accordance with such chapter.''.

(2) AMENDMENT TO TITLE 18, UNITED STATES CODE.—Section 209 of title 18, United States Code, is amended by adding at the end the following:

''(g)(1) This section does not prohibit an employee of a private sector organization, while assigned to an agency under chapter 37 of title 5, from continuing to receive pay and benefits from such organization in accordance with such chapter.

''(2) For purposes of this subsection, the term 'agency' means an agency (as defined by section 3701 of title 5) and the Office of the Chief Technology Officer of the District of Columbia.''.

(3) OTHER AMENDMENTS.—Section 125(c)(1) of Public Law 100–238 (5 U.S.C. 8432 note) is amended—

(A) in subparagraph (B), by striking ''or'' at the end;

(B) in subparagraph (C), by striking ''and'' at the end and inserting ''or''; and

(C) by adding at the end the following:

''(D) an individual assigned from a Federal agency to a private sector organization under chapter 37 of title 5, United States Code; and''.

SEC. 210. SHARE-IN-SAVINGS INITIATIVES.

(a) DEFENSE CONTRACTS.—(1) Chapter 137 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 2332. Share-in-savings contracts

''(a) AUTHORITY TO ENTER INTO SHARE-IN-SAVINGS CONTRACTS.—(1) The head of an agency may enter into a share-in-savings contract for information technology (as defined in section 11101(6) of title 40) in which the Government awards a contract to improve mission-related or administrative processes or to accelerate the achievement of its mission and share with the contractor in savings achieved through contract performance.

''(2)(A) Except as provided in subparagraph (B), a share-in-savings contract shall be awarded for a period of not more than five years.

''(B) A share-in-savings contract may be awarded for a period greater than five years, but not more than 10 years, if the head of the agency determines in writing prior to award of the contract that—

''(i) the level of risk to be assumed and the investment to be undertaken by the contractor is likely to inhibit the government from obtaining the needed information technology competitively at a fair and reasonable price if the contract is limited in duration to a period of five years or less; and

''(ii) usage of the information technology to be acquired is likely to continue for a period of time sufficient to generate reasonable benefit for the government.

''(3) Contracts awarded pursuant to the authority of this section shall, to the maximum extent practicable, be performance-based contracts that identify objective outcomes and contain performance standards that will be used to measure achievement and milestones that must be met before payment is made.

''(4) Contracts awarded pursuant to the authority of this section shall include a provision containing a quantifiable baseline that is to be the basis upon which a savings share ratio is established that governs the amount of payment a contractor is to receive under the contract. Before commencement of performance of such a contract, the senior procurement executive of the agency shall determine in writing that the

terms of the provision are quantifiable and will likely yield value to the Government.

''(5)(A) The head of the agency may retain savings realized through the use of a share-in-savings contract under this section that are in excess of the total amount of savings paid to the contractor under the contract. Except as provided in subparagraph (B), savings shall be credited to the appropriation or fund against which charges were made to carry out the contract and shall be used for information technology.

''(B) Amounts retained by the agency under this subsection shall—

''(i) without further appropriation, remain available until expended; and

''(ii) be applied first to fund any contingent liabilities associated with share-in-savings procurements that are not fully funded.

''(b) CANCELLATION AND TERMINATION.—(1) If funds are not made available for the continuation of a share-in-savings contract entered into under this section in a subsequent fiscal year, the contract shall be canceled or terminated. The costs of cancellation or termination may be paid out of—

''(A) appropriations available for the performance of the contract;

''(B) appropriations available for acquisition of the information technology procured under the contract, and not otherwise obligated; or

''(C) funds subsequently appropriated for payments of costs of cancellation or termination, subject to the limitations in paragraph (3).

''(2) The amount payable in the event of cancellation or termination of a share-in-savings contract shall be negotiated with the contractor at the time the contract is entered into.

''(3)(A) Subject to subparagraph (B), the head of an agency may enter into share-in-savings contracts under this section in any given fiscal year even if funds are not made specifically available for the full costs of cancellation or termination of the contract if funds are available and sufficient to make payments with respect to the first fiscal year of the contract and the following conditions are met regarding the funding of cancellation and termination liability:

''(i) The amount of unfunded contingent liability for the contract does not exceed the lesser of—

''(I) 25 percent of the estimated costs of a cancellation or termination; or

''(II) $5,000,000.

''(ii) Unfunded contingent liability in excess of $1,000,000 has been approved by the Director of the Office of Management and Budget or the Director's designee.

''(B) The aggregate number of share-in-savings contracts that may be entered into under subparagraph (A) by all agencies to which this chapter applies in a fiscal year—

''(i) may not exceed 5, in each of fiscal years 2003, 2004, and 2005; and

''(ii) may not exceed 10, in each of fiscal years 2006, 2007, 2008, and 2009.

''(c) DEFINITIONS.—In this section:

''(1) The term 'contractor' means a private entity that enters into a contract with an agency.

''(2) The term 'savings' means—

''(A) monetary savings to an agency; or

''(B) savings in time or other benefits realized by the agency, including enhanced revenues.

''(3) The term 'share-in-savings contract' means a contract under which—

''(A) a contractor provides solutions for—

''(i) improving the agency's mission-related or administrative processes; or

''(ii) accelerating the achievement of agency missions; and

''(B) the head of the agency pays the contractor an amount equal to a portion of the savings derived by the agency from—

''(i) any improvements in mission-related or administrative processes that result from implementation of the solution; or

''(ii) acceleration of achievement of agency missions.

''(d) TERMINATION.—No share-in-savings contracts may be entered into under this section after September 30, 2009.''.

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

''2332. Share-in-savings contracts.''.

(b) OTHER CONTRACTS.—Title III of the Federal Property and Administrative Services Act of 1949 is amended by adding at the end the following:

"SEC. 317. SHARE-IN-SAVINGS CONTRACTS.

''(a) AUTHORITY TO ENTER INTO SHARE-IN-SAVINGS CONTRACTS.—(1) The head of an executive agency may enter into a share-in-savings contract for information technology (as defined in section 11101(6) of title 40, United States Code) in which the Government awards a contract to improve mission-related or administrative processes or to accelerate the achievement of its mission and share with the contractor in savings achieved through contract performance.

''(2)(A) Except as provided in subparagraph (B), a share-in-savings contract shall be awarded for a period of not more than five years.

''(B) A share-in-savings contract may be awarded for a period greater than five years, but not more than 10 years, if the head of the agency determines in writing prior to award of the contract that—

''(i) the level of risk to be assumed and the investment to be undertaken by the contractor is likely to inhibit the government from obtaining the needed information technology competitively at a fair and reasonable price if the contract is limited in duration to a period of five years or less; and

''(ii) usage of the information technology to be acquired is likely to continue for a period of time sufficient to generate reasonable benefit for the government.

''(3) Contracts awarded pursuant to the authority of this section shall, to the maximum extent practicable, be performance-based contracts that identify objective outcomes and contain performance standards that will be used to measure achievement and milestones that must be met before payment is made.

''(4) Contracts awarded pursuant to the authority of this section shall include a provision containing a quantifiable baseline that is to be the basis upon which a savings share ratio is established that governs the amount of payment a contractor is to receive under the contract. Before commencement of performance of such a contract, the senior procurement executive of the agency shall determine in writing that the terms of the provision are quantifiable and will likely yield value to the Government.

''(5)(A) The head of the agency may retain savings realized through the use of a share-in-savings contract under this section that are in excess of the total amount of savings paid to the contractor under the contract. Except as provided in subparagraph (B), savings shall be credited to the appropriation or fund against which charges were made to carry out the contract and shall be used for information technology.

''(B) Amounts retained by the agency under this subsection shall—

''(i) without further appropriation, remain available until expended; and

''(ii) be applied first to fund any contingent liabilities associated with share-in-savings procurements that are not fully funded.

''(b) CANCELLATION AND TERMINATION.—(1) If funds are not made available for the continuation of a share-in-savings contract entered into under this section in a subsequent fiscal year, the contract shall be canceled or terminated. The costs of cancellation or termination may be paid out of—

''(A) appropriations available for the performance of the contract;

''(B) appropriations available for acquisition of the information technology procured under the contract, and not otherwise obligated; or

''(C) funds subsequently appropriated for payments of costs of cancellation or termination, subject to the limitations in paragraph (3).

''(2) The amount payable in the event of cancellation or termination of a share-in-savings contract shall be negotiated with the contractor at the time the contract is entered into.

''(3)(A) Subject to subparagraph (B), the head of an executive agency may enter into share-in-savings contracts under this section in any given fiscal year even if funds are not made specifically available for the full costs of cancellation or termination of the contract if funds are available and sufficient to make payments with respect to the first fiscal year of the contract and the following conditions are met regarding the funding of cancellation and termination liability:

''(i) The amount of unfunded contingent liability for the contract does not exceed the lesser of—

''(I) 25 percent of the estimated costs of a cancellation or termination; or

''(II) $5,000,000.

''(ii) Unfunded contingent liability in excess of $1,000,000 has been approved by the Director of the Office of Management and Budget or the Director's designee.

''(B) The aggregate number of share-in-savings contracts that may be entered into under subparagraph (A) by all executive agencies to which this chapter applies in a fiscal year—

''(i) may not exceed 5, in each of fiscal years 2003, 2004, and 2005; and

''(ii) may not exceed 10, in each of fiscal years 2006, 2007, 2008, and 2009.

''(c) DEFINITIONS.—In this section:

''(1) The term 'contractor' means a private entity that enters into a contract with an agency.

''(2) The term 'savings' means—

''(A) monetary savings to an agency; or

''(B) savings in time or other benefits realized by the agency, including enhanced revenues.

''(3) The term 'share-in-savings contract' means a contract under which—

''(A) a contractor provides solutions for—

''(i) improving the agency's mission-related or administrative processes; or

''(ii) accelerating the achievement of agency missions; and

''(B) the head of the agency pays the contractor an amount equal to a portion of the savings derived by the agency from—

''(i) any improvements in mission-related or administrative processes that result from implementation of the solution; or

''(ii) acceleration of achievement of agency missions.

''(d) TERMINATION.—No share-in-savings contracts may be entered into under this section after September 30, 2009.''.

(c) DEVELOPMENT OF INCENTIVES.—The Director of the Office of Management and Budget shall, in consultation with the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, and executive agencies, develop techniques to permit an executive agency to retain a portion of the savings (after payment of the contractor's share of the savings) derived from share-in-savings contracts as funds are appropriated to the agency in future fiscal years.

(d) REGULATIONS.—Not later than 270 days after the date of the enactment of this Act, the Federal Acquisition Regulation shall be revised to implement the provisions enacted by this section. Such revisions shall—

(1) provide for the use of competitive procedures in the selection and award of share-in-savings contracts to—

(A) ensure the contractor's share of savings reflects the risk involved and market conditions; and

(B) otherwise yield greatest value to the government; and

(2) allow appropriate regulatory flexibility to facilitate the use of share-in-savings contracts

by executive agencies, including the use of innovative provisions for technology refreshment and nonstandard Federal Acquisition Regulation contract clauses.

(e) ADDITIONAL GUIDANCE.—The Administrator of General Services shall—

(1) identify potential opportunities for the use of share-in-savings contracts; and

(2) in consultation with the Director of the Office of Management and Budget, provide guidance to executive agencies for determining mutually beneficial savings share ratios and baselines from which savings may be measured.

(f) OMB REPORT TO CONGRESS.—In consultation with executive agencies, the Director of the Office of Management and Budget shall, not later than 2 years after the date of the enactment of this Act, submit to Congress a report containing—

(1) a description of the number of share-in-savings contracts entered into by each executive agency under by this section and the amendments made by this section, and, for each contract identified—

(A) the information technology acquired;

(B) the total amount of payments made to the contractor; and

(C) the total amount of savings or other measurable benefits realized;

(2) a description of the ability of agencies to determine the baseline costs of a project against which savings can be measured; and

(3) any recommendations, as the Director deems appropriate, regarding additional changes in law that may be necessary to ensure effective use of share-in-savings contracts by executive agencies.

(g) GAO REPORT TO CONGRESS.—The Comptroller General shall, not later than 6 months after the report required under subsection (f) is submitted to Congress, conduct a review of that report and submit to Congress a report containing—

(1) the results of the review; and

(2) any recommendations, as the Comptroller General deems appropriate, on the use of share-in-savings contracts by executive agencies.

(h) DEFINITIONS.—In this section, the terms ''contractor'', ''savings'', and ''share-in-savings contract'' have the meanings given those terms in section 317 of the Federal Property and Administrative Services Act of 1949 (as added by subsection (b)).

SEC. 211. AUTHORIZATION FOR ACQUISITION OF INFORMATION TECHNOLOGY BY STATE AND LOCAL GOVERNMENTS THROUGH FEDERAL SUPPLY SCHEDULES.

(a) AUTHORITY TO USE CERTAIN SUPPLY SCHEDULES.—Section 502 of title 40, United States Code, is amended by adding at the end the following new subsection:

''(c) USE OF CERTAIN SUPPLY SCHEDULES.—

''(1) IN GENERAL.—The Administrator may provide for the use by State or local governments of Federal supply schedules of the General Services Administration for automated data processing equipment (including firmware), software, supplies, support equipment, and services (as contained in Federal supply classification code group 70).

''(2) VOLUNTARY USE.—In any case of the use by a State or local government of a Federal supply schedule pursuant to paragraph (1), participation by a firm that sells to the Federal Government through the supply schedule shall be voluntary with respect to a sale to the State or local government through such supply schedule.

''(3) DEFINITIONS.—In this subsection:

''(A) The term 'State or local government' includes any State, local, regional, or tribal government, or any instrumentality thereof (including any local educational agency or institution of higher education).

''(B) The term 'tribal government' means a tribal organization, as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

''(C) The term 'local educational agency' has the meaning given that term in section 8013 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713).

''(D) The term 'institution of higher education' has the meaning given that term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).''.

(b) PROCEDURES.—Not later than 30 days after the date of the enactment of this Act, the Administrator of General Services shall establish procedures to implement section 501(c) of title 40, United States Code (as added by subsection (a)).

(c) REPORT.—Not later than December 31, 2004, the Administrator shall submit to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate a report on the implementation and effects of the amendment made by subsection (a).

SEC. 212. 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, 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 any recommendations that the Director deems appropriate on 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) 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;

(3) other information consistent with section 552(b)(3) of title 5, United States Code, and other relevant law; and

(4) confidential statistical information collected under a confidentiality pledge, solely for statistical purposes, consistent with the Office of Management and Budget's Federal Statistical Confidentiality Order, and other relevant law.

SEC. 213. 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 Administrator 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 Administrator any information and assistance necessary for the completion of the study and the report under this section.

(e) ASSISTANCE.—

(1) IN GENERAL.—The Administrator, in consultation with the Secretary 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 Administrator, in consultation with the Secretary of Education, the Director of the Institute of Museum and Library Services, 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 Administrator, with assistance from 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.—The Administrator, with assistance from the Department of Education and in consultation with other agencies and organizations, 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 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. 214. 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 Administrator, in consultation with 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 Administrator 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 Administrator in carrying out this section.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated 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 Administrator, in consultation with 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 Administrator shall cooperate with other relevant agencies, and, if appropriate, State, local, and tribal governments, in initiating such pilot projects.

SEC. 215. 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 Administrator of General Services 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 Administrator of General Services 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 $950,000 in fiscal year 2003 to carry out this section.

TITLE III—INFORMATION SECURITY

SEC. 301. INFORMATION SECURITY.

(a) SHORT TITLE.—This title may be cited as the ''Federal Information Security Management Act of 2002''.

(b) INFORMATION SECURITY.—

(1) IN GENERAL.—Subchapter II of chapter 35 of title 44, United States Code, is amended to read as follows:

''SUBCHAPTER II—INFORMATION SECURITY

''§ 3531. Purposes

''The purposes of this subchapter are to—

''(1) provide a comprehensive framework for ensuring the effectiveness of information security controls over information resources that support Federal operations and assets;

''(2) recognize the highly networked nature of the current Federal computing environment and provide effective governmentwide management and oversight of the related information security risks, including coordination of information security efforts throughout the civilian, national security, and law enforcement communities;

''(3) provide for development and maintenance of minimum controls required to protect Federal information and information systems;

''(4) provide a mechanism for improved oversight of Federal agency information security programs;

''(5) acknowledge that commercially developed information security products offer advanced, dynamic, robust, and effective information security solutions, reflecting market solutions for the protection of critical information infrastructures important to the national defense and economic security of the nation that are designed, built, and operated by the private sector; and

''(6) recognize that the selection of specific technical hardware and software information security solutions should be left to individual agencies from among commercially developed products.

''§ 3532. Definitions

''(a) IN GENERAL.—Except as provided under subsection (b), the definitions under section 3502 shall apply to this subchapter.

''(b) ADDITIONAL DEFINITIONS.—As used in this subchapter—

''(1) the term 'information security' means protecting information and information systems from unauthorized access, use, disclosure, disruption, modification, or destruction in order to provide—

''(A) integrity, which means guarding against improper information modification or destruction, and includes ensuring information nonrepudiation and authenticity;

''(B) confidentiality, which means preserving authorized restrictions on access and disclosure, including means for protecting personal privacy and proprietary information; and

''(C) availability, which means ensuring timely and reliable access to and use of information;

''(2) the term 'national security system' means any information system (including any telecommunications system) used or operated by an agency or by a contractor of an agency, or other organization on behalf of an agency—

''(A) the function, operation, or use of which—

''(i) involves intelligence activities;

''(ii) involves cryptologic activities related to national security;

''(iii) involves command and control of military forces;

''(iv) involves equipment that is an integral part of a weapon or weapons system; or

''(v) is critical to the direct fulfillment of military or intelligence missions,

except that this subparagraph does not include a system that is used for routine administrative and business applications (including payroll, finance, logistics, and personnel management applications); or

''(B) is protected at all times by procedures established for information that have been specifically authorized under criteria established by an Executive order or an Act of Congress to be kept classified in the interest of national defense or foreign policy; and

''(3) the term 'information technology' has the meaning given that term in section 11101 of title 40.

''§ 3533. Authority and functions of the Director

''(a) The Director shall oversee agency information security policies and practices, including—

''(1) developing and overseeing the implementation of policies, principles, standards, and guidelines on information security, including through the promulgation of standards and guidelines under section 11331 of title 40;

''(2) requiring agencies, consistent with the standards promulgated under such section 11331 and the requirements of this subchapter, to identify and provide information security protections commensurate with the risk and magnitude of the harm resulting from the unauthorized access, use, disclosure, disruption, modification, or destruction of—

''(A) information collected or maintained by or on behalf of an agency; or

''(B) information systems used or operated by an agency or by a contractor of an agency or other organization on behalf of an agency;

''(3) coordinating the development of standards and guidelines under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3) with agencies and offices operating or exercising control of national security systems (including the National Security Agency) to assure, to the maximum extent feasible, that such standards and guidelines are complementary with standards and guidelines developed for national security systems;

''(4) overseeing agency compliance with the requirements of this subchapter, including through any authorized action under section 11303 of title 40, to enforce accountability for compliance with such requirements;

''(5) reviewing at least annually, and approving or disapproving, agency information security programs required under section 3534(b);

''(6) coordinating information security policies and procedures with related information resources management policies and procedures;

''(7) overseeing the operation of the Federal information security incident center required under section 3536; and

''(8) reporting to Congress no later than March 1 of each year on agency compliance with the requirements of this subchapter, including—

''(A) a summary of the findings of evaluations required by section 3535;

''(B) significant deficiencies in agency information security practices;

''(C) planned remedial action to address such deficiencies; and

''(D) a summary of, and the views of the Director on, the report prepared by the National Institute of Standards and Technology under section 20(e)(7) of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3).

''(b) Except for the authorities described in paragraphs (4) and (8) of subsection (a), the authorities of the Director under this section shall not apply to national security systems.

''§ 3534. Federal agency responsibilities

''(a) The head of each agency shall—

''(1) be responsible for—

''(A) providing information security protections commensurate with the risk and magnitude of the harm resulting from unauthorized access, use, disclosure, disruption, modification, or destruction of—

''(i) information collected or maintained by or on behalf of the agency; and

''(ii) information systems used or operated by an agency or by a contractor of an agency or other organization on behalf of an agency;

''(B) complying with the requirements of this subchapter and related policies, procedures, standards, and guidelines, including—

''(i) information security standards promulgated by the Director under section 11331 of title 40; and

''(ii) information security standards and guidelines for national security systems issued in accordance with law and as directed by the President; and

''(C) ensuring that information security management processes are integrated with agency strategic and operational planning processes;

''(2) ensure that senior agency officials provide information security for the information and information systems that support the operations and assets under their control, including through—

''(A) assessing the risk and magnitude of the harm that could result from the unauthorized access, use, disclosure, disruption, modification, or destruction of such information or information systems;

''(B) determining the levels of information security appropriate to protect such information and information systems in accordance with standards promulgated under section 11331 of title 40, for information security classifications and related requirements;

''(C) implementing policies and procedures to cost-effectively reduce risks to an acceptable level; and

''(D) periodically testing and evaluating information security controls and techniques to ensure that they are effectively implemented;

''(3) delegate to the agency Chief Information Officer established under section 3506 (or comparable official in an agency not covered by such section) the authority to ensure compliance with the requirements imposed on the agency under this subchapter, including—

''(A) designating a senior agency information security officer who shall—

''(i) carry out the Chief Information Officer's responsibilities under this section;

''(ii) possess professional qualifications, including training and experience, required to administer the functions described under this section;

''(iii) have information security duties as that official's primary duty; and

''(iv) head an office with the mission and resources to assist in ensuring agency compliance with this section;

''(B) developing and maintaining an agencywide information security program as required by subsection (b);

''(C) developing and maintaining information security policies, procedures, and control techniques to address all applicable requirements, including those issued under section 3533 of this title, and section 11331 of title 40;

''(D) training and overseeing personnel with significant responsibilities for information security with respect to such responsibilities; and

''(E) assisting senior agency officials concerning their responsibilities under paragraph (2);

''(4) ensure that the agency has trained personnel sufficient to assist the agency in complying with the requirements of this subchapter and related policies, procedures, standards, and guidelines; and

''(5) ensure that the agency Chief Information Officer, in coordination with other senior agency officials, reports annually to the agency head on the effectiveness of the agency information security program, including progress of remedial actions.

''(b) Each agency shall develop, document, and implement an agencywide information security program, approved by the Director under section 3533(a)(5), to provide information security for the information and information systems that support the operations and assets of the agency, including those provided or managed by another agency, contractor, or other source, that includes—

''(1) periodic assessments of the risk and magnitude of the harm that could result from the unauthorized access, use, disclosure, disruption, modification, or destruction of information and information systems that support the operations and assets of the agency;

''(2) policies and procedures that—

''(A) are based on the risk assessments required by paragraph (1);

''(B) cost-effectively reduce information security risks to an acceptable level;

''(C) ensure that information security is addressed throughout the life cycle of each agency information system; and

''(D) ensure compliance with—

''(i) the requirements of this subchapter;

''(ii) policies and procedures as may be prescribed by the Director, and information security standards promulgated under section 11331 of title 40;

''(iii) minimally acceptable system configuration requirements, as determined by the agency; and

''(iv) any other applicable requirements, including standards and guidelines for national security systems issued in accordance with law and as directed by the President;

''(3) subordinate plans for providing adequate information security for networks, facilities, and systems or groups of information systems, as appropriate;

''(4) security awareness training to inform personnel, including contractors and other users of information systems that support the operations and assets of the agency, of—

''(A) information security risks associated with their activities; and

''(B) their responsibilities in complying with agency policies and procedures designed to reduce these risks;

''(5) periodic testing and evaluation of the effectiveness of information security policies, procedures, and practices, to be performed with a frequency depending on risk, but no less than annually, of which such testing—

''(A) shall include testing of management, operational, and technical controls of every information system identified in the inventory required under section 3505(c); and

''(B) may include testing relied on in a evaluation under section 3535;

''(6) a process for planning, implementing, evaluating, and documenting remedial action to address any deficiencies in the information security policies, procedures, and practices of the agency;

''(7) procedures for detecting, reporting, and responding to security incidents, consistent with standards and guidelines issued pursuant to section 3536(b), including—

''(A) mitigating risks associated with such incidents before substantial damage is done;

''(B) notifying and consulting with the Federal information security incident center referred to in section 3536; and

''(C) notifying and consulting with, as appropriate—

''(i) law enforcement agencies and relevant Offices of Inspector General;

''(ii) an office designated by the President for any incident involving a national security system; and

''(iii) any other agency or office, in accordance with law or as directed by the President; and

''(8) plans and procedures to ensure continuity of operations for information systems that support the operations and assets of the agency.

''(c) Each agency shall—

''(1) report annually to the Director, the Committees on Government Reform and Science of the House of Representatives, the Committees on Governmental Affairs and Commerce, Science, and Transportation of the Senate, the appropriate authorization and appropriations committees of Congress, and the Comptroller General on the adequacy and effectiveness of information security policies, procedures, and practices, and compliance with the requirements of this subchapter, including compliance with each requirement of subsection (b);

''(2) address the adequacy and effectiveness of information security policies, procedures, and practices in plans and reports relating to—

''(A) annual agency budgets;

''(B) information resources management under subchapter 1 of this chapter;

''(C) information technology management under subtitle III of title 40;

''(D) program performance under sections 1105 and 1115 through 1119 of title 31, and sections 2801 and 2805 of title 39;

''(E) financial management under chapter 9 of title 31, and the Chief Financial Officers Act of 1990 (31 U.S.C. 501 note; Public Law 101–576) (and the amendments made by that Act);

''(F) financial management systems under the Federal Financial Management Improvement Act (31 U.S.C. 3512 note); and

''(G) internal accounting and administrative controls under section 3512 of title 31, (known as the 'Federal Managers Financial Integrity Act'); and

''(3) report any significant deficiency in a policy, procedure, or practice identified under paragraph (1) or (2)—

''(A) as a material weakness in reporting under section 3512 of title 31; and

''(B) if relating to financial management systems, as an instance of a lack of substantial compliance under the Federal Financial Management Improvement Act (31 U.S.C. 3512 note).

''(d)(1) In addition to the requirements of subsection (c), each agency, in consultation with the Director, shall include as part of the performance plan required under section 1115 of title 31 a description of—

''(A) the time periods, and

''(B) the resources, including budget, staffing, and training,

that are necessary to implement the program required under subsection (b).

''(2) The description under paragraph (1) shall be based on the risk assessments required under subsection (b)(2)(1).

''(e) Each agency shall provide the public with timely notice and opportunities for comment on proposed information security policies and procedures to the extent that such policies and procedures affect communication with the public.

''§ 3535. Annual independent evaluation

''(a)(1) Each year each agency shall have performed an independent evaluation of the information security program and practices of that agency to determine the effectiveness of such program and practices.

''(2) Each evaluation by an agency under this section shall include—

''(A) testing of the effectiveness of information security policies, procedures, and practices of a representative subset of the agency's information systems;

''(B) an assessment (made on the basis of the results of the testing) of compliance with—

''(i) the requirements of this subchapter; and

''(ii) related information security policies, procedures, standards, and guidelines; and

''(C) separate presentations, as appropriate, regarding information security relating to national security systems.

''(b) Subject to subsection (c)—

''(1) for each agency with an Inspector General appointed under the Inspector General Act of 1978, the annual evaluation required by this section shall be performed by the Inspector General or by an independent external auditor, as determined by the Inspector General of the agency; and

''(2) for each agency to which paragraph (1) does not apply, the head of the agency shall engage an independent external auditor to perform the evaluation.

''(c) For each agency operating or exercising control of a national security system, that portion of the evaluation required by this section directly relating to a national security system shall be performed—

''(1) only by an entity designated by the agency head; and

''(2) in such a manner as to ensure appropriate protection for information associated with any information security vulnerability in such system commensurate with the risk and in accordance with all applicable laws.

''(d) The evaluation required by this section may be based in whole or in part on an audit, evaluation, or report relating to programs or practices of the applicable agency.

''(e)(1) Each year, not later than such date established by the Director, the head of each agency shall submit to the Director the results of the evaluation required under this section.

''(2) To the extent an evaluation required under this section directly relates to a national security system, the evaluation results submitted to the Director shall contain only a summary and assessment of that portion of the evaluation directly relating to a national security system.

''(f) Agencies and evaluators shall take appropriate steps to ensure the protection of information which, if disclosed, may adversely affect information security. Such protections shall be commensurate with the risk and comply with all applicable laws and regulations.

''(g)(1) The Director shall summarize the results of the evaluations conducted under this section in the report to Congress required under section 3533(a)(8).

''(2) The Director's report to Congress under this subsection shall summarize information regarding information security relating to national security systems in such a manner as to ensure appropriate protection for information associated with any information security vulnerability in such system commensurate with the risk and in accordance with all applicable laws.

''(3) Evaluations and any other descriptions of information systems under the authority and control of the Director of Central Intelligence or of National Foreign Intelligence Programs systems under the authority and control of the Secretary of Defense shall be made available to Congress only through the appropriate oversight committees of Congress, in accordance with applicable laws.

''(h) The Comptroller General shall periodically evaluate and report to Congress on—

''(1) the adequacy and effectiveness of agency information security policies and practices; and

''(2) implementation of the requirements of this subchapter.

''§ 3536. Federal information security incident center

''(a) The Director shall ensure the operation of a central Federal information security incident center to—

''(1) provide timely technical assistance to operators of agency information systems regarding security incidents, including guidance on detecting and handling information security incidents;

''(2) compile and analyze information about incidents that threaten information security;

''(3) inform operators of agency information systems about current and potential information security threats, and vulnerabilities; and

''(4) consult with agencies or offices operating or exercising control of national security systems (including the National Security Agency) and such other agencies or offices in accordance with law and as directed by the President regarding information security incidents and related matters.

''(b) Each agency operating or exercising control of a national security system shall share information about information security incidents, threats, and vulnerabilities with the Federal information security incident center to the extent consistent with standards and guidelines for national security systems, issued in accordance with law and as directed by the President.

''§ 3537. National security systems

''The head of each agency operating or exercising control of a national security system shall be responsible for ensuring that the agency—

''(1) provides information security protections commensurate with the risk and magnitude of the harm resulting from the unauthorized access, use, disclosure, disruption, modification, or destruction of the information contained in such system;

''(2) implements information security policies and practices as required by standards and guidelines for national security systems, issued in accordance with law and as directed by the President; and

''(3) complies with the requirements of this subchapter.

''§ 3538. Authorization of appropriations

''There are authorized to be appropriated to carry out the provisions of this subchapter such sums as may be necessary for each of fiscal years 2003 through 2007.

''§ 3539. Effect on existing law

''Nothing in this subchapter, section 11331 of title 40, or section 20 of the National Standards and Technology Act (15 U.S.C. 278g–3) may be construed as affecting the authority of the President, the Office of Management and Budget or the Director thereof, the National Institute of Standards and Technology, or the head of any agency, with respect to the authorized use or disclosure of information, including with regard to the protection of personal privacy under section 552a of title 5, the disclosure of information under section 552 of title 5, the management and disposition of records under chapters 29, 31, or 33 of title 44, the management of information resources under subchapter I of chapter 35 of this title, or the disclosure of information to the Congress or the Comptroller General of the United States.''.

(2) CLERICAL AMENDMENT.—The items in the table of sections at the beginning of such chapter 35 under the heading ''SUBCHAPTER II—INFORMATION SECURITY'' are amended to read as follows:

''3531. Purposes.
''3532. Definitions.
''3533. Authority and functions of the Director.
''3534. Federal agency responsibilities.
''3535. Annual independent evaluation.
''3536. Federal information security incident center.
''3537. National security systems.
''3538. Authorization of appropriations.
''3539. Effect on existing law.''.

(c) INFORMATION SECURITY RESPONSIBILITIES OF CERTAIN AGENCIES.—

(1) NATIONAL SECURITY RESPONSIBILITIES.—(A) Nothing in this Act (including any amendment made by this Act) shall supersede any authority

of the Secretary of Defense, the Director of Central Intelligence, or other agency head, as authorized by law and as directed by the President, with regard to the operation, control, or management of national security systems, as defined by section 3532(b)(2) of title 44, United States Code.

(B) Section 2224 of title 10, United States Code, is amended—

(i) in subsection (b), by striking ''(b) OBJECTIVES AND MINIMUM REQUIREMENTS.—(1)'' and inserting ''(b) OBJECTIVES OF THE PROGRAM.—'';

(ii) in subsection (b), by striking paragraph (2); and

(iii) in subsection (c), in the matter preceding paragraph (1), by inserting '', including through compliance with subtitle II of chapter 35 of title 44'' after ''infrastructure''.

(2) ATOMIC ENERGY ACT OF 1954.—Nothing in this Act shall supersede any requirement made by or under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.). Restricted data or formerly restricted data shall be handled, protected, classified, downgraded, and declassified in conformity with the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

SEC. 302. MANAGEMENT OF INFORMATION TECHNOLOGY.

(a) IN GENERAL.—Section 11331 of title 40, United States Code, is amended to read as follows:

''§ 11331. Responsibilities for federal information systems standards

''(a) INFORMATION SECURITY STANDARDS.—

''(1) IN GENERAL.—(A) Except as provided under paragraph (2), the Director of the Office of Management and Budget shall, on the basis of proposed standards developed by the National Institute of Standards and Technology pursuant to paragraph (3) of section 20(a) of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3(a)), promulgate information security standards pertaining to Federal information systems.

''(B) Standards promulgated under subparagraph (A) shall include—

''(i) standards that provide minimum information security requirements as determined under section 20(b) of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3(b)); and

''(ii) such standards that are otherwise necessary to improve the efficiency of operation or security of Federal information systems.

''(C) Information security standards described under subparagraph (B) shall be compulsory and binding.

''(2) NATIONAL SECURITY SYSTEMS.—Standards and guidelines for national security systems under this subsection shall be developed, promulgated, enforced, and overseen as otherwise authorized by law and as directed by the President.

''(3) AGENCY HEAD AUTHORITY.—The head of an agency may employ standards for the cost-effective information security for all operations and assets within or under the supervision of that agency that are more stringent than the standards promulgated by the Director under this subsection, if such standards—

''(A) contain, at a minimum, the provisions of those applicable standards made compulsory and binding by the Director; and

''(B) are otherwise consistent with policies and guidelines issued under section 3533 of title 44.

''(4) DECISIONS ON PROMULGATION OF STANDARDS.—(A) The decision regarding the promulgation of any standard by the Director under paragraphs (1) and (2) shall occur not later than 6 months after the submission of the proposed standard to the Director by the National Institute of Standards and Technology, as provided under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3).

''(B) A decision by the Director to significantly modify, or not promulgate, a proposed standard submitted to the Director by the National Institute of Standards and Technology, as provided under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3), shall be made after the public is given an opportunity to comment on the Director's proposed decision.

''(b) ADDITIONAL STANDARDS RELATING TO FEDERAL INFORMATION SYSTEMS.—

''(1) IN GENERAL.—Except as provided under paragraph (2), the Secretary of Commerce shall, on the basis of proposed standards developed by the National Institute of Standards and Technology pursuant to paragraph (2) of section 20(a) of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3(a)) and in consultation with the Director of the Office of Management and Budget, promulgate standards pertaining to Federal information systems. The Secretary shall make such standards compulsory and binding to the extent that the Secretary determines necessary to improve the efficiency and effectiveness of the operation of Federal information systems.

''(2) NATIONAL SECURITY SYSTEMS.—Standards and guidelines for national security systems under this subsection shall be developed, promulgated, enforced, and overseen as otherwise authorized by law and as directed by the President.

''(3) AUTHORITY OF SECRETARY.—The authority conferred upon the Secretary of Commerce by this subsection shall be exercised subject to direction by the President and in coordination with the Director of the Office of Management and Budget to ensure fiscal and policy consistency.

''(4) AGENCY HEAD AUTHORITY.—The head of an agency may employ standards for information systems that are more stringent than the standards promulgated by the Secretary of Commerce under this subsection, if such standards contain, at a minimum, the provisions of those applicable standards made compulsory and binding by the Secretary of Commerce.

''(c) DEFINITIONS.—In this section:

''(1) FEDERAL INFORMATION SYSTEM.—The term 'Federal information system' means an information system used or operated by an agency, by a contractor of an agency, or by another organization on behalf of an agency.

''(2) INFORMATION SECURITY.—The term 'information security' has the meaning given that term in section 3532(b)(1) of title 44.

''(3) NATIONAL SECURITY SYSTEM.—The term 'national security system' has the meaning given that term in section 3532(b)(2) of title 44.''.

(b) CLERICAL AMENDMENT.—The item relating to section 11331 in the table of sections at the beginning of chapter 113 of such title is amended to read as follows:

''11331. Responsibilities for Federal information systems standards.''.

SEC. 303. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.

Section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3), is amended by striking the text and inserting the following:

''(a) The Institute shall—

''(1) have the mission of developing standards, guidelines, and associated methods and techniques for information systems;

''(2) develop standards and guidelines, including minimum requirements, for information systems used or operated by an agency or by a contractor of an agency or other organization on behalf of an agency, other than national security systems (as defined in section 3532(b)(2) of title 44, United States Code); and

''(3) develop standards and guidelines, including minimum requirements, for providing adequate information security for all agency operations and assets, but such standards and guidelines shall not apply to national security systems.

''(b) The standards and guidelines required by subsection (a) shall include, at a minimum—

''(1)(A) standards to be used by all agencies to categorize all information and information systems collected or maintained by or on behalf of each agency based on the objectives of providing appropriate levels of information security according to a range of risk levels;

''(B) guidelines recommending the types of information and information systems to be included in each such category; and

''(C) minimum information security requirements for information and information systems in each such category;

''(2) a definition of and guidelines concerning detection and handling of information security incidents; and

''(3) guidelines developed in coordination with the National Security Agency for identifying an information system as a national security system consistent with applicable requirements for national security systems, issued in accordance with law and as directed by the President.

''(c) In developing standards and guidelines required by subsections (a) and (b), the Institute shall—

''(1) consult with other agencies and offices and the private sector (including the Director of the Office of Management and Budget, the Departments of Defense and Energy, the National Security Agency, the General Accounting Office, and the Secretary of Homeland Security) to assure—

''(A) use of appropriate information security policies, procedures, and techniques, in order to improve information security and avoid unnecessary and costly duplication of effort; and

''(B) that such standards and guidelines are complementary with standards and guidelines employed for the protection of national security systems and information contained in such systems;

''(2) provide the public with an opportunity to comment on proposed standards and guidelines;

''(3) submit to the Director of the Office of Management and Budget for promulgation under section 11331 of title 40, United States Code—

''(A) standards, as required under subsection (b)(1)(A), no later than 12 months after the date of the enactment of this section; and

''(B) minimum information security requirements for each category, as required under subsection (b)(1)(C), no later than 36 months after the date of the enactment of this section;

''(4) issue guidelines as required under subsection (b)(1)(B), no later than 18 months after the date of the enactment of this section;

''(5) ensure that such standards and guidelines do not specify the use or procurement of certain products, including any specific hardware or software;

''(6) ensure that such standards and guidelines provide for sufficient flexibility to permit alternative solutions to provide equivalent levels of protection for identified information security risks; and

''(7) use flexible, performance-based standards and guidelines that, to the greatest extent possible, permit the use of off-the-shelf commercially developed information security products.

''(d)(1) There is established in the Institute an Office for Information Security Programs.

''(2) The Office for Information Security Programs shall be headed by a Director, who shall be a senior executive and shall be compensated at a level in the Senior Executive Service under section 5382 of title 5, United States Code, as determined by the Secretary of Commerce.

''(3) The Director of the Institute shall delegate to the Director of the Office of Information Security Programs the authority to administer all functions under this section, except that any such delegation shall not relieve the Director of the Institute of responsibility for the administration of such functions. The Director of the Office of Information Security Programs shall serve as principal adviser to the Director of the Institute on all functions under this section.

''(e) The Institute shall—

''(1) submit standards developed pursuant to subsection (a), along with recommendations as to the extent to which these should be made compulsory and binding, to the Director of the Office of Management and Budget for promulgation under section 11331 of title 40, United States Code;

''(2) provide assistance to agencies regarding—

''(A) compliance with the standards and guidelines developed under subsection (a);

''(B) detecting and handling information security incidents; and

''(C) information security policies, procedures, and practices;

''(3) conduct research, as needed, to determine the nature and extent of information security vulnerabilities and techniques for providing cost-effective information security;

''(4) develop and periodically revise performance indicators and measures for agency information security policies and practices;

''(5) evaluate private sector information security policies and practices and commercially available information technologies to assess potential application by agencies to strengthen information security;

''(6) evaluate security policies and practices developed for national security systems to assess potential application by agencies to strengthen information security;

''(7) periodically assess the effectiveness of standards and guidelines developed under this section and undertake revisions as appropriate;

''(8) solicit and consider the recommendations of the Information Security and Privacy Advisory Board, established by section 21, regarding standards and guidelines developed under subsection (a) and submit such recommendations to the Director of the Office of Management and Budget with such standards submitted to the Director; and

''(9) prepare an annual public report on activities undertaken in the previous year, and planned for the coming year, to carry out responsibilities under this section.

''(f) As used in this section—

''(1) the term 'agency' has the same meaning as provided in section 3502(1) of title 44, United States Code;

''(2) the term 'information security' has the same meaning as provided in section 3532(b)(1) of such title;

''(3) the term 'information system' has the same meaning as provided in section 3502(8) of such title;

''(4) the term 'information technology' has the same meaning as provided in section 11101 of title 40, United States Code; and

''(5) the term 'national security system' has the same meaning as provided in section 3532(b)(2) of title 44, United States Code.

''(g) There are authorized to be appropriated to the Secretary of Commerce $20,000,000 for each of fiscal years 2003, 2004, 2005, 2006, and 2007 to enable the National Institute of Standards and Technology to carry out the provisions of this section.''.

SEC. 304. INFORMATION SECURITY AND PRIVACY ADVISORY BOARD.

Section 21 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–4), is amended—

(1) in subsection (a), by striking ''Computer System Security and Privacy Advisory Board'' and inserting ''Information Security and Privacy Advisory Board'';

(2) in subsection (a)(1), by striking ''computer or telecommunications'' and inserting ''information technology'';

(3) in subsection (a)(2)—

(A) by striking ''computer or telecommunications technology'' and inserting ''information technology''; and

(B) by striking ''computer or telecommunications equipment'' and inserting ''information technology'';

(4) in subsection (a)(3)—

(A) by striking ''computer systems'' and inserting ''information system''; and

(B) by striking ''computer systems security'' and inserting ''information security'';

(5) in subsection (b)(1) by striking ''computer systems security'' and inserting ''information security'';

(6) in subsection (b) by striking paragraph (2) and inserting the following:

''(2) to advise the Institute and the Director of the Office of Management and Budget on information security and privacy issues pertaining to Federal Government information systems, including through review of proposed standards and guidelines developed under section 20; and'';

(7) in subsection (b)(3) by inserting ''annually'' after ''report'';

(8) by inserting after subsection (e) the following new subsection:

''(f) The Board shall hold meetings at such locations and at such time and place as determined by a majority of the Board.'';

(9) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(10) by striking subsection (h), as redesignated by paragraph (9), and inserting the following:

''(h) As used in this section, the terms 'information system' and 'information technology' have the meanings given in section 20.''.

SEC. 305. TECHNICAL AND CONFORMING AMENDMENTS.

(a) COMPUTER SECURITY ACT.—Subsections (b) and (c) of section 11332 of title 40, United States Code, are repealed.

(b) FLOYD D. SPENCE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2001.—The Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398) is amended by striking section 1062 (44 U.S.C. 3531 note).

(c) PAPERWORK REDUCTION ACT.—(1) Section 3504(g) of title 44, United States Code, is amended—

(A) by adding ''and'' at the end of paragraph (1);

(B) in paragraph (2)—

(i) by striking ''sections 11331 and 11332(b) and (c) of title 40'' and inserting ''section 11331 of title 40 and subchapter II of this chapter''; and

(ii) by striking ''; and'' and inserting a period; and

(C) by striking paragraph (3).

(2) Section 3505 of such title is amended by adding at the end—

''(c)(1) The head of each agency shall develop and maintain an inventory of major information systems (including major national security systems) operated by or under the control of such agency.

''(2) The identification of information systems in an inventory under this subsection shall include an identification of the interfaces between each such system and all other systems or networks, including those not operated by or under the control of the agency.

''(3) Such inventory shall be—

''(A) updated at least annually;

''(B) made available to the Comptroller General; and

''(C) used to support information resources management, including—

''(i) preparation and maintenance of the inventory of information resources under section 3506(b)(4);

''(ii) information technology planning, budgeting, acquisition, and management under section 3506(h), subtitle III of title 40, and related laws and guidance;

''(iii) monitoring, testing, and evaluation of information security controls under subchapter II;

''(iv) preparation of the index of major information systems required under section 552(g) of title 5, United States Code; and

''(v) preparation of information system inventories required for records management under chapters 21, 29, 31, and 33.

''(4) The Director shall issue guidance for and oversee the implementation of the requirements of this subsection.''.

(3) Section 3506(g) of such title is amended—

(A) by adding ''and'' at the end of paragraph (1);

(B) in paragraph (2)—

(i) by striking ''section 11332 of title 40'' and inserting ''subchapter II of this chapter''; and

(ii) by striking ''; and'' and inserting a period; and

(C) by striking paragraph (3).

SEC. 306. CONSTRUCTION.

Nothing in this title, or the amendments made by this title, affects the authority of the National Institute of Standards and Technology or the Department of Commerce relating to the development and promulgation of standards or guidelines under paragraphs (1) and (2) of section 20(a) of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3(a)).

TITLE IV—AUTHORIZATION OF APPROPRIATIONS AND EFFECTIVE DATES

SEC. 401. AUTHORIZATION OF APPROPRIATIONS.

Except for those purposes for which an authorization of appropriations is specifically provided in title I or II, including the amendments made by such titles, there are authorized to be appropriated such sums as are necessary to carry out titles I and II for each of fiscal years 2003 through 2007.

SEC. 402. EFFECTIVE DATES.

(a) TITLES I AND II.—

(1) IN GENERAL.—Except as provided under paragraph (2), titles I and II and the amendments made by such titles shall take effect 120 days after the date of enactment of this Act.

(2) IMMEDIATE ENACTMENT.—Sections 207, 214, and 215 shall take effect on the date of enactment of this Act.

(b) TITLES III AND IV.—Title III and this title shall take effect on the date of enactment of this Act.

TITLE V—CONFIDENTIAL INFORMATION PROTECTION AND STATISTICAL EFFICIENCY

SEC. 501. SHORT TITLE.

This title may be cited as the ''Confidential Information Protection and Statistical Efficiency Act of 2002''.

SEC. 502. DEFINITIONS.

As used in this title:

(1) The term ''agency'' means any entity that falls within the definition of the term ''executive agency'' as defined in section 102 of title 31, United States Code, or ''agency'', as defined in section 3502 of title 44, United States Code.

(2) The term ''agent''—

(A) means an employee of a private organization or a researcher affiliated with an institution of higher learning (including a person granted special sworn status by the Bureau of the Census under section 23(c) of title 13, United States Code) with whom a contract or other agreement is executed, on a temporary basis, by an executive agency to perform exclusively statistical activities under the control and supervision of an officer or employee of that agency; or

(B) means an individual who is working under the authority of a government entity with which a contract or other agreement is executed by an executive agency to perform exclusively statistical activities under the control of an officer or employee of that agency; or

(C) means an individual who is a self-employed researcher, a consultant, or a contractor, or who is an employee of a contractor and with whom a contract or other agreement is executed by an executive agency to perform a statistical activity under the control of an officer or employee of that agency; or

(D) means an individual who is a contractor or who is an employee of a contractor engaged by the agency to design or maintain the systems for handling or storage of data received under this title; and

(E) who agrees in writing to comply with all provisions of law that affect information acquired by that agency.

(3) The term ''business data'' means operating and financial data and information about businesses, tax-exempt organizations, and government entities.

(4) The term ''identifiable form'' means any representation of information that permits the identity of the respondent to whom the information applies to be reasonably inferred by either direct or indirect means.

(5) The term ''nonstatistical purpose''—

(A) means the use of data in identifiable form for any purpose that is not a statistical purpose, including any administrative, regulatory, law enforcement, adjudicatory, or other purpose that affects the rights, privileges, or benefits of a particular identifiable respondent; and

(B) includes the disclosure under section 552 of title 5, United States Code (popularly known as the Freedom of Information Act) of data that are acquired for exclusively statistical purposes under a pledge of confidentiality.

(6) The term ''respondent'' means a person who, or organization that, is requested or required to supply information to an agency, is the subject of information requested or required to be supplied to an agency, or provides that information to an agency.

(7) The term ''statistical activities''—

(A) means the collection, compilation, processing, or analysis of data for the purpose of describing or making estimates concerning the whole, or relevant groups or components within, the economy, society, or the natural environment; and

(B) includes the development of methods or resources that support those activities, such as measurement methods, models, statistical classifications, or sampling frames.

(8) The term ''statistical agency or unit'' means an agency or organizational unit of the executive branch whose activities are predominantly the collection, compilation, processing, or analysis of information for statistical purposes.

(9) The term ''statistical purpose''—

(A) means the description, estimation, or analysis of the characteristics of groups, without identifying the individuals or organizations that comprise such groups; and

(B) includes the development, implementation, or maintenance of methods, technical or administrative procedures, or information resources that support the purposes described in subparagraph (A).

SEC. 503. COORDINATION AND OVERSIGHT OF POLICIES.

(a) IN GENERAL.—The Director of the Office of Management and Budget shall coordinate and oversee the confidentiality and disclosure policies established by this title. The Director may promulgate rules or provide other guidance to ensure consistent interpretation of this title by the affected agencies.

(b) AGENCY RULES.—Subject to subsection (c), agencies may promulgate rules to implement this title. Rules governing disclosures of information that are authorized by this title shall be promulgated by the agency that originally collected the information.

(c) REVIEW AND APPROVAL OF RULES.—The Director shall review any rules proposed by an agency pursuant to this title for consistency with the provisions of this title and chapter 35 of title 44, United States Code, and such rules shall be subject to the approval of the Director.

(d) REPORTS.—

(1) The head of each agency shall provide to the Director of the Office of Management and Budget such reports and other information as the Director requests.

(2) Each Designated Statistical Agency referred to in section 522 shall report annually to the Director of the Office of Management and Budget, the Committee on Government Reform of the House of Representatives, and the Committee on Governmental Affairs of the Senate on the actions it has taken to implement sections 523 and 524. The report shall include copies of each written agreement entered into pursuant to section 524(a) for the applicable year.

(3) The Director of the Office of Management and Budget shall include a summary of reports submitted to the Director under paragraph (2) and actions taken by the Director to advance the purposes of this title in the annual report to the Congress on statistical programs prepared under section 3504(e)(2) of title 44, United States Code.

SEC. 504. EFFECT ON OTHER LAWS.

(a) SECTION 3510 OF TITLE 44, UNITED STATES CODE.—This title, including amendments made by this title, does not diminish the authority under section 3510 of title 44, United States Code, of the Director of the Office of Management and Budget to direct, and of an agency to make, disclosures that are not inconsistent with any applicable law.

(b) SECTIONS 8, 16, 301, AND 401 OF TITLE 13 AND SECTION 2108 OF TITLE 44, UNITED STATES CODE.—This title, including amendments made by this title, does not diminish the authority of the Bureau of the Census to provide information in accordance with sections 8, 16, 301, and 401 of title 13 and section 2108 of title 44, United States Code.

(c) SECTION 9 OF TITLE 13, UNITED STATES CODE.—This title, including amendments made by this title, shall not be construed as authorizing the disclosure for nonstatistical purposes of demographic data or information collected by the Census Bureau pursuant to section 9 of title 13, United States Code.

(d) SECTION 12 OF THE FEDERAL ENERGY ADMINISTRATION ACT OF 1974.—In accordance with the provisions of this title, data acquired for exclusively statistical purposes under a pledge of confidentiality are exempt from mandatory disclosure in identifiable form for nonstatistical purposes under section 12 of the Federal Energy Administration Act of 1974 (15 U.S.C. 771).

(e) PREEMPTION OF STATE LAW.—Nothing in this title shall preempt applicable State law regarding the confidentiality of data collected by the States.

(f) STATUTES REGARDING FALSE STATEMENTS.—Notwithstanding section 512, information collected by an agency for exclusively statistical purposes under a pledge of confidentiality may be provided by the collecting agency to a law enforcement agency for the prosecution of submissions to the collecting agency of false statistical information under statutes that authorize criminal penalties (such as section 221 of title 13, United States Code) or civil penalties for the provision of false statistical information, unless such disclosure or use would otherwise be prohibited under Federal law.

(g) CONSTRUCTION.—Nothing in this title shall be construed as restricting or diminishing any confidentiality protections or penalties for unauthorized disclosure that otherwise apply to data or information collected for statistical purposes or nonstatistical purposes, including, but not limited to, section 6103 of the Internal Revenue Code of 1986 (26 U.S.C. 6103).

Subtitle A—Confidential Information Protection

SEC. 511. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) Individuals, businesses, and other organizations have varying degrees of legal protection when providing information to the Federal Government for strictly statistical purposes.

(2) Pledges of confidentiality by the Federal Government provide assurances to the public that information about individuals or organizations or provided by individuals or organizations for exclusively statistical purposes will be held in confidence and will not be used against such individuals or organizations in any Federal Government action.

(3) Protecting the confidentiality interests of individuals or organizations who provide information for Federal statistical programs serves both the interests of the public and the needs of society.

(4) Declining trust of the public in the protection of information provided to the Federal Government adversely affects both the accuracy and completeness of statistical analyses.

(5) Ensuring that information provided for statistical purposes receives protection is essential in continuing public cooperation in statistical programs.

(b) PURPOSES.—The purposes of this subtitle are the following:

(1) To ensure that information supplied by individuals or organizations to an agency for statistical purposes under a pledge of confidentiality is used exclusively for statistical purposes.

(2) To ensure that individuals or organizations who supply information to the Federal Government for statistical purposes will neither have that information disclosed in identifiable form to anyone not authorized by this title nor have that information used for any purpose other than a statistical purpose.

(3) To safeguard the confidentiality of individually identifiable information acquired under a pledge of confidentiality for statistical purposes by controlling access to, and uses made of, such information.

SEC. 512. LIMITATIONS ON USE AND DISCLOSURE OF DATA AND INFORMATION.

(a) USE OF STATISTICAL DATA OR INFORMATION.—Data or information acquired by an agency under a pledge of confidentiality and for exclusively statistical purposes shall be used by officers, employees, or agents of the agency exclusively for statistical purposes.

(b) DISCLOSURE OF STATISTICAL DATA OR INFORMATION.—

(1) Data or information acquired by an agency under a pledge of confidentiality for exclusively statistical purposes shall not be disclosed by an agency in identifiable form, for any use other than an exclusively statistical purpose, except with the informed consent of the respondent.

(2) A disclosure pursuant to paragraph (1) is authorized only when the head of the agency approves such disclosure and the disclosure is not prohibited by any other law.

(3) This section does not restrict or diminish any confidentiality protections in law that otherwise apply to data or information acquired by an agency under a pledge of confidentiality for exclusively statistical purposes.

(c) RULE FOR USE OF DATA OR INFORMATION FOR NONSTATISTICAL PURPOSES.—A statistical agency or unit shall clearly distinguish any data or information it collects for nonstatistical purposes (as authorized by law) by a rule that provides that the respondent supplying the data or information is fully informed, before the data or information is collected, that the data or information could be used for nonstatistical purposes.

(d) DESIGNATION OF AGENTS.—A statistical agency or unit may designate agents, by contract or by entering into a special agreement containing the provisions required by section 502, who may perform exclusively statistical activities, subject to the limitations and penalties described in this title.

SEC. 513. FINES AND PENALTIES.

Whoever, being an officer, employee, or agent of an agency acquiring information for exclusively statistical purposes, having taken and subscribed the oath of office, or having sworn to observe the limitations imposed by section 512, comes into possession of such information by reason of his or her being an officer, employee, or agent and, knowing that the disclosure of the specific information is prohibited under the provisions of this title, willfully discloses the information in any manner to a person or agency not entitled to receive it, shall be guilty of a class E felony and imprisoned for not more than 5 years, or fined not more than $250,000, or both.

Subtitle B—Statistical Efficiency

SEC. 521. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) Federal statistics are an important source of information for public and private decision-makers such as policymakers, consumers, businesses, investors, and workers.

(2) Federal statistical agencies should continuously seek to improve their efficiency. Statutory constraints limit the ability of these agencies to share data and thus to achieve higher efficiency for Federal statistical programs.

(3) The quality of Federal statistics depends on the willingness of businesses to respond to statistical surveys. Reducing reporting burdens will increase response rates, and therefore lead to more accurate characterizations of the economy.

(4) Enhanced sharing of business data among the Bureau of the Census, the Bureau of Economic Analysis, and the Bureau of Labor Statistics for exclusively statistical purposes will improve their ability to track more accurately the large and rapidly changing nature of United States business. In particular, the statistical agencies will be able to better ensure that businesses are consistently classified in appropriate industries, resolve data anomalies, produce statistical samples that are consistently adjusted for the entry and exit of new businesses in a timely manner, and correct faulty reporting errors quickly and efficiently.

(5) Congress enacted the International Investment and Trade in Services Act of 1990 that allowed the Bureau of the Census, the Bureau of Economic Analysis, and the Bureau of Labor Statistics to share data on foreign-owned companies. The Act not only expanded detailed industry coverage from 135 industries to over 800 industries with no increase in the data collected from respondents but also demonstrated how data sharing can result in the creation of valuable data products.

(6) With subtitle A of this title, the sharing of business data among the Bureau of the Census, the Bureau of Economic Analysis, and the Bureau of Labor Statistics continues to ensure the highest level of confidentiality for respondents to statistical surveys.

(b) PURPOSES.—The purposes of this subtitle are the following:

(1) To authorize the sharing of business data among the Bureau of the Census, the Bureau of Economic Analysis, and the Bureau of Labor Statistics for exclusively statistical purposes.

(2) To reduce the paperwork burdens imposed on businesses that provide requested information to the Federal Government.

(3) To improve the comparability and accuracy of Federal economic statistics by allowing the Bureau of the Census, the Bureau of Economic Analysis, and the Bureau of Labor Statistics to update sample frames, develop consistent classifications of establishments and companies into industries, improve coverage, and reconcile significant differences in data produced by the three agencies.

(4) To increase understanding of the United States economy, especially for key industry and regional statistics, to develop more accurate measures of the impact of technology on productivity growth, and to enhance the reliability of the Nation's most important economic indicators, such as the National Income and Product Accounts.

SEC. 522. DESIGNATION OF STATISTICAL AGENCIES.

For purposes of this subtitle, the term ''Designated Statistical Agency'' means each of the following:

(1) The Bureau of the Census of the Department of Commerce.

(2) The Bureau of Economic Analysis of the Department of Commerce.

(3) The Bureau of Labor Statistics of the Department of Labor.

SEC. 523. RESPONSIBILITIES OF DESIGNATED STATISTICAL AGENCIES.

The head of each of the Designated Statistical Agencies shall—

(1) identify opportunities to eliminate duplication and otherwise reduce reporting burden and cost imposed on the public in providing information for statistical purposes;

(2) enter into joint statistical projects to improve the quality and reduce the cost of statistical programs; and

(3) protect the confidentiality of individually identifiable information acquired for statistical purposes by adhering to safeguard principles, including—

(A) emphasizing to their officers, employees, and agents the importance of protecting the confidentiality of information in cases where the identity of individual respondents can reasonably be inferred by either direct or indirect means;

(B) training their officers, employees, and agents in their legal obligations to protect the confidentiality of individually identifiable information and in the procedures that must be followed to provide access to such information;

(C) implementing appropriate measures to assure the physical and electronic security of confidential data;

(D) establishing a system of records that identifies individuals accessing confidential data and the project for which the data were required; and

(E) being prepared to document their compliance with safeguard principles to other agencies authorized by law to monitor such compliance.

SEC. 524. SHARING OF BUSINESS DATA AMONG DESIGNATED STATISTICAL AGENCIES.

(a) IN GENERAL.—A Designated Statistical Agency may provide business data in an identifiable form to another Designated Statistical Agency under the terms of a written agreement among the agencies sharing the business data that specifies—

(1) the business data to be shared;

(2) the statistical purposes for which the business data are to be used;

(3) the officers, employees, and agents authorized to examine the business data to be shared; and

(4) appropriate security procedures to safeguard the confidentiality of the business data.

(b) RESPONSIBILITIES OF AGENCIES UNDER OTHER LAWS.—The provision of business data by an agency to a Designated Statistical Agency under this subtitle shall in no way alter the responsibility of the agency providing the data under other statutes (including section 552 of title 5, United States Code (popularly known as the ''Freedom of Information Act''), and section 552b of title 5, United States Code (popularly known as the ''Privacy Act of 1974'')) with respect to the provision or withholding of such information by the agency providing the data.

(c) RESPONSIBILITIES OF OFFICERS, EMPLOYEES, AND AGENTS.—Examination of business data in identifiable form shall be limited to the officers, employees, and agents authorized to examine the individual reports in accordance with written agreements pursuant to this section. Officers, employees, and agents of a Designated Statistical Agency who receive data pursuant to this subtitle shall be subject to all provisions of law, including penalties, that relate—

(1) to the unlawful provision of the business data that would apply to the officers, employees, and agents of the agency that originally obtained the information; and

(2) to the unlawful disclosure of the business data that would apply to officers, employees, and agents of the agency that originally obtained the information.

(d) NOTICE.—Whenever a written agreement concerns data that respondents were required by law to report and the respondents were not informed that the data could be shared among the Designated Statistical Agencies, for exclusively statistical purposes, the terms of such agreement shall be described in a public notice issued by the agency that intends to provide the data. Such notice shall allow a minimum of 60 days for public comment.

SEC. 525. LIMITATIONS ON USE OF BUSINESS DATA PROVIDED BY DESIGNATED STATISTICAL AGENCIES.

(a) IN GENERAL.—Business data provided by a Designated Statistical Agency pursuant to this subtitle shall be used exclusively for statistical purposes.

(b) PUBLICATION OF DATA.—Publication of business data acquired by a Designated Statistical Agency shall occur in a manner whereby the data furnished by any particular respondent are not in identifiable form.

SEC. 526. CONFORMING AMENDMENTS.

(a) DEPARTMENT OF COMMERCE.—Section 1 of the Act of January 27, 1938 (15 U.S.C. 176a) is amended by striking ''The'' and inserting ''Except as provided in the Confidential Information Protection and Statistical Efficiency Act of 2002, the''.

(b) TITLE 13.—Chapter 10 of title 13, United States Code, is amended—

(1) by adding after section 401 the following:

''§402. Providing business data to Designated Statistical Agencies

''The Bureau of the Census may provide business data to the Bureau of Economic Analysis and the Bureau of Labor Statistics ('Designated Statistical Agencies') if such information is required for an authorized statistical purpose and the provision is the subject of a written agreement with that Designated Statistical Agency, or their successors, as defined in the Confidential Information Protection and Statistical Efficiency Act of 2002.''; and

(2) in the table of sections for the chapter by adding after the item relating to section 401 the following:

''402. Providing business data to Designated Statistical Agencies.''.

Further amendment:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''E-Government Act of 2002''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.

TITLE I—OFFICE OF MANAGEMENT AND BUDGET ELECTRONIC GOVERNMENT SERVICES

Sec. 101. Management and promotion of electronic government services.
Sec. 102. Conforming amendments.

TITLE II—FEDERAL MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES

Sec. 201. Definitions.
Sec. 202. Federal agency responsibilities.
Sec. 203. Compatibility of executive agency methods for use and acceptance of electronic signatures.
Sec. 204. Federal Internet portal.
Sec. 205. Federal courts.
Sec. 206. Regulatory agencies.
Sec. 207. Accessibility, usability, and preservation of government information.
Sec. 208. Privacy provisions.
Sec. 209. Federal information technology workforce development.
Sec. 210. Share-in-savings initiatives.
Sec. 211. Authorization for acquisition of information technology by State and local governments through Federal supply schedules.
Sec. 212. Integrated reporting study and pilot projects.
Sec. 213. Community technology centers.

Sec. 214. Enhancing crisis management through advanced information technology.
Sec. 215. Disparities in access to the Internet.
Sec. 216. Common protocols for geographic information systems.

TITLE III—INFORMATION SECURITY

Sec. 301. Information security.
Sec. 302. Management of information technology.
Sec. 303. National Institute of Standards and Technology.
Sec. 304. Information Security and Privacy Advisory Board.
Sec. 305. Technical and conforming amendments.

TITLE IV—AUTHORIZATION OF APPROPRIATIONS AND EFFECTIVE DATES

Sec. 401. Authorization of appropriations.
Sec. 402. Effective dates.

TITLE V—CONFIDENTIAL INFORMATION PROTECTION AND STATISTICAL EFFICIENCY

Sec. 501. Short title.
Sec. 502. Definitions.
Sec. 503. Coordination and oversight of policies.
Sec. 504. Effect on other laws.

Subtitle A—Confidential Information Protection

Sec. 511. Findings and purposes.
Sec. 512. Limitations on use and disclosure of data and information.
Sec. 513. Fines and penalties.

Subtitle B—Statistical Efficiency

Sec. 521. Findings and purposes.
Sec. 522. Designation of statistical agencies.
Sec. 523. Responsibilities of designated statistical agencies.
Sec. 524. Sharing of business data among designated statistical agencies.
Sec. 525. Limitations on use of business data provided by designated statistical agencies.
Sec. 526. Conforming amendments.

SEC. 2. 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 Act 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 I—OFFICE OF MANAGEMENT AND BUDGET ELECTRONIC GOVERNMENT SERVICES

SEC. 101. 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. Program to encourage innovative solutions to enhance electronic Government services and processes.
''3606. 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—

''(A) the governing body of 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 eligible for the special programs and services provided by the United States to Indians because of their status as Indians, and

''(B) any Alaska Native regional or village corporation established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

"§ 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.

''(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 II 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) subtitle III of title 40, United States Code;

''(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); and

''(5) the Federal Information Security Management Act of 2002.

''(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 administer electronic Government initiatives.

''(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.

''(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 developed by the National Institute of Standards and Technology and promulgated by the Secretary of Commerce under section 11331 of title 40, 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, including the following:

''(A) Standards and guidelines for interconnectivity and interoperability as described under section 3504.

''(B) Consistent with the process under section 207(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 204 of the E-Government Act of 2002.

''(12) Coordinate with the Administrator for 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 this section.

''(17) Assist the Director in preparing the E-Government report established under section 3606.

''(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 II 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 11331 of title 40, and maximize the use of commercial standards as appropriate, including the following:

''(A) Standards and guidelines for interconnectivity and interoperability as described under section 3504.

''(B) Consistent with the process under section 207(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 204 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 3606.

''(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. Program to encourage innovative solutions to enhance electronic Government services and processes

''(a) ESTABLISHMENT OF PROGRAM.—The Administrator shall establish and promote a Governmentwide program to encourage contractor innovation and excellence in facilitating the development and enhancement of electronic Government services and processes.

''(b) ISSUANCE OF ANNOUNCEMENTS SEEKING INNOVATIVE SOLUTIONS.—Under the program, the Administrator, in consultation with the Council and the Administrator for Federal Procurement Policy, shall issue announcements seeking unique and innovative solutions to facilitate the development and enhancement of electronic Government services and processes.

''(c) MULTIAGENCY TECHNICAL ASSISTANCE TEAM.—(1) The Administrator, in consultation with the Council and the Administrator for Federal Procurement Policy, shall convene a multiagency technical assistance team to assist in screening proposals submitted to the Administrator to provide unique and innovative solutions to facilitate the development and enhancement of electronic Government services and processes. The team shall be composed of employees of the agencies represented on the Council who have expertise in scientific and technical disciplines that would facilitate the assessment of the feasibility of the proposals.

''(2) The technical assistance team shall—

''(A) assess the feasibility, scientific and technical merits, and estimated cost of each proposal; and

''(B) submit each proposal, and the assessment of the proposal, to the Administrator.

''(3) The technical assistance team shall not consider or evaluate proposals submitted in response to a solicitation for offers for a pending procurement or for a specific agency requirement.

''(4) After receiving proposals and assessments from the technical assistance team, the Administrator shall consider recommending appropriate proposals for funding under the E-Government Fund established under section 3604 or, if appropriate, forward the proposal and the assessment of it to the executive agency whose mission most coincides with the subject matter of the proposal.

"§ 3606. 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 202(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. 102. 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 new section:

"§ 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 3 of

such title is amended by inserting after the item relating to section 304 the following:

''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 II—FEDERAL MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES

SEC. 201. DEFINITIONS.

Except as otherwise provided, in this title the definitions under sections 3502 and 3601 of title 44, United States Code, shall apply.

SEC. 202. FEDERAL AGENCY RESPONSIBILITIES.

(a) IN GENERAL.—The head of each agency shall be responsible for—

(1) complying with the requirements of this Act (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 Act by the Director, and the related information technology standards promulgated 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 204.

(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, as appropriate, 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 Act 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 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 Act 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.—This section, section 203, and section 214 do apply to national security systems to the extent practicable and consistent with law.

SEC. 203. 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, and for other activities consistent with this section, $8,000,000 or such sums as are necessary in fiscal year 2003, and such sums as are necessary for each fiscal year thereafter.

SEC. 204. 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. 205. FEDERAL COURTS.

(a) INDIVIDUAL COURT WEBSITES.—The Chief Justice of the United States, the chief judge of each circuit and district and of the Court of Federal Claims, and the chief bankruptcy judge of each district shall cause to be established and maintained, for the court of which the judge is chief justice or judge, 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 documents filed with the courthouse in electronic form, to the extent provided 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) or in the rules prescribed under paragraph (3), 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.—(A)(i) The Supreme Court shall prescribe rules, in accordance with sections 2072 and 2075 of title 28, United States Code, to protect privacy and security concerns relating to electronic filing of documents and the public availability under this subsection of documents filed electronically.

(ii) Such rules shall provide to the extent practicable for uniform treatment of privacy and security issues throughout the Federal courts.

(iii) Such rules shall take into consideration best practices in Federal and State courts to protect private information or otherwise maintain necessary information security.

(iv) To the extent that such rules provide for the redaction of certain categories of information in order to protect privacy and security concerns, such rules shall provide that a party that wishes to file an otherwise proper document containing such information may file an unredacted document under seal, which shall be retained by the court as part of the record, and which, at the discretion of the court and subject to any applicable rules issued in accordance with chapter 131 of title 28, United States Code, shall be either in lieu of, or in addition, to, a redacted copy in the public file.

(B)(i) Subject to clause (ii), the Judicial Conference of the United States may issue interim rules, and interpretive statements relating to the application of such rules, which conform to the requirements of this paragraph and which shall cease to have effect upon the effective date of the rules required under subparagraph (A).

(ii) Pending issuance of the rules required under subparagraph (A), any rule or order of any court, or of the Judicial Conference, providing for the redaction of certain categories of information in order to protect privacy and security concerns arising from electronic filing shall comply with, and be construed in conformity with, subparagraph (A)(iv).

(C) Not later than 1 year after the rules prescribed under subparagraph (A) take effect, and every 2 years thereafter, the Judicial Conference shall submit to Congress a report on the adequacy of those rules to protect privacy and security.

(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. 206. 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 paragraphs (1) and (2) of section 552(a) 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 3606 of title 44 (as added by this Act).

SEC. 207. 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 180 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 2 years 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

(iii) 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 1 year 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 provisions 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 202(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 2 years 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 1 year 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 202(g), on compliance of that agency with the policies issued under paragraph (2)(A).

(f) AGENCY WEBSITES.—

(1) STANDARDS FOR AGENCY WEBSITES.—Not later than 2 years after the effective date of this title, the Director shall promulgate guidance for agency websites that includes—

(A) requirements that websites include direct links to—

(i) descriptions of the mission and statutory authority of the agency;

(ii) information made available to the public under subsections (a)(1) and (b) of section 552 of title 5, United States Code (commonly referred to as the ''Freedom of Information Act'');

(iii) information about the organizational structure of the agency; and

(iv) the strategic plan of the agency developed under section 306 of title 5, United States Code; and

(B) minimum agency goals to assist public users to navigate agency websites, including—

(i) speed of retrieval of search results;

(ii) the relevance of the results;

(iii) tools to aggregate and disaggregate data; and

(iv) security protocols to protect information.

(2) AGENCY REQUIREMENTS.—(A) Not later than 2 years after the date of enactment of this Act, each agency shall—

(i) consult with the Committee and solicit public comment;

(ii) establish a process for determining which Government information the agency intends to make available and accessible to the public on the Internet and by other means;

(iii) develop priorities and schedules for making Government information available and accessible;

(iv) make such final determinations, priorities, and schedules available for public comment;

(v) post such final determinations, priorities, and schedules on the Internet; and

(vi) submit such final determinations, priorities, and schedules to the Director, in the report established under section 202(g).

(B) Each agency shall update determinations, priorities, and schedules of the agency, as needed, after consulting with the Committee and soliciting public comment, if appropriate.

(3) PUBLIC DOMAIN DIRECTORY OF PUBLIC FEDERAL GOVERNMENT WEBSITES.—

(A) ESTABLISHMENT.—Not later than 2 years after the effective date of this title, the Director and each agency shall—

(i) develop and establish a public domain directory of public Federal Government websites; and

(ii) post the directory on the Internet with a link to the integrated Internet-based system established under section 204.

(B) DEVELOPMENT.—With the assistance of each agency, the Director shall—

(i) 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

(ii) develop a public domain taxonomy of subjects used to review and categorize public Federal Government websites.

(C) UPDATE.—With the assistance of each agency, the Administrator of the Office of Electronic Government shall—

(i) update the directory as necessary, but not less than every 6 months; and

(ii) solicit interested persons for improvements to the directory.

(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 Office of Management and Budget (or the Director's delegate), in consultation 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, consistent with any relevant protections for the information under section 552 of title 5, United States Code, 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 centers; 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 3606 of title 44 (as added by this Act).

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated 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.

SEC. 208. 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 is in an identifiable form; or

(ii) initiating a new collection of information that—

(I) will be collected, maintained, or disseminated using information technology; and

(II) includes any information in an identifiable form permitting the physical or online contacting of a specific individual, if identical questions have been posed to, or identical reporting requirements imposed on, 10 or more persons, other than agencies, instrumentalities, or employees of the Federal Government.

(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 information that is in an identifiable form 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 information that is in an identifiable form 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.

(d) DEFINITION.—In this section, the term ''identifiable form'' means any representation of information that permits the identity of an individual to whom the information applies to be reasonably inferred by either direct or indirect means.

SEC. 209. 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) WORKFORCE DEVELOPMENT.—

(1) IN GENERAL.—In consultation with the Director of the Office of Management and Budget, the Chief Information Officers Council, and the Administrator of General Services, the Director of the Office of Personnel Management shall—

(A) analyze, on an ongoing basis, the personnel needs of the Federal Government related to information technology and information resource management;

(B) identify where current information technology and information resource management training do not satisfy the personnel needs described in subparagraph (A);

(C) 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

(D) assess the training of Federal employees in information technology disciplines in order to ensure that the information resource management needs of the Federal Government are addressed.

(2) INFORMATION TECHNOLOGY TRAINING PROGRAMS.—The head of each Executive agency, after consultation with the Director of the Office of Personnel Management, the Chief Information Officers Council, and the Administrator of General Services, shall establish and operate information technology training programs consistent with the requirements of this subsection. Such programs shall—

(A) have curricula covering a broad range of information technology disciplines corresponding to the specific information technology and information resource management needs of the agency involved;

(B) be developed and applied according to rigorous standards; and

(C) be designed to maximize efficiency, through the use of self-paced courses, online courses, on-the-job training, and the use of remote instructors, wherever such features can be applied without reducing the effectiveness of the training or negatively impacting academic standards.

(3) GOVERNMENTWIDE POLICIES AND EVALUATION.—The Director of the Office of Personnel Management, in coordination with the Director of the Office of Management and Budget, shall issue policies to promote the development of performance standards for training and uniform implementation of this subsection by Executive agencies, with due regard for differences in program requirements among agencies that may be appropriate and warranted in view of the agency mission. The Director of the Office of Personnel Management shall evaluate the implementation of the provisions of this subsection by Executive agencies.

(4) CHIEF INFORMATION OFFICER AUTHORITIES AND RESPONSIBILITIES.—Subject to the authority, direction, and control of the head of an Executive agency, the chief information officer of such agency shall carry out all powers, functions, and duties of the head of the agency with respect to implementation of this subsection. The chief information officer shall ensure that the policies of the agency head established in accordance with this subsection are implemented throughout the agency.

(5) INFORMATION TECHNOLOGY TRAINING REPORTING.—The Director of the Office of Management and Budget shall ensure that the heads of Executive agencies collect and maintain standardized information on the information technology and information resources management workforce related to the implementation of this subsection.

(6) AUTHORITY TO DETAIL EMPLOYEES TO NON-FEDERAL EMPLOYERS.—In carrying out the preceding provisions of this subsection, the Director of the Office of Personnel Management may provide for a program under which a Federal employee may be detailed to a non-Federal employer. The Director of the Office of Personnel Management shall prescribe regulations for such program, including the conditions for service and duties as the Director considers necessary.

(7) COORDINATION PROVISION.—An assignment described in section 3703 of title 5, United States Code, may not be made unless a program under paragraph (6) is established, and the assignment is made in accordance with the requirements of such program.

(8) 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.

(9) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Office of Personnel Management for the implementation of this subsection, $15,000,000 in fiscal year 2003, and such sums as are necessary for each fiscal year thereafter.

(10) EXECUTIVE AGENCY DEFINED.—For purposes of this subsection, the term ''Executive agency'' has the meaning given the term ''agency'' under section 3701 of title 5, United States Code (as added by subsection (c)).

(c) INFORMATION TECHNOLOGY EXCHANGE PROGRAM.—

(1) IN GENERAL.—Subpart B of part III of title 5, United States Code, is amended by adding at the end the following:

''CHAPTER 37—INFORMATION TECHNOLOGY EXCHANGE PROGRAM

''Sec.
''3701. Definitions.
''3702. General provisions.
''3703. Assignment of employees to private sector organizations.
''3704. Assignment of employees from private sector organizations.
''3705. Application to Office of the Chief Technology Officer of the District of Columbia.
''3706. Reporting requirement.
''3707. Regulations.

''§ 3701. Definitions

''For purposes of this chapter—

''(1) the term 'agency' means an Executive agency, but does not include the General Accounting Office; and

''(2) the term 'detail' means—

''(A) the assignment or loan of an employee of an agency to a private sector organization without a change of position from the agency that employs the individual, or

''(B) the assignment or loan of an employee of a private sector organization to an agency without a change of position from the private sector organization that employs the individual,

whichever is appropriate in the context in which such term is used.

''§ 3702. General provisions

''(a) ASSIGNMENT AUTHORITY.—On request from or with the agreement of a private sector organization, and with the consent of the employee concerned, the head of an agency may arrange for the assignment of an employee of the agency to a private sector organization or an employee of a private sector organization to the agency. An eligible employee is an individual who—

''(1) works in the field of information technology management;

''(2) is considered an exceptional performer by the individual's current employer; and

''(3) is expected to assume increased information technology management responsibilities in the future.

An employee of an agency shall be eligible to participate in this program only if the employee is employed at the GS–11 level or above (or equivalent) and is serving under a career or career-conditional appointment or an appointment of equivalent tenure in the excepted service, and applicable requirements of section 209(b) of the E-Government Act of 2002 are met with respect to the proposed assignment of such employee.

''(b) AGREEMENTS.—Each agency that exercises its authority under this chapter shall provide for a written agreement between the agency and the employee concerned regarding the terms and conditions of the employee's assignment. In the case of an employee of the agency, the agreement shall—

''(1) require the employee to serve in the civil service, upon completion of the assignment, for a period equal to the length of the assignment; and

''(2) provide that, in the event the employee fails to carry out the agreement (except for good and sufficient reason, as determined by the head of the agency from which assigned) the employee shall be liable to the United States for payment of all expenses of the assignment.

An amount under paragraph (2) shall be treated as a debt due the United States.

''(c) TERMINATION.—Assignments may be terminated by the agency or private sector organization concerned for any reason at any time.

''(d) DURATION.—Assignments under this chapter shall be for a period of between 3 months and 1 year, and may be extended in 3-month increments for a total of not more than 1 additional year, except that no assignment under this chapter may commence after the end of the 5-year period beginning on the date of the enactment of this chapter.

''(e) ASSISTANCE.—The Chief Information Officers Council, by agreement with the Office of Personnel Management, may assist in the administration of this chapter, including by maintaining lists of potential candidates for assignment under this chapter, establishing mentoring relationships for the benefit of individuals who are given assignments under this chapter, and publicizing the program.

''(f) CONSIDERATIONS.—In exercising any authority under this chapter, an agency shall take into consideration—

''(1) the need to ensure that small business concerns are appropriately represented with respect to the assignments described in sections 3703 and 3704, respectively; and

''(2) how assignments described in section 3703 might best be used to help meet the needs of the agency for the training of employees in information technology management.

''§ 3703. Assignment of employees to private sector organizations

''(a) IN GENERAL.—An employee of an agency assigned to a private sector organization under this chapter is deemed, during the period of the assignment, to be on detail to a regular work assignment in his agency.

''(b) COORDINATION WITH CHAPTER 81.—Notwithstanding any other provision of law, an employee of an agency assigned to a private sector organization under this chapter is entitled to retain coverage, rights, and benefits under subchapter I of chapter 81, and employment during the assignment is deemed employment by the United States, except that, if the employee or the employee's dependents receive from the private sector organization any payment under an insurance policy for which the premium is wholly paid by the private sector organization, or other benefit of any kind on account of the same injury or death, then, the amount of such payment or benefit shall be credited against any compensation otherwise payable under subchapter I of chapter 81.

''(c) REIMBURSEMENTS.—The assignment of an employee to a private sector organization under this chapter may be made with or without reimbursement by the private sector organization for the travel and transportation expenses to or from the place of assignment, subject to the same terms and conditions as apply with respect to an employee of a Federal agency or a State or local government under section 3375, and for the pay, or a part thereof, of the employee during assignment. Any reimbursements shall be credited to the appropriation of the agency used for paying the travel and transportation expenses or pay.

''(d) TORT LIABILITY; SUPERVISION.—The Federal Tort Claims Act and any other Federal tort liability statute apply to an employee of an agency assigned to a private sector organization under this chapter. The supervision of the duties of an employee of an agency so assigned to a private sector organization may be governed by an agreement between the agency and the organization.

''(e) SMALL BUSINESS CONCERNS.—

''(1) IN GENERAL.—The head of each agency shall take such actions as may be necessary to ensure that, of the assignments made under this chapter from such agency to private sector organizations in each year, at least 20 percent are to small business concerns.

''(2) DEFINITIONS.—For purposes of this subsection—

''(A) the term 'small business concern' means a business concern that satisfies the definitions and standards specified by the Administrator of the Small Business Administration under section 3(a)(2) of the Small Business Act (as from time to time amended by the Administrator);

''(B) the term 'year' refers to the 12-month period beginning on the date of the enactment of this chapter, and each succeeding 12-month period in which any assignments under this chapter may be made; and

''(C) the assignments 'made' in a year are those commencing in such year.

''(3) REPORTING REQUIREMENT.—An agency which fails to comply with paragraph (1) in a year shall, within 90 days after the end of such year, submit a report to the Committees on Government Reform and Small Business of the House of Representatives and the Committees on Governmental Affairs and Small Business of the Senate. The report shall include—

''(A) the total number of assignments made under this chapter from such agency to private sector organizations in the year;

''(B) of that total number, the number (and percentage) made to small business concerns; and

''(C) the reasons for the agency's noncompliance with paragraph (1).

''(4) EXCLUSION.—This subsection shall not apply to an agency in any year in which it makes fewer than 5 assignments under this chapter to private sector organizations.

''§ 3704. Assignment of employees from private sector organizations

''(a) IN GENERAL.—An employee of a private sector organization assigned to an agency under this chapter is deemed, during the period of the assignment, to be on detail to such agency.

''(b) TERMS AND CONDITIONS.—An employee of a private sector organization assigned to an agency under this chapter—

''(1) may continue to receive pay and benefits from the private sector organization from which he is assigned;

''(2) is deemed, notwithstanding subsection (a), to be an employee of the agency for the purposes of—

''(A) chapter 73;

''(B) sections 201, 203, 205, 207, 208, 209, 603, 606, 607, 643, 654, 1905, and 1913 of title 18;

''(C) sections 1343, 1344, and 1349(b) of title 31;

''(D) the Federal Tort Claims Act and any other Federal tort liability statute;

''(E) the Ethics in Government Act of 1978;

''(F) section 1043 of the Internal Revenue Code of 1986; and

''(G) section 27 of the Office of Federal Procurement Policy Act;

''(3) may not have access to any trade secrets or to any other nonpublic information

which is of commercial value to the private sector organization from which he is assigned; and

''(4) is subject to such regulations as the President may prescribe.

The supervision of an employee of a private sector organization assigned to an agency under this chapter may be governed by agreement between the agency and the private sector organization concerned. Such an assignment may be made with or without reimbursement by the agency for the pay, or a part thereof, of the employee during the period of assignment, or for any contribution of the private sector organization to employee benefit systems.

''(c) COORDINATION WITH CHAPTER 81.—An employee of a private sector organization assigned to an agency under this chapter who suffers disability or dies as a result of personal injury sustained while performing duties during the assignment shall be treated, for the purpose of subchapter I of chapter 81, as an employee as defined by section 8101 who had sustained the injury in the performance of duty, except that, if the employee or the employee's dependents receive from the private sector organization any payment under an insurance policy for which the premium is wholly paid by the private sector organization, or other benefit of any kind on account of the same injury or death, then, the amount of such payment or benefit shall be credited against any compensation otherwise payable under subchapter I of chapter 81.

''(d) PROHIBITION AGAINST CHARGING CERTAIN COSTS TO THE FEDERAL GOVERNMENT.—A private sector organization may not charge the Federal Government, as direct or indirect costs under a Federal contract, the costs of pay or benefits paid by the organization to an employee assigned to an agency under this chapter for the period of the assignment.

''§ 3705. Application to Office of the Chief Technology Officer of the District of Columbia

''(a) IN GENERAL.—The Chief Technology Officer of the District of Columbia may arrange for the assignment of an employee of the Office of the Chief Technology Officer to a private sector organization, or an employee of a private sector organization to such Office, in the same manner as the head of an agency under this chapter.

''(b) TERMS AND CONDITIONS.—An assignment made pursuant to subsection (a) shall be subject to the same terms and conditions as an assignment made by the head of an agency under this chapter, except that in applying such terms and conditions to an assignment made pursuant to subsection (a), any reference in this chapter to a provision of law or regulation of the United States shall be deemed to be a reference to the applicable provision of law or regulation of the District of Columbia, including the applicable provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (sec. 1–601.01 et seq., D.C. Official Code) and section 601 of the District of Columbia Campaign Finance Reform and Conflict of Interest Act (sec. 1–1106.01, D.C. Official Code).

''(c) DEFINITION.—For purposes of this section, the term 'Office of the Chief Technology Officer' means the office established in the executive branch of the government of the District of Columbia under the Office of the Chief Technology Officer Establishment Act of 1998 (sec. 1–1401 et seq., D.C. Official Code).

''§ 3706. Reporting requirement

''(a) IN GENERAL.—The Office of Personnel Management shall, not later than April 30 and October 31 of each year, prepare and submit to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate a semiannual report summarizing the operation of this chapter during the immediately preceding 6-month period ending on March 31 and September 30, respectively.

''(b) CONTENT.—Each report shall include, with respect to the 6-month period to which such report relates—

''(1) the total number of individuals assigned to, and the total number of individuals assigned from, each agency during such period;

''(2) a brief description of each assignment included under paragraph (1), including—

''(A) the name of the assigned individual, as well as the private sector organization and the agency (including the specific bureau or other agency component) to or from which such individual was assigned;

''(B) the respective positions to and from which the individual was assigned, including the duties and responsibilities and the pay grade or level associated with each; and

''(C) the duration and objectives of the individual's assignment; and

''(3) such other information as the Office considers appropriate.

''(c) PUBLICATION.—A copy of each report submitted under subsection (a)—

''(1) shall be published in the Federal Register; and

''(2) shall be made publicly available on the Internet.

''(d) AGENCY COOPERATION.—On request of the Office, agencies shall furnish such information and reports as the Office may require in order to carry out this section.

''§ 3707. Regulations

''The Director of the Office of Personnel Management shall prescribe regulations for the administration of this chapter.''.

(2) REPORT.—Not later than 4 years after the date of the enactment of this Act, the General Accounting Office shall prepare and submit to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate a report on the operation of chapter 37 of title 5, United States Code (as added by this subsection). Such report shall include—

(A) an evaluation of the effectiveness of the program established by such chapter; and

(B) a recommendation as to whether such program should be continued (with or without modification) or allowed to lapse.

(3) CLERICAL AMENDMENT.—The analysis for part III of title 5, United States Code, is amended by inserting after the item relating to chapter 35 the following:

''37. Information Technology Exchange Program ..... 3701''.

(d) ETHICS PROVISIONS.—

(1) ONE-YEAR RESTRICTION ON CERTAIN COMMUNICATIONS.—Section 207(c)(2)(A) of title 18, United States Code, is amended—

(A) by striking ''or'' at the end of clause (iii);

(B) by striking the period at the end of clause (iv) and inserting ''; or''; and

(C) by adding at the end the following:

''(v) assigned from a private sector organization to an agency under chapter 37 of title 5.''.

(2) DISCLOSURE OF CONFIDENTIAL INFORMATION.—Section 1905 of title 18, United States Code, is amended by inserting ''or being an employee of a private sector organization who is or was assigned to an agency under chapter 37 of title 5,'' after ''(15 U.S.C. 1311–1314),''.

(3) CONTRACT ADVICE.—Section 207 of title 18, United States Code, is amended by adding at the end the following:

''(l) CONTRACT ADVICE BY FORMER DETAILS.—Whoever, being an employee of a private sector organization assigned to an agency under chapter 37 of title 5, within one year after the end of that assignment, knowingly represents or aids, counsels, or assists in representing any other person (except the United States) in connection with any contract with that agency shall be punished as provided in section 216 of this title.''.

(4) RESTRICTION ON DISCLOSURE OF PROCUREMENT INFORMATION.—Section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) is amended in subsection (a)(1) by adding at the end the following new sentence: ''In the case of an employee of a private sector organization assigned to an agency under chapter 37 of title 5, United States Code, in addition to the restriction in the preceding sentence, such employee shall not, other than as provided by law, knowingly disclose contractor bid or proposal information or source selection information during the three-year period after the end of the assignment of such employee.''.

(e) REPORT ON EXISTING EXCHANGE PROGRAMS.—

(1) EXCHANGE PROGRAM DEFINED.—For purposes of this subsection, the term ''exchange program'' means an executive exchange program, the program under subchapter VI of chapter 33 of title 5, United States Code, and any other program which allows for—

(A) the assignment of employees of the Federal Government to non-Federal employers;

(B) the assignment of employees of non-Federal employers to the Federal Government; or

(C) both.

(2) REPORTING REQUIREMENT.—Not later than 1 year after the date of the enactment of this Act, the Office of Personnel Management shall prepare and submit to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate a report identifying all existing exchange programs.

(3) SPECIFIC INFORMATION.—The report shall, for each such program, include—

(A) a brief description of the program, including its size, eligibility requirements, and terms or conditions for participation;

(B) specific citation to the law or other authority under which the program is established;

(C) the names of persons to contact for more information, and how they may be reached; and

(D) any other information which the Office considers appropriate.

(f) REPORT ON THE ESTABLISHMENT OF A GOVERNMENTWIDE INFORMATION TECHNOLOGY TRAINING PROGRAM.—

(1) IN GENERAL.—Not later January 1, 2003, the Office of Personnel Management, in consultation with the Chief Information Officers Council and the Administrator of General Services, shall review and submit to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate a written report on the following:

(A) The adequacy of any existing information technology training programs available to Federal employees on a Governmentwide basis.

(B)(i) If one or more such programs already exist, recommendations as to how they might be improved.

(ii) If no such program yet exists, recommendations as to how such a program might be designed and established.

(C) With respect to any recommendations under subparagraph (B), how the program under chapter 37 of title 5, United States Code, might be used to help carry them out.

(2) COST ESTIMATE.—The report shall, for any recommended program (or improvements) under paragraph (1)(B), include the estimated costs associated with the implementation and operation of such program as so established (or estimated difference in costs of any such program as so improved).

(g) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) AMENDMENTS TO TITLE 5, UNITED STATES CODE.—Title 5, United States Code, is amended—

(A) in section 3111, by adding at the end the following:

''(d) Notwithstanding section 1342 of title 31, the head of an agency may accept voluntary service for the United States under chapter 37 of this title and regulations of the Office of Personnel Management.'';

(B) in section 4108, by striking subsection (d); and

(C) in section 7353(b), by adding at the end the following:

''(4) Nothing in this section precludes an employee of a private sector organization, while assigned to an agency under chapter 37, from continuing to receive pay and benefits from such organization in accordance with such chapter.''.

(2) AMENDMENT TO TITLE 18, UNITED STATES CODE.—Section 209 of title 18, United States Code, is amended by adding at the end the following:

''(g)(1) This section does not prohibit an employee of a private sector organization, while assigned to an agency under chapter 37 of title 5, from continuing to receive pay and benefits from such organization in accordance with such chapter.

''(2) For purposes of this subsection, the term 'agency' means an agency (as defined by section 3701 of title 5) and the Office of the Chief Technology Officer of the District of Columbia.''.

(3) OTHER AMENDMENTS.—Section 125(c)(1) of Public Law 100–238 (5 U.S.C. 8432 note) is amended—

(A) in subparagraph (B), by striking ''or'' at the end;

(B) in subparagraph (C), by striking ''and'' at the end and inserting ''or''; and

(C) by adding at the end the following:

''(D) an individual assigned from a Federal agency to a private sector organization under chapter 37 of title 5, United States Code; and''.

SEC. 210. SHARE-IN-SAVINGS INITIATIVES.

(a) DEFENSE CONTRACTS.—(1) Chapter 137 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 2332. Share-in-savings contracts

''(a) AUTHORITY TO ENTER INTO SHARE-IN-SAVINGS CONTRACTS.—(1) The head of an agency may enter into a share-in-savings contract for information technology (as defined in section 11101(6) of title 40) in which the Government awards a contract to improve mission-related or administrative processes or to accelerate the achievement of its mission and share with the contractor in savings achieved through contract performance.

''(2)(A) Except as provided in subparagraph (B), a share-in-savings contract shall be awarded for a period of not more than five years.

''(B) A share-in-savings contract may be awarded for a period greater than five years, but not more than 10 years, if the head of the agency determines in writing prior to award of the contract that—

''(i) the level of risk to be assumed and the investment to be undertaken by the contractor is likely to inhibit the government from obtaining the needed information technology competitively at a fair and reasonable price if the contract is limited in duration to a period of five years or less; and

''(ii) usage of the information technology to be acquired is likely to continue for a period of time sufficient to generate reasonable benefit for the government.

''(3) Contracts awarded pursuant to the authority of this section shall, to the maximum extent practicable, be performance-based contracts that identify objective outcomes and contain performance standards that will be used to measure achievement and milestones that must be met before payment is made.

''(4) Contracts awarded pursuant to the authority of this section shall include a provision containing a quantifiable baseline that is to be the basis upon which a savings share ratio is established that governs the amount of payment a contractor is to receive under the contract. Before commencement of performance of such a contract, the senior procurement executive of the agency shall determine in writing that the terms of the provision are quantifiable and will likely yield value to the Government.

''(5)(A) The head of the agency may retain savings realized through the use of a share-in-savings contract under this section that are in excess of the total amount of savings paid to the contractor under the contract, but may not retain any portion of such savings that is attributable to a decrease in the number of civilian employees of the Federal Government performing the function. Except as provided in subparagraph (B), savings shall be credited to the appropriation or fund against which charges were made to carry out the contract and shall be used for information technology.

''(B) Amounts retained by the agency under this subsection shall—

''(i) without further appropriation, remain available until expended; and

''(ii) be applied first to fund any contingent liabilities associated with share-in-savings procurements that are not fully funded.

''(b) CANCELLATION AND TERMINATION.—(1) If funds are not made available for the continuation of a share-in-savings contract entered into under this section in a subsequent fiscal year, the contract shall be canceled or terminated. The costs of cancellation or termination may be paid out of—

''(A) appropriations available for the performance of the contract;

''(B) appropriations available for acquisition of the information technology procured under the contract, and not otherwise obligated; or

''(C) funds subsequently appropriated for payments of costs of cancellation or termination, subject to the limitations in paragraph (3).

''(2) The amount payable in the event of cancellation or termination of a share-in-savings contract shall be negotiated with the contractor at the time the contract is entered into.

''(3)(A) Subject to subparagraph (B), the head of an agency may enter into share-in-savings contracts under this section in any given fiscal year even if funds are not made specifically available for the full costs of cancellation or termination of the contract if funds are available and sufficient to make payments with respect to the first fiscal year of the contract and the following conditions are met regarding the funding of cancellation and termination liability:

''(i) The amount of unfunded contingent liability for the contract does not exceed the lesser of—

''(I) 25 percent of the estimated costs of a cancellation or termination; or

''(II) $5,000,000.

''(ii) Unfunded contingent liability in excess of $1,000,000 has been approved by the Director of the Office of Management and Budget or the Director's designee.

''(B) The aggregate number of share-in-savings contracts that may be entered into under subparagraph (A) by all agencies to which this chapter applies in a fiscal year may not exceed 5 in each of fiscal years 2003, 2004, and 2005.

''(c) DEFINITIONS.—In this section:

''(1) The term 'contractor' means a private entity that enters into a contract with an agency.

''(2) The term 'savings' means—

''(A) monetary savings to an agency; or

''(B) savings in time or other benefits realized by the agency, including enhanced revenues (other than enhanced revenues from the collection of fees, taxes, debts, claims, or other amounts owed the Federal Government).

''(3) The term 'share-in-savings contract' means a contract under which—

''(A) a contractor provides solutions for—

''(i) improving the agency's mission-related or administrative processes; or

''(ii) accelerating the achievement of agency missions; and

''(B) the head of the agency pays the contractor an amount equal to a portion of the savings derived by the agency from—

''(i) any improvements in mission-related or administrative processes that result from implementation of the solution; or

''(ii) acceleration of achievement of agency missions.

''(d) TERMINATION.—No share-in-savings contracts may be entered into under this section after September 30, 2005.''.

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

''2332. Share-in-savings contracts.''.

(b) OTHER CONTRACTS.—Title III of the Federal Property and Administrative Services Act of 1949 is amended by adding at the end the following:

''SEC. 317. SHARE-IN-SAVINGS CONTRACTS.

''(a) AUTHORITY TO ENTER INTO SHARE-IN-SAVINGS CONTRACTS.—(1) The head of an executive agency may enter into a share-in-savings contract for information technology (as defined in section 11101(6) of title 40, United States Code) in which the Government awards a contract to improve mission-related or administrative processes or to accelerate the achievement of its mission and share with the contractor in savings achieved through contract performance.

''(2)(A) Except as provided in subparagraph (B), a share-in-savings contract shall be awarded for a period of not more than five years.

''(B) A share-in-savings contract may be awarded for a period greater than five years, but not more than 10 years, if the head of the agency determines in writing prior to award of the contract that—

''(i) the level of risk to be assumed and the investment to be undertaken by the contractor is likely to inhibit the government from obtaining the needed information technology competitively at a fair and reasonable price if the contract is limited in duration to a period of five years or less; and

''(ii) usage of the information technology to be acquired is likely to continue for a period of time sufficient to generate reasonable benefit for the government.

''(3) Contracts awarded pursuant to the authority of this section shall, to the maximum extent practicable, be performance-based contracts that identify objective outcomes and contain performance standards that will be used to measure achievement and milestones that must be met before payment is made.

''(4) Contracts awarded pursuant to the authority of this section shall include a provision containing a quantifiable baseline that

is to be the basis upon which a savings share ratio is established that governs the amount of payment a contractor is to receive under the contract. Before commencement of performance of such a contract, the senior procurement executive of the agency shall determine in writing that the terms of the provision are quantifiable and will likely yield value to the Government.

''(5)(A) The head of the agency may retain savings realized through the use of a share-in-savings contract under this section that are in excess of the total amount of savings paid to the contractor under the contract, but may not retain any portion of such savings that is attributable to a decrease in the number of civilian employees of the Federal Government performing the function. Except as provided in subparagraph (B), savings shall be credited to the appropriation or fund against which charges were made to carry out the contract and shall be used for information technology.

''(B) Amounts retained by the agency under this subsection shall—

''(i) without further appropriation, remain available until expended; and

''(ii) be applied first to fund any contingent liabilities associated with share-in-savings procurements that are not fully funded.

''(b) CANCELLATION AND TERMINATION.—(1) If funds are not made available for the continuation of a share-in-savings contract entered into under this section in a subsequent fiscal year, the contract shall be canceled or terminated. The costs of cancellation or termination may be paid out of—

''(A) appropriations available for the performance of the contract;

''(B) appropriations available for acquisition of the information technology procured under the contract, and not otherwise obligated; or

''(C) funds subsequently appropriated for payments of costs of cancellation or termination, subject to the limitations in paragraph (3).

''(2) The amount payable in the event of cancellation or termination of a share-in-savings contract shall be negotiated with the contractor at the time the contract is entered into.

''(3)(A) Subject to subparagraph (B), the head of an executive agency may enter into share-in-savings contracts under this section in any given fiscal year even if funds are not made specifically available for the full costs of cancellation or termination of the contract if funds are available and sufficient to make payments with respect to the first fiscal year of the contract and the following conditions are met regarding the funding of cancellation and termination liability:

''(i) The amount of unfunded contingent liability for the contract does not exceed the lesser of—

''(I) 25 percent of the estimated costs of a cancellation or termination; or

''(II) $5,000,000.

''(ii) Unfunded contingent liability in excess of $1,000,000 has been approved by the Director of the Office of Management and Budget or the Director's designee.

''(B) The aggregate number of share-in-savings contracts that may be entered into under subparagraph (A) by all executive agencies to which this chapter applies in a fiscal year may not exceed 5 in each of fiscal years 2003, 2004, and 2005.

''(c) DEFINITIONS.—In this section:

''(1) The term 'contractor' means a private entity that enters into a contract with an agency.

''(2) The term 'savings' means—

''(A) monetary savings to an agency; or

''(B) savings in time or other benefits realized by the agency, including enhanced revenues (other than enhanced revenues from the collection of fees, taxes, debts, claims, or other amounts owed the Federal Government).

''(3) The term 'share-in-savings contract' means a contract under which—

''(A) a contractor provides solutions for—

''(i) improving the agency's mission-related or administrative processes; or

''(ii) accelerating the achievement of agency missions; and

''(B) the head of the agency pays the contractor an amount equal to a portion of the savings derived by the agency from—

''(i) any improvements in mission-related or administrative processes that result from implementation of the solution; or

''(ii) acceleration of achievement of agency missions.

''(d) TERMINATION.—No share-in-savings contracts may be entered into under this section after September 30, 2005.''.

(c) DEVELOPMENT OF INCENTIVES.—The Director of the Office of Management and Budget shall, in consultation with the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, and executive agencies, develop techniques to permit an executive agency to retain a portion of the savings (after payment of the contractor's share of the savings) derived from share-in-savings contracts as funds are appropriated to the agency in future fiscal years.

(d) REGULATIONS.—Not later than 270 days after the date of the enactment of this Act, the Federal Acquisition Regulation shall be revised to implement the provisions enacted by this section. Such revisions shall—

(1) provide for the use of competitive procedures in the selection and award of share-in-savings contracts to—

(A) ensure the contractor's share of savings reflects the risk involved and market conditions; and

(B) otherwise yield greatest value to the government; and

(2) allow appropriate regulatory flexibility to facilitate the use of share-in-savings contracts by executive agencies, including the use of innovative provisions for technology refreshment and nonstandard Federal Acquisition Regulation contract clauses.

(e) ADDITIONAL GUIDANCE.—The Administrator of General Services shall—

(1) identify potential opportunities for the use of share-in-savings contracts; and

(2) in consultation with the Director of the Office of Management and Budget, provide guidance to executive agencies for determining mutually beneficial savings share ratios and baselines from which savings may be measured.

(f) OMB REPORT TO CONGRESS.—In consultation with executive agencies, the Director of the Office of Management and Budget shall, not later than 2 years after the date of the enactment of this Act, submit to Congress a report containing—

(1) a description of the number of share-in-savings contracts entered into by each executive agency under by this section and the amendments made by this section, and, for each contract identified—

(A) the information technology acquired;

(B) the total amount of payments made to the contractor; and

(C) the total amount of savings or other measurable benefits realized;

(2) a description of the ability of agencies to determine the baseline costs of a project against which savings can be measured; and

(3) any recommendations, as the Director deems appropriate, regarding additional changes in law that may be necessary to ensure effective use of share-in-savings contracts by executive agencies.

(g) GAO REPORT TO CONGRESS.—The Comptroller General shall, not later than 6 months after the report required under subsection (f) is submitted to Congress, conduct a review of that report and submit to Congress a report containing—

(1) the results of the review;

(2) an independent assessment by the Comptroller General of the effectiveness of the use of share-in-savings contracts in improving the mission-related and administrative processes of the executive agencies and the achievement of agency missions; and

(3) a recommendation on whether the authority to enter into share-in-savings contracts should be continued.

(h) REPEAL OF SHARE-IN-SAVINGS PILOT PROGRAM.—

(1) REPEAL.—Section 11521 of title 40, United States Code, is repealed.

(2) CONFORMING AMENDMENTS TO PILOT PROGRAM AUTHORITY.—

(A) Section 11501 of title 40, United States Code, is amended—

(i) in the section heading, by striking ''**PROGRAMS**'' and inserting ''**PROGRAM**'';

(ii) in subsection (a)(1), by striking ''conduct pilot programs'' and inserting ''conduct a pilot program pursuant to the requirements of section 11521 of this title'';

(iii) in subsection (a)(2), by striking ''each pilot program'' and inserting ''the pilot program'';

(iv) in subsection (b), by striking ''LIMITATIONS.—'' and all that follows through ''$750,000,000.'' and inserting the following: ''LIMITATION ON AMOUNT.—The total amount obligated for contracts entered into under the pilot program conducted under this chapter may not exceed $375,000,000.''; and

(v) in subsection (c)(1), by striking ''a pilot'' and inserting ''the pilot''.

(B) The following provisions of chapter 115 of such title are each amended by striking ''a pilot'' each place it appears and inserting ''the pilot'':

(i) Section 11502(a).

(ii) Section 11502(b).

(iii) Section 11503(a).

(iv) Section 11504.

(C) Section 11505 of such chapter is amended by striking ''programs'' and inserting ''program''.

(3) ADDITIONAL CONFORMING AMENDMENTS.—

(A) Section 11522 of title 40, United States Code, is redesignated as section 11521.

(B) The chapter heading for chapter 115 of such title is amended by striking ''**PROGRAMS**'' and inserting ''**PROGRAM**''.

(C) The subchapter heading for subchapter I and for subchapter II of such chapter are each amended by striking ''PROGRAMS'' and inserting ''PROGRAM''.

(D) The item relating to subchapter I in the table of sections at the beginning of such chapter is amended to read as follows:

''SUBCHAPTER I—CONDUCT OF PILOT PROGRAM''.

(E) The item relating to subchapter II in the table of sections at the beginning of such chapter is amended to read as follows:

''SUBCHAPTER II—SPECIFIC PILOT PROGRAM''.

(F) The item relating to section 11501 in the table of sections at the beginning of such is amended by striking ''programs'' and inserting ''program''.

(G) The table of sections at the beginning of such chapter is amended by striking the item relating to section 11521 and redesignating the item relating to section 11522 as section 11521.

(H) The item relating to chapter 115 in the table of chapters for subtitle III of title 40, United States Code, is amended to read as follows:

''115. INFORMATION TECHNOLOGY ACQUISITION PILOT PROGRAM 11501''.

(i) DEFINITIONS.—In this section, the terms ''contractor'', ''savings'', and ''share-in-savings contract'' have the meanings given those terms in section 317 of the Federal Property and Administrative Services Act of 1949 (as added by subsection (b)).

SEC. 211. AUTHORIZATION FOR ACQUISITION OF INFORMATION TECHNOLOGY BY STATE AND LOCAL GOVERNMENTS THROUGH FEDERAL SUPPLY SCHEDULES.

(a) AUTHORITY TO USE CERTAIN SUPPLY SCHEDULES.—Section 502 of title 40, United States Code, is amended by adding at the end the following new subsection:

''(c) USE OF CERTAIN SUPPLY SCHEDULES.—

''(1) IN GENERAL.—The Administrator may provide for the use by State or local governments of Federal supply schedules of the General Services Administration for automated data processing equipment (including firmware), software, supplies, support equipment, and services (as contained in Federal supply classification code group 70).

''(2) VOLUNTARY USE.—In any case of the use by a State or local government of a Federal supply schedule pursuant to paragraph (1), participation by a firm that sells to the Federal Government through the supply schedule shall be voluntary with respect to a sale to the State or local government through such supply schedule.

''(3) DEFINITIONS.—In this subsection:

''(A) The term 'State or local government' includes any State, local, regional, or tribal government, or any instrumentality thereof (including any local educational agency or institution of higher education).

''(B) The term 'tribal government' means—

''(i) the governing body of 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 eligible for the special programs and services provided by the United States to Indians because of their status as Indians, and

''(ii) any Alaska Native regional or village corporation established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

''(C) The term 'local educational agency' has the meaning given that term in section 8013 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713).

''(D) The term 'institution of higher education' has the meaning given that term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).''.

(b) PROCEDURES.—Not later than 30 days after the date of the enactment of this Act, the Administrator of General Services shall establish procedures to implement section 501(c) of title 40, United States Code (as added by subsection (a)).

(c) REPORT.—Not later than December 31, 2004, the Administrator shall submit to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate a report on the implementation and effects of the amendment made by subsection (a).

SEC. 212. 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, 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 any recommendations that the Director deems appropriate on 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) 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;

(3) other information consistent with section 552(b)(3) of title 5, United States Code, and other relevant law; and

(4) confidential statistical information collected under a confidentiality pledge, solely for statistical purposes, consistent with the Office of Management and Budget's Federal Statistical Confidentiality Order, and other relevant law.

SEC. 213. 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 Administrator shall—

(1) ensure that a study is conducted 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 Administrator any information and assistance necessary for the completion of the study and the report under this section.

(e) ASSISTANCE.—

(1) IN GENERAL.—The Administrator, in consultation with the Secretary 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 Administrator, in consultation with the Secretary of Education, the Director of the Institute of Museum and Library Services, 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 Administrator, with assistance from 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.—The Administrator, with assistance from the Department of Education and in consultation with other agencies and organizations, 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 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. 214. 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 Administrator, in consultation with the Federal Emergency Management Agency, shall ensure that a study is conducted 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 Administrator 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 Administrator in carrying out this section.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated 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 Administrator, in consultation with 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 Administrator shall cooperate with other relevant agencies, and, if appropriate, State, local, and tribal governments, in initiating such pilot projects.

SEC. 215. 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 Administrator of General Services 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 Administrator of General Services 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 $950,000 in fiscal year 2003 to carry out this section.

SEC. 216. 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 Administrator, in consultation with 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 Administrator 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 such sums as are necessary to carry out this section, for each of the fiscal years 2003 through 2007.

TITLE III—INFORMATION SECURITY

SEC. 301. INFORMATION SECURITY.

(a) SHORT TITLE.—This title may be cited as the ''Federal Information Security Management Act of 2002''.

(b) INFORMATION SECURITY.—

(1) IN GENERAL.—Chapter 35 of title 44, United States Code, is amended by adding at the end the following new subchapter:

''SUBCHAPTER III—INFORMATION SECURITY

''§ 3541. Purposes

''The purposes of this subchapter are to—

''(1) provide a comprehensive framework for ensuring the effectiveness of information security controls over information resources that support Federal operations and assets;

''(2) recognize the highly networked nature of the current Federal computing environment and provide effective governmentwide management and oversight of the related information security risks, including coordination of information security efforts throughout the civilian, national security, and law enforcement communities;

''(3) provide for development and maintenance of minimum controls required to protect Federal information and information systems;

''(4) provide a mechanism for improved oversight of Federal agency information security programs;

''(5) acknowledge that commercially developed information security products offer advanced, dynamic, robust, and effective information security solutions, reflecting market solutions for the protection of critical information infrastructures important to the national defense and economic security of the nation that are designed, built, and operated by the private sector; and

''(6) recognize that the selection of specific technical hardware and software information security solutions should be left to individual agencies from among commercially developed products.

''§ 3542. Definitions

''(a) IN GENERAL.—Except as provided under subsection (b), the definitions under section 3502 shall apply to this subchapter.

''(b) ADDITIONAL DEFINITIONS.—As used in this subchapter:

''(1) The term 'information security' means protecting information and information systems from unauthorized access, use, disclosure, disruption, modification, or destruction in order to provide—

''(A) integrity, which means guarding against improper information modification or destruction, and includes ensuring information nonrepudiation and authenticity;

''(B) confidentiality, which means preserving authorized restrictions on access and disclosure, including means for protecting personal privacy and proprietary information; and

''(C) availability, which means ensuring timely and reliable access to and use of information.

''(2)(A) The term 'national security system' means any information system (including any telecommunications system) used or operated by an agency or by a contractor of an agency, or other organization on behalf of an agency—

''(i) the function, operation, or use of which—

''(I) involves intelligence activities;

''(II) involves cryptologic activities related to national security;

''(III) involves command and control of military forces;

''(IV) involves equipment that is an integral part of a weapon or weapons system; or

''(V) subject to subparagraph (B), is critical to the direct fulfillment of military or intelligence missions; or

''(ii) is protected at all times by procedures established for information that have been specifically authorized under criteria established by an Executive order or an Act of Congress to be kept classified in the interest of national defense or foreign policy.

''(B) Subparagraph (A)(i)(V) does not include a system that is to be used for routine administrative and business applications (including payroll, finance, logistics, and personnel management applications).

''(3) The term 'information technology' has the meaning given that term in section 11101 of title 40.

''§ 3543. Authority and functions of the Director

''(a) IN GENERAL.—The Director shall oversee agency information security policies and practices, including—

''(1) developing and overseeing the implementation of policies, principles, standards, and guidelines on information security, including through ensuring timely agency adoption of and compliance with standards promulgated under section 11331 of title 40;

''(2) requiring agencies, consistent with the standards promulgated under such section 11331 and the requirements of this subchapter, to identify and provide information security protections commensurate with the risk and magnitude of the harm resulting from the unauthorized access, use, disclosure, disruption, modification, or destruction of—

''(A) information collected or maintained by or on behalf of an agency; or

''(B) information systems used or operated by an agency or by a contractor of an agency or other organization on behalf of an agency;

''(3) coordinating the development of standards and guidelines under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3) with agencies and offices operating or exercising control of national security systems (including the National Security Agency) to assure, to the maximum extent feasible, that such standards and guidelines are complementary with standards and guidelines developed for national security systems;

''(4) overseeing agency compliance with the requirements of this subchapter, including through any authorized action under section 11303 of title 40, to enforce accountability for compliance with such requirements;

''(5) reviewing at least annually, and approving or disapproving, agency information security programs required under section 3544(b);

''(6) coordinating information security policies and procedures with related information resources management policies and procedures;

''(7) overseeing the operation of the Federal information security incident center required under section 3546; and

''(8) reporting to Congress no later than March 1 of each year on agency compliance with the requirements of this subchapter, including—

''(A) a summary of the findings of evaluations required by section 3545;

''(B) an assessment of the development, promulgation, and adoption of, and compliance with, standards developed under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3) and promulgated under section 11331 of title 40;

''(C) significant deficiencies in agency information security practices;

''(D) planned remedial action to address such deficiencies; and

''(E) a summary of, and the views of the Director on, the report prepared by the National Institute of Standards and Technology under section 20(d)(10) of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3).

''(b) NATIONAL SECURITY SYSTEMS.—Except for the authorities described in paragraphs (4) and (8) of subsection (a), the authorities of the Director under this section shall not apply to national security systems.

''(c) DEPARTMENT OF DEFENSE AND CENTRAL INTELLIGENCE AGENCY SYSTEMS.—(1) The authorities of the Director described in paragraphs (1) and (2) of subsection (a) shall be delegated to the Secretary of Defense in the case of systems described in paragraph (2) and to the Director of Central Intelligence in the case of systems described in paragraph (3).

''(2) The systems described in this paragraph are systems that are operated by the Department of Defense, a contractor of the Department of Defense, or another entity on behalf of the Department of Defense that processes any information the unauthorized access, use, disclosure, disruption, modification, or destruction of which would have a debilitating impact on the mission of the Department of Defense.

''(3) The systems described in this paragraph are systems that are operated by the Central Intelligence Agency, a contractor of the Central Intelligence Agency, or another entity on behalf of the Central Intelligence Agency that processes any information the unauthorized access, use, disclosure, disruption, modification, or destruction of which would have a debilitating impact on the mission of the Central Intelligence Agency.

''§ 3544. Federal agency responsibilities

''(a) IN GENERAL.—The head of each agency shall—

''(1) be responsible for—

''(A) providing information security protections commensurate with the risk and magnitude of the harm resulting from unauthorized access, use, disclosure, disruption, modification, or destruction of—

''(i) information collected or maintained by or on behalf of the agency; and

''(ii) information systems used or operated by an agency or by a contractor of an agency or other organization on behalf of an agency;

''(B) complying with the requirements of this subchapter and related policies, procedures, standards, and guidelines, including—

''(i) information security standards promulgated under section 11331 of title 40; and

''(ii) information security standards and guidelines for national security systems issued in accordance with law and as directed by the President; and

''(C) ensuring that information security management processes are integrated with agency strategic and operational planning processes;

''(2) ensure that senior agency officials provide information security for the information and information systems that support the operations and assets under their control, including through—

''(A) assessing the risk and magnitude of the harm that could result from the unauthorized access, use, disclosure, disruption, modification, or destruction of such information or information systems;

''(B) determining the levels of information security appropriate to protect such information and information systems in accordance with standards promulgated under section 11331 of title 40, for information security classifications and related requirements;

''(C) implementing policies and procedures to cost-effectively reduce risks to an acceptable level; and

''(D) periodically testing and evaluating information security controls and techniques to ensure that they are effectively implemented;

''(3) delegate to the agency Chief Information Officer established under section 3506 (or comparable official in an agency not covered by such section) the authority to ensure compliance with the requirements imposed on the agency under this subchapter, including—

''(A) designating a senior agency information security officer who shall—

''(i) carry out the Chief Information Officer's responsibilities under this section;

''(ii) possess professional qualifications, including training and experience, required to administer the functions described under this section;

''(iii) have information security duties as that official's primary duty; and

''(iv) head an office with the mission and resources to assist in ensuring agency compliance with this section;

''(B) developing and maintaining an agencywide information security program as required by subsection (b);

''(C) developing and maintaining information security policies, procedures, and control techniques to address all applicable requirements, including those issued under section 3543 of this title, and section 11331 of title 40;

''(D) training and overseeing personnel with significant responsibilities for information security with respect to such responsibilities; and

''(E) assisting senior agency officials concerning their responsibilities under paragraph (2);

''(4) ensure that the agency has trained personnel sufficient to assist the agency in complying with the requirements of this subchapter and related policies, procedures, standards, and guidelines; and

''(5) ensure that the agency Chief Information Officer, in coordination with other senior agency officials, reports annually to the agency head on the effectiveness of the agency information security program, including progress of remedial actions.

''(b) AGENCY PROGRAM.—Each agency shall develop, document, and implement an agencywide information security program, approved by the Director under section 3543(a)(5), to provide information security for the information and information systems that support the operations and assets of the agency, including those provided or managed by another agency, contractor, or other source, that includes—

''(1) periodic assessments of the risk and magnitude of the harm that could result from the unauthorized access, use, disclosure, disruption, modification, or destruction of information and information systems that support the operations and assets of the agency;

''(2) policies and procedures that—

''(A) are based on the risk assessments required by paragraph (1);

''(B) cost-effectively reduce information security risks to an acceptable level;

''(C) ensure that information security is addressed throughout the life cycle of each agency information system; and

''(D) ensure compliance with—

''(i) the requirements of this subchapter;

''(ii) policies and procedures as may be prescribed by the Director, and information security standards promulgated under section 11331 of title 40;

''(iii) minimally acceptable system configuration requirements, as determined by the agency; and

''(iv) any other applicable requirements, including standards and guidelines for national security systems issued in accordance with law and as directed by the President;

''(3) subordinate plans for providing adequate information security for networks, facilities, and systems or groups of information systems, as appropriate;

''(4) security awareness training to inform personnel, including contractors and other users of information systems that support the operations and assets of the agency, of—

''(A) information security risks associated with their activities; and

''(B) their responsibilities in complying with agency policies and procedures designed to reduce these risks;

''(5) periodic testing and evaluation of the effectiveness of information security policies, procedures, and practices, to be performed with a frequency depending on risk, but no less than annually, of which such testing—

''(A) shall include testing of management, operational, and technical controls of every information system identified in the inventory required under section 3505(c); and

''(B) may include testing relied on in a evaluation under section 3545;

''(6) a process for planning, implementing, evaluating, and documenting remedial action to address any deficiencies in the information security policies, procedures, and practices of the agency;

''(7) procedures for detecting, reporting, and responding to security incidents, consistent with standards and guidelines issued pursuant to section 3546(b), including—

''(A) mitigating risks associated with such incidents before substantial damage is done;

''(B) notifying and consulting with the Federal information security incident center referred to in section 3546; and

''(C) notifying and consulting with, as appropriate—

''(i) law enforcement agencies and relevant Offices of Inspector General;

''(ii) an office designated by the President for any incident involving a national security system; and

''(iii) any other agency or office, in accordance with law or as directed by the President; and

''(8) plans and procedures to ensure continuity of operations for information systems that support the operations and assets of the agency.

''(c) AGENCY REPORTING.—Each agency shall—

''(1) report annually to the Director, the Committees on Government Reform and Science of the House of Representatives, the Committees on Governmental Affairs and Commerce, Science, and Transportation of the Senate, the appropriate authorization and appropriations committees of Congress, and the Comptroller General on the adequacy and effectiveness of information security policies, procedures, and practices, and compliance with the requirements of this subchapter, including compliance with each requirement of subsection (b);

''(2) address the adequacy and effectiveness of information security policies, procedures, and practices in plans and reports relating to—

''(A) annual agency budgets;

''(B) information resources management under subchapter 1 of this chapter;

''(C) information technology management under subtitle III of title 40;

''(D) program performance under sections 1105 and 1115 through 1119 of title 31, and sections 2801 and 2805 of title 39;

''(E) financial management under chapter 9 of title 31, and the Chief Financial Officers Act of 1990 (31 U.S.C. 501 note; Public Law 101–576) (and the amendments made by that Act);

''(F) financial management systems under the Federal Financial Management Improvement Act (31 U.S.C. 3512 note); and

''(G) internal accounting and administrative controls under section 3512 of title 31, (known as the 'Federal Managers Financial Integrity Act'); and

''(3) report any significant deficiency in a policy, procedure, or practice identified under paragraph (1) or (2)—

''(A) as a material weakness in reporting under section 3512 of title 31; and

''(B) if relating to financial management systems, as an instance of a lack of substantial compliance under the Federal Financial Management Improvement Act (31 U.S.C. 3512 note).

''(d) PERFORMANCE PLAN.—(1) In addition to the requirements of subsection (c), each agency, in consultation with the Director, shall include as part of the performance plan required under section 1115 of title 31 a description of—

''(A) the time periods, and

''(B) the resources, including budget, staffing, and training,

that are necessary to implement the program required under subsection (b).

''(2) The description under paragraph (1) shall be based on the risk assessments required under subsection (b)(2)(1).

''(e) PUBLIC NOTICE AND COMMENT.—Each agency shall provide the public with timely notice and opportunities for comment on proposed information security policies and procedures to the extent that such policies and procedures affect communication with the public.

''§ 3545. Annual independent evaluation

''(a) IN GENERAL.—(1) Each year each agency shall have performed an independent evaluation of the information security program and practices of that agency to determine the effectiveness of such program and practices.

''(2) Each evaluation under this section shall include—

''(A) testing of the effectiveness of information security policies, procedures, and practices of a representative subset of the agency's information systems;

''(B) an assessment (made on the basis of the results of the testing) of compliance with—

''(i) the requirements of this subchapter; and

''(ii) related information security policies, procedures, standards, and guidelines; and

''(C) separate presentations, as appropriate, regarding information security relating to national security systems.

''(b) INDEPENDENT AUDITOR.—Subject to subsection (c)—

''(1) for each agency with an Inspector General appointed under the Inspector General Act of 1978, the annual evaluation required by this section shall be performed by the Inspector General or by an independent external auditor, as determined by the Inspector General of the agency; and

''(2) for each agency to which paragraph (1) does not apply, the head of the agency shall engage an independent external auditor to perform the evaluation.

''(c) NATIONAL SECURITY SYSTEMS.—For each agency operating or exercising control of a national security system, that portion of the evaluation required by this section directly relating to a national security system shall be performed—

''(1) only by an entity designated by the agency head; and

''(2) in such a manner as to ensure appropriate protection for information associated with any information security vulnerability in such system commensurate with the risk and in accordance with all applicable laws.

''(d) EXISTING EVALUATIONS.—The evaluation required by this section may be based in whole or in part on an audit, evaluation, or report relating to programs or practices of the applicable agency.

''(e) AGENCY REPORTING.—(1) Each year, not later than such date established by the Director, the head of each agency shall submit to the Director the results of the evaluation required under this section.

''(2) To the extent an evaluation required under this section directly relates to a national security system, the evaluation results submitted to the Director shall contain only a summary and assessment of that portion of the evaluation directly relating to a national security system.

''(f) PROTECTION OF INFORMATION.—Agencies and evaluators shall take appropriate steps to ensure the protection of information which, if disclosed, may adversely affect information security. Such protections shall be commensurate with the risk and comply with all applicable laws and regulations.

''(g) OMB REPORTS TO CONGRESS.—(1) The Director shall summarize the results of the evaluations conducted under this section in the report to Congress required under section 3543(a)(8).

''(2) The Director's report to Congress under this subsection shall summarize information regarding information security relating to national security systems in such a manner as to ensure appropriate protection for information associated with any information security vulnerability in such system commensurate with the risk and in accordance with all applicable laws.

''(3) Evaluations and any other descriptions of information systems under the authority and control of the Director of Central Intelligence or of National Foreign Intelligence Programs systems under the authority and control of the Secretary of Defense shall be made available to Congress only through the appropriate oversight committees of Congress, in accordance with applicable laws.

''(h) COMPTROLLER GENERAL.—The Comptroller General shall periodically evaluate and report to Congress on—

''(1) the adequacy and effectiveness of agency information security policies and practices; and

''(2) implementation of the requirements of this subchapter.

''§ 3546. Federal information security incident center

''(a) IN GENERAL.—The Director shall ensure the operation of a central Federal information security incident center to—

''(1) provide timely technical assistance to operators of agency information systems regarding security incidents, including guidance on detecting and handling information security incidents;

''(2) compile and analyze information about incidents that threaten information security;

''(3) inform operators of agency information systems about current and potential information security threats, and vulnerabilities; and

''(4) consult with the National Institute of Standards and Technology, agencies or offices operating or exercising control of national security systems (including the National Security Agency), and such other agencies or offices in accordance with law and as directed by the President regarding information security incidents and related matters.

''(b) NATIONAL SECURITY SYSTEMS.—Each agency operating or exercising control of a national security system shall share information about information security incidents, threats, and vulnerabilities with the Federal information security incident center to the extent consistent with standards and guidelines for national security systems, issued in accordance with law and as directed by the President.

''§ 3547. National security systems

''The head of each agency operating or exercising control of a national security system shall be responsible for ensuring that the agency—

''(1) provides information security protections commensurate with the risk and magnitude of the harm resulting from the unauthorized access, use, disclosure, disruption, modification, or destruction of the information contained in such system;

''(2) implements information security policies and practices as required by standards and guidelines for national security systems, issued in accordance with law and as directed by the President; and

''(3) complies with the requirements of this subchapter.

''§ 3548. Authorization of appropriations

''There are authorized to be appropriated to carry out the provisions of this subchapter such sums as may be necessary for each of fiscal years 2003 through 2007.

''§ 3549. Effect on existing law

''Nothing in this subchapter, section 11331 of title 40, or section 20 of the National Standards and Technology Act (15 U.S.C. 278g–3) may be construed as affecting the authority of the President, the Office of Management and Budget or the Director thereof, the National Institute of Standards and Technology, or the head of any agency, with respect to the authorized use or disclosure of information, including with regard to the protection of personal privacy under section 552a of title 5, the disclosure of information under section 552 of title 5, the management and disposition of records under chapters 29, 31, or 33 of title 44, the management of information resources under subchapter I of chapter 35 of this title, or the disclosure of information to the Congress or the Comptroller General of the United States. While this subchapter is in effect, subchapter II of this chapter shall not apply.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter 35 is amended by adding at the end the following:

''SUBCHAPTER III—INFORMATION SECURITY

''Sec.
''3541. Purposes.
''3542. Definitions.
''3543. Authority and functions of the Director.
''3544. Federal agency responsibilities.
''3545. Annual independent evaluation.
''3546. Federal information security incident center.
''3547. National security systems.
''3548. Authorization of appropriations.
''3549. Effect on existing law.''.

(c) INFORMATION SECURITY RESPONSIBILITIES OF CERTAIN AGENCIES.—

(1) NATIONAL SECURITY RESPONSIBILITIES.—(A) Nothing in this Act (including any amendment made by this Act) shall supersede any authority of the Secretary of Defense, the Director of Central Intelligence, or other agency head, as authorized by law and as directed by the President, with regard to the operation, control, or management of national security systems, as defined by section 3542(b)(2) of title 44, United States Code.

(B) Section 2224 of title 10, United States Code, is amended—

(i) in subsection (b), by striking ''(b) OBJECTIVES AND MINIMUM REQUIREMENTS.—(1)'' and inserting ''(b) OBJECTIVES OF THE PROGRAM.—'';

(ii) in subsection (b), by striking paragraph (2); and

(iii) in subsection (c), in the matter preceding paragraph (1), by inserting '', including through compliance with subchapter III of chapter 35 of title 44'' after ''infrastructure''.

(2) ATOMIC ENERGY ACT OF 1954.—Nothing in this Act shall supersede any requirement made by or under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.). Restricted data or formerly restricted data shall be handled, protected, classified, downgraded, and declassified in conformity with the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

SEC. 302. MANAGEMENT OF INFORMATION TECHNOLOGY.

(a) IN GENERAL.—Section 11331 of title 40, United States Code, is amended to read as follows:

''§ 11331. Responsibilities for Federal information systems standards

''(a) STANDARDS AND GUIDELINES.—

''(1) AUTHORITY TO PRESCRIBE.—Except as provided under paragraph (2), the Secretary of Commerce shall, on the basis of standards and guidelines developed by the National Institute of Standards and Technology pursuant to paragraphs (2) and (3) of section 20(a) of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3(a)), prescribe standards and guidelines pertaining to Federal information systems.

''(2) NATIONAL SECURITY SYSTEMS.—Standards and guidelines for national security systems (as defined under this section) shall be developed, prescribed, enforced, and overseen as otherwise authorized by law and as directed by the President.

''(b) MANDATORY REQUIREMENTS.—

''(1) AUTHORITY TO MAKE MANDATORY.—Except as provided under paragraph (2), the Secretary shall make standards prescribed under subsection (a)(1) compulsory and binding to the extent determined necessary by the Secretary to improve the efficiency of operation or security of Federal information systems.

''(2) REQUIRED MANDATORY STANDARDS.—(A) Standards prescribed under subsection (a)(1) shall include information security standards that—

''(i) provide minimum information security requirements as determined under section 20(b) of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3(b)); and

''(ii) are otherwise necessary to improve the security of Federal information and information systems.

''(B) Information security standards described in subparagraph (A) shall be compulsory and binding.

''(c) AUTHORITY TO DISAPPROVE OR MODIFY.—The President may disapprove or modify the standards and guidelines referred to in subsection (a)(1) if the President determines such action to be in the public interest. The President's authority to disapprove or modify such standards and guidelines may not be delegated. Notice of such disapproval or modification shall be published promptly in the Federal Register. Upon receiving notice of such disapproval or modification, the Secretary of Commerce shall immediately rescind or modify such standards or guidelines as directed by the President.

''(d) EXERCISE OF AUTHORITY.—To ensure fiscal and policy consistency, the Secretary shall exercise the authority conferred by this section subject to direction by the President and in coordination with the Director of the Office of Management and Budget.

''(e) APPLICATION OF MORE STRINGENT STANDARDS.—The head of an executive agency may employ standards for the cost-effective information security for information systems within or under the supervision of that agency that are more stringent than the standards the Secretary prescribes under this section if the more stringent standards—

''(1) contain at least the applicable standards made compulsory and binding by the Secretary; and

''(2) are otherwise consistent with policies and guidelines issued under section 3543 of title 44.

''(f) DECISIONS ON PROMULGATION OF STANDARDS.—The decision by the Secretary regarding the promulgation of any standard under this section shall occur not later than 6 months after the submission of the proposed standard to the Secretary by the National Institute of Standards and Technology, as provided under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3).

''(g) DEFINITIONS.—In this section:

''(1) FEDERAL INFORMATION SYSTEM.—The term 'Federal information system' means an information system used or operated by an executive agency, by a contractor of an executive agency, or by another organization on behalf of an executive agency.

''(2) INFORMATION SECURITY.—The term 'information security' has the meaning given that term in section 3542(b)(1) of title 44.

''(3) NATIONAL SECURITY SYSTEM.—The term 'national security system' has the meaning given that term in section 3542(b)(2) of title 44.''.

(b) CLERICAL AMENDMENT.—The item relating to section 11331 in the table of sections at the beginning of chapter 113 of such title is amended to read as follows:

''11331. Responsibilities for Federal information systems standards.''.

SEC. 303. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.

Section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3), is amended by striking the text and inserting the following:

''(a) IN GENERAL.—The Institute shall—

''(1) have the mission of developing standards, guidelines, and associated methods and techniques for information systems;

''(2) develop standards and guidelines, including minimum requirements, for information systems used or operated by an agency or by a contractor of an agency or other organization on behalf of an agency, other than national security systems (as defined in section 3542(b)(2) of title 44, United States Code); and

''(3) develop standards and guidelines, including minimum requirements, for providing adequate information security for all agency operations and assets, but such standards and guidelines shall not apply to national security systems.

''(b) MINIMUM REQUIREMENTS FOR STANDARDS AND GUIDELINES.—The standards and guidelines required by subsection (a) shall include, at a minimum—

''(1)(A) standards to be used by all agencies to categorize all information and information systems collected or maintained by or on behalf of each agency based on the objectives of providing appropriate levels of information security according to a range of risk levels;

''(B) guidelines recommending the types of information and information systems to be included in each such category; and

''(C) minimum information security requirements for information and information systems in each such category;

''(2) a definition of and guidelines concerning detection and handling of information security incidents; and

''(3) guidelines developed in conjunction with the Department of Defense, including the National Security Agency, for identifying an information system as a national security system consistent with applicable requirements for national security systems, issued in accordance with law and as directed by the President.

''(c) DEVELOPMENT OF STANDARDS AND GUIDELINES.—In developing standards and guidelines required by subsections (a) and (b), the Institute shall—

''(1) consult with other agencies and offices and the private sector (including the Director of the Office of Management and Budget, the Departments of Defense and Energy, the National Security Agency, the General Accounting Office, and the Secretary of Homeland Security) to assure—

''(A) use of appropriate information security policies, procedures, and techniques, in order to improve information security and avoid unnecessary and costly duplication of effort; and

''(B) that such standards and guidelines are complementary with standards and guidelines employed for the protection of national security systems and information contained in such systems;

''(2) provide the public with an opportunity to comment on proposed standards and guidelines;

''(3) submit to the Secretary of Commerce for promulgation under section 11331 of title 40, United States Code—

''(A) standards, as required under subsection (b)(1)(A), no later than 12 months after the date of the enactment of this section; and

''(B) minimum information security requirements for each category, as required under subsection (b)(1)(C), no later than 36 months after the date of the enactment of this section;

''(4) issue guidelines as required under subsection (b)(1)(B), no later than 18 months after the date of the enactment of this section;

''(5) to the maximum extent practicable, ensure that such standards and guidelines do not require the use or procurement of specific products, including any specific hardware or software;

''(6) to the maximum extent practicable, ensure that such standards and guidelines provide for sufficient flexibility to permit alternative solutions to provide equivalent levels of protection for identified information security risks; and

''(7) to the maximum extent practicable, use flexible, performance-based standards and guidelines that permit the use of off-the-shelf commercially developed information security products.

''(d) INFORMATION SECURITY FUNCTIONS.—The Institute shall—

''(1) submit standards developed pursuant to subsection (a), along with recommendations as to the extent to which these should be made compulsory and binding, to the Secretary of Commerce for promulgation under section 11331 of title 40, United States Code;

''(2) provide technical assistance to agencies, upon request, regarding—

''(A) compliance with the standards and guidelines developed under subsection (a);

''(B) detecting and handling information security incidents; and

''(C) information security policies, procedures, and practices;

''(3) conduct research, as needed, to determine the nature and extent of information security vulnerabilities and techniques for providing cost-effective information security;

''(4) develop and periodically revise performance indicators and measures for agency information security policies and practices;

''(5) evaluate private sector information security policies and practices and commercially available information technologies to assess potential application by agencies to strengthen information security;

''(6) assist the private sector, upon request, in using and applying the results of activities under this section;

''(7) evaluate security policies and practices developed for national security systems to assess potential application by agencies to strengthen information security;

''(8) periodically assess the effectiveness of standards and guidelines developed under this section and undertake revisions as appropriate;

''(9) solicit and consider the recommendations of the Information Security and Privacy Advisory Board, established by section 21, regarding standards and guidelines developed under subsection (a) and submit such recommendations to the Secretary of Commerce with such standards submitted to the Secretary; and

''(10) prepare an annual public report on activities undertaken in the previous year, and planned for the coming year, to carry out responsibilities under this section.

''(e) DEFINITIONS.—As used in this section—

''(1) the term 'agency' has the same meaning as provided in section 3502(1) of title 44, United States Code;

''(2) the term 'information security' has the same meaning as provided in section 3542(b)(1) of such title;

''(3) the term 'information system' has the same meaning as provided in section 3502(8) of such title;

''(4) the term 'information technology' has the same meaning as provided in section 11101 of title 40, United States Code; and

''(5) the term 'national security system' has the same meaning as provided in section 3542(b)(2) of title 44, United States Code.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce $20,000,000 for each of fiscal years 2003, 2004, 2005, 2006, and 2007 to enable the National Institute of Standards and Technology to carry out the provisions of this section.''.

SEC. 304. INFORMATION SECURITY AND PRIVACY ADVISORY BOARD.

Section 21 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–4), is amended—

(1) in subsection (a), by striking ''Computer System Security and Privacy Advisory Board'' and inserting ''Information Security and Privacy Advisory Board'';

(2) in subsection (a)(1), by striking ''computer or telecommunications'' and inserting ''information technology'';

(3) in subsection (a)(2)—

(A) by striking ''computer or telecommunications technology'' and inserting ''information technology''; and

(B) by striking ''computer or telecommunications equipment'' and inserting ''information technology'';

(4) in subsection (a)(3)—

(A) by striking ''computer systems'' and inserting ''information system''; and

(B) by striking ''computer systems security'' and inserting ''information security'';

(5) in subsection (b)(1) by striking ''computer systems security'' and inserting ''information security'';

(6) in subsection (b) by striking paragraph (2) and inserting the following:

''(2) to advise the Institute, the Secretary of Commerce, and the Director of the Office of Management and Budget on information security and privacy issues pertaining to Federal Government information systems, including through review of proposed standards and guidelines developed under section 20; and'';

(7) in subsection (b)(3) by inserting ''annually'' after ''report'';

(8) by inserting after subsection (e) the following new subsection:

''(f) The Board shall hold meetings at such locations and at such time and place as determined by a majority of the Board.'';

(9) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(10) by striking subsection (h), as redesignated by paragraph (9), and inserting the following:

''(h) As used in this section, the terms 'information system' and 'information technology' have the meanings given in section 20.''.

SEC. 305. TECHNICAL AND CONFORMING AMENDMENTS.

(a) COMPUTER SECURITY ACT.—Section 11332 of title 40, United States Code, and the item relating to that section in the table of sections for chapter 113 of such title, are repealed.

(b) FLOYD D. SPENCE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2001.—The Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398) is amended by striking section 1062 (44 U.S.C. 3531 note).

(c) PAPERWORK REDUCTION ACT.—(1) Section 3504(g) of title 44, United States Code, is amended—

(A) by adding ''and'' at the end of paragraph (1);

(B) in paragraph (2)—

(i) by striking ''sections 11331 and 11332(b) and (c) of title 40'' and inserting ''section 11331 of title 40 and subchapter II of this chapter''; and

(ii) by striking ''; and'' and inserting a period; and

(C) by striking paragraph (3).

(2) Section 3505 of such title is amended by adding at the end—

''(c) INVENTORY OF MAJOR INFORMATION SYSTEMS.—(1) The head of each agency shall develop and maintain an inventory of major information systems (including major national security systems) operated by or under the control of such agency.

''(2) The identification of information systems in an inventory under this subsection shall include an identification of the interfaces between each such system and all other systems or networks, including those not operated by or under the control of the agency.

''(3) Such inventory shall be—

''(A) updated at least annually;

''(B) made available to the Comptroller General; and

''(C) used to support information resources management, including—

''(i) preparation and maintenance of the inventory of information resources under section 3506(b)(4);

''(ii) information technology planning, budgeting, acquisition, and management under section 3506(h), subtitle III of title 40, and related laws and guidance;

''(iii) monitoring, testing, and evaluation of information security controls under subchapter II;

''(iv) preparation of the index of major information systems required under section 552(g) of title 5, United States Code; and

''(v) preparation of information system inventories required for records management under chapters 21, 29, 31, and 33.

''(4) The Director shall issue guidance for and oversee the implementation of the requirements of this subsection.''.

(3) Section 3506(g) of such title is amended—

(A) by adding ''and'' at the end of paragraph (1);

(B) in paragraph (2)—

(i) by striking ''section 11332 of title 40'' and inserting ''subchapter II of this chapter''; and

(ii) by striking ''; and'' and inserting a period; and

(C) by striking paragraph (3).

TITLE IV—AUTHORIZATION OF APPROPRIATIONS AND EFFECTIVE DATES

SEC. 401. AUTHORIZATION OF APPROPRIATIONS.

Except for those purposes for which an authorization of appropriations is specifically provided in title I or II, including the amendments made by such titles, there are authorized to be appropriated such sums as are necessary to carry out titles I and II for each of fiscal years 2003 through 2007.

SEC. 402. EFFECTIVE DATES.

(a) TITLES I AND II.—

(1) IN GENERAL.—Except as provided under paragraph (2), titles I and II and the amendments made by such titles shall take effect 120 days after the date of enactment of this Act.

(2) IMMEDIATE ENACTMENT.—Sections 207, 214, and 215 shall take effect on the date of enactment of this Act.

(b) TITLES III AND IV.—Title III and this title shall take effect on the date of enactment of this Act.

TITLE V—CONFIDENTIAL INFORMATION PROTECTION AND STATISTICAL EFFICIENCY

SEC. 501. SHORT TITLE.

This title may be cited as the ''Confidential Information Protection and Statistical Efficiency Act of 2002''.

SEC. 502. DEFINITIONS.

As used in this title:

(1) The term ''agency'' means any entity that falls within the definition of the term ''executive agency'' as defined in section 102 of title 31, United States Code, or ''agency'', as defined in section 3502 of title 44, United States Code.

(2) The term ''agent'' means an individual—

(A)(i) who is an employee of a private organization or a researcher affiliated with an institution of higher learning (including a person granted special sworn status by the Bureau of the Census under section 23(c) of title 13, United States Code), and with whom a contract or other agreement is executed, on a temporary basis, by an executive agency to perform exclusively statistical activities under the control and supervision of an officer or employee of that agency;

(ii) who is working under the authority of a government entity with which a contract or other agreement is executed by an executive agency to perform exclusively statistical activities under the control of an officer or employee of that agency;

(iii) who is a self-employed researcher, a consultant, a contractor, or an employee of a contractor, and with whom a contract or other agreement is executed by an executive agency to perform a statistical activity under the control of an officer or employee of that agency; or

(iv) who is a contractor or an employee of a contractor, and who is engaged by the agency to design or maintain the systems for handling or storage of data received under this title; and

(B) who agrees in writing to comply with all provisions of law that affect information acquired by that agency.

(3) The term ''business data'' means operating and financial data and information about businesses, tax-exempt organizations, and government entities.

(4) The term ''identifiable form'' means any representation of information that permits the identity of the respondent to whom the information applies to be reasonably inferred by either direct or indirect means.

(5) The term ''nonstatistical purpose''—

(A) means the use of data in identifiable form for any purpose that is not a statistical purpose, including any administrative, regulatory, law enforcement, adjudicatory, or other purpose that affects the rights, privileges, or benefits of a particular identifiable respondent; and

(B) includes the disclosure under section 552 of title 5, United States Code (popularly known as the Freedom of Information Act) of data that are acquired for exclusively statistical purposes under a pledge of confidentiality.

(6) The term ''respondent'' means a person who, or organization that, is requested or required to supply information to an agency, is the subject of information requested or required to be supplied to an agency, or provides that information to an agency.

(7) The term ''statistical activities''—

(A) means the collection, compilation, processing, or analysis of data for the purpose of describing or making estimates concerning the whole, or relevant groups or components within, the economy, society, or the natural environment; and

(B) includes the development of methods or resources that support those activities, such as measurement methods, models, statistical classifications, or sampling frames.

(8) The term ''statistical agency or unit'' means an agency or organizational unit of the executive branch whose activities are predominantly the collection, compilation, processing, or analysis of information for statistical purposes.

(9) The term ''statistical purpose''—

(A) means the description, estimation, or analysis of the characteristics of groups, without identifying the individuals or organizations that comprise such groups; and

(B) includes the development, implementation, or maintenance of methods, technical or administrative procedures, or information resources that support the purposes described in subparagraph (A).

SEC. 503. COORDINATION AND OVERSIGHT OF POLICIES.

(a) IN GENERAL.—The Director of the Office of Management and Budget shall coordinate and oversee the confidentiality and disclosure policies established by this title. The Director may promulgate rules or provide other guidance to ensure consistent interpretation of this title by the affected agencies.

(b) AGENCY RULES.—Subject to subsection (c), agencies may promulgate rules to implement this title. Rules governing disclosures of information that are authorized by this title shall be promulgated by the agency that originally collected the information.

(c) REVIEW AND APPROVAL OF RULES.—The Director shall review any rules proposed by an agency pursuant to this title for consistency with the provisions of this title and chapter 35 of title 44, United States Code, and such rules shall be subject to the approval of the Director.

(d) REPORTS.—

(1) The head of each agency shall provide to the Director of the Office of Management and Budget such reports and other information as the Director requests.

(2) Each Designated Statistical Agency referred to in section 522 shall report annually to the Director of the Office of Management and Budget, the Committee on Government Reform of the House of Representatives, and the Committee on Governmental Affairs of the Senate on the actions it has taken to implement sections 523 and 524. The report shall include copies of each written agreement entered into pursuant to section 524(a) for the applicable year.

(3) The Director of the Office of Management and Budget shall include a summary of reports submitted to the Director under paragraph (2) and actions taken by the Director to advance the purposes of this title in the annual report to the Congress on statistical programs prepared under section 3504(e)(2) of title 44, United States Code.

SEC. 504. EFFECT ON OTHER LAWS.

(a) TITLE 44, UNITED STATES CODE.—This title, including amendments made by this title, does not diminish the authority under section 3510 of title 44, United States Code, of the Director of the Office of Management and Budget to direct, and of an agency to make, disclosures that are not inconsistent with any applicable law.

(b) TITLE 13 AND TITLE 44, UNITED STATES CODE.—This title, including amendments made by this title, does not diminish the authority of the Bureau of the Census to provide information in accordance with sections 8, 16, 301, and 401 of title 13, United States Code, and section 2108 of title 44, United States Code.

(c) TITLE 13, UNITED STATES CODE.—This title, including amendments made by this title, shall not be construed as authorizing the disclosure for nonstatistical purposes of demographic data or information collected by the Census Bureau pursuant to section 9 of title 13, United States Code.

(d) VARIOUS ENERGY STATUTES.—Data or information acquired by the Energy Information Administration under a pledge of confidentiality and designated by the Energy Information Administration to be used for exclusively statistical purposes shall not be disclosed in identifiable form for nonstatistical purposes under—

(1) section 12, 20, or 59 of the Federal Energy Administration Act of 1974 (15 U.S.C. 771, 779, 790h);

(2) section 11 of the Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 796); or

(3) section 205 or 407 of the Department of the Energy Organization Act of 1977 (42 U.S.C. 7135, 7177).

(e) SECTION 201 OF CONGRESSIONAL BUDGET ACT OF 1974.—This title, including amendments made by this title, shall not be construed to limit any authorities of the Congressional Budget Office to work (consistent with laws governing the confidentiality of information the disclosure of which would be a violation of law) with databases of Designated Statistical Agencies (as defined in section 522), either separately or, for data that may be shared pursuant to section 524 of this title or other authority, jointly in order to improve the general utility of these databases for the statistical purpose of analyzing pension and health care financing issues.

(f) PREEMPTION OF STATE LAW.—Nothing in this title shall preempt applicable State law regarding the confidentiality of data collected by the States.

(g) STATUTES REGARDING FALSE STATEMENTS.—Notwithstanding section 512, information collected by an agency for exclusively statistical purposes under a pledge of confidentiality may be provided by the collecting agency to a law enforcement agency for the prosecution of submissions to the collecting agency of false statistical information under statutes that authorize criminal penalties (such as section 221 of title 13, United States Code) or civil penalties for the provision of false statistical information, unless such disclosure or use would otherwise be prohibited under Federal law.

(h) CONSTRUCTION.—Nothing in this title shall be construed as restricting or diminishing any confidentiality protections or penalties for unauthorized disclosure that otherwise apply to data or information collected for statistical purposes or nonstatistical purposes, including, but not limited to, section 6103 of the Internal Revenue Code of 1986 (26 U.S.C. 6103).

(i) AUTHORITY OF CONGRESS.—Nothing in this title shall be construed to affect the authority of the Congress, including its committees, members, or agents, to obtain data or information for a statistical purpose, including for oversight of an agency's statistical activities.

Subtitle A—Confidential Information Protection

SEC. 511. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds the following:

(1) Individuals, businesses, and other organizations have varying degrees of legal protection when providing information to the agencies for strictly statistical purposes.

(2) Pledges of confidentiality by agencies provide assurances to the public that information about individuals or organizations or provided by individuals or organizations for exclusively statistical purposes will be held in confidence and will not be used against such individuals or organizations in any agency action.

(3) Protecting the confidentiality interests of individuals or organizations who provide information under a pledge of confidentiality for Federal statistical programs serves both the interests of the public and the needs of society.

(4) Declining trust of the public in the protection of information provided under a pledge of confidentiality to the agencies adversely affects both the accuracy and completeness of statistical analyses.

(5) Ensuring that information provided under a pledge of confidentiality for statistical purposes receives protection is essential in continuing public cooperation in statistical programs.

(b) PURPOSES.—The purposes of this subtitle are the following:

(1) To ensure that information supplied by individuals or organizations to an agency for statistical purposes under a pledge of confidentiality is used exclusively for statistical purposes.

(2) To ensure that individuals or organizations who supply information under a pledge of confidentiality to agencies for statistical purposes will neither have that information disclosed in identifiable form to anyone not authorized by this title nor have that information used for any purpose other than a statistical purpose.

(3) To safeguard the confidentiality of individually identifiable information acquired under a pledge of confidentiality for statistical purposes by controlling access to, and uses made of, such information.

SEC. 512. LIMITATIONS ON USE AND DISCLOSURE OF DATA AND INFORMATION.

(a) USE OF STATISTICAL DATA OR INFORMATION.—Data or information acquired by an agency under a pledge of confidentiality and for exclusively statistical purposes shall be used by officers, employees, or agents of the agency exclusively for statistical purposes.

(b) DISCLOSURE OF STATISTICAL DATA OR INFORMATION.—

(1) Data or information acquired by an agency under a pledge of confidentiality for exclusively statistical purposes shall not be disclosed by an agency in identifiable form, for any use other than an exclusively statistical purpose, except with the informed consent of the respondent.

(2) A disclosure pursuant to paragraph (1) is authorized only when the head of the agency approves such disclosure and the disclosure is not prohibited by any other law.

(3) This section does not restrict or diminish any confidentiality protections in law that otherwise apply to data or information acquired by an agency under a pledge of confidentiality for exclusively statistical purposes.

(c) RULE FOR USE OF DATA OR INFORMATION FOR NONSTATISTICAL PURPOSES.—A statistical agency or unit shall clearly distinguish any data or information it collects for nonstatistical purposes (as authorized by law) and provide notice to the public, before the data or information is collected, that the data or information could be used for nonstatistical purposes.

(d) DESIGNATION OF AGENTS.—A statistical agency or unit may designate agents, by contract or by entering into a special agreement containing the provisions required under section 502(2) for treatment as an agent under that section, who may perform exclusively statistical activities, subject to the limitations and penalties described in this title.

SEC. 513. FINES AND PENALTIES.

Whoever, being an officer, employee, or agent of an agency acquiring information for exclusively statistical purposes, having taken and subscribed the oath of office, or having sworn to observe the limitations imposed by section 512, comes into possession of such information by reason of his or her being an officer, employee, or agent and, knowing that the disclosure of the specific information is prohibited under the provisions of this title, willfully discloses the information in any manner to a person or agency not entitled to receive it, shall be guilty of a class E felony and imprisoned for not more than 5 years, or fined not more than $250,000, or both.

Subtitle B—Statistical Efficiency

SEC. 521. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds the following:

(1) Federal statistics are an important source of information for public and private decision-makers such as policymakers, consumers, businesses, investors, and workers.

(2) Federal statistical agencies should continuously seek to improve their efficiency. Statutory constraints limit the ability of these agencies to share data and thus to achieve higher efficiency for Federal statistical programs.

(3) The quality of Federal statistics depends on the willingness of businesses to respond to statistical surveys. Reducing reporting burdens will increase response rates, and therefore lead to more accurate characterizations of the economy.

(4) Enhanced sharing of business data among the Bureau of the Census, the Bureau of Economic Analysis, and the Bureau of Labor Statistics for exclusively statistical purposes will improve their ability to track more accurately the large and rapidly changing nature of United States business. In particular, the statistical agencies will be able to better ensure that businesses are consistently classified in appropriate industries, resolve data anomalies, produce statistical samples that are consistently adjusted for the entry and exit of new businesses in a timely manner, and correct faulty reporting errors quickly and efficiently.

(5) The Congress enacted the International Investment and Trade in Services Act of 1990 that allowed the Bureau of the Census, the Bureau of Economic Analysis, and the Bureau of Labor Statistics to share data on foreign-owned companies. The Act not only expanded detailed industry coverage from 135 industries to over 800 industries with no increase in the data collected from respondents but also demonstrated how data sharing can result in the creation of valuable data products.

(6) With subtitle A of this title, the sharing of business data among the Bureau of the Census, the Bureau of Economic Analysis, and the Bureau of Labor Statistics continues to ensure the highest level of confidentiality for respondents to statistical surveys.

(b) PURPOSES.—The purposes of this subtitle are the following:

(1) To authorize the sharing of business data among the Bureau of the Census, the Bureau of Economic Analysis, and the Bureau of Labor Statistics for exclusively statistical purposes.

(2) To reduce the paperwork burdens imposed on businesses that provide requested information to the Federal Government.

(3) To improve the comparability and accuracy of Federal economic statistics by allowing the Bureau of the Census, the Bureau of Economic Analysis, and the Bureau of Labor Statistics to update sample frames, develop consistent classifications of establishments and companies into industries, improve coverage, and reconcile significant differences in data produced by the three agencies.

(4) To increase understanding of the United States economy, especially for key industry

and regional statistics, to develop more accurate measures of the impact of technology on productivity growth, and to enhance the reliability of the Nation's most important economic indicators, such as the National Income and Product Accounts.

SEC. 522. DESIGNATION OF STATISTICAL AGENCIES.

For purposes of this subtitle, the term ''Designated Statistical Agency'' means each of the following:

(1) The Bureau of the Census of the Department of Commerce.

(2) The Bureau of Economic Analysis of the Department of Commerce.

(3) The Bureau of Labor Statistics of the Department of Labor.

SEC. 523. RESPONSIBILITIES OF DESIGNATED STATISTICAL AGENCIES.

The head of each of the Designated Statistical Agencies shall—

(1) identify opportunities to eliminate duplication and otherwise reduce reporting burden and cost imposed on the public in providing information for statistical purposes;

(2) enter into joint statistical projects to improve the quality and reduce the cost of statistical programs; and

(3) protect the confidentiality of individually identifiable information acquired for statistical purposes by adhering to safeguard principles, including—

(A) emphasizing to their officers, employees, and agents the importance of protecting the confidentiality of information in cases where the identity of individual respondents can reasonably be inferred by either direct or indirect means;

(B) training their officers, employees, and agents in their legal obligations to protect the confidentiality of individually identifiable information and in the procedures that must be followed to provide access to such information;

(C) implementing appropriate measures to assure the physical and electronic security of confidential data;

(D) establishing a system of records that identifies individuals accessing confidential data and the project for which the data were required; and

(E) being prepared to document their compliance with safeguard principles to other agencies authorized by law to monitor such compliance.

SEC. 524. SHARING OF BUSINESS DATA AMONG DESIGNATED STATISTICAL AGENCIES.

(a) IN GENERAL.—A Designated Statistical Agency may provide business data in an identifiable form to another Designated Statistical Agency under the terms of a written agreement among the agencies sharing the business data that specifies—

(1) the business data to be shared;

(2) the statistical purposes for which the business data are to be used;

(3) the officers, employees, and agents authorized to examine the business data to be shared; and

(4) appropriate security procedures to safeguard the confidentiality of the business data.

(b) RESPONSIBILITIES OF AGENCIES UNDER OTHER LAWS.—The provision of business data by an agency to a Designated Statistical Agency under this subtitle shall in no way alter the responsibility of the agency providing the data under other statutes (including section 552 of title 5, United States Code (popularly known as the Freedom of Information Act), and section 552b of title 5, United States Code (popularly known as the Privacy Act of 1974)) with respect to the provision or withholding of such information by the agency providing the data.

(c) RESPONSIBILITIES OF OFFICERS, EMPLOYEES, AND AGENTS.—Examination of business data in identifiable form shall be limited to the officers, employees, and agents authorized to examine the individual reports in accordance with written agreements pursuant to this section. Officers, employees, and agents of a Designated Statistical Agency who receive data pursuant to this subtitle shall be subject to all provisions of law, including penalties, that relate—

(1) to the unlawful provision of the business data that would apply to the officers, employees, and agents of the agency that originally obtained the information; and

(2) to the unlawful disclosure of the business data that would apply to officers, employees, and agents of the agency that originally obtained the information.

(d) NOTICE.—Whenever a written agreement concerns data that respondents were required by law to report and the respondents were not informed that the data could be shared among the Designated Statistical Agencies, for exclusively statistical purposes, the terms of such agreement shall be described in a public notice issued by the agency that intends to provide the data. Such notice shall allow a minimum of 60 days for public comment.

SEC. 525. LIMITATIONS ON USE OF BUSINESS DATA PROVIDED BY DESIGNATED STATISTICAL AGENCIES.

(a) USE, GENERALLY.—Business data provided by a Designated Statistical Agency pursuant to this subtitle shall be used exclusively for statistical purposes.

(b) PUBLICATION.—Publication of business data acquired by a Designated Statistical Agency shall occur in a manner whereby the data furnished by any particular respondent are not in identifiable form.

SEC. 526. CONFORMING AMENDMENTS.

(a) DEPARTMENT OF COMMERCE.—Section 1 of the Act of January 27, 1938 (15 U.S.C. 176a) is amended by striking ''The'' and inserting ''Except as provided in the Confidential Information Protection and Statistical Efficiency Act of 2002, the''.

(b) TITLE 13.—Chapter 10 of title 13, United States Code, is amended—

(1) by adding after section 401 the following:

''§ 402. Providing business data to Designated Statistical Agencies

''The Bureau of the Census may provide business data to the Bureau of Economic Analysis and the Bureau of Labor Statistics ('Designated Statistical Agencies') if such information is required for an authorized statistical purpose and the provision is the subject of a written agreement with that Designated Statistical Agency, or their successors, as defined in the Confidential Information Protection and Statistical Efficiency Act of 2002.''; and

(2) in the table of sections for the chapter by adding after the item relating to section 401 the following:

''402. Providing business data to Designated Statistical Agencies.''.

Mr. SAWYER. Mr. Speaker, I rise in support of this bill. I am pleased that H.R. 2458 includes title 5 of the bill to improve the government's statistical capabilities. As the lead Democratic sponsor of this section, I would like to thank the gentleman from California (Mr. HORN) for the opportunity to work with him on this legislation and for his leadership on this issue. This measure has been years in the making. It builds on the gentleman from California's approach to provide limited data sharing among agencies as well as my bill to strengthen the confidentiality of government statistics. My remarks focus on the new confidentiality provisions contained in the bill.

The confidentiality measures create a uniform set of protections for statistical information that would replace the current patchwork of rules and extent these protections to all individually identifiable data collected for statistical purposes. This will encourage greater public cooperation with government surveys and improve the quality of federal statistics.

In too many instances, existing law does not ensure that personal information collected with remain confidential. More than 70 federal agencies or statistical units collect such data but only 12 are covered by government regulations to protect personal identifiable information from disclosure, and only a handful of those have the stronger protection of law. Some of these uncovered units collected information on highly sensitive topics such as substance abuse and mental health. Such sensitive data deserves the most stringent of protections from disclosure. While agency policy may have once been enough in the past, real public trust requires that information be shielded by the force of law.

Statutory protection under this legislation would prevent any regulatory or law enforcement misuse of these data. This recommendation was first made under the Privacy Act of 1974. However, that Act has several loopholes that allow for disclosure of personally identifiable information without the informed consent of those who supplied the information. These are twelve categories of such exemptions and the Act fails to distinguish between data collected for research purposes and data collected for administrative purposes, offering minimal protection from improper disclosure.

The commission recommended that no record or information collected for statistical purpose be used in identifiable form to make any decision or take any action directly affecting the person to whom the record pertains. H.R. 5215 embodies the commission's recommendation.

Improvements that this bill would make in our nation's statistical programs are long overdue. The measures are needed not only to protect the public but also to ensure the public's continued cooperation and participation in essential government research. Informed public policy relies on it. I am pleased that this measure has the support of the House and urge the Senate to pass this legislation before adjourning for the year.

Mr. TOM DAVIS of Virginia. Mr. Speaker, as the federal government has increased its use of the Internet and other information technologies to conduct its business, the need for a comprehensive approach to the management Electronic Government initiatives has become evident. Therefore, Congressman JIM TURNER, the Ranking Member of the Government Reform Subcommittee on Technology and Procurement Policy, introduced H.R. 2458, the Electronic Government Act of 2002. H.R. 2458 is a bipartisan bill to enhance the management and promotion of electronic government services and processes and to increase the electronic availability of information to the public. I worked closely with Congressman TURNER to develop this bill. H.R. 2458 was reported favorably by the Committee on Government Reform with a unanimous vote. With agreed upon changes reflected in the text before the House today, the bill is supported by the Science and Armed Services Committees, as well as by the leadership of the Senate Governmental Affairs Committee.

Following action by the House, the legislation is expected to be taken up by the Senate and acted on in its present form.

The bill contains five titles, covering a broad array of government information management issues.

Title I would strengthen government-wide approaches to improving the use of information technology for service delivery and governmental efficiency and effectiveness by establishing an Office of Electronic Government in the Office of Management and Budget (OMB), a statutory interagency Chief Information Officers (CIO) Council, a program to promote contractor innovation and excellence in E-Gov services and processes, and an interagency E-Gov Fund to provide funding for innovative E-Gov initiatives.

Title II would mandate a number of specific initiatives to enhance Federal E-Gov capabilities. Among its provisions are requirements to support broader use of electronic signatures, a develop a Federal Internet portal, improve public access to public information in Federal agencies and the courts, strengthen privacy protections, improve Federal workforce information technology skills, and make greater use of share-in-savings contracts.

Title III, ''Federal Information Security Management Act of 2002'' (FISMA), would permanently authorize a government-wide risk-based approach to information security and otherwise strengthen Government Information Security Reform (GISRA) provisions of the FY 2001 Defense Authorization Act.

Title IV would provide authorization of appropriations for the legislation and effective dates for its provisions.

Title V would reduce paperwork burdens and improve privacy protections by establishing new procedures for statistical data sharing among key statistical agencies.

Following favorable action on the bill by the Committee on Government Reform, the managers renewed discussions with the Administration, including OMB, the Department of Defense, and the Department of Commerce, and the Committees on Science and Armed Services, and the Senate Committee on Government Affairs. The resulting agreement involved making a number of revisions to the reported bill. The changes are described below.

Section 205 of H.R. 2458 is revised at the request of the Administration to ensure that on-line access to Federal court records not compromise legitimate privacy and security concerns. The revised language would require the judiciary to develop rules to clearly set forth litigant rights and obligations, as well as court responsibilities with regards to the treatment of privacy and security issues associated with court records.

Section 209 is revised with the addition of subsection (b) to require the Director of OPM, in consultation with the Director of OMB, the CIO Council, and the Administration of GSA, to analyze, identify, assess, and oversee the government-wide development of information technology and information resource management training curricula and methods. Agency heads will use these curricula and methods to establish training programs that meet their needs for information technology and information resource management while designing the training to maximize efficiency and economy.

Section 210 authorizing the government-wide use of share-in savings contracts for information technology has been amended to sunset in September 2005, rather than in 2009. The provision has also been amended to prohibit the agency letting the contract to retain any savings attributable to a decrease in the number of employees performing the function and to prohibit the inclusion in savings of enhanced revenues from the collection of fees, taxes, debts, claims, or other amounts collected by the government. The requirement that the General Accounting Office (GAO) review the Office of Management and Budget report to Congress on the use by the agencies of the share-in-savings authority has been expanded to include an independent assessment by the GAO of the effectiveness of share-in-savings contracts and of whether the authority should be continued. Finally the section now provides for the repeal of the current share-in-savings pilot authority in 40 U.S.C. 11521.

Section 213(b) requires a study to evaluate the best practices of community technology centers that receive federal funds. 213(b)(1) is amended to clarify that OMB must ensure that such a study is conducted.

Likewise, Section 214(b)(1) is amended to clarify that OMB must ensure a study is conducted on the use of information technology to enhance crisis management.

A new section 216 is added to Title II that calls for the development of protocols for geographic information systems so that industry and government can develop innovative multilayered maps and analyses using the government's massive amount of geographic data. This section is not intended to inappropriately move activity into the government that is best left to the private sector. Furthermore, nothing in this provision is intended to encourage the development of technical standards that would require the procurement of specific hardware or software.

A new subsection (c) is added to § 3533 in section 301 of the bill. This subsection delegates to the Secretary of the Defense and the Director of Central Intelligence OMB authority under § 3533(a)(1) for developing and overseeing the implementation of information security policies, and under § 3533(a)(2) for providing risk-based information security protections, for DOD and CIA systems that process information whose unauthorized access, use, disclosure, disruption, modification, or destruction would have a debilitating impact on the missions of the agencies. This revision was requested by the Administration and the Armed Services Committee.

§ 3536(a)(4) in section 301 of the bill is modified to require that the Federal information security incident center described under this section is to keep the National Institute of Standards and Technology (NIST), as well as other appropriate agencies, informed about information security incidents and related matters.

Section 303 of the legislation as reported by the Committee on Government Reform would amend 40 U.S.C. 11331 to transfer to OMB the authority to promulgate information security standards, which is currently a responsibility of the Secretary of Commerce. After much discussion about the practical consequences of such a transfer, it was agreed to retain the current law's structure while strengthening it in a number of instances. First, FISMA's revision of 40 U.S.C. 11331, at sec. 303, is modified to maintain standards promulgation by the Secretary of Commerce, largely as currently provided in law. § 11331 is revised, however, to continue FISMA provisions for minimum mandatory security standards, a time limit on promulgation of the standards, and the elimination of waiver authority. Second, FISMA's § 3533(a), in sec. 301, is revised accordingly to strike references to OMB promulgation of the NIST-developed standards. In place of that mandate, OMB would be required, at § 3533(a)(1), to use its oversight authority to ensure agency use of such standards, and at § 3533(a)(8), to include an assessment of the standards in its annual report to Congress. Third, to harmonize other references in the legislation to standards promulgation, a number of provisions in Titles I and II are also revised purely for the sake of consistency: i.e., in § 3602(f)(8) in sec. 101, in sec. 202(a)(2), in sec. 202(f)(2), in sec. 207(d)(2)(iii), in § 3534(a)(1)(B)(i) in sec. 301, in § 20(c)(3), (e)(1), and (e)(8) in sec. 303, and in sec. 304(6). Finally, sec. 306 is stricken because given the transfer back to Commerce of all standards promulgation, there is no need to address the division in authority between OMB (security standards) and Commerce (system standards).

Section 303's amendments to section 20 of the NIST Act, 15 U.S.C. 278g–3, are modified in several respects. First, NIST guidance concerning the identification of national security systems, at subsection (b)(3), is to be developed in conjunction with the Department of Defense, including the National Security Agency. Second, as requested by the Administration and the Science Committee, subsections (c)(5), (6), and (7) are modified to be ''to the maximum extent practicable.'' These changes are intended to preserve the policy of reliance on flexible, performance-based, technology-neutral requirements, while recognizing that there likely will be times where needs such as interoperability or the reality of market predominance will require guidance that addresses specific technologies or products. Third, as requested by the Science Committee, the bill drops subsection (d), which would have established a NIST Office for Information Security Programs. Finally, also at the request of the Science Committee, subsection (e) is revised consistent with current law to provide for NIST technical assistance to agencies, at (e)(2), and to authorize NIST to help the private sector, upon request, with NIST guidance and other assistance, at (e)(6).

Title V of this bill is based on H.R. 5215, the Confidential Information Protection and Statistical Efficiency Act of 2002, introduced by Congressman STEPHEN HORN, Chairman of the Government Reform Subcommittee on Government Efficiency, Financial Management and Intergovernmental Relations. Chairman HORN and Ranking Member JANICE D. SCHAKOWSKY have worked tirelessly with the Administration to finalize these provisions. This section creates the opportunity for three federal statistical agencies to reduce reporting burdens on businesses while simultaneously making the process of developing economic statistics more efficient. This title provides the statutory changes necessary to allow the Bureau of Economic Analysis, the Bureau of Labor Statistics, and the U.S. Census Bureau to enter into negotiated agreements to share confidential business information. The magnitude of the gains in efficiency and burden reduction will turn on the willingness of these agencies to move swiftly to capitalize on the opportunities presented by these changes.

Title V also include language introduced in this Congress by Representatives SAWYER and WAXMAN, which provides strong protection from disclosure for information provided to the government by individuals and businesses. A new provision added to Title V provides a resolution to a longstanding problem of information exchange between the Congressional Budget Office and statistical agencies by making it clear that Congressional intent is for CBO, in fulfilling its statistical service to the Congress, to have access to the necessary information held by statistical agencies in the executive branch.

Finally, a number of technical corrections are made: At § 3532(b)(2)(A) in sec. 101 to correct a paragraph indentation; and at § 3533(a)(8)(D) in sec. 101 to correct a subsection cross-reference.

With these changes, the managers of H.R. 2458 are able to state that the legislation before the House of Representatives today reflects agreement across the aisle, among key members and committees in both houses of Congress, and with the executive branch. I urge passage of this bill.

Mr. TURNER. Mr. Speaker, I want to thank Chairman DAVIS for the bipartisan manner in which we have worked to address the issues in H.R. 2458, the E-Government Act of 2002, as amendment. In addition to incorporating many of the changes agreed to by the Senate and Administration, we have been able to address concerns that I and others had with this legislation since the bill has been marked up by the Government Reform Committee. I thank Chairman DAVIS and BURTON, as well as Representative HENRY WAXMAN, ranking member of the Government Reform Committee, for working constructively with me on those issues. I believe all of us hope that this bill will become law before the end of the 107th Congress.

The information technology revolution of the last decade has had a profound impact on almost all aspects of our economy and government. Providing a statutory basis for applying some of the impacts of that revolution to the federal government is a complicated, but necessary, step. The Subcommittee on Technology and Procurement Policy has held numerous hearings on the issues H.R. 2458 addresses, and I want to commend Chairman DAVIS for his attention to this topic.

When it comes to information technology, effective use of the internet, and other cutting edge information resources, the federal government is playing catch-up with the private sector, which seems to have been able to integrate the new technology into its day-to-day operations more rapidly and effectively than the federal government. And while we have played catch-up, we're losing money through inefficiency, and we're wasting the time of millions of citizens, who deserve the modern effective government information technology can help us achieve. This bill will go some way toward improving the federal government's use of information technology.

That is why I, along with Senator LIEBERMAN, introduced the E-Government Act, to help us move toward that goal by improving leadership and funding, as well as addressing other critical issues like privacy, training, and accessibility. I believe the measure holds great promise for improving government and its relationship to American citizens.

The measure before us also incorporates other legislation which has bipartisan support, including bill Chairman DAVIS authored, H.R. 3844, the Federal Information Security Management Act, and H.R. 5215, the Confidential Information Protection and Statistical Efficiency Act, introduced by Chairman HORN. These are all important measures and I urge my colleagues to support them.

DISCHARGED FROM COMMITTEE ON GOVERNMENT REFORM, AMENDED, AND AGREED TO

H. Con. Res. 466, recognizing the significance of bread in American history, culture, and daily diet.

H. CON. RES. 466

Whereas bread is a gift of friendship in the United States;

Whereas bread is used as a symbol of unity for families and friends;

Whereas the expression ''breaking bread together'' means sharing friendship, peace, and goodwill, and the actual breaking of bread together can help restore a sense of normalcy and encourage a sense of community;

Whereas bread, the staff of life, not only nourishes the body but symbolizes nourishment for the human spirit;

Whereas bread is used in many cultures to commemorate milestones such as births, weddings, and deaths;

Whereas bread is the most consumed of grain foods, is recognized by the United States Department of Agriculture as part of the most important food group, and plays a vital role in American diets;

Whereas Americans consume an average of 60 pounds of bread annually;

Whereas bread has been a staple of American diets for hundreds of years;

Whereas Americans are demonstrating a new interest in artisan and home-style types of breads, increasingly found in cafes, bakeries, restaurants, and homes across the country;

Whereas bread sustained the Pilgrims during their long ocean voyage to America and was used to celebrate their first harvest in the American wilderness; and

Whereas bread remains an important part of the family meal when Americans celebrate Thanksgiving, and the designation of November 2002 as National Bread Month would recognize the significance of bread in American history, culture, and daily diet: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress supports the goals of National Bread Month and encourages the President to issue a proclamation calling on the people of the United States to observe such month with appropriate ceremonies and activities.

TAKEN FROM THE SPEAKER'S TABLE AND CONCURRED IN SENATE AMENDMENT

H.R. 2621, to amend title 18, United States Code, with respect to consumer product protection.

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Product Packaging Protection Act of 2002''.

SEC. 2. TAMPERING WITH CONSUMER PRODUCTS.

Section 1365 of title 18, United States Code, is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(2) by inserting after subsection (e) the following:

''(f)(1) Whoever, without the consent of the manufacturer, retailer, or distributor, intentionally tampers with a consumer product that is sold in interstate or foreign commerce by knowingly placing or inserting any writing in the consumer product, or in the container for the consumer product, before the sale of the consumer product to any consumer shall be fined under this title, imprisoned not more than 1 year, or both.

''(2) Notwithstanding the provisions of paragraph (1), if any person commits a violation of this subsection after a prior conviction under this section becomes final, such person shall be fined under this title, imprisoned for not more than 3 years, or both.

''(3) In this subsection, the term 'writing' means any form of representation or communication, including hand-bills, notices, or advertising, that contain letters, words, or pictorial representations.''.

TAKEN FROM THE SPEAKER'S TABLE AND CONCURRED IN SENATE AMENDMENT

H.R. 3609, to amend title 49, United States Code, to enhance the security and safety of pipelines.

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; AMENDMENT OF TITLE 49, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the ''Pipeline Safety Improvement Act of 2002''.

(b) AMENDMENT OF TITLE 49, UNITED STATES CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 2. ONE-CALL NOTIFICATION PROGRAMS.

(a) MINIMUM STANDARDS.—Section 6103 is amended—

(1) in subsection (a)—

(A) in paragraph (1) by inserting '', including all government operators'' before the semicolon at the end; and

(B) in paragraph (2) by inserting '', including all government and contract excavators'' before the semicolon at the end; and

(2) in subsection (c) by striking ''provide for'' and inserting ''provide for and document''.

(b) COMPLIANCE WITH MINIMUM STANDARDS.—Section 6104(d) is amended by striking ''Within 3 years after the date of the enactment of this chapter, the Secretary shall begin to'' and inserting ''The Secretary shall''.

(c) IMPLEMENTATION OF BEST PRACTICES GUIDELINES.—

(1) IN GENERAL.—Section 6105 is amended to read as follows:

''§ 6105. Implementation of best practices guidelines

''(a) ADOPTION OF BEST PRACTICES.—The Secretary of Transportation shall encourage States, operators of one-call notification programs, excavators (including all government and contract excavators), and underground facility operators to adopt and implement practices identified in the best practices report entitled 'Common Ground', as periodically updated.

''(b) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to and participate in programs sponsored by a non-profit organization specifically established for the purpose of reducing construction-related damage to underground facilities.

''(c) GRANTS.—

''(1) IN GENERAL.—The Secretary may make grants to a non-profit organization described in subsection (b).

''(2) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized under section 6107, there is authorized to be appropriated for making grants under this subsection $500,000 for each of fiscal years 2003 through 2006. Such sums shall remain available until expended.

''(3) GENERAL REVENUE FUNDING.—Any sums appropriated under this subsection shall be derived from general revenues and may not be derived from amounts collected under section 60301.''.

(2) CONFORMING AMENDMENT.—The analysis for chapter 61 is amended by striking the item relating to section 6105 and inserting the following:

''6105. Implementation of best practices guidelines.''.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) FOR GRANTS FOR STATES.—Section 6107(a) is amended by striking ''$1,000,000 for fiscal year 2000'' and all that follows before the period at the end of the first sentence and inserting ''$1,000,000 for each of fiscal years 2003 through 2006''.

(2) FOR ADMINISTRATION.—Section 6107(b) is amended by striking ''for fiscal years 1999, 2000, and 2001'' and inserting ''for fiscal years 2003 through 2006''.

SEC. 3. ONE-CALL NOTIFICATION OF PIPELINE OPERATORS.

(a) LIMITATION ON PREEMPTION.—Section 60104(c) is amended by adding at the end the following: ''Notwithstanding the preceding sentence, a State authority may enforce a requirement of a one-call notification program of the State if the program meets the requirements for one-call notification programs under this chapter or chapter 61.''.

(b) MINIMUM REQUIREMENTS.—Section 60114(a)(2) is amended by inserting '', including a government employee or contractor,'' after ''person''.

(c) CRIMINAL PENALTIES.—Section 60123(d) is amended—

(1) in the matter preceding paragraph (1) by striking ''knowingly and willfully'';

(2) in paragraph (1) by inserting ''knowingly and willfully'' before ''engages'';

(3) by striking paragraph (2)(B) and inserting the following:

''(B) a pipeline facility, and knows or has reason to know of the damage, but does not report the damage promptly to the operator of the pipeline facility and to other appropriate authorities; or''; and

(4) by adding after paragraph (2) the following:

''Penalties under this subsection may be reduced in the case of a violation that is promptly reported by the violator.''.

SEC. 4. STATE OVERSIGHT ROLE.

(a) STATE AGREEMENTS WITH CERTIFICATION.—Section 60106 is amended—

(1) in subsection (a) by striking ''GENERAL AUTHORITY.—'' and inserting ''AGREEMENTS WITHOUT CERTIFICATION.—'';

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

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

''(b) AGREEMENTS WITH CERTIFICATION.—

''(1) IN GENERAL.—If the Secretary accepts a certification under section 60105 and makes the determination required under this subsection, the Secretary may make an agreement with a State authority authorizing it to participate in the oversight of interstate pipeline transportation. Each such agreement shall include a plan for the State authority to participate in special investigations involving incidents or new construction and allow the State authority to participate in other activities overseeing interstate pipeline transportation or to assume additional inspection or investigatory duties. Nothing in this section modifies section 60104(c) or authorizes the Secretary to delegate the enforcement of safety standards for interstate pipeline facilities prescribed under this chapter to a State authority.

''(2) DETERMINATIONS REQUIRED.—The Secretary may not enter into an agreement under this subsection, unless the Secretary determines in writing that—

''(A) the agreement allowing participation of the State authority is consistent with the Secretary's program for inspection and consistent with the safety policies and provisions provided under this chapter;

''(B) the interstate participation agreement would not adversely affect the oversight responsibilities of intrastate pipeline transportation by the State authority;

''(C) the State is carrying out a program demonstrated to promote preparedness and risk prevention activities that enable communities to live safely with pipelines;

''(D) the State meets the minimum standards for State one-call notification set forth in chapter 61; and

''(E) the actions planned under the agreement would not impede interstate commerce or jeopardize public safety.

''(3) EXISTING AGREEMENTS.—If requested by the State authority, the Secretary shall authorize a State authority which had an interstate agreement in effect after January 31, 1999, to oversee interstate pipeline transportation pursuant to the terms of that agreement until the Secretary determines that the State meets the requirements of paragraph (2) and executes a new agreement, or until December 31, 2003, whichever is sooner. Nothing in this paragraph shall prevent the Secretary, after affording the State notice, hearing, and an opportunity to correct any alleged deficiencies, from terminating an agreement that was in effect before enactment of the Pipeline Safety Improvement Act of 2002 if—

''(A) the State authority fails to comply with the terms of the agreement;

''(B) implementation of the agreement has resulted in a gap in the oversight responsibilities of intrastate pipeline transportation by the State authority; or

''(C) continued participation by the State authority in the oversight of interstate pipeline transportation has had an adverse impact on pipeline safety.''.

(b) ENDING AGREEMENTS.—Subsection (e) of section 60106 (as redesignated by subsection (a)(2) of this section) is amended to read as follows:

''(e) ENDING AGREEMENTS.—

''(1) PERMISSIVE TERMINATION.—The Secretary may end an agreement under this section when the Secretary finds that the State authority has not complied with any provision of the agreement.

''(2) MANDATORY TERMINATION OF AGREEMENT.—The Secretary shall end an agreement for the oversight of interstate pipeline transportation if the Secretary finds that—

''(A) implementation of such agreement has resulted in a gap in the oversight responsibilities of intrastate pipeline transportation by the State authority;

''(B) the State actions under the agreement have failed to meet the requirements under subsection (b); or

''(C) continued participation by the State authority in the oversight of interstate pipeline transportation would not promote pipeline safety.

''(3) PROCEDURAL REQUIREMENTS.—The Secretary shall give notice and an opportunity for a hearing to a State authority before ending an agreement under this section. The Secretary may provide a State an opportunity to correct any deficiencies before ending an agreement. The finding and decision to end the agreement shall be published in the Federal Register and may not become effective for at least 15 days after the date of publication unless the Secretary finds that continuation of an agreement poses an imminent hazard.''.

(c) SECRETARY'S RESPONSE TO STATE NOTICES OF VIOLATIONS.—Subsection (c) of section 60106 (as redesignated by subsection (a)(2) of this section) is amended—

(1) by striking ''Each agreement'' and inserting the following:

''(1) IN GENERAL.—Each agreement'';

(2) by adding at the end the following:

''(2) RESPONSE BY SECRETARY.—If a State authority notifies the Secretary under paragraph (1) of a violation or probable violation of an applicable safety standard, the Secretary, not later than 60 days after the date of receipt of the notification, shall—

''(A) issue an order under section 60118(b) or take other appropriate enforcement actions to ensure compliance with this chapter; or

''(B) provide the State authority with a written explanation as to why the Secretary has determined not to take such actions.''; and

(3) by aligning the text of paragraph (1) (as designated by this subsection) with paragraph (2) (as added by this subsection).

SEC. 5. PUBLIC EDUCATION PROGRAMS.

Section 60116 is amended to read as follows:

''§ 60116. Public education programs

''(a) IN GENERAL.—Each owner or operator of a gas or hazardous liquid pipeline facility shall carry out a continuing program to educate the public on the use of a one-call notification system prior to excavation and other damage prevention activities, the possible hazards associated with unintended releases from the pipeline facility, the physical indications that such a release may have occurred, what steps should be taken for public safety in the event of a pipeline release, and how to report such an event.

''(b) MODIFICATION OF EXISTING PROGRAMS.—Not later than 12 months after the date of enactment of the Pipeline Safety Improvement Act of 2002, each owner or operator of a gas or hazardous liquid pipeline facility shall review its existing public education program for effectiveness and modify the program as necessary. The completed program shall include activities to advise affected municipalities, school districts, businesses, and residents of pipeline facility locations. The completed program shall be submitted to the Secretary or, in the case of an intrastate pipeline facility operator, the appropriate State agency, and shall be periodically reviewed by the Secretary or, in the case of an intrastate pipeline facility operator, the appropriate State agency.

''(c) STANDARDS.—The Secretary may issue standards prescribing the elements of an effective public education program. The Secretary may also develop material for use in the program.''.

SEC. 6. PROTECTION OF EMPLOYEES PROVIDING PIPELINE SAFETY INFORMATION.

(a) IN GENERAL.—Chapter 601 is amended by adding at the end the following:

''§ 60129. Protection of employees providing pipeline safety information

''(a) DISCRIMINATION AGAINST EMPLOYEE.—

''(1) IN GENERAL.—No employer may discharge any employee or otherwise discriminate against any employee with respect to his compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee)—

''(A) provided, caused to be provided, or is about to provide or cause to be provided, to the employer or the Federal Government information relating to any violation or alleged violation of any order, regulation, or standard under this chapter or any other Federal law relating to pipeline safety;

''(B) refused to engage in any practice made unlawful by this chapter or any other Federal law relating to pipeline safety, if the employee has identified the alleged illegality to the employer;

''(C) provided, caused to be provided, or is about to provide or cause to be provided, testimony before Congress or at any Federal or State proceeding regarding any provision (or proposed provision) of this chapter or any other Federal law relating to pipeline safety;

''(D) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding under this chapter or any other Federal law relating to pipeline safety, or a proceeding for the administration or enforcement of any requirement imposed under this chapter or any other Federal law relating to pipeline safety;

''(E) provided, caused to be provided, or is about to provide or cause to be provided, testimony in any proceeding described in subparagraph (D); or

''(F) assisted or participated or is about to assist or participate in any manner in such a proceeding or in any other manner in such a proceeding or in any other action to carry out the purposes of this chapter or any other Federal law relating to pipeline safety.

''(2) EMPLOYER DEFINED.—In this section, the term 'employer' means—

''(A) a person owning or operating a pipeline facility; or

''(B) a contractor or subcontractor of such a person.

''(b) DEPARTMENT OF LABOR COMPLAINT PROCEDURE.—

''(1) FILING AND NOTIFICATION.—A person who believes that he or she has been discharged or otherwise discriminated against by any person in violation of subsection (a) may, not later than 180 days after the date on which such violation occurs, file (or have any person file on his or her behalf) a complaint with the Secretary of Labor alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary of Labor shall notify, in writing, the person or persons named in the complaint and the Secretary of Transportation of the filing of the complaint, of the allegations contained in the complaint, of the substance of evidence supporting the complaint, and of the opportunities that will be afforded to such person or persons under paragraph (2).

''(2) INVESTIGATION; PRELIMINARY ORDER.—

''(A) IN GENERAL.—Not later than 60 days after the date of receipt of a complaint filed under paragraph (1) and after affording the person or persons named in the complaint an opportunity to submit to the Secretary of Labor a written response to the complaint and an opportunity to meet with a representative of the Secretary of Labor to present statements from witnesses, the Secretary of Labor shall conduct an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify in writing the complainant and the person or persons alleged to have committed a violation of subsection (a) of the Secretary of Labor's findings. If the Secretary of Labor concludes that there is reasonable cause to believe that a violation of subsection (a) has occurred, the Secretary of Labor shall include with the Secretary of Labor's findings with a preliminary order providing the relief prescribed by paragraph (3)(B). Not later than 60 days after the date of notification of findings under this subparagraph, any person alleged to have committed a violation or the complainant may file objections to the findings or preliminary order, or both, and request a hearing on the record. The filing of such objections shall not operate to stay any reinstatement remedy contained in the preliminary order. Such hearings shall be conducted expeditiously. If a hearing is not requested in such 60-day period, the preliminary order shall be deemed a final order that is not subject to judicial review.

''(B) REQUIREMENTS.—

''(i) REQUIRED SHOWING BY COMPLAINANT.—The Secretary of Labor shall dismiss a complaint filed under this subsection and shall not conduct an investigation otherwise required under subparagraph (A) unless the complainant makes a prima facie showing that any behavior described in subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

''(ii) SHOWING BY EMPLOYER.—Notwithstanding a finding by the Secretary of Labor that the complainant has made the showing required under clause (i), no investigation otherwise required under subparagraph (A) shall be conducted if the employer demonstrates, by clear and convincing evidence, that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

''(iii) CRITERIA FOR DETERMINATION BY SECRETARY.—The Secretary of Labor may determine that a violation of subsection (a) has occurred only if the complainant demonstrates that any behavior described in subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

''(iv) PROHIBITION.—Relief may not be ordered under subparagraph (A) if the employer demonstrates by clear and convincing evidence that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

''(3) FINAL ORDER.—

''(A) DEADLINE FOR ISSUANCE; SETTLEMENT AGREEMENTS.—Not later than 90 days after the date of conclusion of a hearing under paragraph (2), the Secretary of Labor shall issue a final order providing the relief prescribed by this paragraph or denying the complaint. At any time before issuance of a final order, a proceeding under this subsection may be terminated on the basis of a settlement agreement entered into by the Secretary of Labor, the complainant, and the person or persons alleged to have committed the violation.

''(B) REMEDY.—If, in response to a complaint filed under paragraph (1), the Secretary of Labor determines that a violation of subsection (a) has occurred, the Secretary of Labor shall order the person or persons who committed such violation to—

''(i) take affirmative action to abate the violation;

''(ii) reinstate the complainant to his or her former position together with the compensation (including back pay) and restore the terms, conditions, and privileges associated with his or her employment; and

''(iii) provide compensatory damages to the complainant.

If such an order is issued under this paragraph, the Secretary of Labor, at the request of the complainant, shall assess against the person or persons against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorney's and expert witness fees) reasonably incurred, as determined by the Secretary of Labor, by the complainant for, or in connection with, the bringing the complaint upon which the order was issued.

''(C) FRIVOLOUS COMPLAINTS.—If the Secretary of Labor finds that a complaint under paragraph (1) is frivolous or has been brought in bad faith, the Secretary of Labor may award to the prevailing employer a reasonable attorney's fee not exceeding $1,000.

''(4) REVIEW.—

''(A) APPEAL TO COURT OF APPEALS.—Any person adversely affected or aggrieved by an order issued under paragraph (3) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred or the circuit in which the complainant resided on the date of such violation. The petition for review must be filed not later than 60 days after the date of issuance of the final order of the Secretary of Labor. Review shall conform to chapter 7 of title 5, United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the order.

''(B) LIMITATION ON COLLATERAL ATTACK.—An order of the Secretary of Labor with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

''(5) ENFORCEMENT OF ORDER BY SECRETARY OF LABOR.—Whenever any person has failed to comply with an order issued under paragraph (3), the Secretary of Labor may file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief, including, but not to be limited to, injunctive relief and compensatory damages.

''(6) ENFORCEMENT OF ORDER BY PARTIES.—

''(A) COMMENCEMENT OF ACTION.—A person on whose behalf an order was issued under paragraph (3) may commence a civil action against the person or persons to whom such order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order.

''(B) ATTORNEY FEES.—The court, in issuing any final order under this paragraph, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines such award of costs is appropriate.

''(c) MANDAMUS.—Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28, United States Code.

''(d) NONAPPLICABILITY TO DELIBERATE VIOLATIONS.—Subsection (a) shall not apply with respect to an action of an employee of an employer who, acting without direction from the employer (or such employer's agent), deliberately causes a violation of any requirement relating to pipeline safety under this chapter or any other law of the United States.''.

(b) CIVIL PENALTY.—Section 60122(a) is amended by adding at the end the following:

''(3) A person violating section 60129, or an order issued thereunder, is liable to the Government for a civil penalty of not more than $1,000 for each violation. The penalties provided by paragraph (1) do not apply to a violation of section 60129 or an order issued thereunder.''.

(c) CONFORMING AMENDMENT.—The analysis for chapter 601 is amended by adding at the end the following:

''60129. Protection of employees providing pipeline safety information.''.

SEC. 7. SAFETY ORDERS.

Section 60117 is amended by adding at the end the following:

''(l) SAFETY ORDERS.—If the Secretary decides that a pipeline facility has a potential safety-related condition, the Secretary may order the operator of the facility to take necessary corrective action, including physical inspection, testing, repair, replacement, or other appropriate action to remedy the safety-related condition.''.

SEC. 8. PENALTIES.

(a) PIPELINE FACILITIES HAZARDOUS TO LIFE, PROPERTY, OR THE ENVIRONMENT.—

(1) GENERAL AUTHORITY.—Section 60112(a) is amended to read as follows:

''(a) GENERAL AUTHORITY.—After notice and an opportunity for a hearing, the Secretary of Transportation may decide that a pipeline facility is hazardous if the Secretary decides that—

''(1) operation of the facility is or would be hazardous to life, property, or the environment; or

''(2) the facility is or would be constructed or operated, or a component of the facility is or would be constructed or operated, with equipment, material, or a technique that the Secretary decides is hazardous to life, property, or the environment.''.

(2) CORRECTIVE ACTION ORDERS.—Section 60112(d) is amended by striking ''is hazardous'' and inserting ''is or would be hazardous''.

(b) ENFORCEMENT.—

(1) GENERAL PENALTIES.—Section 60122(a)(1) is amended—

(A) by striking ''$25,000'' and inserting ''$100,000''; and

(B) by striking ''$500,000'' and inserting ''$1,000,000''.

(2) PENALTY CONSIDERATIONS.—Section 60122(b) is amended by striking ''under this section'' and all that follows through paragraph (4) and inserting ''under this section—

''(1) the Secretary shall consider—

''(A) the nature, circumstances, and gravity of the violation, including adverse impact on the environment;

''(B) with respect to the violator, the degree of culpability, any history of prior violations, the ability to pay, and any effect on ability to continue doing business; and

''(C) good faith in attempting to comply; and

''(2) the Secretary may consider—

''(A) the economic benefit gained from the violation without any reduction because of subsequent damages; and

''(B) other matters that justice requires.''.

(3) CIVIL ACTIONS.—Section 60120(a) is amended—

(A) by striking ''(a) CIVIL ACTIONS.—(1)'' and all that follows through ''(2) At the request'' and inserting the following:

''(a) CIVIL ACTIONS.—

''(1) CIVIL ACTIONS TO ENFORCE THIS CHAPTER.—At the request of the Secretary of Transportation, the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this chapter, including section 60112, or a regulation prescribed or order issued under this chapter. The court may award appropriate relief, including a temporary or permanent injunction, punitive damages, and assessment of civil penalties, considering the same factors as prescribed for the Secretary in an administrative case under section 60122.

''(2) CIVIL ACTIONS TO REQUIRE COMPLIANCE WITH SUBPOENAS OR ALLOW FOR INSPECTIONS.—At the request''; and

(B) by aligning the remainder of the text of paragraph (2) with the text of paragraph (1).

(c) CRIMINAL PENALTIES FOR DAMAGING OR DESTROYING A FACILITY.—Section 60123(b) is amended—

(1) by striking ''or'' after ''gas pipeline facility'' and inserting '', an''; and

(2) by inserting after ''liquid pipeline facility'' the following: '', or either an intrastate gas pipeline facility or intrastate hazardous liquid pipeline facility that is used in interstate or foreign commerce or in any activity affecting interstate or foreign commerce''.

(d) COMPTROLLER GENERAL STUDY.—

(1) IN GENERAL.—The Comptroller General shall conduct a study of the actions, policies, and procedures of the Secretary of Transportation for assessing and collecting fines and penalties on operators of hazardous liquid and gas transmission pipelines.

(2) ANALYSIS.—In conducting the study, the Comptroller General shall examine, at a minimum, the following:

(A) The frequency with which the Secretary has substituted corrective orders for fines and penalties.

(B) Changes in the amounts of fines recommended by safety inspectors, assessed by the Secretary, and actually collected.

(C) An evaluation of the overall effectiveness of the Secretary's enforcement strategy.

(D) The extent to which the Secretary has complied with the report of the Government Accounting Office entitled ''Pipeline Safety: The Office of Pipeline Safety is Changing How it Oversees the Pipeline Industry''.

(3) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committees on Transportation and Infrastructure and Energy and Commerce of the House of Representatives a report on the results of the study.

SEC. 9. PIPELINE SAFETY INFORMATION GRANTS TO COMMUNITIES.

(a) IN GENERAL.—Chapter 601 is further amended by adding at the end the following:

''§ 60130. Pipeline safety information grants to communities

''(a) GRANT AUTHORITY.—

''(1) IN GENERAL.—The Secretary of Transportation may make grants for technical assistance to local communities and groups of individuals (not including for-profit entities) relating to the safety of pipeline facilities in local communities, other than facilities regulated under Public Law 93–153 (43 U.S.C. 1651 et seq.). The Secretary shall establish competitive procedures for awarding grants under this section and criteria for selecting grant recipients. The amount of any grant under this section may not exceed $50,000 for a single grant recipient. The Secretary shall establish appropriate procedures to ensure the proper use of funds provided under this section.

''(2) TECHNICAL ASSISTANCE DEFINED.—In this subsection, the term 'technical assistance' means engineering and other scientific analysis of pipeline safety issues, including the promotion of public participation in official proceedings conducted under this chapter.

''(b) PROHIBITED USES.—Funds provided under this section may not be used for lobbying or in direct support of litigation.

''(c) ANNUAL REPORT.—

''(1) IN GENERAL.—Not later than 90 days after the last day of each fiscal year for which grants are made by the Secretary under this section, the Secretary shall report to the Committees on Commerce, Science, and Transportation and Energy and Natural Resources of the Senate and the Committees on Transportation and Infrastructure and Energy and Commerce of the House of Representatives on grants made under this section in the preceding fiscal year.

''(2) CONTENTS.—The report shall include—

''(A) a listing of the identity and location of each recipient of a grant under this section in the preceding fiscal year and the amount received by the recipient;

''(B) a description of the purpose for which each grant was made; and

''(C) a description of how each grant was used by the recipient.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Transportation for carrying out this section $1,000,000 for each of the fiscal years 2003 through 2006. Such amounts shall not be derived from user fees collected under section 60301.''.

(c) CONFORMING AMENDMENT.—The analysis for chapter 601 is amended by adding at the end the following:

''60130. Pipeline safety information grants to communities.''.

SEC. 10. OPERATOR ASSISTANCE IN INVESTIGATIONS.

(a) IN GENERAL.—Section 60118 is amended by adding at the end the following:

''(e) OPERATOR ASSISTANCE IN INVESTIGATIONS.—If the Secretary or the National Transportation Safety Board investigate an accident involving a pipeline facility, the operator of the facility shall make available to the Secretary or the Board all records and information that in any way pertain to the accident (including integrity management plans and test results), and shall afford all reasonable assistance in the investigation of the accident.''.

(b) CORRECTIVE ACTION ORDERS.—Section 60112(d) is amended—

(1) by striking ''If the Secretary'' and inserting the following:

''(1) IN GENERAL.—If the Secretary'';

(2) by adding the end the following:

''(2) ACTIONS ATTRIBUTABLE TO AN EMPLOYEE.—If, in the case of a corrective action order issued following an accident, the Secretary determines that the actions of an employee carrying out an activity regulated under this chapter, including duties under section 60102(a), may have contributed substantially to the cause of the accident, the Secretary shall direct the operator to relieve the employee from performing those activities, reassign the employee, or place the employee on leave until the earlier of the date on which—

''(A) the Secretary, after notice and an opportunity for a hearing, determines that the employee's actions did not contribute substantially to the cause of the accident; or

''(B) the Secretary determines the employee has been re-qualified or re-trained as provided for in section 60131 and can safely perform those activities.

''(3) EFFECT OF COLLECTIVE BARGAINING AGREEMENTS.—An action taken by an operator under paragraph (2) shall be in accordance with the terms and conditions of any applicable collective bargaining agreement.''; and

(3) by aligning the remainder of the text of paragraph (1) (as designated by paragraph (1) of this subsection) with paragraph (2) (as added by paragraph (2) of this subsection).

(c) LIMITATION ON STATUTORY CONSTRUCTION.—Section 60118 is amended by adding at the end the following:

''(f) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed to infringe upon the constitutional rights of an operator or its employees.''.

SEC. 11. POPULATION ENCROACHMENT AND RIGHTS-OF-WAY.

(a) IN GENERAL.—Section 60127 is amended to read as follows:

''§ 60127. Population encroachment and rights-of-way

''(a) STUDY.—The Secretary of Transportation, in conjunction with the Federal Energy Regulatory Commission and in consultation with appropriate Federal agencies and State and local governments, shall undertake a study of land use practices, zoning ordinances, and preservation of environmental resources with regard to pipeline rights-of-way and their maintenance.

''(b) PURPOSE OF STUDY.—The purpose of the study shall be to gather information on land use practices, zoning ordinances, and preservation of environmental resources—

''(1) to determine effective practices to limit encroachment on existing pipeline rights-of-way;

''(2) to address and prevent the hazards and risks to the public, pipeline workers, and the environment associated with encroachment on pipeline rights-of-way;

''(3) to raise the awareness of the risks and hazards of encroachment on pipeline rights-of-way; and

''(4) to address how to best preserve environmental resources in conjunction with maintaining pipeline rights-of-way, recognizing pipeline operators' regulatory obligations to maintain rights-of-way and to protect public safety.

''(c) CONSIDERATIONS.—In conducting the study, the Secretary shall consider, at a minimum, the following:

''(1) The legal authority of Federal agencies and State and local governments in controlling land use and the limitations on such authority.

''(2) The current practices of Federal agencies and State and local governments in addressing land use issues involving a pipeline easement.

''(3) The most effective way to encourage Federal agencies and State and local governments to monitor and reduce encroachment upon pipeline rights-of-way.

''(d) REPORT.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall publish a report identifying practices, laws, and ordinances that are most successful in addressing issues of encroachment and maintenance on pipeline rights-of-way so as to more effectively protect public safety, pipeline workers, and the environment.

''(2) DISTRIBUTION OF REPORT.—The Secretary shall provide a copy of the report to—

''(A) Congress and appropriate Federal agencies; and

''(B) States for further distribution to appropriate local authorities.

''(3) ADOPTION OF PRACTICES, LAWS, AND ORDINANCES.—The Secretary shall encourage Federal agencies and State and local governments to adopt and implement appropriate practices, laws, and ordinances, as identified in the report, to address the risks and hazards associated

with encroachment upon pipeline rights-of-way and to address the potential methods of preserving environmental resources while maintaining pipeline rights-of-way, consistent with pipeline safety.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 601 is amended by striking the item relating to section 60127 and inserting the following:

''60127. Population encroachment and rights-of-way.''.

SEC. 12. PIPELINE INTEGRITY, SAFETY, AND RELIABILITY RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—The heads of the participating agencies shall carry out a program of research, development, demonstration, and standardization to ensure the integrity of pipeline facilities.

(b) MEMORANDUM OF UNDERSTANDING.—

(1) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the heads of the participating agencies shall enter into a memorandum of understanding detailing their respective responsibilities in the program authorized by subsection (a).

(2) AREAS OF EXPERTISE.—Under the memorandum of understanding, each of the participating agencies shall have the primary responsibility for ensuring that the elements of the program within its expertise are implemented in accordance with this section. The Department of Transportation's responsibilities shall reflect its lead role in pipeline safety and expertise in pipeline inspection, integrity management, and damage prevention. The Department of Energy's responsibilities shall reflect its expertise in system reliability, low-volume gas leak detection, and surveillance technologies. The National Institute of Standards and Technology's responsibilities shall reflect its expertise in materials research and assisting in the development of consensus technical standards, as that term is used in section 12(d)(4) of Public Law 104–13 (15 U.S.C. 272 note).

(c) PROGRAM ELEMENTS.—The program authorized by subsection (a) shall include research, development, demonstration, and standardization activities related to—

(1) materials inspection;

(2) stress and fracture analysis, detection of cracks, corrosion, abrasion, and other abnormalities inside pipelines that lead to pipeline failure, and development of new equipment or technologies that are inserted into pipelines to detect anomalies;

(3) internal inspection and leak detection technologies, including detection of leaks at very low volumes;

(4) methods of analyzing content of pipeline throughput;

(5) pipeline security, including improving the real-time surveillance of pipeline rights-of-way, developing tools for evaluating and enhancing pipeline security and infrastructure, reducing natural, technological, and terrorist threats, and protecting first response units and persons near an incident;

(6) risk assessment methodology, including vulnerability assessment and reduction of third-party damage;

(7) communication, control, and information systems surety;

(8) fire safety of pipelines;

(9) improved excavation, construction, and repair technologies; and

(10) other appropriate elements.

(d) PROGRAM PLAN.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Secretary of Transportation, in coordination with the Secretary of Energy and the Director of the National Institute of Standards and Technology, shall prepare and transmit to Congress a 5-year program plan to guide activities under this section. Such program plan shall be submitted to the Technical Pipeline Safety Standards Committee and the Technical Hazardous Liquid Pipeline Safety Standards Committee for review, and the report to Congress shall include the comments of the committees. The 5-year program plan shall be based on the memorandum of understanding under subsection (b) and take into account related activities of other Federal agencies.

(2) CONSULTATION.—In preparing the program plan and selecting and prioritizing appropriate project proposals, the Secretary of Transportation shall consult with or seek the advice of appropriate representatives of the natural gas, crude oil, and petroleum product pipeline industries, utilities, manufacturers, institutions of higher learning, Federal agencies, pipeline research institutions, national laboratories, State pipeline safety officials, labor organizations, environmental organizations, pipeline safety advocates, and professional and technical societies.

(e) REPORTS TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the heads of the participating agencies shall transmit jointly to Congress a report on the status and results to date of the implementation of the program plan prepared under subsection (d).

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) DEPARTMENT OF TRANSPORTATION.—There is authorized to be appropriated to the Secretary of Transportation for carrying out this section $10,000,000 for each of the fiscal years 2003 through 2006.

(2) DEPARTMENT OF ENERGY.—There is authorized to be appropriated to the Secretary of Energy for carrying out this section $10,000,000 for each of the fiscal years 2003 through 2006.

(3) NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.—There is authorized to be appropriated to the Director of the National Institute of Standards and Technology for carrying out this section $5,000,000 for each of the fiscal years 2003 through 2006.

(4) GENERAL REVENUE FUNDING.—Any sums appropriated under this subsection shall be derived from general revenues and may not be derived from amounts collected under section 60301 of title 49, United States Code.

(g) PIPELINE INTEGRITY PROGRAM.—Of the amounts available in the Oil Spill Liability Trust Fund established by section 9509 of the Internal Revenue Code of 1986 (26 U.S.C. 9509), $3,000,000 shall be transferred to the Secretary of Transportation, as provided in appropriation Acts, to carry out programs for detection, prevention, and mitigation of oil spills for each of the fiscal years 2003 through 2006.

(h) PARTICIPATING AGENCIES DEFINED.—In this section, the term ''participating agencies'' means the Department of Transportation, the Department of Energy, and the National Institute of Standards and Technology.

SEC. 13. PIPELINE QUALIFICATION PROGRAMS.

(a) VERIFICATION PROGRAM.—

(1) IN GENERAL.—Chapter 601 is further amended by adding at the end the following:

''§ 60131. Verification of pipeline qualification programs

''(a) IN GENERAL.—Subject to the requirements of this section, the Secretary of Transportation shall require the operator of a pipeline facility to develop and adopt a qualification program to ensure that the individuals who perform covered tasks are qualified to conduct such tasks.

''(b) STANDARDS AND CRITERIA.—

''(1) DEVELOPMENT.—Not later than 1 year after the date of enactment of this section, the Secretary shall ensure that the Department of Transportation has in place standards and criteria for qualification programs referred to in subsection (a).

''(2) CONTENTS.—The standards and criteria shall include the following:

''(A) The establishment of methods for evaluating the acceptability of the qualifications of individuals described in subsection (a).

''(B) A requirement that pipeline operators develop and implement written plans and procedures to qualify individuals described in subsection (a) to a level found acceptable using the methods established under subparagraph (A) and evaluate the abilities of individuals described in subsection (a) according to such methods.

''(C) A requirement that the plans and procedures adopted by a pipeline operator under subparagraph (B) be reviewed and verified under subsection (e).

''(c) DEVELOPMENT OF QUALIFICATION PROGRAMS BY PIPELINE OPERATORS.—The Secretary shall require each pipeline operator to develop and adopt, not later than 2 years after the date of enactment of this section, a qualification program that complies with the standards and criteria described in subsection (b).

''(d) ELEMENTS OF QUALIFICATION PROGRAMS.—A qualification program adopted by an operator under subsection (a) shall include, at a minimum, the following elements:

''(1) A method for examining or testing the qualifications of individuals described in subsection (a). The method may include written examination, oral examination, observation during on-the-job performance, on-the-job training, simulations, and other forms of assessment. The method may not be limited to observation of on-the-job performance, except with respect to tasks for which the Secretary has determined that such observation is the best method of examining or testing qualifications. The Secretary shall ensure that the results of any such observations are documented in writing.

''(2) A requirement that the operator complete the qualification of all individuals described in subsection (a) not later than 18 months after the date of adoption of the qualification program.

''(3) A periodic requalification component that provides for examination or testing of individuals in accordance with paragraph (1).

''(4) A program to provide training, as appropriate, to ensure that individuals performing covered tasks have the necessary knowledge and skills to perform the tasks in a manner that ensures the safe operation of pipeline facilities.

''(e) REVIEW AND VERIFICATION OF PROGRAMS.—

''(1) IN GENERAL.—The Secretary shall review the qualification program of each pipeline operator and verify its compliance with the standards and criteria described in subsection (b) and that it includes the elements described in subsection (d). The Secretary shall record the results of that review for use in the next review of an operator's program.

''(2) DEADLINE FOR COMPLETION.—Reviews and verifications under this subsection shall be completed not later than 3 years after the date of the enactment of this section.

''(3) INADEQUATE PROGRAMS.—If the Secretary decides that a qualification program is inadequate for the safe operation of a pipeline facility, the Secretary shall act as under section 60108(a)(2) to require the operator to revise the qualification program.

''(4) PROGRAM MODIFICATIONS.—If the operator of a pipeline facility significantly modifies a program that has been verified under this subsection, the operator shall notify the Secretary of the modifications. The Secretary shall review and verify such modifications in accordance with paragraph (1).

''(5) WAIVERS AND MODIFICATIONS.—In accordance with section 60118(c), the Secretary may waive or modify any requirement of this section if the waiver or modification is not inconsistent with pipeline safety.

''(6) INACTION BY THE SECRETARY.—Notwithstanding any failure of the Secretary to prescribe standards and criteria as described in subsection (b), an operator of a pipeline facility shall develop and adopt a qualification program that complies with the requirement of subsection (b)(2)(B) and includes the elements described in subsection (d) not later than 2 years after the date of enactment of this section.

''(f) INTRASTATE PIPELINE FACILITIES.—In the case of an intrastate pipeline facility operator,

the duties and powers of the Secretary under this section with respect to the qualification program of the operator shall be vested in the appropriate State regulatory agency, consistent with this chapter.

''(g) COVERED TASK DEFINED.—In this section, the term 'covered task'—

''(1) with respect to a gas pipeline facility, has the meaning such term has under section 192.801 of title 49, Code of Federal Regulations, including any subsequent modifications; and

''(2) with respect to a hazardous liquid pipeline facility, has the meaning such term has under section 195.501 of such title, including any subsequent modifications.

''(h) REPORT.—Not later than 4 years after the date of enactment of this section, the Secretary shall transmit to Congress a report on the status and results to date of the personnel qualification regulations issued under this chapter.''.

(2) CONFORMING AMENDMENT.—The analysis for chapter 601 is amended by adding at end the following:

''60131. Verification of pipeline qualification programs.''.

(b) PILOT PROGRAM FOR CERTIFICATION OF CERTAIN PIPELINE WORKERS.—

(1) IN GENERAL.—Not later than 36 months after the date of enactment of this Act, the Secretary of Transportation shall—

(A) develop tests and other requirements for certifying the qualifications of individuals who operate computer-based systems for controlling the operations of pipelines; and

(B) establish and carry out a pilot program for 3 pipeline facilities under which the individuals operating computer-based systems for controlling the operations of pipelines at such facilities are required to be certified under the process established under subparagraph (A).

(2) REPORT.—The Secretary shall include in the report required under section 60131(h), as added by subsection (a) of this section, the results of the pilot program. The report shall include—

(A) a description of the pilot program and implementation of the pilot program at each of the 3 pipeline facilities;

(B) an evaluation of the pilot program, including the effectiveness of the process for certifying individuals who operate computer-based systems for controlling the operations of pipelines;

(C) any recommendations of the Secretary for requiring the certification of all individuals who operate computer-based systems for controlling the operations of pipelines; and

(D) an assessment of the ramifications of requiring the certification of other individuals performing safety-sensitive functions for a pipeline facility.

(3) COMPUTER-BASED SYSTEMS DEFINED.—In this subsection, the term ''computer-based systems'' means supervisory control and data acquisition systems.

SEC. 14. RISK ANALYSIS AND INTEGRITY MANAGEMENT PROGRAMS FOR GAS PIPELINES.

(a) IN GENERAL.—Section 60109 is amended by adding at the end the following:

''(c) RISK ANALYSIS AND INTEGRITY MANAGEMENT PROGRAMS.—

''(1) REQUIREMENT.—Each operator of a gas pipeline facility shall conduct an analysis of the risks to each facility of the operator located in an area identified pursuant to subsection (a)(1) and defined in chapter 192 of title 49, Code of Federal Regulations, including any subsequent modifications, and shall adopt and implement a written integrity management program for such facility to reduce the risks.

''(2) REGULATIONS.—

''(A) IN GENERAL.—Not later than 12 months after the date of enactment of this subsection, the Secretary shall issue regulations prescribing standards to direct an operator's conduct of a risk analysis and adoption and implementation of an integrity management program under this subsection. The regulations shall require an operator to conduct a risk analysis and adopt an integrity management program within a time period prescribed by the Secretary, ending not later than 24 months after such date of enactment. Not later than 18 months after such date of enactment, each operator of a gas pipeline facility shall begin a baseline integrity assessment described in paragraph (3).

''(B) AUTHORITY TO ISSUE REGULATIONS.—The Secretary may satisfy the requirements of this paragraph through the issuance of regulations under this paragraph or under other authority of law.

''(3) MINIMUM REQUIREMENTS OF INTEGRITY MANAGEMENT PROGRAMS.—An integrity management program required under paragraph (1) shall include, at a minimum, the following requirements:

''(A) A baseline integrity assessment of each of the operator's facilities in areas identified pursuant to subsection (a)(1) and defined in chapter 192 of title 49, Code of Federal Regulations, including any subsequent modifications, by internal inspection device, pressure testing, direct assessment, or an alternative method that the Secretary determines would provide an equal or greater level of safety. The operator shall complete such assessment not later than 10 years after the date of enactment of this subsection. At least 50 percent of such facilities shall be assessed not later than 5 years after such date of enactment. The operator shall prioritize such facilities for assessment based on all risk factors, including any previously discovered defects or anomalies and any history of leaks, repairs, or failures. The operator shall ensure that assessments of facilities with the highest risks are given priority for completion and that such assessments will be completed not later than 5 years after such date of enactment.

''(B) Subject to paragraph (5), periodic reassessment of the facility, at a minimum of once every 7 years, using methods described in subparagraph (A).

''(C) Clearly defined criteria for evaluating the results of assessments conducted under subparagraphs (A) and (B) and for taking actions based on such results.

''(D) A method for conducting an analysis on a continuing basis that integrates all available information about the integrity of the facility and the consequences of releases from the facility.

''(E) A description of actions to be taken by the operator to promptly address any integrity issue raised by an evaluation conducted under subparagraph (C) or the analysis conducted under subparagraph (D).

''(F) A description of measures to prevent and mitigate the consequences of releases from the facility.

''(G) A method for monitoring cathodic protection systems throughout the pipeline system of the operator to the extent not addressed by other regulations.

''(H) If the Secretary raises a safety concern relating to the facility, a description of the actions to be taken by the operator to address the safety concern, including issues raised with the Secretary by States and local authorities under an agreement entered into under section 60106.

''(4) TREATMENT OF BASELINE INTEGRITY ASSESSMENTS.—In the case of a baseline integrity assessment conducted by an operator in the period beginning on the date of enactment of this subsection and ending on the date of issuance of regulations under this subsection, the Secretary shall accept the assessment as complete, and shall not require the operator to repeat any portion of the assessment, if the Secretary determines that the assessment was conducted in accordance with the requirements of this subsection.

''(5) WAIVERS AND MODIFICATIONS.—In accordance with section 60118(c), the Secretary may waive or modify any requirement for reassessment of a facility under paragraph (3)(B) for reasons that may include the need to maintain local product supply or the lack of internal inspection devices if the Secretary determines that such waiver is not inconsistent with pipeline safety.

''(6) STANDARDS.—The standards prescribed by the Secretary under paragraph (2) shall address each of the following factors:

''(A) The minimum requirements described in paragraph (3).

''(B) The type or frequency of inspections or testing of pipeline facilities, in addition to the minimum requirements of paragraph (3)(B).

''(C) The manner in which the inspections or testing are conducted.

''(D) The criteria used in analyzing results of the inspections or testing.

''(E) The types of information sources that must be integrated in assessing the integrity of a pipeline facility as well as the manner of integration.

''(F) The nature and timing of actions selected to address the integrity of a pipeline facility.

''(G) Such other factors as the Secretary determines appropriate to ensure that the integrity of a pipeline facility is addressed and that appropriate mitigative measures are adopted to protect areas identified under subsection (a)(1). In prescribing those standards, the Secretary shall ensure that all inspections required are conducted in a manner that minimizes environmental and safety risks, and shall take into account the applicable level of protection established by national consensus standards organizations.

''(7) ADDITIONAL OPTIONAL STANDARDS.—The Secretary may also prescribe standards requiring an operator of a pipeline facility to include in an integrity management program under this subsection—

''(A) changes to valves or the establishment or modification of systems that monitor pressure and detect leaks based on the operator's risk analysis; and

''(B) the use of emergency flow restricting devices.

''(8) LACK OF REGULATIONS.—In the absence of regulations addressing the elements of an integrity management program described in this subsection, the operator of a pipeline facility shall conduct a risk analysis and adopt and implement an integrity management program described in this subsection not later than 24 months after the date of enactment of this subsection and shall complete the baseline integrity assessment described in this subsection not later than 10 years after such date of enactment. At least 50 percent of such facilities shall be assessed not later than 5 years after such date of enactment. The operator shall prioritize such facilities for assessment based on all risk factors, including any previously discovered defects or anomalies and any history of leaks, repairs, or failures. The operator shall ensure that assessments of facilities with the highest risks are given priority for completion and that such assessments will be completed not later than 5 years after such date of enactment.

''(9) REVIEW OF INTEGRITY MANAGEMENT PROGRAMS.—

''(A) REVIEW OF PROGRAMS.—

''(i) IN GENERAL.—The Secretary shall review a risk analysis and integrity management program under paragraph (1) and record the results of that review for use in the next review of an operator's program.

''(ii) CONTEXT OF REVIEW.—The Secretary may conduct a review under clause (i) as an element of the Secretary's inspection of an operator.

''(iii) INADEQUATE PROGRAMS.—If the Secretary determines that a risk analysis or integrity management program does not comply with the requirements of this subsection or regulations issued as described in paragraph (2), or is inadequate for the safe operation of a pipeline facility, the Secretary shall act under section 60108(a)(2) to require the operator to revise the risk analysis or integrity management program.

''(B) AMENDMENTS TO PROGRAMS.—In order to facilitate reviews under this paragraph, an operator of a pipeline facility shall notify the Secretary of any amendment made to the operator's integrity management program not later than 30 days after the date of adoption of the amendment. The Secretary shall review any such amendment in accordance with this paragraph.

''(C) TRANSMITTAL OF PROGRAMS TO STATE AUTHORITIES.—The Secretary shall provide a copy of each risk analysis and integrity management program reviewed by the Secretary under this paragraph to any appropriate State authority with which the Secretary has entered into an agreement under section 60106.

''(10) STATE REVIEW OF INTEGRITY MANAGEMENT PLANS.—A State authority that enters into an agreement pursuant to section 60106, permitting the State authority to review the risk analysis and integrity management program pursuant to paragraph (9), may provide the Secretary with a written assessment of the risk analysis and integrity management program, make recommendations, as appropriate, to address safety concerns not adequately addressed by the operator's risk analysis or integrity management program, and submit documentation explaining the State-proposed revisions. The Secretary shall consider carefully the State's proposals and work in consultation with the States and operators to address safety concerns.

''(11) APPLICATION OF STANDARDS.—Section 60104(b) shall not apply to this section.''.

(b) INTEGRITY MANAGEMENT REGULATIONS.—Section 60109 is further amended by adding at the end the following:

''(d) EVALUATION OF INTEGRITY MANAGEMENT REGULATIONS.—Not later than 4 years after the date of enactment of this subsection, the Comptroller General shall complete an assessment and evaluation of the effects on public safety and the environment of the requirements for the implementation of integrity management programs contained in the standards prescribed as described in subsection (c)(2).''.

(c) CONFORMING AMENDMENT.—Section 60118(a) is amended—

(1) by striking ''and'' at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting ''; and''; and

(3) by adding at the end the following:

''(4) conduct a risk analysis, and adopt and implement an integrity management program, for pipeline facilities as required under section 60109(c).''.

(d) STUDY OF REASSESSMENT INTERVALS.—

(1) STUDY.—The Comptroller General shall conduct a study to evaluate the 7-year reassessment interval required by section 60109(c)(3)(B) of title 49, United States Code, as added by subsection (a) of this section.

(2) REPORT.—Not later than 4 years after the date of the enactment of this Act, the Comptroller General shall transmit to Congress a report on the results of the study conducted under paragraph (1).

SEC. 15. NATIONAL PIPELINE MAPPING SYSTEM.

(a) IN GENERAL.—Chapter 601 is further amended by adding at the end the following:

''§ 60132. National pipeline mapping system

''(a) INFORMATION TO BE PROVIDED.—Not later than 6 months after the date of enactment of this section, the operator of a pipeline facility (except distribution lines and gathering lines) shall provide to the Secretary of Transportation the following information with respect to the facility:

''(1) Geospatial data appropriate for use in the National Pipeline Mapping System or data in a format that can be readily converted to geospatial data.

''(2) The name and address of the person with primary operational control to be identified as its operator for purposes of this chapter.

''(3) A means for a member of the public to contact the operator for additional information about the pipeline facilities it operates.

''(b) UPDATES.—A person providing information under subsection (a) shall provide to the Secretary updates of the information to reflect changes in the pipeline facility owned or operated by the person and as otherwise required by the Secretary.

''(c) TECHNICAL ASSISTANCE TO IMPROVE LOCAL RESPONSE CAPABILITIES.—The Secretary may provide technical assistance to State and local officials to improve local response capabilities for pipeline emergencies by adapting information available through the National Pipeline Mapping System to software used by emergency response personnel responding to pipeline emergencies.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 601 is amended by adding at the end the following:

''60132. National pipeline mapping system.''.

SEC. 16. COORDINATION OF ENVIRONMENTAL REVIEWS.

(a) IN GENERAL.—Chapter 601 is further amended by adding at the end the following:

''§ 60133. Coordination of environmental reviews

''(a) INTERAGENCY COMMITTEE.—

''(1) ESTABLISHMENT AND PURPOSE.—Not later than 30 days after the date of enactment of this section, the President shall establish an Interagency Committee to develop and ensure implementation of a coordinated environmental review and permitting process in order to enable pipeline operators to commence and complete all activities necessary to carry out pipeline repairs within any time periods specified by rule by the Secretary.

''(2) MEMBERSHIP.—The Chairman of the Council on Environmental Quality (or a designee of the Chairman) shall chair the Interagency Committee, which shall consist of representatives of Federal agencies with responsibilities relating to pipeline repair projects, including each of the following persons (or a designee thereof):

''(A) The Secretary of Transportation.

''(B) The Administrator of the Environmental Protection Agency.

''(C) The Director of the United States Fish and Wildlife Service.

''(D) The Assistant Administrator for Fisheries of the National Oceanic and Atmospheric Administration.

''(E) The Director of the Bureau of Land Management.

''(F) The Director of the Minerals Management Service.

''(G) The Assistant Secretary of the Army for Civil Works.

''(H) The Chairman of the Federal Energy Regulatory Commission.

''(3) EVALUATION.—The Interagency Committee shall evaluate Federal permitting requirements to which access, excavation, and restoration activities in connection with pipeline repairs described in paragraph (1) may be subject. As part of its evaluation, the Interagency Committee shall examine the access, excavation, and restoration practices of the pipeline industry in connection with such pipeline repairs, and may develop a compendium of best practices used by the industry to access, excavate, and restore the site of a pipeline repair.

''(4) MEMORANDUM OF UNDERSTANDING.—Based upon the evaluation required under paragraph (3) and not later than 1 year after the date of enactment of this section, the members of the Interagency Committee shall enter into a memorandum of understanding to provide for a coordinated and expedited pipeline repair permit review process to carry out the purpose set forth in paragraph (1). The Interagency Committee shall include provisions in the memorandum of understanding identifying those repairs or categories of repairs described in paragraph (1) for which the best practices identified under paragraph (3), when properly employed by a pipeline operator, would result in no more than minimal adverse effects on the environment and for which discretionary administrative reviews may therefore be minimized or eliminated. With respect to pipeline repairs described in paragraph (1) to which the preceding sentence would not be applicable, the Interagency Committee shall include provisions to enable pipeline operators to commence and complete all activities necessary to carry out pipeline repairs within any time periods specified by rule by the Secretary. The Interagency Committee shall include in the memorandum of understanding criteria under which permits required for such pipeline repair activities should be prioritized over other less urgent agency permit application reviews. The Interagency Committee shall not enter into a memorandum of understanding under this paragraph except by unanimous agreement of the members of the Interagency Committee.

''(5) STATE AND LOCAL CONSULTATION.—In carrying out this subsection, the Interagency Committee shall consult with appropriate State and local environmental, pipeline safety, and emergency response officials, and such other officials as the Interagency Committee considers appropriate.

''(b) IMPLEMENTATION.—Not later than 180 days after the completion of the memorandum of understanding required under subsection (a)(4), each agency represented on the Interagency Committee shall revise its regulations as necessary to implement the provisions of the memorandum of understanding.

''(c) SAVINGS PROVISIONS; NO PREEMPTION.—Nothing in this section shall be construed—

''(1) to require a pipeline operator to obtain a Federal permit, if no Federal permit would otherwise have been required under Federal law; or

''(2) to preempt applicable Federal, State, or local environmental law.

''(d) INTERIM OPERATIONAL ALTERNATIVES.—

''(1) IN GENERAL.—Not later than 30 days after the date of enactment of this section, and subject to the limitations in paragraph (2), the Secretary of Transportation shall revise the regulations of the Department, to the extent necessary, to permit a pipeline operator subject to time periods for repair specified by rule by the Secretary to implement alternative mitigation measures until all applicable permits have been granted.

''(2) LIMITATIONS.—The regulations issued by the Secretary pursuant to this subsection shall not allow an operator to implement alternative mitigation measures pursuant to paragraph (1) unless—

''(A) allowing the operator to implement such measures would be consistent with the protection of human health, public safety, and the environment;

''(B) the operator, with respect to a particular repair project, has applied for and is pursuing diligently and in good faith all required Federal, State, and local permits to carry out the project; and

''(C) the proposed alternative mitigation measures are not incompatible with pipeline safety.

''(e) OMBUDSMAN.—The Secretary shall designate an ombudsman to assist in expediting pipeline repairs and resolving disagreements between Federal, State, and local permitting agencies and the pipeline operator during agency review of any pipeline repair activity, consistent with protection of human health, public safety, and the environment.

''(f) STATE AND LOCAL PERMITTING PROCESSES.—The Secretary shall encourage States and local governments to consolidate their respective permitting processes for pipeline repair projects subject to any time periods for repair specified by rule by the Secretary. The Secretary may request other relevant Federal agencies to provide technical assistance to States and local governments for the purpose of encouraging such consolidation.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 601 is amended by adding at the end the following:

''60133. Coordination of environmental reviews.''.

SEC. 17. NATIONWIDE TOLL-FREE NUMBER SYSTEM.

Within 1 year after the date of the enactment of this Act, the Secretary of Transportation shall, in conjunction with the Federal Communications Commission, facility operators, excavators, and one-call notification system operators, provide for the establishment of a 3-digit nationwide toll-free telephone number system to be used by State one-call notification systems.

SEC. 18. IMPLEMENTATION OF INSPECTOR GENERAL RECOMMENDATIONS.

(a) IN GENERAL.—Except as otherwise required by this Act, the Secretary of Transportation shall implement the safety improvement recommendations provided for in the Department of Transportation Inspector General's Report (RT–2000–069).

(b) REPORTS BY THE SECRETARY.—Not later than 90 days after the date of enactment of this Act, and every 90 days thereafter until each of the recommendations referred to in subsection (a) has been implemented, the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committees on Transportation and Infrastructure and Energy and Commerce of the House of Representatives a report on the specific actions taken to implement such recommendations.

(c) REPORTS BY THE INSPECTOR GENERAL.—The Inspector General shall periodically transmit to the committees referred to in subsection (b) a report assessing the Secretary's progress in implementing the recommendations referred to in subsection (a) and identifying options for the Secretary to consider in accelerating recommendation implementation.

SEC. 19. NTSB SAFETY RECOMMENDATIONS.

(a) IN GENERAL.—The Secretary of Transportation, the Administrator of Research and Special Program Administration, and the Director of the Office of Pipeline Safety shall fully comply with section 1135 of title 49, United States Code, to ensure timely responsiveness to National Transportation Safety Board recommendations about pipeline safety.

(b) PUBLIC AVAILABILITY.—The Secretary, Administrator, or Director, respectively, shall make a copy of each recommendation on pipeline safety and response, as described in subsections (a) and (b) of section 1135, title 49, United States Code.

(c) REPORTS TO CONGRESS.—The Secretary, Administrator, or Director, respectively, shall submit to Congress by January 1 of each year a report containing each recommendation on pipeline safety made by the Board during the prior year and a copy of the response to each such recommendation.

SEC. 20. MISCELLANEOUS AMENDMENTS.

(a) GENERAL AUTHORITY AND PURPOSE.—

(1) IN GENERAL.—Section 60102(a) is amended—

(A) by redesignating paragraph (2) as paragraph (3);

(B) by striking ''(a)(1)'' and all that follows through ''The Secretary of Transportation'' and inserting the following:

''(a) PURPOSE AND MINIMUM SAFETY STANDARDS.—

''(1) PURPOSE.—The purpose of this chapter is to provide adequate protection against risks to life and property posed by pipeline transportation and pipeline facilities by improving the regulatory and enforcement authority of the Secretary of Transportation.

''(2) MINIMUM SAFETY STANDARDS.—The Secretary'';

(C) by moving the remainder of the text of paragraph (2) (as so redesignated), including subparagraphs (A) and (B) but excluding subparagraph (C), 2 ems to the right; and

(D) in paragraph (3) (as so redesignated) by inserting ''QUALIFICATIONS OF PIPELINE OPERATORS.—'' before ''The qualifications''.

(2) CONFORMING AMENDMENTS.—Chapter 601 is amended—

(A) by striking the heading for section 60102 and inserting the following:

''§ 60102. Purpose and general authority''; and

(B) in the analysis for such chapter by striking the item relating to section 60102 and inserting the following:

''60102. Purpose and general authority.''.

(b) CONFLICTS OF INTEREST.—Section 60115(b)(4) is amended by adding at the end the following:

''(D) None of the individuals selected for a committee under paragraph (3)(C) may have a significant financial interest in the pipeline, petroleum, or gas industry.''.

SEC. 21. TECHNICAL AMENDMENTS.

Chapter 601 is amended—

(1) in section 60110(b) by striking ''circumstances'' and all that follows through ''operator'' and inserting the following: ''circumstances, if any, under which an operator'';

(2) in section 60114 by redesignating subsection (d) as subsection (c);

(3) in section 60122(a)(1) by striking ''section 60114(c)'' and inserting ''section 60114(b)''; and

(4) in section 60123(a) by striking ''60114(c)'' and inserting ''60114(b)''.

SEC. 22. AUTHORIZATION OF APPROPRIATIONS.

(a) GAS AND HAZARDOUS LIQUID.—Section 60125(a) is amended to read as follows:

''(a) GAS AND HAZARDOUS LIQUID.—To carry out this chapter (except for section 60107) related to gas and hazardous liquid, the following amounts are authorized to be appropriated to the Department of Transportation:

''(1) $45,800,000 for fiscal year 2003, of which $31,900,000 is to be derived from user fees for fiscal year 2003 collected under section 60301 of this title.

''(2) $46,800,000 for fiscal year 2004, of which $35,700,000 is to be derived from user fees for fiscal year 2004 collected under section 60301 of this title.

''(3) $47,100,000 for fiscal year 2005, of which $41,100,000 is to be derived from user fees for fiscal year 2005 collected under section 60301 of this title.

''(4) $50,000,000 for fiscal year 2006, of which $45,000,000 is to be derived from user fees for fiscal year 2006 collected under section 60301 of this title.''.

(b) STATE GRANTS.—Section 60125 is amended—

(1) by striking subsections (b), (d), and (f) and redesignating subsection (c) as subsection (b); and

(2) in subsection (b)(1) (as so redesignated) by striking subparagraphs (A) through (H) and inserting the following:

''(A) $19,800,000 for fiscal year 2003, of which $14,800,000 is to be derived from user fees for fiscal year 2003 collected under section 60301 of this title.

''(B) $21,700,000 for fiscal year 2004, of which $16,700,000 is to be derived from user fees for fiscal year 2004 collected under section 60301 of this title.

''(C) $24,600,000 for fiscal year 2005, of which $19,600,000 is to be derived from user fees for fiscal year 2005 collected under section 60301 of this title.

''(D) $26,500,000 for fiscal year 2006, of which $21,500,000 is to be derived from user fees for fiscal year 2006 collected under section 60301 of this title.''.

(c) OIL SPILLS; EMERGENCY RESPONSE GRANTS.—Section 60125 is amended by inserting after subsection (b) (as redesignated by subsection (b)(1) of this section) the following:

''(c) OIL SPILL LIABILITY TRUST FUND.—Of the amounts available in the Oil Spill Liability Trust Fund, $8,000,000 shall be transferred to the Secretary of Transportation, as provided in appropriation Acts, to carry out programs authorized in this chapter for each of fiscal years 2003 through 2006.

''(d) EMERGENCY RESPONSE GRANTS.—

''(1) IN GENERAL.—The Secretary may establish a program for making grants to State, county, and local governments in high consequence areas, as defined by the Secretary, for emergency response management, training, and technical assistance.

''(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $6,000,000 for each of fiscal years 2003 through 2006 to carry out this subsection.''.

(d) CONFORMING AMENDMENT.—Section 60125(e) is amended by striking ''or (b) of this section''.

SEC. 23. INSPECTIONS BY DIRECT ASSESSMENT.

Section 60102, as amended by this Act, is further amended by adding at the end the following:

''(m) INSPECTIONS BY DIRECT ASSESSMENT.—Not later than 1 year after the date of the enactment of this subsection, the Secretary shall issue regulations prescribing standards for inspection of a pipeline facility by direct assessment.''.

SEC. 24. STATE PIPELINE SAFETY ADVISORY COMMITTEES.

Within 90 days after receiving recommendations for improvements to pipeline safety from an advisory committee appointed by the Governor of any State, the Secretary of Transportation shall respond in writing to the committee setting forth what action, if any, the Secretary will take on those recommendations and the Secretary's reasons for acting or not acting upon any of the recommendations.

SEC. 25. PIPELINE BRIDGE RISK STUDY.

(a) IN GENERAL.—The Secretary of Transportation shall conduct a study to determine whether cable-suspension pipeline bridges pose structural or other risks warranting particularized attention in connection with pipeline operators risk assessment programs and whether particularized inspection standards need to be developed by the Department of Transportation to recognize the peculiar risks posed by such bridges.

(b) PUBLIC PARTICIPATION AND COMMENTS.—In conducting the study, the Secretary shall provide, to the maximum extent practicable, for public participation and comment and shall solicit views and comments from the public and interested persons, including participants in the pipeline industry with knowledge and experience in inspection of pipeline facilities.

(c) COMPLETION AND REPORT.—Within 2 years after the date of enactment of this Act, the Secretary shall complete the study and transmit to Congress a report detailing the results of the study.

(d) FUNDING.—The Secretary may carry out this section using only amounts that are specifically appropriated to carry out this section.

SEC. 26. STUDY AND REPORT ON NATURAL GAS PIPELINE AND STORAGE FACILITIES IN NEW ENGLAND.

(a) STUDY.—The Federal Energy Regulatory Commission, in consultation with the Department of Energy, shall conduct a study on the natural gas pipeline transmission network in New England and natural gas storage facilities associated with that network.

(b) CONSIDERATION.—In carrying out the study, the Commission shall consider the ability of natural gas pipeline and storage facilities in New England to meet current and projected demand by gas-fired power generation plants and other consumers.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Federal Energy Regulatory Commission shall prepare and submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report containing the results of the study conducted under subsection (a), including recommendations for addressing potential natural gas transmission and storage capacity problems in New England.

Attest:

Secretary.

Mr. DINGELL. Mr. Speaker, I rise in strong support of the Senate amendment to H.R. 3609. The Senate passed this bill yesterday by unanimous consent. The text is based upon bipartisan, bicameral agreements reached during the conference consideration of H.R. 4, the energy bill.

I am truly pleased to be here to mark a very important event: for the first time in a decade, we are on the verge of enacting pipeline safety legislation that would actually enhance the safety of our Nation's pipelines. I want to commend Chairman TAUZIN, Chairman YOUNG, Ranking Member OBERSTAR, and our Senate colleagues on both sides of the aisle for making this possible.

There is a mounting body of evidence that our system of pipeline safety regulation is wholly inadequate. Unfortunately, until now, Congress has failed to move on any meaningful reforms. During the last Congress, the House considered legislation that was more about public relations than public safety. Because that legislation did little more than restate existing law and provide cover for maintaining the deadly status quo, Mr. OBERSTAR and I—along with many of our colleagues—successfully opposed enactment of that legislation.

The legislation we are considering today is largely based on the legislation that passed the House overwhelmingly in July, while incorporating many of the provisions of previously passed Senate legislation. It is the result of a good faith, sincere effort to do what is doable for the sake of safety, rather than hold out for everything that every stakeholder ever wanted. I know it is not a perfect product, but it is a distinct improvement over the Senate legislation and current law. Let me just detail a few of the improvements.

H.R. 3609, as amended, requires that a pipeline facility be inspected within ten years or less and re-inspected at least once every seven years. Facilities may be inspected more frequently and the Secretary is required to determine under what circumstances more frequent inspections are required. I certainly hope Secretary Mineta requires more frequent inspections, but currently, there are no time limits or rules for inspection of gas pipelines in high consequence areas, so this is a major improvement over currently law.

The bill before us also adopts the more stringent House inspection provisions, spelling out very specifically the minimum requirements of an operators integrity management plan. It requires the Secretary of Transportation to establish specific criteria for judging the adequacy of an operator's plan and establishes a specific process for the Secretary to review and assess the adequacy of an operator's inspection plans and amendments to the plan, requiring the Secretary to order revisions to inadequate plans. Also, while it allows some inspections to be conducted by direct assessment, the legislation requires the Secretary to define ''direct assessment'' by rules rather than leave the term undefined.

Because the Department of Transportation (DOT) has a terrible history of compliance with Congressional directives, the language provides a ''fail-safe'' to ensure pipelines get inspected by placing the obligation to conduct inspections directly on the pipeline operator if the Secretary fails to undertake a rulemaking.

The bill before us also includes the language on operator qualifications based upon the House-passed legislation. As with the inspection language, the House provision on operator qualifications is much more stringent and detailed. It requires the development of standards and criteria, the verification of operators' plans, and it contains a mechanism to ensure that operators develop and implement qualification plans even if the DOT never completes a rulemaking procedure. And, it begins to move toward licensing of pipeline operators by establishing a pilot program on licensing of pipeline computer control room operators.

This bill authorizes far more money for pipeline safety than the original Senate language. It authorizes new technical assistance grants to communities and a new research program. Most importantly, this legislation contains the House language assuring that most of the money authorized by this legislation will be spent on the regulation of pipelines, not on less important matters.

Other improvements to current law include new authority to issue Safety Orders, allowing the Secretary to take quick, meaningful action when there is a potentially unsafe condition; the establishment of a toll-free national three-digit ''call before you dig'' or ''one-call'' phone system; increased emphasis on environmental protection; and more enforcement tools to make it easier for both DOT and the Department of Justice to go after bad actors.

This is a good piece of legislation and I again want to express my appreciation to those in the environmental community and organized labor who have worked with me over the years on these matters. They, along with the industry stakeholders who have chosen to play a constructive role net his process, deserve to be recognized for helping us make it possible to go forward with the support of every Member of our Committee and hopefully today with support of the entire House of Representatives.

Mr. Speaker, I urge passage of the bill.

Mr. OBERSTAR. Mr. Speaker, I rise in support of the Senate amendment to H.R. 3609, the Pipeline Safety and Improvement Act of 2002. This evening, the House finally will be able to enact pipeline safety legislation that is worthy of the name. It is has been a long and difficult journey to reach this point. Energy and Commerce Committee Ranking Member DINGELL and I introduced strong pipeline safety legislation in this and the last Congress, while at the same time we fought to forestall the passage of much weaker legislation. Although it has required two more years of difficult negotiations on pipeline safety, I am pleased to say that nearly all the areas that Congressman DINGELL and I wanted to address are covered in the bill.

Is this bill perfect? No, but it has come a long way from the version that was introduced last December. My primary criticism of this compromise bill is that it does not go far enough in giving citizens information about the status of pipelines serving their communities—the so-called community right-to-know issue. However, in the current security-focused environment, we were unable to arrive at language that a majority of our colleagues could agree upon. Notwithstanding that limitation, this is a very good bill deserving of your support. Let me share with you some highlights of the Pipeline Safety Improvement Act of 2002.

First and foremost, this bill establishes specific timeframes for inspecting all natural gas transmission pipelines serving high consequence areas (e.g., high population areas). These pipelines must all be inspected within ten years of enactment of this legislation. Moreover, at least 50 percent of these pipelines must be inspected within the first five years. Pipeline operators must prioritize their facilities based on risk factors and ensure that assessments with the highest risks are given priority and inspections are completed within this first five-year period. Subsequently, these pipelines must be re-inspected no less frequently than ever seven years. At first, the natural gas pipeline industry strenuously opposed any periodic inspection requirements. When it became apparent that they couldn't win that position, they suggested inspection timeframes of up to 20 years and the Office of Pipeline Safety (OPS) appeared to agree with them. Fortunately, the interests of safety prevailed over the interests of the bottom line.

The bill also includes a requirement that pipeline operators provide training to ensure that individuals have the necessary knowledge and skills to perform their tasks in a safe manner. The bill specifically excludes the mere observation of an employee's on-the-job performance to decide whether or not he or she is qualified to perform the task to which he is assigned. The bill also requires OPS to establish a pilot program to certify pipeline employees who operate computer systems for controlling pipelines. This pilot program will help us determine whether we should require pipeline operators to certify all pipeline employees in safety-sensitive positions.

In addition, the bill raises the civil penalties for each violation from $25,000 to $100,000, and the maximum civil penalty from $500,000 to $1 million. These penalties are significantly higher than the penalties included in H.R. 3609, as reported. The bill also contains meaningful protections for employees who provide information about violations of Federal law governing pipeline safety or refuse to participate in any illegal practices relating to pipeline safety.

The bill allows for the coordination of environmental reviews for pipeline repair projects. It limits the instances where discretionary administrative environmental reviews might be minimized or eliminated to repair projects that would result in no more than minimal adverse effects on the environment and requires that an Interagency Committee of Federal agencies with responsibilities relating to pipeline repair projects unanimously agree that the environmental impact would be minimal.

This bill contains a number of other provisions that also should greatly advance the goal of improving pipeline safety. However, I must offer a word of caution. Simply because we enact a good, strong pipeline safety bill is no guarantee that its provisions will be vigorously carried out. In 1988 and 1992, Congress passed pipeline safety laws that required significant pipeline safety improvements, only to watch OPS basically ignore the law. Likewise, the Office of Pipeline Safety has been unresponsive, or slow to act, on safety recommendations made by the Department of Transportation's Office of Inspector General, the General Accounting Office, and the National Transportation Safety Board. The current leadership at OPS and at its parent agency, the Research and Special Programs Administration, has promised to do a better job. Nevertheless, the Administration needs to

know that we in the Congress are watching to make certain that the provisions of this pipeline safety act are being carried out faithfully.

Two years ago, I helped lead the effort in the House to defeat a Senate-passed, pipeline safety bill. That bill was too weak, especially in light of the then-recent tragedies in Bellingham, Washington and Carlsbad, New Mexico. We defeated that bill, believing that no bill was better than a weak one. That was the right thing to do. Now, we finally have a strong bill—one that will significantly improve pipeline safety and protect those who live near them or work on them. It is sad that it took so long to do the right thing for the American people.

I urge my colleagues to support the Senate amendment to H.R. 3609, the Pipeline Safety Improvement Act of 2002.

Mr. YOUNG of Alaska. Mr. Speaker, I am pleased to submit the accompanying Joint Explanatory Statement of the Pipeline Safety Improvement Act of 2002.

To expedite enactment of the significant pipeline safety reforms included in this bill, the leadership of the House Transportation and Infrastructure and Energy and Commerce Committees has worked with the Senate Commerce, Science, and Transportation Committee in developing the bill. This Joint Explanatory Statement therefore represents the views of the Chairmen and Ranking Members of the Transportation and Infrastructure Committee and the Energy and Commerce Committee, along with the Chairman and Ranking Member of the Senate Commerce Committee.

This Joint Explanatory Statement will provide legislative history for interpreting this important pipeline safety legislation.

JOINT EXPLANATORY STATEMENT OF THE HONORABLE DON YOUNG, THE HONORABLE JAMES L. OBERSTAR, THE HONORABLE W.J. (BILLY) TAUZIN, THE HONORABLE JOHN D. DINGELL AND THE HONORABLE ERNEST HOLLINGS THE HONORABLE JOHN MCCAIN

November 14, 2002

section-by-section analysis of h.r. 3609 pipeline safety improvement act of 2002

Section 1. Short title; amendment of title 49, United States Code.

This section designates the act as the ''Pipeline Safety Improvement Act of 2002.''

Section 2. One-call notification programs.

This section requires that state one-call notification programs provide for the participation of government operators and contact excavators. Section 2 also requires that state one-call notification programs document enumerated items set forth in the statute. Additionally, the requirement that the Secretary of Transportation include certain information in reports submitted under section 60124 of Title 49 is made permanent. Authorizations for appropriations for grants to states for fiscal years 2003 through 2006 are provided at $1,000,000 per year, and grants for administration in section 6107(b) are updated for fiscal years 2003 through 2006. This section also amends section 6105 of Title 49 by requiring the Secretary of Transportation to encourage the states, operators of one-cell notification programs, operators of underground facilities, and excavators (including government and contract excavators) to use the practices set forth in the best practices report entitled ''Common Ground,'' as periodically updated, and requires the Secretary of Transportation to provide technical assistance to a non-profit organization specifically established for the purpose of reducing construction-related damage to underground facilities. Authorizations for appropriations for fiscal years 2003 through 2006 are provided at $500,000 per year, but would not be derived from user fees collected under section 60301 of title 49.

Section 3. One-call notification of pipeline operators.

This section provides for the enforcement of one-call notification programs by a state authority if the state's program meets the requirements set forth in the statute. The application of the term ''person'' who intends to engage in an activity necessitating the use of the one-call system is expanded to include government employees or contractors.

This section amends section 60123(d) of Title 49 by rearranging the phrase ''knowingly and willfully'' to address the problem raised when a court interpreted existing law to require a knowing and willful standard to, not only engaging in an excavation activity, but also to subsequently damaging a pipeline facility. The consequence of the court's interpretation makes prosecutions more difficult by requiring the government to show the defendant knew subsequent damages would result from excavation activity and that the defendant's conduct was willful. This section of the bill corrects the court's interpretation by now requiring that the ''knowingly and willfully'' standard apply only to engaging in an excavation activity.

This section also provides that penalties under the criminal penalties section can be reduced if the violator promptly reports a violation.

Section 4. State oversight role.

This section amends section 60106 of Title 49 to allow the Secretary of Transportation to make an agreement with a state authority authorizing the state authority to participate in the oversight of interestate pipeline transportation including incident investigation, new construction, and other inspection and investigatory duties. However the Secretary shall not delegate the enforcement of safety standards for interstate pipeline facilities to a state authority. This section further provides that the Secretary may terminate agreements with the State authorities if a gap results in the State authority's oversight responsibilities of intrastate pipeline transportation, the State authority fails to meet requirements set forth in this section, or continued participation in the oversight of interstate pipeline transportation would not promote pipeline safety. Existing state agreements shall continue until a new agreement between the state and the DOT is executed or December 31, 2003, whichever is sooner.

Section 5. Public education programs.

Section 5 amends section 60116 of Title 49 to include hazardous liquid pipeline facilities in this section requiring a continuing program to educate the public on the use of one-call notification systems, the possible hazards associated with unintended releases, and how to tell if an unintended release occurred, what steps should be taken for public safety in the event of a pipeline release, and how to report such an event. This section also requires owners and operators to review existing public education programs for effectiveness and to modify their programs as necessary. In addition, the section allows the Secretary to issue standards prescribing the elements of public education programs and develop materials for use in such programs.

Previous versions of Senate-passed pipeline safety legislation also included a provision calling for the coordination of emergency preparedness between operators of pipeline facilities and state and local officials, as well as to provide for public access to certain safety information. Agreement was not reached on how safety information could be accessed by the public in a manner that would protect security-sensitive information from distribution. The managers agreed that this issue would be better dealt with in the context of the pending homeland security legislation.

Section 6. Protection of employees providing pipeline safety information.

This section adds provisions for the protection of employees who are discharged or otherwise discriminated against with respect to compensation, terms, conditions, or privileges of employment for (1) providing information to the Federal government about alleged violations of Federal law relating to pipeline safety; (2) refusing to participate in any practice made illegal by Federal law relating to pipeline safety; or (3) assisting or participating in any proceeding to carry out the purposes of pipeline safety legislation. This section establishes the procedural framework in which complaints are handled by the Secretary of Labor and the remedies available to the prevailing party.

This section contains a provision that essentially says if a preliminary order provides that an employee must be allowed to return to work, the filing of any objection by the employer ''shall not operate to stay any reinstatement remedy contained in the preliminary order.'' The intention of this language is to assure that the mere filing of an objection would not work as an automatic stay, thus precluding an employee from returning to work pending the outcome of the matter. However, this language would not preclude an employer from filing an independent motion for a stay if sufficient grounds exist for the filing of such a motion.

Section 7. Safety orders.

Section 7 adds a paragraph to section 60117 of Title 49 to give the Secretary of Transportation authority to order an operator of a facility to take corrective action if the Secretary decides that a potential safety-related condition exists. The office of Pipeline Safety (OPS) requested this provision so that corrective action could be taken immediately rather than waiting until a facility is classified as ''hazardous'' prior to requiring corrective action.

Section 8. Penalties.

This section modifies the existing penalties provisions set forth in section 60112 of Title 49 to allow the Secretary of Transportation to decide if the operation of a pipeline facility, is ''or would be'' hazardous to life, property, or the environment. The purpose of the modification is to give the Secretary authority to take action prior to the facility, the construction of the facility, or any component of the facility actually becoming hazardous, thereby establishing a framework of preventative actions, rather than actions only in response to an imminent hazard.

In subsection (a)(1) of section 60122, the amounts of the penalties have been increased. The per day, per incident, amount has been increased from $25,000 to $100,000. The maximum civil penalty for a related series of violations has been increased from $500,000 to $1,000,000. The section of the bill also provides that, in determining the amount of a civil penalty, the Secretary of Transportation shall consider as an additional consideration in section 60122(b) of Title 49, the adverse impact on the environment. The Secretary of Transportation may

consider the economic benefit gained from the violation without reduction because of subsequent damages.

This section also modifies the enforcement section of the statute (section 60120(a)(1) of Title 49) by specifically providing that the court may award appropriate relief, including a temporary or permanent injunction, punitive damages, and the assessment of civil penalties. The current statutory language specifying that the Attorney General may proceed only at the request of the Secretary of Transportation remains in effect.

Section 8 also requires that the Comptroller General conduct a study of the actions, policies, and procedures of the Secretary of Transportation for assessing and collecting fines and penalties.

Section 9. Pipeline safety information grants to communities.

Section 9 requires the Secretary of Transportation to make grants for technical assistance to local communities and groups of individuals (not including for-profit entities) relating to the safety of pipelines in local communities. The purpose of this provision is to provide grants to communities for technical assistance such as engineering or scientific analysis of pipeline safety issues. Applicants must compete for the grants in a procedure established by the Secretary of Transportation, who shall also establish the criteria for the recipients. Additionally, the Secretary must establish procedures to ensure that the funds have been properly accounted for and spent in a manner consistent with the purpose of the grants. Any one-grant recipient may not receive more than $50,000. The grant funds cannot be used for lobbying or in direct support of litigation. This section authorizes the appropriation of $1,000,000 for each of the fiscal years 2003 through 2006.

Section 10. Operator assistance in investigations.

This section requires the operator of a pipeline facility to make available information and records to the Secretary of Transportation or the National Safety Transportation Board (NTSB) in the event of an accident, subject to constitutional protections for operators and employees. Actions taken by an operator pursuant to this section shall be in accordance with the terms and conditions of any applicable collective bargaining agreement.

Section 11. Population encroachment and rights-of-way.

This section requires the Secretary of Transportation, along with the Federal Energy Regulatory Commission (FERC) and other federal agencies and state and local governments, to study land use practices and zoning ordinances, as well as the preservation of environmental resources, with regard to pipeline rights-of-way. Based upon the purposes set forth in this section, a report is to be written that identifies successful practices, ordinances, and laws addressing population encroachment on pipeline rights-of-way, being mindful of protecting the public safety, pipeline workers, and the environment. The report must be completed within one year from the date of enactment and provided to Congress, appropriate federal agencies, and the States for further distribution to the appropriate local authorities.

Section 12. Pipeline integrity, safety, and reliability research and development.

This section requires the heads of the participating agencies to carry out a program of research, development, demonstration, and standardization to ensure the integrity of pipelines. The Secretary of Energy, Secretary of Transportation, and the Director of the National Institute of Standards and Technology (NIST) each have defined roles. The Secretary of Transportation, in coordination with the Secretary of Energy and the Director of the National Institute of Standards and Technology, shall prepare and submit to Congress a 5-year plan to guide the activities under this section. The plan shall also be submitted to the Technical Pipeline Safety Standards Committee and the Technical Hazardous Liquid Pipeline Safety Standards Committee for review. The section authorizes appropriations for the fiscal years 2003 through 2006 in the following amounts: Secretary of Energy: $10,000,000; the Secretary of Transportation: $10,000,000; and the National Institute of Standards and Technology: $5,000,000. Any sums authorized pursuant to this section shall not be derived from user fees. In addition $3,000,000 from the Oil Spill Liability Trust Fund shall be transferred to the Secretary of Transportation, as provided in appropriations Acts, to carry out programs for detection, prevention, and mitigation of oil spills for each of the fiscal years 2003 through 2006.

Even though the Secretary of Transportation does not regulate gathering lines, the participating agencies are encouraged to include such lines in their research, development, demonstration, and standardization efforts on the integrity of gathering lines.

Section 13. Pipeline qualification programs.

This section requires the Secretary of Transportation to require operators of pipeline facilities to develop qualification programs for their personnel who perform covered tasks (as defined in the Code of Federal Regulations). This section also requires the Secretary to have in place standards and criteria for such qualification programs, including a method for examining or testing the qualifications of individuals who perform covered tasks. Such method may include written examination, oral examination, on-the-job training, simulations, observation during on-the-job performance, and other forms of assessment. The method may not be limited to observation of on-the-job performance, except with respect to tasks where the Secretary has determined specifically that such observation is the best method of examining or testing qualifications. Further, the Secretary must ensure that the results of any such on-the-job performance observations are documented in writing. The Secretary may waive or modify requirements if not inconsistent with pipeline safety. The Secretary is required to verify each operator's qualification program, including modifications to previously verified programs. In the event the Secretary fails to establish standards and criteria as set forth in this section, pipeline facility operators are required to develop and implement qualification programs based on the requirements of this section. The Secretary is required to report to Congress within 5 years on the status and results of personnel qualification regulations. A pilot program is established for the certification of individuals who operate computer-based systems for controlling the operations of pipelines. The pilot program seeks the participation of 3 pipeline facilities.

Section 14. Risk analysis and integrity management programs for gas pipelines.

This section requires operators of pipeline facilities subject to section 60109 of Title 49 to adopt and implement a written integrity management program to reduce risks to each facility. Within 12 months of the enactment of the bill, this section requires the Secretary of Transportation to prescribe standards to direct each operator's conduct of a risk analysis and adoption and implementation of an integrity management program, which must occur within 24 months from the enactment of the section. Minimum requirements are set forth in this section for integrity management programs and for the rule regulating the same, which include a baseline integrity assessment of each of an operator's facilities which must be completed within 10 years after the enactment of the section (at least 50 percent of such facilities shall be assessed no later than 5 years after the date of enactment of this section), and a reassessment of each facility at a minimum of once every 7 years, with prioritization being based on all relevant risk factors, including any previously discovered defects or anomalies and any history of leaks, repairs, or failures.

The Secretary of Transportation is required to issue a rule on integrity management programs, and each operator of a pipeline facility subject to section 60109 of Title 49 is required to adopt and implement an integrity management program, even if the Secretary does not issue a rule. This section does not apply to natural gas distribution lines because section 60109 of Title 49 does not, nor was it intended to, apply to natural gas distribution lines.

Section 14 authorizes the Secretary of Transportation to grant waivers and modifications pursuant to section 60118(c) of Title 49 for any requirement for reassessment of a facility for reasons that may include the need to maintain local product supply or the lack of internal inspection devices. The waivers or modifications shall not be inconsistent with pipelines safety.

This section also requires that the Comptroller General conduct a study to evaluate the 7-year reassessment interval required by this section. The study is to be completed and transmitted to Congress no later than 4 years from the date of enactment.

In this section, each operator of a gas pipeline facility is required to conduct a risk analysis for facilities located in high consequence areas and to adopt and implement an integrity management program for each such facility to reduce associated risks. This section requires each operator to prioritize facilities for integrity assessment based on all risk factors, including any history of leaks, repairs, or failures, and directs the operator to give priority to facilities with the highest risks.

The Department of Transportation's Research and Special Programs Administration (RSPA) issued a final rule defining ''high consequence areas'' on August 6, 2002. The managers strongly support RSPA's regulation defining high consequence areas, although recognize that the definition could be subject to alteration by future regulatory action by RSPA.

Pipeline safety regulations have long required gas operators to survey and patrol along their pipeline rights-of-way to classify areas of population. The new definition of high consequence areas builds on the existing classification of areas where the potential consequences of a gas pipeline accident may be significant or may do considerable harm to people and their property, and includes current class 3 and 4 locations, facilities with persons who are mobility impaired, confined, or hard to evacuate, and places where people gather for recreational and other purposes.

In the July 2002 Technical Pipeline Safety Standards Committee meeting to consider the proposed definition, RSPA made clear its intent to include in its definition known areas where people gather, such as the Pecos River pipeline crossing near Carlsbad, New Mexico, which was commonly used by campers and fishermen and was the location of a pipeline rupture in August 2000 that resulted in 12 fatalities. The managers support is expressed for this new definition of high consequence areas and expect RSPA to further

clarify the application of the definition in the substantive rule to be issued on integrity management programs.

Section 15. National Pipeline Mapping System.

Section 15 requires operators of pipeline facilities, except distribution lines and gathering lines, to provide to the Secretary of Transportation geospatial data appropriate for use in the National Mapping System, the name and address of the person with primary operational control, and a means for a member for the public to contact the operator for additional information about the facilities. There is a requirement to update the information as necessary.

Section 16. Coordination of environmental reviews.

Section 16 requires the President to establish an interagency committee for the purpose of developing and ensuring the implementation of a coordinated environmental review and permitting process in order for pipeline operators to complete all activities necessary to carry out pipeline repairs within any time periods specified by rule by the Secretary of Transportation.

The chairman of the Council on Environmental Quality shall chair the Interagency Committee, which shall consist of representatives of Federal agencies with responsibilities relating to pipeline repair projects. The Interagency Committee shall evaluate Federal permitting requirements and shall examine the access, excavation, and restoration practices of the pipeline industry for the purpose of developing a compendium of best practices used by the industry to access, excavate, and restore the site of a pipeline repair. Based upon the evaluation conducted, the members of the Interagency Committee shall enter into, by unanimous consent, a memorandum of understanding to provide for the coordinated and expedited pipeline repair permit review process so that pipeline operators may commence and complete pipeline repairs within any time periods imposed on the repair projects by rules promulgated by the Secretary of Transportation. Each agency represented on the Interagency Committee is required to revise its regulations to implement the provisions of the memorandum of understanding.

This section also provides for the implementation of alternative mitigation measures to be used by operators of pipeline facilities until all applicable permits have been granted. To the extent necessary, the Secretary of Transportation is required to revise the regulations of the Department to accommodate such implementation. However, such revisions shall not allow an operator of a pipeline facility to implement alternate mitigation measures unless to do so would be consistent with the protection of human health, public safety, and the environment; the operator has applied for and is diligently and in good faith pursuing all required Federal, state, and local permits necessary to carry out the repair project; and is compatible with pipeline safety.

The Secretary of Transportation is required to designate an ombudsman to assist in expediting pipeline repairs and resolving disagreements between Federal, state, and local permitting agencies and the operator of a pipeline facility. The actions of the ombudsman must be consistent with the protection of human health, public safety, and the environment.

The Secretary of Transportation is required to encourage states and local governments to consolidate their respective permitting processes for pipeline repair projects that are subject to any time periods for repairs specified by rule by the Secretary of Transportation.

Section 17. Nationwide toll-free number system.

Section 17 requires the Secretary of Transportation to work in conjunction with the Federal Communications Commission (FCC), facility operators, excavators, and one-call notification system operators for the establishment of a nationwide toll-free 3-digit telephone number system to be used by state one-call notification systems.

Section 18. Implementation of Inspector General recommendations.

Section 18 requires the Secretary of Transportation to respond to each of the recommendations of the Department of Transportation Inspector General contained in RT–2000–069 every 90 days and to submit the responses to the appropriate committees of Congress.

Section 19. NTSB safety recommendations.

Section 19 requires RSPA and OPS to respond to recommendations received from the NTSB within 90 days from receipt of such recommendations. Such responses shall state the intentions of the OPS with respect to the recommendations and shall state the timetable for completing the procedures and reasons for refusals to do so. The responses shall be made available to the public. The OPS is required to submit an annual report describing each recommendation received and the OPS response to each recommendation for the previous year.

Section 20. Miscellaneous amendments.

Section 20 amends section 60102(a) of Title 49 by adding language expressing that the purpose of the chapter is to provide adequate protection against risks to life and property posed by pipeline transportation pipeline facilities by improving the regulatory and enforcement authority of the Secretary of Transportation.

This section also modifies the qualifications of the individuals selected to serve on the Technical Safety Standards Committees pursuant to section 60115 of Title 49 so that none of the individuals selected for committee membership from the general public ''may have a significant financial interest in the pipeline, petroleum, or gas industry.'' The intent of this provision is to prevent industry employees and individuals with a sizable stake in the pipeline industry from serving as representatives from the general public, not prevent service from individuals who have pipeline, petroleum, or gas industry stock interests in their retirement plans.

Section 21. Technical amendments.

Section 21 makes technical amendments to correct previous drafting errors in the existing legislation.

Section 22. Authorization of appropriations.

Section 22 authorizes appropriations for the Department of Transportation and state grants for safety programs for the fiscal years 2003 through 2006.

Section 23. Inspections by direct assessment.

Section 23 requires the Secretary of Transportation to issue regulations prescribing standards for inspections of a pipeline facility by direct assessment.

Section 24. State pipeline safety advisory committees.

Section 24 requires the Secretary of Transportation to respond within 90 days after receiving recommendations from advisory committees appointed by the Governor of any state.

Section 25. Pipeline bridge risk study.

Section 25 requires the Secretary of Transportation to conduct a study to determine whether cable-suspension pipeline bridges pose structural or other risks. The Secretary may only use funds specifically appropriated to carry this section.

Section 26. Study and Report on Natural Gas Pipeline and Storage Facilities in New England.

Section 26 requires the Federal Energy Regulatory Commission, in consultation with the Department of Energy, to conduct a study on the natural gas pipeline transmission network in New England and natural gas storage facilities associated with that network and report back to the relevant House and Senate Committees within a year of the date of enactment.

□ 0250

TAKEN FROM THE SPEAKER'S TABLE AND CONCURRED IN SENATE AMENDMENT

H.R. 5469, to amend title 17, United States Code, with respect to the statutory license for webcasting, and for other purposes.

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Small Webcaster Settlement Act of 2002''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Some small webcasters who did not participate in the copyright arbitration royalty panel proceeding leading to the July 8, 2002 order of the Librarian of Congress establishing rates and terms for certain digital performances and ephemeral reproductions of sound recordings, as provided in part 261 of the Code of Federal Regulations (published in the Federal Register on July 8, 2002) (referred to in this section as ''small webcasters''), have expressed reservations about the fee structure set forth in such order, and have expressed their desire for a fee based on a percentage of revenue.

(2) Congress has strongly encouraged representatives of copyright owners of sound recordings and representatives of the small webcasters to engage in negotiations to arrive at an agreement that would include a fee based on a percentage of revenue.

(3) The representatives have arrived at an agreement that they can accept in the extraordinary and unique circumstances here presented, specifically as to the small webcasters, their belief in their inability to pay the fees due pursuant to the July 8 order, and as to the copyright owners of sound recordings and performers, the strong encouragement of Congress to reach an accommodation with the small webcasters on an expedited basis.

(4) The representatives have indicated that they do not believe the agreement provides for or in any way approximates fair or reasonable royalty rates and terms, or rates and terms that would have been negotiated in the marketplace between a willing buyer and a willing seller.

(5) Congress has made no determination as to whether the agreement provides for or in any way approximates fair or reasonable fees and terms, or rates and terms that would have been negotiated in the marketplace between a willing buyer and a willing seller.

(6) Congress likewise has made no determination as to whether the July 8 order is reasonable or arbitrary, and nothing in this Act shall be taken into account by the United States Court of Appeals for the District of Columbia Circuit in its review of such order.

(7) It is, nevertheless, in the public interest for the parties to be able to enter into such an agreement without fear of liability for deviating from the fees and terms of the July 8 order, if it is clear that the agreement will not be admissible as evidence or otherwise taken into account in any government proceeding involving the setting or adjustment of the royalties payable to copyright owners of sound recordings for the public performance or reproduction in ephemeral phonorecords or copies of such works, the determination of terms or conditions related thereto,

or the establishment of notice or recordkeeping requirements.

SEC. 3. SUSPENSION OF CERTAIN PAYMENTS.

(a) NONCOMMERCIAL WEBCASTERS.—

(1) IN GENERAL.—The payments to be made by noncommercial webcasters for the digital performance of sound recordings under section 114 of title 17, United States Code, and the making of ephemeral phonorecords under section 112 of title 17, United States Code, during the period beginning on October 28, 1998, and ending on May 31, 2003, which have not already been paid, shall not be due until June 20, 2003.

(2) DEFINITION.—In this subsection, the term ''noncommercial webcaster'' has the meaning given that term in section 114(f)(5)(E)(i) of title 17, United States Code, as added by section 4 of this Act.

(b) SMALL COMMERCIAL WEBCASTERS.—

(1) IN GENERAL.—The receiving agent may, in a writing signed by an authorized representative thereof, delay the obligation of any 1 or more small commercial webcasters to make payments pursuant to sections 112 and 114 of title 17, United States Code, for a period determined by such entity to allow negotiations as permitted in section 4 of this Act, except that any such period shall end no later than December 15, 2002. The duration and terms of any such delay shall be as set forth in such writing.

(2) DEFINITIONS.—In this subsection—

(A) the term ''webcaster'' has the meaning given that term in section 114(f)(5)(E)(iii) of title 17, United States Code, as added by section 4 of this Act; and

(B) the term ''receiving agent'' shall have the meaning given that term in section 261.2 of title 37, Code of Federal Regulations, as published in the Federal Register on July 8, 2002.

SEC. 4. AUTHORIZATION FOR SETTLEMENTS.

Section 114(f) of title 17, United States Code, is amended by adding after paragraph (4) the following:

''(5)(A) Notwithstanding section 112(e) and the other provisions of this subsection, the receiving agent may enter into agreements for the reproduction and performance of sound recordings under section 112(e) and this section by any 1 or more small commercial webcasters or noncommercial webcasters during the period beginning on October 28, 1998, and ending on December 31, 2004, that, once published in the Federal Register pursuant to subparagraph (B), shall be binding on all copyright owners of sound recordings and other persons entitled to payment under this section, in lieu of any determination by a copyright arbitration royalty panel or decision by the Librarian of Congress. Any such agreement for small commercial webcasters shall include provisions for payment of royalties on the basis of a percentage of revenue or expenses, or both, and include a minimum fee. Any such agreement may include other terms and conditions, including requirements by which copyright owners may receive notice of the use of their sound recordings and under which records of such use shall be kept and made available by small commercial webcasters or noncommercial webcasters. The receiving agent shall be under no obligation to negotiate any such agreement. The receiving agent shall have no obligation to any copyright owner of sound recordings or any other person entitled to payment under this section in negotiating any such agreement, and no liability to any copyright owner of sound recordings or any other person entitled to payment under this section for having entered into such agreement.

''(B) The Copyright Office shall cause to be published in the Federal Register any agreement entered into pursuant to subparagraph (A). Such publication shall include a statement containing the substance of subparagraph (C). Such agreements shall not be included in the Code of Federal Regulations. Thereafter, the terms of such agreement shall be available, as an option, to any small commercial webcaster or noncommercial webcaster meeting the eligibility conditions of such agreement.

''(C) Neither subparagraph (A) nor any provisions of any agreement entered into pursuant to subparagraph (A), including any rate structure, fees, terms, conditions, or notice and recordkeeping requirements set forth therein, shall be admissible as evidence or otherwise taken into account in any administrative, judicial, or other government proceeding involving the setting or adjustment of the royalties payable for the public performance or reproduction in ephemeral phonorecords or copies of sound recordings, the determination of terms or conditions related thereto, or the establishment of notice or recordkeeping requirements by the Librarian of Congress under paragraph (4) or section 112(e)(4). It is the intent of Congress that any royalty rates, rate structure, definitions, terms, conditions, or notice and recordkeeping requirements, included in such agreements shall be considered as a compromise motivated by the unique business, economic and political circumstances of small webcasters, copyright owners, and performers rather than as matters that would have been negotiated in the marketplace between a willing buyer and a willing seller, or otherwise meet the objectives set forth in section 801(b).

''(D) Nothing in the Small Webcaster Settlement Act of 2002 or any agreement entered into pursuant to subparagraph (A) shall be taken into account by the United States Court of Appeals for the District of Columbia Circuit in its review of the determination by the Librarian of Congress of July 8, 2002, of rates and terms for the digital performance of sound recordings and ephemeral recordings, pursuant to sections 112 and 114.

''(E) As used in this paragraph—

''(i) the term 'noncommercial webcaster' means a webcaster that—

''(I) is exempt from taxation under section 501 of the Internal Revenue Code of 1986 (26 U.S.C. 501);

''(II) has applied in good faith to the Internal Revenue Service for exemption from taxation under section 501 of the Internal Revenue Code and has a commercially reasonable expectation that such exemption shall be granted; or

''(III) is operated by a State or possession or any governmental entity or subordinate thereof, or by the United States or District of Columbia, for exclusively public purposes;

''(ii) the term 'receiving agent' shall have the meaning given that term in section 261.2 of title 37, Code of Federal Regulations, as published in the Federal Register on July 8, 2002; and

''(iii) the term 'webcaster' means a person or entity that has obtained a compulsory license under section 112 or 114 and the implementing regulations therefor to make eligible nonsubscription transmissions and ephemeral recordings.

''(F) The authority to make settlements pursuant to subparagraph (A) shall expire December 15, 2002, except with respect to noncommercial webcasters for whom the authority shall expire May 31, 2003.''.

SEC. 5. DEDUCTIBILITY OF COSTS AND EXPENSES OF AGENTS AND DIRECT PAYMENT TO ARTISTS OF ROYALTIES FOR DIGITAL PERFORMANCES OF SOUND RECORDINGS.

(a) FINDINGS.—Congress finds that—

(1) in the case of royalty payments from the licensing of digital transmissions of sound recordings under subsection (f) of section 114 of title 17, United States Code, the parties have voluntarily negotiated arrangements under which payments shall be made directly to featured recording artists and the administrators of the accounts provided in subsection (g)(2) of that section;

(2) such voluntarily negotiated payment arrangements have been codified in regulations issued by the Librarian of Congress, currently found in section 261.4 of title 37, Code of Federal Regulations, as published in the Federal Register on July 8, 2002;

(3) other regulations issued by the Librarian of Congress were inconsistent with the voluntarily negotiated arrangements by such parties concerning the deductibility of certain costs incurred for licensing and arbitration, and Congress is therefore restoring those terms as originally negotiated among the parties; and

(4) in light of the special circumstances described in this subsection, the uncertainty created by the regulations issued by the Librarian of Congress, and the fact that all of the interested parties have reached agreement, the voluntarily negotiated arrangements agreed to among the parties are being codified.

(b) DEDUCTIBILITY.—Section 114(g) of title 17, United States Code, is amended by adding after paragraph (2) the following:

''(3) A nonprofit agent designated to distribute receipts from the licensing of transmissions in accordance with subsection (f) may deduct from any of its receipts, prior to the distribution of such receipts to any person or entity entitled thereto other than copyright owners and performers who have elected to receive royalties from another designated agent and have notified such nonprofit agent in writing of such election, the reasonable costs of such agent incurred after November 1, 1995, in—

''(A) the administration of the collection, distribution, and calculation of the royalties;

''(B) the settlement of disputes relating to the collection and calculation of the royalties; and

''(C) the licensing and enforcement of rights with respect to the making of ephemeral recordings and performances subject to licensing under section 112 and this section, including those incurred in participating in negotiations or arbitration proceedings under section 112 and this section, except that all costs incurred relating to the section 112 ephemeral recordings right may only be deducted from the royalties received pursuant to section 112.

''(4) Notwithstanding paragraph (3), any designated agent designated to distribute receipts from the licensing of transmissions in accordance with subsection (f) may deduct from any of its receipts, prior to the distribution of such receipts, the reasonable costs identified in paragraph (3) of such agent incurred after November 1, 1995, with respect to such copyright owners and performers who have entered with such agent a contractual relationship that specifies that such costs may be deducted from such royalty receipts.''.

(c) DIRECT PAYMENT TO ARTISTS.—Section 114(g)(2) of title 17, United States Code, is amended to read as follows:

''(2) An agent designated to distribute receipts from the licensing of transmissions in accordance with subsection (f) shall distribute such receipts as follows:

''(A) 50 percent of the receipts shall be paid to the copyright owner of the exclusive right under section 106(6) of this title to publicly perform a sound recording by means of a digital audio transmission.

''(B) 2½ percent of the receipts shall be deposited in an escrow account managed by an independent administrator jointly appointed by copyright owners of sound recordings and the American Federation of Musicians (or any successor entity) to be distributed to nonfeatured musicians (whether or not members of the American Federation of Musicians) who have performed on sound recordings.

''(C) 2½ percent of the receipts shall be deposited in an escrow account managed by an independent administrator jointly appointed by copyright owners of sound recordings and the American Federation of Television and Radio Artists (or any successor entity) to be distributed to nonfeatured vocalists (whether or not members of the American Federation of Television and Radio Artists) who have performed on sound recordings.

''(D) 45 percent of the receipts shall be paid, on a per sound recording basis, to the recording

artist or artists featured on such sound recording (or the persons conveying rights in the artists' performance in the sound recordings).''.

SEC. 6. REPORT TO CONGRESS.

By not later than June 1, 2004, the Comptroller General of the United States, in consultation with the Register of Copyrights, shall conduct and submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a study concerning the economic arrangements among small commercial webcasters covered by agreements entered into pursuant to section 114(f)(5)(A) of title 17, United States Code, as added by section 4 of this Act, and third parties, and the effect of those arrangements on royalty fees payable on a percentage of revenue or expense basis.

Mr. BERMAN. Mr. Speaker, I rise to support House adoption of the Senate substitute amendment to H.R. 5649. This legislation provides important assistance to noncommercial webcasters, small commercial webcasters, recording artists, and owners of sound recording copyrights.

Early last month, the House passed H.R. 5469 on voice vote under suspension of the rules. As passed by the House, H.R. 5469 provided small commercial webcasters with a discount on the webcasting royalties they owed. The House-passed bill actually specified the rates and terms of the discount these webcasters would receive.

Unfortunately, H.R. 5469 was stalled in the Senate. Certain broadcasters expressed concern that the terms of the discount specified in H.R. 5469 would have a precedential effect in future webcasting royalty-setting proceedings. Noncommercial webcasters expressed the concern that H.R. 5469 did not give them a discount on webcasting royalties, as it did for small commercial webcasters. The Senate decided to amend H.R. 5469 to address these concerns, and the bill before us today reflects those accommodations.

The Senate substitute delays the webcasting royalty obligations of noncommercial webcasters, which came due late last month, until June 20, 2003. The bill also allows the collecting agent to delay the royalty obligation owed by any 1 or more small commercial webcaster until December 15, 2002.

Instead of specifying the rates and terms of the discount for noncommercial and small commercial webcasters, the Senate substitute delegates the ability to establish an industry-wide discount to the collecting agent for copyright owners and recording artists. The understating and expectation of both the House and the Senate is that the collecting agent will offer noncommercial and small commercial webcasters a royalty discount based on the terms and conditions set in the House-passed version of H.R. 5469. In other words, Congress expects that the collecting agent will offer noncommercial and small commercial webcasters the same deal represented by H.R. 5469.

There is no doubt that this approach is unusual. Unlike the typical statutory license rate-setting process, this approach does not involve any governmental entity in the rate-setting process, except for the Copyright Office's ministerial task of publishing those agreements in the Federal Register. This should not be considered a precedent or model for future legislation. It is a response to the unique circumstances surrounding the reaction to the rates set by the Librarian of Congress, the ensuing negotiations between copyright owners and webcasters, and the opposition H.R. 5469 generated in the Senate.

Again, I ask my colleagues to support the Senate substitute to H.R. 5469.

Mr. SENSENBRENNER. Mr. Speaker, on October 7, 2002, the House passed H.R. 5469, the ''Small Webcaster Amendments Act of 2002,'' under suspension of the Rules. Earlier this evening, the Senate passed a substitute version of the bill, which I urge the House to adopt by unanimous consent.

By way of background, H.R. 5469 as originally drafted suspended the implementation of the Librarian of Congress's decision regarding royalty rates that webcasters must pay to copyright owners for the performance of copyrighted works for six months beginning on October 20. At the time, the purpose of this delay was to ensure that all parties would receive the judicial process to which they are entitled under the law before the rate took effect.

H.R. 5469 placed a burr under the saddle of both the copyright holders and the small webcasters to conclude negotiations on these matters that began last summer. The parties negotiated around the clock and arrived at a deal that set new rates and payment terms, obviating the need for further legal or administrative intervention.

Following House passage of H.R. 5469, Senator HELMS expressed concerns regarding the potential effect of codifying the actual agreement in the statute on future rate proceedings. As a result, and after further negotiations in the past two days, the parties have developed the Helms substitute before us which makes the following changes:

It contains a ''findings'' section which explains the need for the legislation.

It suspends the obligation of non-commercial webcasters, such as college radio stations, to pay copyright holders royalties owed until June 20, 2003. This will give both sides extra time to negotiate a new deal.

Under H.R. 5469 as originally passed by the House, SoundExchange, the non-profit entity which collects and distributes royalties owed copyright holders, is permitted to deduct its operating and legal expenses from collected fees. The substitute retains this feature and also permits any other for-profit entity designated as an agent by the affected copyright holders to deduct its expenses in the same manner.

SoundExchange is authorized to negotiate an agreement on behalf of all copyright owners and performers with small webcasters. Affected small commercial webcasters will not pay royalties through December 15, 2002, which is intended to facilitate the implementation of a settlement identical to the terms set forth in H.R. 5469 as passed by the House.

The Comptroller General and the Register of Copyrights will develop a joint report for the House and Senate Committees on the Judiciary regarding the effect of ''economic arrangements among small webcasters and third parties'' on royalty fees owed copyright holders.

Finally, Mr. Speaker, I would like to commend both the small webcasters and the copyright owners for their diligent efforts to reach an agreement. I understand that this is a complex and controversial issue and both sides met the challenge by continuing to negotiate in good faith.

H.R. 5469, as amended, is a good bill. It will ultimately accomplish the same goal as H.R. 5469 as passed by the House, only in a different way. I urge my colleagues to support the bill.

TAKEN FROM THE SPEAKER'S TABLE AND CONCURRED IN SENATE AMENDMENT

H.R. 3833, to facilitate the creation of a new, second-level Internet domain within the United States country code domain that will be a haven for material that promotes positive experiences for children and families using the Internet, provides a safe online environment for children, and helps to prevent children from being exposed to harmful material on the Internet, and for other purposes.

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Dot Kids Implementation and Efficiency Act of 2002''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the World Wide Web presents a stimulating and entertaining opportunity for children to learn, grow, and develop educationally and intellectually;

(2) Internet technology also makes available an extensive amount of information that is harmful to children, as studies indicate that a significant portion of all material available on the Internet is related to pornography;

(3) young children, when trying to use the World Wide Web for positive purposes, are often presented—either mistakenly or intentionally—with material that is inappropriate for their age, which can be extremely frustrating for children, parents, and educators;

(4) exposure of children to material that is inappropriate for them, including pornography, can distort the education and development of the Nation's youth and represents a serious harm to American families that can lead to a host of other problems for children, including inappropriate use of chat rooms, physical molestation, harassment, and legal and financial difficulties;

(5) young boys and girls, older teens, troubled youth, frequent Internet users, chat room participants, online risk takers, and those who communicate online with strangers are at greater risk for receiving unwanted sexual solicitation on the Internet;

(6) studies have shown that 19 percent of youth (ages 10 to 17) who used the Internet regularly were the targets of unwanted sexual solicitation, but less than 10 percent of the solicitations were reported to the police;

(7) children who come across illegal content should report it to the congressionally authorized CyberTipline, an online mechanism developed by the National Center for Missing and Exploited Children, for citizens to report sexual crimes against children;

(8) the CyberTipline has received more than 64,400 reports, including reports of child pornography, online enticement for sexual acts, child molestation (outside the family), and child prostitution;

(9) although the computer software and hardware industries, and other related industries, have developed innovative ways to help parents and educators restrict material that is harmful to minors through parental control protections and self-regulation, to date such efforts have not provided a national solution to the problem of minors accessing harmful material on the World Wide Web;

(10) the creation of a ''green-light'' area within the United States country code Internet domain, that will contain only content that is appropriate for children under the age of 13, is analogous to the creation of a children's section within a library and will promote the positive experiences of children and families in the United States; and

(11) while custody, care, and nurture of the child reside first with the parent, the protection of the physical and psychological well-being of minors by shielding them from material that is harmful to them is a compelling governmental interest.

(b) PURPOSES.—The purposes of this Act are—

(1) to facilitate the creation of a second-level domain within the United States country code Internet domain for the location of material that is suitable for minors and not harmful to minors; and

(2) to ensure that the National Telecommunications and Information Administration oversees the creation of such a second-level domain and ensures the effective and efficient establishment and operation of the new domain.

SEC. 3. NTIA AUTHORITY.

Section 103(b)(3) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 902(b)(3)) is amended—

(1) in subparagraph (A), by striking ''and'' at the end;

(2) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following new subparagraph:

''(C) shall assign to the NTIA responsibility for providing for the establishment, and overseeing operation, of a second-level Internet domain within the United States country code domain in accordance with section 157.''.

SEC. 4. CHILD-FRIENDLY SECOND-LEVEL INTERNET DOMAIN.

The National Telecommunications and Information Administration Organization Act (47 U.S.C. 901 et seq.) is amended in part C by adding at the end the following new section:

''SEC. 157. CHILD-FRIENDLY SECOND-LEVEL INTERNET DOMAIN.

''(a) RESPONSIBILITIES.—The NTIA shall require the registry selected to operate and maintain the United States country code Internet domain to establish, operate, and maintain a second-level domain within the United States country code domain that provides access only to material that is suitable for minors and not harmful to minors (in this section referred to as the 'new domain').

''(b) CONDITIONS OF CONTRACTS.—

''(1) INITIAL REGISTRY.—The NTIA shall not exercise any option periods under any contract between the NTIA and the initial registry to operate and maintain the United States country code Internet domain unless the initial registry agrees, during the 90-day period beginning upon the date of the enactment of the Dot Kids Implementation and Efficiency Act of 2002, to carry out, and to operate the new domain in accordance with, the requirements under subsection (c). Nothing in this subsection shall be construed to prevent the initial registry of the United States country code Internet domain from participating in the NTIA's process for selecting a successor registry or to prevent the NTIA from awarding, to the initial registry, the contract to be successor registry subject to the requirements of paragraph (2).

''(2) SUCCESSOR REGISTRIES.—The NTIA shall not enter into any contract for operating and maintaining the United States country code Internet domain with any successor registry unless such registry enters into an agreement with the NTIA, during the 90-day period after selection of such registry, that provides for the registry to carry out, and the new domain to operate in accordance with, the requirements under subsection (c).

''(c) REQUIREMENTS OF NEW DOMAIN.—The registry and new domain shall be subject to the following requirements:

''(1) Written content standards for the new domain, except that the NTIA shall not have any authority to establish such standards.

''(2) Written agreements with each registrar for the new domain that require that use of the new domain is in accordance with the standards and requirements of the registry.

''(3) Written agreements with registrars, which shall require registrars to enter into written agreements with registrants, to use the new domain in accordance with the standards and requirements of the registry.

''(4) Rules and procedures for enforcement and oversight that minimize the possibility that the new domain provides access to content that is not in accordance with the standards and requirements of the registry.

''(5) A process for removing from the new domain any content that is not in accordance with the standards and requirements of the registry.

''(6) A process to provide registrants to the new domain with an opportunity for a prompt, expeditious, and impartial dispute resolution process regarding any material of the registrant excluded from the new domain.

''(7) Continuous and uninterrupted service for the new domain during any transition to a new registry selected to operate and maintain new domain or the United States country code domain.

''(8) Procedures and mechanisms to promote the accuracy of contact information submitted by registrants and retained by registrars in the new domain.

''(9) Operationality of the new domain not later than one year after the date of the enactment of the Dot Kids Implementation and Efficiency Act of 2002.

''(10) Written agreements with registrars, which shall require registrars to enter into written agreements with registrants, to prohibit two-way and multiuser interactive services in the new domain, unless the registrant certifies to the registrar that such service will be offered in compliance with the content standards established pursuant to paragraph (1) and is designed to reduce the risk of exploitation of minors using such two-way and multiuser interactive services.

''(11) Written agreements with registrars, which shall require registrars to enter into written agreements with registrants, to prohibit hyperlinks in the new domain that take new domain users outside of the new domain.

''(12) Any other action that the NTIA considers necessary to establish, operate, or maintain the new domain in accordance with the purposes of this section.

''(d) OPTION PERIODS FOR INITIAL REGISTRY.—The NTIA shall grant the initial registry the option periods available under the contract between the NTIA and the initial registry to operate and maintain the United States country code Internet domain if, and may not grant such option periods unless, the NTIA finds that the initial registry has satisfactorily performed its obligations under this Act and under the contract. Nothing in this section shall preempt or alter the NTIA's authority to terminate such contract for the operation of the United States country code Internet domain for cause or for convenience.

''(e) TREATMENT OF REGISTRY AND OTHER ENTITIES.—

''(1) IN GENERAL.—Only to the extent that such entities carry out functions under this section, the following entities are deemed to be interactive computer services for purposes of section 230(c) of the Communications Act of 1934 (47 U.S.C. 230(c)):

''(A) The registry that operates and maintains the new domain.

''(B) Any entity that contracts with such registry to carry out functions to ensure that content accessed through the new domain complies with the limitations applicable to the new domain.

''(C) Any registrar for the registry of the new domain that is operating in compliance with its agreement with the registry.

''(2) SAVINGS PROVISION.—Nothing in paragraph (1) shall be construed to affect the applicability of any other provision of title II of the Communications Act of 1934 to the entities covered by subparagraph (A), (B), or (C) of paragraph (1).

''(f) EDUCATION.—The NTIA shall carry out a program to publicize the availability of the new domain and to educate the parents of minors regarding the process for utilizing the new domain in combination and coordination with hardware and software technologies that provide for filtering or blocking. The program under this subsection shall be commenced not later than 30 days after the date that the new domain first becomes operational and accessible by the public.

''(g) COORDINATION WITH FEDERAL GOVERNMENT.—The registry selected to operate and maintain the new domain shall—

''(1) consult with appropriate agencies of the Federal Government regarding procedures and actions to prevent minors and families who use the new domain from being targeted by adults and other children for predatory behavior, exploitation, or illegal actions; and

''(2) based upon the consultations conducted pursuant to paragraph (1), establish such procedures and take such actions as the registry may deem necessary to prevent such targeting.

The consultations, procedures, and actions required under this subsection shall be commenced not later than 30 days after the date that the new domain first becomes operational and accessible by the public.

''(h) COMPLIANCE REPORT.—The registry shall prepare, on an annual basis, a report on the registry's monitoring and enforcement procedures for the new domain. The registry shall submit each such report, setting forth the results of the review of its monitoring and enforcement procedures for the new domain, to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

''(i) SUSPENSION OF NEW DOMAIN.—If the NTIA finds, pursuant to its own review or upon a good faith petition by the registry, that the new domain is not serving its intended purpose, the NTIA shall instruct the registry to suspend operation of the new domain until such time as the NTIA determines that the new domain can be operated as intended.

''(j) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

''(1) HARMFUL TO MINORS.—The term 'harmful to minors' means, with respect to material, that—

''(A) the average person, applying contemporary community standards, would find, taking the material as a whole and with respect to minors, that it is designed to appeal to, or is designed to pander to, the prurient interest;

''(B) the material depicts, describes, or represents, in a manner patently offensive with respect to minors, an actual or simulated sexual act or sexual contact, an actual or simulated normal or perverted sexual act, or a lewd exhibition of the genitals or post-pubescent female breast; and

''(C) taken as a whole, the material lacks serious, literary, artistic, political, or scientific value for minors.

''(2) MINOR.—The term 'minor' means any person under 13 years of age.

''(3) REGISTRY.—The term 'registry' means the registry selected to operate and maintain the United States country code Internet domain.

''(4) SUCCESSOR REGISTRY.—The term 'successor registry' means any entity that enters into a contract with the NTIA to operate and maintain the United States country code Internet domain that covers any period after the termination or expiration of the contract to operate and maintain the United States country code Internet domain, and any option periods under such contract, that was signed on October 26, 2001.

''(5) SUITABLE FOR MINORS.—The term 'suitable for minors' means, with respect to material, that it—

''(A) is not psychologically or intellectually inappropriate for minors; and

''(B) serves—

''(i) the educational, informational, intellectual, or cognitive needs of minors; or

''(ii) the social, emotional, or entertainment needs of minors.''.

Mr. SHIMKUS. Mr. Speaker, it is with great pride that I rise today upon the passage of H.R. 3833, The ''Dot Kids Implementation and Efficiency Act of 2002.'' This bill creates a subdomain on the ''.us'' country-code that will store only child-friendly sites.

I would like to thank Senators ENSIGN and DORGAN as the Senate sponsors of this bill, and I give special recognition to the coauthors, Congressman ED MARKEY and the Telecommunications Subcommittee Chairman FRED UPTON, for their tireless effort and leadership on this project.

In addition to the members, I would also like to thank the talented and hard-working staff involved: Kelly Zerzan, Will Nordwind, Collin Crowell, Brendan Kelsay, Tim Kurth, and my staffer, Courtney Andersen. I would also like to than Bryan Cunningham and Emmett O'Keefe for navigating this bill through the Senate. Hundreds of hours, a great deal of research, thought, patience, compromise and perseverance went into this legislation. It has truly been a labor of love for us all and I thank you.

I must not forget the organizations that supported this vision. H.R. 3833 was endorsed by the National Center for Missing and Exploited Children, the National Law Center for Children and Families, a Safer America for Everyone (SAFE) as well as by the Family Research Council. I thank these groups for taking a stand to help keep children safe on the Internet.

Mr. Speaker, this is a good day for children in America. Soon, kids will have their own playground on the Internet. When surfing on the ''kid.us'' domain, parents can rest assured that their children are gaining the educational and entertainment benefits of the Internet, without exposure to predators or inappropriate content.

We have all heard the horror stories about the harm that can come to unsupervised children online. I will sleep better at night knowing that we, as a body of representatives, took this positive step to help safeguard our children against the dangers that lurk on the World Wide Web.

I thank my colleagues for once again voting to pass H.R. 3833, the ''Dot Kids Act.'' This is a good piece of legislation, which demonstrates to our children that we care.

Mr. MARKEY. Mr. Speaker, I rise in support of this bill. I am an original cosponsor of the bill along with Mr. SHIMKUS, Chairman UPTON, as well as many other members. I want to commend Chairman TAUZIN, Ranking Member DINGELL and everyone involved for the excellent process on this bill that has led to a consensus, bipartisan proposal. This bill was approved unanimously by the House Energy and Commerce Committee, and was approved by the House back in May by a vote of 406 to 2.

The Senate has slightly altered the House-passed version and I support approving this amended version and sending it to President Bush for his signature. This is a consensus bill and a model of how legislative proposals can achieve success in a closely divided Congress. There is a reason that this is the sole telecommunications bill of any significance for ordinary people that we will enact in the 107th Congress. And that's because it was a bill that we worked together on—Republicans and Democrats—from the start. When we encountered issues, we resolved them by working together, and we sought out bipartisan support on the other side of the Capitol as well. Senator DORGAN and Senator ENSIGN also deserve tremendous credit for this achievement.

As many parents today know, the Internet often appears to be a veritable jungle of web sites. When a child logs on to search for games, stories, or educational material, search engines often turn up pages for the kids laden with pornography, violence or other content that is simply not appropriate for young children. To give children their own playground on the Internet, and to facilitate the easier browsing and filtering of content that many parents desire, we are poised now to enact H.R. 3833, the ''Dot Kids Implementation and Efficiency Act.''

This bill directs the Department of Commerce, through the National Telecommunications and Information Administration (NTIA) to accelerate the creation of a ''dot kids'' domain by making it a secondary domain under our nation's country code top level domain, which is ''dot us.'' The Department of Commerce awarded a free contract last October to authorize private sector management and commercialization of ''dot U.S.''

I opposed the awarding of a free contract to a company to essentially manage and profit from a public asset. We only have one country code and the Department of Commerce should have ensured that the broader public interest was incorporated in any contract to manage the dot U.S. domain, or, as I indicated in a letter to the Department of Commerce in the summer of 2001, the contract should have been auctioned to the highest qualified bidder. We should be long past the time in this country of giving away public assets to private companies to profit from for free. Nevertheless, the DoC awarded the dot U.S. contract to NeuStar in October of 2001, and Congress must now subsequently ensure that future contract awards or extensions incorporate public interest conditions in such contract awards and ''dot.kids'' is clearly in the public interest.

What is essentially being proposed in the creation of a place on the Internet for websites that end in ''dot kids-dot U.S.'' (e.g., www.example.kids.us) The proposed ''dot kids'' domain will be a cyberspace sanctuary for content that is suitable for kids and will be an area devoted of content that is harmful to such minors.

I want to address at this point, very briefly, some of the free speech concerns that any endeavor that any endeavor of this type will inevitably raise. First let me emphasize how this approach departs from previous Congressional activity in this policy area. First, the proposed legislation will not subject all of the Internet communications to ''harmful to minors'' standard. If you're in Tennessee, Taiwan, or Timbuktu you can publish or speak any content you want on the Internet. This proposal doesn't affect you're ability to do so on a ''dot com,'' ''dot net,'' ''dot org,'' or anywhere else. This proposal now only addresses a subset of Internet commerce—the ''dot us'' space.

Moreover, it doesn't even curtail speech throughout the entirety of the ''dot U.S.'' country code domain. If you're in Providence, Rhode Island or Provo, Utah under this bill you are free to exercise your constitutional rights and this legislation contains no proposal that would subject anyone utilizing the ''dot us'' space to a standard suitable only for kids. Speech more appropriate for adults or teenagers will not be affected by this bill and can appear elsewhere in the ''dot U.S.'' domain.

The bill solely stipulates that if you want to operate in the ''dot kids-dot U.S.'' area—in other words, a mere subset of the ''dot us'' country code domain—you have entered a kid-friendly zone—a green light district if you will—where the content is suitable for children 12 and under. The ''dot kids'' proposal is not aimed at censoring Internet content per se. Rather, it is crafted to help organize content more appropriate for kids in a safe and secure cyber-zone, where the risk of young children clicking outside of that zone to unsuitable content, or being preyed upon or exploited online by adults posing as kids, is vastly diminished. Organizing kid-friendly content in this manner will enhance the effectiveness of filtering software and may better enable parents to set their children's browsers so that their kids only surf within the ''dot kids'' domain.

And I also want to emphasize that use of the ''dot kids'' domain is not compulsory. Signing up for a ''dot kids'' domain—or parents sending their kids to websites in that location—remains completely voluntary and the free choice of both content speakers and parents. Finally, I want to note that this bill is not meant in any way to diminish or thwart the many laudable private sector efforts to create new and alternative ways for kids to have a safe and educational online experience. Our efforts here today are meant to supplement, not supplant, initiatives underway elsewhere by ensuring that our ''dot us'' country code reflects our public interest goals as a society in away that hopefully can harness the best of advance technology for kids across the country.

Thank you, Mr. Speaker, and I again want to thank Mr. SHIMKUS, Chairman TAUZIN, Mr. DINGELL, and Chairman UPTON for their work on the bill.

TAKEN FROM THE SPEAKER'S TABLE AND AMENDED

S. 2237, to amend Title 38, United States Code, to modify and improve authorities relating to compensation and pension benefits, education benefits, housing benefits, and other benefits for veterans, to improve the administration of benefits for veterans, and for other purposes.

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Veterans Benefits Act of 2002''.

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

Sec. 1. Short title; table of contents.
Sec. 2. References to title 38, United States Code.

TITLE I—COMPENSATION AND BENEFITS IMPROVEMENTS

Sec. 101. Retention of CHAMPVA for surviving spouses remarrying after age 55.
Sec. 102. Clarification of entitlement to special monthly compensation for women veterans who have service-connected loss of breast tissue.
Sec. 103. Specification of hearing loss required for compensation for hearing loss in paired organs.
Sec. 104. Assessment of acoustic trauma associated with military service from World War II to present.

TITLE II—MEMORIAL AFFAIRS

Sec. 201. Prohibition on certain additional benefits for persons committing capital crimes.
Sec. 202. Procedures for disqualification of persons committing capital crimes for interment or memorialization in national cemeteries.
Sec. 203. Application of Department of Veterans Affairs benefit for Government markers for marked graves of veterans at private cemeteries to veterans dying on or after September 11, 2001.
Sec. 204. Authorization of placement of a memorial in Arlington National Cemetery honoring World War II veterans who fought in the Battle of the Bulge.

TITLE III—OTHER MATTERS

Sec. 301. Increase in aggregate annual amount available for State approving agencies for administrative expenses for fiscal years 2003 through 2007.
Sec. 302. Authority for Veterans' Mortgage Life Insurance to be carried beyond age 70.
Sec. 303. Authority to guarantee hybrid adjustable rate mortgages.
Sec. 304. Increase in amount payable as Medal of Honor special pension.
Sec. 305. Extension of protections under the Soldiers' and Sailors' Civil Relief Act of 1940 to National Guard members called to active duty under title 32, United States Code.
Sec. 306. Extension of income verification authority.
Sec. 307. Fee for loan assumption.
Sec. 308. Technical and clarifying amendments.
Sec. 309. Codification of cost-of-living adjustment provided in Public Law 107–247.

TITLE IV—JUDICIAL MATTERS

Sec. 401. Standard for reversal by Court of Appeals for Veterans Claims of erroneous finding of fact by Board of Veterans' Appeals.
Sec. 402. Review by Court of Appeals for the Federal Circuit of decisions of law of Court of Appeals for Veterans Claims.
Sec. 403. Authority of Court of Appeals for Veterans Claims to award fees under Equal Access to Justice Act for non-attorney practitioners.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—COMPENSATION AND BENEFITS IMPROVEMENTS

SEC. 101. RETENTION OF CHAMPVA FOR SURVIVING SPOUSES REMARRYING AFTER AGE 55.

(a) EXCEPTION TO TERMINATION OF BENEFITS UPON REMARRIAGE.—Paragraph (2) of section 103(d) is amended—

(1) by inserting ''(A) after ''(2)''; and

(2) by adding at the end the following:

''(B) The remarriage after age 55 of the surviving spouse of a veteran shall not bar the furnishing of benefits under section 1781 of this title to such person as the surviving spouse of the veteran.''.

(b) APPLICATION FOR BENEFITS.—In the case of an individual who but for having remarried would be eligible for medical care under section 1781 of title 38, United States Code, and whose remarriage was before the date of the enactment of this Act and after the individual had attained age 55, the individual shall be eligible for such medical care by reason of the amendments made by subsection (a) only if an application for such medical care is received by the Secretary of Veterans Affairs during the one-year period ending on the effective date specified in subsection (c).

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date that is 60 days after the date of the enactment of this Act.

SEC. 102. CLARIFICATION OF ENTITLEMENT TO SPECIAL MONTHLY COMPENSATION FOR WOMEN VETERANS WHO HAVE SERVICE-CONNECTED LOSS OF BREAST TISSUE.

Section 1114(k) is amended by striking ''one or both breasts (including loss by mastectomy)'' and inserting ''25 percent or more of tissue from a single breast or both breasts in combination (including loss by mastectomy or partial mastectomy) or has received radiation treatment of breast tissue''.

SEC. 103. SPECIFICATION OF HEARING LOSS REQUIRED FOR COMPENSATION FOR HEARING LOSS IN PAIRED ORGANS.

Section 1160(a)(3) is amended—

(1) by striking ''total deafness'' the first place it appears and inserting ''deafness compensable to a degree of 10 percent or more''; and

(2) by striking ''total deafness'' the second place it appears and inserting ''deafness''.

SEC. 104. ASSESSMENT OF ACOUSTIC TRAUMA ASSOCIATED WITH MILITARY SERVICE FROM WORLD WAR II TO PRESENT.

(a) ASSESSMENT BY NATIONAL ACADEMY OF SCIENCES.—The Secretary of Veterans Affairs shall seek to enter into an agreement with the National Academy of Sciences for the Academy to perform the activities specified in this section. The Secretary shall seek to enter into the agreement not later than 60 days after the date of the enactment of this Act.

(b) DUTIES UNDER AGREEMENT.—Under the agreement under subsection (a), the National Academy of Sciences shall do the following:

(1) Review and assess available data on hearing loss that could reasonably be expected to have been incurred by members of the Armed Forces during the period from the beginning of World War II to the date of the enactment of this Act.

(2) Identify the different sources of acoustic trauma that members of the Armed Forces could reasonably be expected to have been exposed to during the period from the beginning of World War II to the date of the enactment of this Act.

(3) Determine how much exposure to each source of acoustic trauma identified under paragraph (2) is required to cause or contribute to hearing loss, hearing threshold shift, or tinnitus, as the case may be, and at what noise level.

(4) Determine whether or not such hearing loss, hearing threshold shift, or tinnitus, as the case may be, is—

(A) immediate or delayed onset;

(B) cumulative;

(C) progressive; or

(D) any combination of subparagraph (A), (B), and (C).

(5) Identify age, occupational history, and other factors which contribute to an individual's noise-induced hearing loss.

(6) Identify—

(A) the period of time at which audiometric measures used by the Armed Forces became adequate to evaluate individual hearing threshold shift; and

(B) the period of time at which hearing conservation measures to prevent individual hearing threshold shift were available to members of the Armed Forces, shown separately for each of the Army, Navy, Air Force, Marine Corps, and Coast Guard, and, for each such service, shown separately for members exposed to different sources of acoustic trauma identified under paragraph (2).

(c) REPORT.—Not later than 180 days after the date of the entry into the agreement referred to in subsection (a), the National Academy of Sciences shall submit to the Secretary a report on the activities of the National Academy of Sciences under the agreement, including the results of the activities required by subsection (b).

(d) REPORT ON ADMINISTRATION OF BENEFITS FOR HEARING LOSS AND TINNITUS.—(1) Not later than 180 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the claims submitted to the Secretary for disability compensation or health care for hearing loss or tinnitus.

(2) The report under paragraph (1) shall include the following:

(A) The number of decisions issued by the Secretary in each of fiscal years 2000, 2001, and 2002 on claims for disability compensation for hearing loss, tinnitus, or both.

(B) Of the decisions referred to in subparagraph (A)—

(i) the number in which compensation was awarded, and the number in which compensation was denied, set forth by fiscal year; and

(ii) the total amount of disability compensation paid on such claims during each such fiscal year.

(C) The total cost to the Department of Veterans Affairs of adjudicating the claims referred to in subparagraph (A), set forth in terms of full-time employee equivalents (FTEEs).

(D) The total number of veterans who sought treatment in Department of Veterans Affairs health care facilities during fiscal years specified in subparagraph (A) for hearing-related disorders, set forth by the number of veterans per year.

(E) The health care furnished to veterans referred to in subparagraph (D) for hearing-related disorders, including the number of veterans furnished hearing aids and the cost of furnishing such hearing aids.

TITLE II—MEMORIAL AFFAIRS

SEC. 201. PROHIBITION ON CERTAIN ADDITIONAL BENEFITS FOR PERSONS COMMITTING CAPITAL CRIMES.

(a) PRESIDENTIAL MEMORIAL CERTIFICATE.—Section 112 is amended by adding at the end the following new subsection:

''(c) A certificate may not be furnished under the program under subsection (a) on

behalf of a deceased person described in section 2411(b) of this title.''.

(b) FLAG TO DRAPE CASKET.—Section 2301 is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following new subsection (g):

''(g) A flag may not be furnished under this section in the case of a person described in section 2411(b) of this title.''.

(c) HEADSTONE OR MARKER FOR GRAVE.—Section 2306 is amended by adding at the end the following new subsection:

''(g)(1) A headstone or marker may not be furnished under subsection (a) for the unmarked grave of a person described in section 2411(b) of this title.

''(2) A memorial headstone or marker may not be furnished under subsection (b) for the purpose of commemorating a person described in section 2411(b) of this title.

''(3) A marker may not be furnished under subsection (d) for the grave of a person described in section 2411(b) of this title.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to deaths occurring on or after the date of the enactment of this Act.

SEC. 202. PROCEDURES FOR DISQUALIFICATION OF PERSONS COMMITTING CAPITAL CRIMES FOR INTERMENT OR MEMORIALIZATION IN NATIONAL CEMETERIES.

Section 2411(a)(2) is amended—

(1) by striking ''The prohibition'' and inserting ''In the case of a person described in subsection (b)(1) or (b)(2), the prohibition''; and

(2) by striking ''or finding under subsection (b)'' and inserting ''referred to in subsection (b)(1) or (b)(2), as the case may be,''.

SEC. 203. APPLICATION OF DEPARTMENT OF VETERANS AFFAIRS BENEFIT FOR GOVERNMENT MARKERS FOR MARKED GRAVES OF VETERANS AT PRIVATE CEMETERIES TO VETERANS DYING ON OR AFTER SEPTEMBER 11, 2001.

(a) IN GENERAL.—Subsection (d) of section 502 of the Veterans Education and Benefits Expansion Act of 2001 (Public Law 107–103; 115 Stat. 995; 38 U.S.C. 2306 note) is amended by striking ''the date of the enactment of this Act'' and inserting ''September 11, 2001''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of such section 502.

SEC. 204. AUTHORIZATION OF PLACEMENT OF A MEMORIAL IN ARLINGTON NATIONAL CEMETERY HONORING WORLD WAR II VETERANS WHO FOUGHT IN THE BATTLE OF THE BULGE.

The Secretary of the Army is authorized to place in Arlington National Cemetery a memorial marker honoring veterans who fought in the battle in the European theater of operations during World War II known as the Battle of the Bulge.

TITLE III—OTHER MATTERS

SEC. 301. INCREASE IN AGGREGATE ANNUAL AMOUNT AVAILABLE FOR STATE APPROVING AGENCIES FOR ADMINISTRATIVE EXPENSES FOR FISCAL YEARS 2003 THROUGH 2007.

The first sentence of section 3674(a)(4) is amended by inserting before the period at the end the following: '', for fiscal year 2003, $14,000,000, for fiscal year 2004, $18,000,000, for fiscal year 2005, $18,000,000, for fiscal year 2006, $19,000,000, and for fiscal year 2007, $19,000,000''.

SEC. 302. AUTHORITY FOR VETERANS' MORTGAGE LIFE INSURANCE TO BE CARRIED BEYOND AGE 70.

Section 2106 is amended—

(1) in subsection (a), by inserting ''age 69 or younger'' after ''any eligible veteran''; and

(2) in subsection (i), by striking paragraph (2) and redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

SEC. 303. AUTHORITY TO GUARANTEE HYBRID ADJUSTABLE RATE MORTGAGES.

(a) TWO-YEAR DEMONSTRATION PROJECT TO GUARANTEE CERTAIN ADJUSTABLE RATE MORTGAGES.—Chapter 37 is amended by inserting after section 3707 the following new section:

''§ 3707A. Hybrid adjustable rate mortgages

''(a) The Secretary shall carry out a demonstration project under this section during fiscal years 2004 and 2005 for the purpose of guaranteeing loans in a manner similar to the manner in which the Secretary of Housing and Urban Development insures adjustable rate mortgages under section 251 of the National Housing Act in accordance with the provisions of this section with respect to hybrid adjustable rate mortgages described in subsection (b).

''(b) Adjustable rate mortgages that are guaranteed under this section shall be adjustable rate mortgages (commonly referred to as 'hybrid adjustable rate mortgages') having interest rate adjustment provisions that—

''(1) specify an initial rate of interest that is fixed for a period of not less than the first three years of the mortgage term;

''(2) provide for an initial adjustment in the rate of interest by the mortgagee at the end of the period described in paragraph (1); and

''(3) comply in such initial adjustment, and any subsequent adjustment, with subsection (c).

''(c) Interest rate adjustment provisions of a mortgage guaranteed under this section shall—

''(1) correspond to a specified national interest rate index approved by the Secretary, information on which is readily accessible to mortgagors from generally available published sources;

''(2) be made by adjusting the monthly payment on an annual basis;

''(3) be limited, with respect to any single annual interest rate adjustment, to a maximum increase or decrease of 1 percentage point; and

''(4) be limited, over the term of the mortgage, to a maximum increase of 5 percentage points above the initial contract interest rate.

''(d) The Secretary shall promulgate underwriting standards for loans guaranteed under this section, taking into account—

''(1) the status of the interest rate index referred to in subsection (c)(1) and available at the time an underwriting decision is made, regardless of the actual initial rate offered by the lender;

''(2) the maximum and likely amounts of increases in mortgage payments that the loans would require;

''(3) the underwriting standards applicable to adjustable rate mortgages insured under title II of the National Housing Act; and

''(4) such other factors as the Secretary finds appropriate.

''(e) The Secretary shall require that the mortgagee make available to the mortgagor, at the time of loan application, a written explanation of the features of the adjustable rate mortgage, including a hypothetical payment schedule that displays the maximum potential increases in monthly payments to the mortgagor over the first five years of the mortgage term.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 37 is amended by inserting after the item relating to section 3707 the following new item:

''3707A. Hybrid adjustable rate mortgages.''.

SEC. 304. INCREASE IN AMOUNT PAYABLE AS MEDAL OF HONOR SPECIAL PENSION.

(a) INCREASE IN AMOUNT.—Subsection (a) of section 1562 is amended by striking ''$600'' and inserting ''$1,000, as adjusted from time to time under subsection (e)''.

(b) ANNUAL ADJUSTMENT.—That section is further amended by adding at the end the following new subsection:

''(e) Effective as of December 1 each year, the Secretary shall increase the amount of monthly special pension payable under subsection (a) as of November 30 of such year by the same percentage as the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1 of such year as a result of a determination under section 215(i) of that Act (42 U.S.C. 415(i)).''.

(c) PAYMENT OF LUMP SUM FOR PERIOD BETWEEN ACT OF VALOR AND COMMENCEMENT OF SPECIAL PENSION.—That section is further amended by adding after subsection (e), as added by subsection (b) of this section, the following new subsection:

''(f)(1) The Secretary shall pay, in a lump sum, to each person who is in receipt of special pension payable under this section an amount equal to the total amount of special pension that the person would have received during the period beginning on the first day of the first month beginning after the date of the act for which the person was awarded the Medal of Honor and ending on the last day of the month preceding the month in which the person's special pension in fact commenced.

''(2) For each month of a period referred to in paragraph (1), the amount of special pension payable to a person shall be determined using the rate of special pension that was in effect for such month, and shall be payable only if the person would have been entitled to payment of special pension for such month under laws for eligibility for special pension (with the exception of the eligibility law requiring a person to have been awarded a Medal of Honor) in effect at the beginning of such month.''.

(d) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by subsections (a) and (b) shall take effect on September 1, 2003. No payment may be made pursuant to subsection (f) of section 1562 of title 38, United States Code, as added by subsection (c) of this section, before October 1, 2003.

(2) The Secretary of Veterans Affairs shall not make any adjustment under subsection (e) of section 1562 of title 38, United States Code, as added by subsection (b) of this section, in 2003.

SEC. 305. EXTENSION OF PROTECTIONS UNDER THE SOLDIERS' AND SAILORS' CIVIL RELIEF ACT OF 1940 TO NATIONAL GUARD MEMBERS CALLED TO ACTIVE DUTY UNDER TITLE 32, UNITED STATES CODE.

Section 101(1) of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 511(1)) is amended—

(1) in the first sentence—

(A) by striking ''and all'' and inserting ''all''; and

(B) by inserting before the period the following: '', and all members of the National Guard on service described in the following sentence''; and

(2) in the second sentence, by inserting before the period the following: '', and, in the case of a member of the National Guard, shall include service under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under section 502(f) of title 32, United States Code, for purposes of responding to a national emergency declared by the President and supported by Federal funds''.

SEC. 306. EXTENSION OF INCOME VERIFICATION AUTHORITY.

Section 6103(*l*)(7)(D) of the Internal Revenue Code of 1986 is amended by striking ''September 30, 2003'' in the second sentence after clause (ix) and inserting ''September 30, 2008''.

SEC. 307. FEE FOR LOAN ASSUMPTION.

(a) IN GENERAL.—For the period described in subsection (b), the Secretary of Veterans Affairs shall apply section 3729(b)(2)(I) of title 38, United States Code, by substituting ''1.00'' for ''0.50'' each place it appears.

(b) PERIOD DESCRIBED.—The period referred to in subsection (a) is the period that begins on the date that is 7 days after the date of the enactment of this Act and ends on September 30, 2003.

SEC. 308. TECHNICAL AND CLARIFYING AMENDMENTS.

(a) ELIGIBILITY OF CERTAIN ADDITIONAL VIETNAM ERA VETERANS FOR EDUCATION BENEFITS.—Section 3011(a)(1)(C)(ii) is amended by striking ''on or''.

(b) ACCELERATED PAYMENT OF ASSISTANCE FOR EDUCATION LEADING TO EMPLOYMENT IN HIGH TECHNOLOGY INDUSTRY.—(1) Subsection (b)(1) of section 3014A is amended by striking ''employment in a high technology industry'' and inserting ''employment in a high technology occupation in a high technology industry''.

(2)(A) The heading for section 3014A is amended to read as follows:

''§ 3014A. Accelerated payment of basic educational assistance for education leading to employment in high technology occupation in high technology industry''.

(B) The table of sections at the beginning of chapter 30 is amended by striking the item relating to section 3014A and inserting the following new item:

''3014A. Accelerated payment of basic educational assistance for education leading to employment in high technology occupation in high technology industry.''.

(c) SOURCE OF FUNDS FOR INCREASED USAGE OF MONTGOMERY GI BILL ENTITLEMENT UNDER ENTITLEMENT TRANSFER AUTHORITY.—(1) Section 3035(b) is amended—

(A) in paragraph (1), by striking ''paragraphs (2) and (3) of this subsection,'' and inserting ''paragraphs (2), (3), and (4),''; and

(B) by adding at the end the following new paragraph:

''(4) Payments attributable to the increased usage of benefits as a result of transfers of entitlement to basic educational assistance under section 3020 of this title shall be made from the Department of Defense Education Benefits Fund established under section 2006 of title 10 or from appropriations made to the Department of Transportation, as appropriate.''.

(2) The amendments made by this subsection shall take effect as if included in the enactment of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107), to which such amendments relate.

(d) LICENSING OR CERTIFICATION TESTS.—Section 3689(c)(1)(B) is amended by striking ''the test'' and inserting ''such test, or a test to certify or license in a similar or related occupation,''.

(e) PERIOD OF ELIGIBILITY FOR SURVIVORS' AND DEPENDENTS' ASSISTANCE EDUCATION BENEFITS.—(1) Section 3512(a) is amended—

(A) in paragraph (3)—

(i) by striking ''paragraph (4)'' in the matter preceding subparagraph (A) and inserting ''paragraph (4) or (5)''; and

(ii) by striking ''subsection (d)'' in subparagraph (C)(i) and inserting ''subsection (d), or any date between the two dates described in subsection (d)'';

(B) by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (5), (6), (7), and (8), respectively;

(C) by inserting after paragraph (3) the following new paragraph (4):

''(4) if the person otherwise eligible under paragraph (3) fails to elect a beginning date of entitlement in accordance with that paragraph, the beginning date of the person's entitlement shall be the date of the Secretary's decision that the parent has a service-connected total disability permanent in nature, or that the parent's death was service-connected, whichever is applicable;''; and

(D) in paragraph (6), as so redesignated, by striking ''paragraph (4)'' and inserting ''paragraph (5)''.

(2) The amendments made by this subsection shall take effect November 1, 2000.

(f) LOAN FEES.—(1) Section 3703(e)(2)(A) is amended by striking ''3729(b)'' and inserting ''3729(b)(2)(I)''.

(2) The amendment made by paragraph (1) shall take effect as if included in the enactment of section 402 of the Veterans Benefits and Health Care Improvement Act of 2000 (Public Law 106–419; 114 Stat. 1861).

(g) ADDITIONAL MISCELLANEOUS TECHNICAL AMENDMENTS TO TITLE 38, UNITED STATES CODE.—(1)(A) The tables of chapters preceding part I and at the beginning of part IV are each amended by striking ''5101'' in the item relating to chapter 51 and inserting ''5100''.

(B) The table of parts preceding part I is amended by striking ''5101'' in the item relating to part IV and inserting ''5100''.

(2) Section 107(d)(2) is amended by striking ''the date of the enactment of this subsection'' and inserting ''November 1, 2000,''.

(3) Section 1701(10)(A) is amended by striking ''the date of the enactment of the Veterans' Millennium Health Care and Benefits Act'' and inserting ''November 30, 1999,''.

(4) Section 1705(c)(1) is amended by striking ''Effective on October 1, 1998, the Secretary'' and inserting ''The Secretary''.

(5) Section 1707(a) is amended by inserting ''(42 U.S.C. 14401 et seq.)'' before the period at the end.

(6) Section 1710(e)(1)(D) is amended by striking ''the date of the enactment of this subparagraph'' and inserting ''November 11, 1998''.

(7) Section 1729B(b) is amended by striking ''the date of the enactment of this section'' and inserting ''November 30, 1999,''.

(8) Section 1781(d) is amended—

(A) in paragraph (1)(B)(i), by striking ''as of the date'' and all that follows through ''of 2001'' and inserting ''as of June 5, 2001''; and

(B) in paragraph (4), by striking ''paragraph'' and inserting ''subsection''.

(9) Section 3018C(e)(2)(B) is amended by striking the comma after ''April''.

(10) Section 3031(a)(3) is amended by striking ''the date of the enactment of this paragraph'' and inserting ''December 27, 2001''.

(11) Section 3485(a)(4) is amended in subparagraphs (A), (C), and (F), by striking ''the five-year period beginning on the date of the enactment of the Veterans Education and Benefits Expansion Act of 2001'' and inserting ''the period preceding December 27, 2006''.

(12) Section 3734(b)(2) is amended—

(A) by striking subparagraph (B); and

(B) by redesignating subparagraphs (C), (D), (E), and (F) as subparagraphs (B) (C), (D), and (E), respectively.

(13) Section 7315(a) is amended by inserting ''Veterans Health'' in the first sentence after ''in the''.

(h) PUBLIC LAW 107–103.—Effective as of December 27, 2001, and as if included therein as originally enacted, section 103(c) of the Veterans Education and Benefits Expansion Act of 2001 (Public Law 107–103; 115 Stat. 979) is amended by inserting closing quotation marks at the end of the text inserted by the amendment made by paragraph (2).

(i) PUBLIC LAW 102–86.—Section 403(e) of the Veterans' Benefits Programs Improvement Act of 1991 (Public Law 102–86; 105 Stat. 424) is amended by striking ''section 321'' and all that follows through ''and 484)'' and inserting ''subchapter II of chapter 5 of title 40, United States Code, sections 541 through 555 and 1302 of title 40, United States Code''.

SEC. 309. CODIFICATION OF COST-OF-LIVING ADJUSTMENT PROVIDED IN PUBLIC LAW 107–247.

(a) VETERANS' DISABILITY COMPENSATION.—Section 1114 is amended—

(1) by striking ''$103'' in subsection (a) and inserting ''$104'';

(2) by striking ''$199'' in subsection (b) and inserting ''$201'';

(3) by striking ''$306'' in subsection (c) and inserting ''$310'';

(4) by striking ''$439'' in subsection (d) and inserting ''$445'';

(5) by striking ''$625'' in subsection (e) and inserting ''$633'';

(6) by striking ''$790'' in subsection (f) and inserting ''$801'';

(7) by striking ''$995'' in subsection (g) and inserting ''$1,008'';

(8) by striking ''$1,155'' in subsection (h) and inserting ''$1,171'';

(9) by striking ''$1,299'' in subsection (i) and inserting ''$1,317'';

(10) by striking ''$2,163'' in subsection (j) and inserting ''$2,193'';

(11) in subsection (k)—

(A) by striking ''$80'' both places it appears and inserting ''$81''; and

(B) by striking ''$2,691'' and ''$3,775'' and inserting ''$2,728'' and ''$3,827'', respectively;

(12) by striking ''$2,691'' in subsection (l) and inserting ''$2,728'';

(13) by striking ''$2,969'' in subsection (m) and inserting ''$3,010'';

(14) by striking ''$3,378'' in subsection (n) and inserting ''$3,425'';

(15) by striking ''$3,775'' each place it appears in subsections (o) and (p) and inserting ''$3,827'';

(16) by striking ''$1,621'' and ''$2,413'' in subsection (r) and inserting ''$1,643'' and ''$2,446'', respectively; and

(17) by striking ''$2,422'' in subsection (s) and inserting ''$2,455''.

(b) ADDITIONAL COMPENSATION FOR DEPENDENTS.—Section 1115(1) is amended—

(1) by striking ''$124'' in subparagraph (A) and inserting ''$125'';

(2) by striking ''$213'' in subparagraph (B) and inserting ''$215'';

(3) by striking ''$84'' in subparagraph (C) and inserting ''$85'';

(4) by striking ''$100'' in subparagraph (D) and inserting ''$101'';

(5) by striking ''$234'' in subparagraph (E) and inserting ''$237''; and

(6) by striking ''$196'' in subparagraph (F) and inserting ''$198''.

(c) CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS.—Section 1162 is amended by striking ''$580'' and inserting ''$588''.

(d) DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES.—(1) Section 1311(a) is amended—

(A) by striking ''$935'' in paragraph (1) and inserting ''$948''; and

(B) by striking ''$202'' in paragraph (2) and inserting ''$204''.

(2) The table in section 1311(a)(3) is amended to read as follows:

''Pay grade	Monthly rate	Pay grade	Monthly rate
E–1	$948	W–4	$1,134
E–2	948	O–1	1,001
E–3	948	O–2	1,035

E–4	948	O–3	1,107
E–5	948	O–4	1,171
E–6	948	O–5	1,289
E–7	980	O–6	1,453
E–8	1,035	O–7	1,570
E–9	[1] 1,080	O–8	1,722
W–1	1,001	O–9	1,843
W–2	1,042	O–10 ...	[2] 2,021
W–3	1,072		

''[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be $1,165.

''[2] If the veteran served as Chairman or Vice-Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be $2,168.''.

(3) Section 1311(b) is amended by striking ''$234'' and inserting ''$237''.

(4) Section 1311(c) is amended by striking ''$234'' and inserting ''$237''.

(5) Section 1311(d) is amended by striking ''$112'' and inserting ''$113''.

(e) DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.—(1) Section 1313(a) is amended—

(A) by striking ''$397'' in paragraph (1) and inserting ''$402'';

(B) by striking ''$571'' in paragraph (2) and inserting ''$578'';

(C) by striking ''$742'' in paragraph (3) and inserting ''$752''; and

(D) by striking ''$742'' and ''$143'' in paragraph (4) and inserting ''$752'' and ''$145'', respectively.

(2) Section 1314 is amended—

(A) by striking ''$234'' in subsection (a) and inserting ''$237'';

(B) by striking ''$397'' in subsection (b) and inserting ''$402''; and

(C) by striking ''$199'' in subsection (c) and inserting ''$201''.

TITLE IV—JUDICIAL MATTERS

SEC. 401. STANDARD FOR REVERSAL BY COURT OF APPEALS FOR VETERANS CLAIMS OF ERRONEOUS FINDING OF FACT BY BOARD OF VETERANS' APPEALS.

(a) STANDARD FOR REVERSAL.—Paragraph (4) of subsection (a) of section 7261 is amended—

(1) by inserting ''adverse to the claimant'' after ''material fact''; and

(2) by inserting ''or reverse'' after ''and set aside''.

(b) REQUIREMENTS FOR REVIEW.—Subsection (b) of that section is amended to read as follows:

''(b) In making the determinations under subsection (a), the Court shall review the record of proceedings before the Secretary and the Board of Veterans' Appeals pursuant to section 7252(b) of this title and shall—

''(1) take due account of the Secretary's application of section 5107(b) of this title; and

''(2) take due account of the rule of prejudicial error.''.

(c) APPLICABILITY.—(1) Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) The amendments made by this section shall apply with respect to any case pending for decision before the United States Court of Appeals for Veterans Claims other than a case in which a decision has been entered before the date of the enactment of this Act.

SEC. 402. REVIEW BY COURT OF APPEALS FOR THE FEDERAL CIRCUIT OF DECISIONS OF LAW OF COURT OF APPEALS FOR VETERANS CLAIMS.

(a) REVIEW.—Section 7292(a) is amended by inserting ''a decision of the Court on a rule of law or of'' in the first sentence after ''the validity of''.

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply with respect to any appeal—

(1) filed with the United States Court of Appeals for the Federal Circuit on or after the date of the enactment of this Act; or

(2) pending with the United States Court of Appeals for the Federal Circuit as of the date of the enactment of this Act in which a decision has not been rendered as of that date.

SEC. 403. AUTHORITY OF COURT OF APPEALS FOR VETERANS CLAIMS TO AWARD FEES UNDER EQUAL ACCESS TO JUSTICE ACT FOR NON-ATTORNEY PRACTITIONERS.

The authority of the United States Court of Appeals for Veterans Claims to award reasonable fees and expenses of attorneys under section 2412(d) of title 28, United States Code, shall include authority to award fees and expenses, in an amount determined appropriate by the United States Court of Appeals for Veterans Claims, of individuals admitted to practice before the Court as non-attorney practitioners under subsection (b) or (c) of Rule 46 of the Rules of Practice and Procedure of the United States Court of Appeals for Veterans Claims.

Amendment to the title of S. 2237

Amend the title so as to read: ''An Act to amend title 38, United States Code, to improve authorities of the Department of Veterans Affairs relating to veterans' compensation, dependency and indemnity compensation, and pension benefits, education benefits, housing benefits, memorial affairs benefits, life insurance benefits, and certain other benefits for veterans, to improve the administration of benefits for veterans, to make improvements in procedures relating to judicial review of veterans' claims for benefits, and for other purposes.''.

Mr. SIMPSON. Mr. Speaker, I rise in strong support for S. 2237, the Veterans Benefits Act of 2002. This sweeping measure encompasses enhancements to veterans' compensation, pension, insurance and home loan benefits, among other matters.

The Veterans Benefits Act of 2002 compromises provisions included in S. 2237 and five House bills previously considered in this body. I will highlight a few of the provisions:

I am especially pleased that we are able to extend VA health care eligibility to surviving spouses who remarry after age 55. Under current law, a surviving spouse is not entitled to this benefit while married. As I explained to Ms. Blackwell following her testimony before our subcommittee, I wish we had the means at this time to be more generous to these deserving spouses. However, as the chairman has indicated, this is a first step in restoring entitlement to the host of benefits these women and men must give up when they remarry later in life. I thank MIKE BILIRAKIS for his leadership on this issue.

The bill also includes modest increases in funding for State approving agencies given the additional statutory duties SAAs now perform in maintaining the integrity of servicemember and veterans' education and training programs. These new funding levels are $14 million for fiscal year 2003, $18 million for fiscal year 2004, $18 million for fiscal year 2005, $19 million for fiscal year 2006, and $19 million for fiscal year 2007.

I especially look forward to an aggressive initiative by SAAs in seeking out and approving for veterans' training, employer-based on-job training, and apprenticeship opportunities across the country. Our veterans use of VA educational assistance programs for OJT and apprenticeship is very limited. Lastly, I agree with Chairman SMITH; VA's OJT apprenticeship program largely is still based on the original World War II model. Congress has some serious work to do in updating this program next year.

S. 2237, as amended, provides coverage under the Soldiers' and Sailors' Civil Relief Act to members of the National Guard who are called to active service for more than 30 consecutive days to respond to a national emergency. I recognize LANE EVANS for his work on this proposal.

The bill also increases the Medal of Honor special pension from $600 to $1,000 per month. I am pleased we are able to recognize, albeit in a small way, our nation's real heroes.

S. 2237, as amended, authorizes the Secretary of the Army to place a new memorial at Arlington National cemetery in honor of veterans who fought in the Battle of the Bulge of World War II, one of the greatest land battles of that war.

In addition, S. 2237 provides enhancements to existing authorities which provide compensation to women veterans and veterans with hearing loss.

Mr. Speaker, we have worked with the Senate on this bill for many months, and I'm proud of the outcome. Many veterans and their survivors will indeed benefit.

I must give due recognition to the Chairman and Ranking Member, CHRIS SMITH and LANE EVANS, respectively, for their unwavering leadership. During the 107th Congress, this committee has brought to the floor 23 bills, all of which passed the House overwhelmingly. I must also thank my good friend, the Ranking Member of the Benefits Subcommittee, SILVESTRE REYES.

Mr. Speaker, I urge my colleagues to support S. 2237, this final veterans package of the 107th Congress.

Mr. EVANS. Mr. Speaker, I rise in strong support of the bill, S. 2237, as agreed to by both the House and the Senate. This bill improves compensation benefits for hearing disabled veterans and for women veterans, extends protection under the Soldiers' and Sailors' Civil Relief Act to members of the National Guard and provides improvements to the judicial review of claims for veterans benefits.

The agreement before the House is the result of the efforts of many people on both sides of the aisle. I thank our Chairman, CHRIS SMITH, for his determined and effective leadership. I also thank other Members of our House Committee; the leadership of the Veterans Affairs Committee in the other body and, of course, the staff of our House Committee who have worked long and hard on this legislation. In particular, I thank Mary Ellen McCarthy and Geoffrey Collver for their untiring efforts.

S. 2237 incorporates provisions from a number of bills passed by the House. The Veterans Benefits Act of 2002 will allow surviving spouses who remarry after age 55 to retain CHAMPVA health insurance benefits. Mr. Speaker, I was honored by the Gold Star Wives of America for my advocacy on behalf of surviving spouses of veterans. While I am pleased that these spouses, like civil service surviving spouses will be able to retain health insurance benefits, I am extremely disappointed that the provision allowing Dependency and Indemnity Compensation (DIC) recipients to remarry after age 65 and retain

those benefits was not included in the final bill. I hope that in the next Congress, these surviving spouses will be able to receive full comparability with federal civil service survivors who are allowed to remarry at age 55 without loss of benefits.

The bill also includes provisions similar to those contained in H.R. 4017, which I introduced, in order to provide members of the National Guard who serve for at least 30 consecutive days with protections under the Soldiers' and Sailors' Civil Relief Act (SSCRA). The SSCRA protects those who are serving our country from civil actions and reduces the rate of interest on certain obligations entered into prior to being activated for military service. When we ask the men and women of the National Guard to respond to a national emergency, such as the services required following the tragedies of September 11th, we have a responsibility to assure that their service to our country will not place them in unnecessary financial jeopardy.

Mr. Speaker, the bill expands the jurisdiction of the Court of Appeals for the Federal Circuit over cases appealed from the Court of Appeals for Veterans Claims to cover all questions of law and not merely interpretations of statutes and regulations. It clarifies the authority of the Court of Appeals for Veterans Claims to reverse decisions of the Board of Veterans Appeals in appropriate cases and requires the decisions be based upon the record as a whole, taking into account the pro-veteran rule known as ''benefit of the doubt.'' Under the bill, non-attorneys who are permitted to practice before the Court of Veterans Appeals will be able to qualify for fees under the Equal Access to Justice Act even if they are not supervised by an attorney. Under current law, these practitioners are eligible for these fees only if their work is supervised by an attorney. I hope these changes will provide fairer and more efficient decisions on veterans' claims.

In addition to these benefit provisions, S. 2237 also:

Authorizes a study by the National Academy of Science concerning the relationship of military hearing loss and acoustic trauma to military service.

Authorizes the placement of a memorial to the World War II Battle of the Bulge at Arlington National Cemetery.

Allows severely disabled service-connected veterans who qualify for Veterans Mortgage Life Insurance to retain their coverage regardless of age.

Authorizes a two-year program of hybrid adjustable rate mortgages under the VA home loan program.

Provides for an increase to $1000 per month in special pension benefits payable to persons who have been awarded the Medal of Honor.

Sets forth the amounts of benefits to be paid as service-connected compensation and DIC benefits effective December 1, 2002.

S. 2237 will now be considered by the Senate. If S. 2237 is passed by the Senate as approved by the House, it will be sent to the White House to be signed into law by President Bush.

Mr. Speaker, I urge my colleagues to support this legislation.

Mr. SMITH of New Jersey. Mr. Speaker, the bill which is before the House represents a compromise measure that has been worked out with the Senate on a number of benefit-related measures considered this year.

In May of this year, the House considered and passed H.R. 4085, the Veterans and Survivors Benefits Expansion Act. There were three major provisions in that bill: (1) the annual cost-of-living adjustment for disabled veterans and the survivors eligible for dependency and indemnity compensation; (2) a revision to the eligibility for survivor benefits so that surviving spouses of veterans who died of service-related causes could retain their eligibility for veterans' benefit even if they remarried after age 65; and (3) a reduction in the loan fees payable by reservists who use the VA home loan program.

The Senate stripped all but the COLA from H.R. 4085 at the end of September and returned it to the House. We agreed to the clean COLA bill, which was signed by President Bush and is Public Law 107–247.

The Senate also sent us a benefits bill, S. 2237, which has become the vehicle for the compromises worked out by the two committees for the provisions previously contained in H.R. 4085 and a number of provisions contained in the Senate bill passed last month.

Because of an evolving budget situation, the committees found themselves forced to offset virtually all of the PAYGO costs associated with the bill. The Senate bill had basically none of the provisions originally contained in H.R. 4085. Instead, it proposed to expand eligibility for service-connected hearing loss and allow veterans to obtain a ''hybrid'' adjustable rate mortgage using their VA home loan eligibility.

The compromise includes modified versions of these important Senate provisions. It does not include the DIC change proposed by the House, although it provides eligibility for CHAMPVA for surviving spouses who remarried after age 55. They must apply for this benefit within one year of the date the President signs this legislation. This and other changes were made in order to keep the bill within strict budget guidelines governing direct spending, or PAYGO.

The compromise includes a House-passed provision authorizing the placement of a memorial at Arlington National Cemetery honoring veterans of the Battle of the Bulge. It includes as well a provision which originated in the House to raise the Medal of Honor pension to $1,000 monthly and to make retroactive payments for those who were awarded this medal.

A provision is also included to extend coverage under the Soldiers' and Sailors' Civil Relief Act to members of the National Guard who are called to active service for more than 30 consecutive days to respond to a national emergency. Many members expressed an interest in this particular provision, and I commend Mr. EVANS for a similar proposal in H.R. 4017. Senator Wellstone was the author of a Senate proposal, and I am pleased that our compromise agreement on this is built upon their work.

For the benefit of my colleagues, I include at this point in the RECORD a joint explanatory statement describing the compromise agreement we have reached with the other body.

Mr. Speaker, I urge all Members to support this bipartisan measure for our Nation's veterans.

EXPLANATORY STATEMENT ON HOUSE AMENDMENT TO SENATE BILL, S. 2237

S. 2237, as amended, the ''Veterans Benefits Act of 2002,'' reflects a Compromise Agreement the Senate and House Committees on Veterans' Affairs have reached on the following bills considered in the House and Senate during the 107th Congress: S. 2237 (''Senate Bill''), H.R. 2561, H.R. 3423, H.R. 4085, H.R. 4940, and H.R. 5055 (''House Bills''). S. 2237, as amended, passed the Senate on September 26, 2002; H.R. 2561 and H.R. 3423, as amended, passed the House on December 20, 2001; H.R. 4085, as amended, passed the House on May 21, 2002; and H.R. 4940, as amended, and H.R. 5055 passed the House on July 22, 2002.

The Senate and House Committees on Veterans' Affairs have prepared the following explanation of S. 2237, as amended, (''Compromise Agreement''). Differences between the provisions contained in the Compromise Agreement and the related provisions of S. 2237, H.R. 2561, H.R. 3423, H.R. 4085, H.R. 4940, H.R. 5055, are noted in this document, except for clerical corrections, conforming changes made necessary by the Compromise Agreement, and minor drafting, technical, and clarifying changes.

TITLE I—COMPENSATION AND BENEFITS IMPROVEMENTS

Retention of Civilian Health and Medical Program of the Department of Veterans Affairs for Surviving Spouses Remarrying After Age 55

Current law

Section 103(d) of title 38, United States Code, prohibits a surviving spouse who has remarried from receiving dependency and indemnity compensation (''DIC''), VA health insurance under the Civilian Health and Medical Program of the Department of Veterans Affairs (''CHAMPVA''), home loan, and education benefits. These benefits may be reinstated in the event the subsequent remarriage is terminated.

House bill

Section 3 of H.R. 4085 would allow a surviving spouse who remarries after attaining age 65 to retain DIC, CHAMPVA health insurance, home loan, and education benefits. Spouses who remarried at age 65 or older prior to enactment of the bill would have one year from the date of enactment to apply for reinstatement of DIC and related benefits. The amount of DIC would be paid with no reduction of certain other benefits to which the surviving spouse might be entitled.

Senate bill

The Senate Bill contains no comparable provision.

Compromise agreement

Section 101 of the Compromise Agreement would provide that a surviving spouse, upon remarriage after attaining age 55, would retain CHAMPVA eligibility. Surviving spouses who remarried after attaining age 55 but prior to enactment of this Act would have one year to apply for reinstatement of this benefit. The Committees expect the Secretary will maintain data concerning the number of surviving spouses who become eligible or retain eligibility under this provision.

The Committees intend in the 108th Congress to consider full restoration of benefits for surviving spouses who remarry after attaining age 55.

Clarification of Entitlement to Special Monthly Compensation for Women Veterans Who Have Service-connected Loss of Breast Tissue

Current law

Section 1114(k) of title 38, United States Code, authorizes the Department of Veterans Affairs (''VA'') to provide special monthly compensation to any woman veteran who ''has suffered the anatomical loss of one or

both breasts (including loss by mastectomy)'' as a result of military service. Regulations published at section 4.116 of title 38, Code of Federal Regulations, have limited this compensation to ''Anatomical loss of a breast exists when there is complete surgical removal of breast tissue (or the equivalent loss of breast tissue due to injury). As defined under this section, radical mastectomy, modified radical mastectomy, and simple (or total) mastectomy result in anatomical loss of a breast, but wide local excision, with or without significant alteration of size or form, does not.''

Senate bill

Section 101 of S. 2237 would amend section 1114(k) of title 38, United States Code, to specify that women veterans who have suffered the anatomical loss of half of the tissue of one or both breasts in or as a result of military service may be eligible for special monthly compensation.

House bill

The House Bills contain no comparable provision.

Compromise agreement

Section 102 of the Compromise Agreement follows the Senate language, and would amend it to extend eligibility to women veterans who have suffered the anatomical loss of 25 percent or more of tissue from one or both breasts (including loss by mastectomy or partial mastectomy) or who received radiation treatment of breast tissue. The Committees intend that this change should extend eligibility for special monthly compensation to women veterans whose medical treatments (other than ''cosmetic surgery'') or injuries have resulted in a significant change in size, form, function, or appearance of one or both breasts.

Specification of Hearing Loss Required for Compensation For Hearing Loss in Paired Organs

Current Law

Under section 1160 of title 38, United States Code, special consideration is extended to a veteran's service-connected disabilities in ''paired organs or extremities,'' such as kidneys, lungs, feet, or hands. For these paired organs or extremities, VA is authorized when rating disability to consider any degree of damage to both organs, even if only one resulted from military service. Total impairment is not a requirement for kidneys, hands, feet, or lungs. Proportional impairment, such as ''the loss or loss of use of one kidney as a result of service-connected disability and involvement of the other kidney as a result of non-service-connected disability,'' is specifically provided for in subsections (2), (4), and (5) of section 1160(a) of title 38, United States Code. However, total deafness in both ears is required under section 1160(a)(3) of title 38, United States Code, for special consideration of hearing loss.

Senate bill

Section 102 of S. 2237 would eliminate the word ''total'' from section 1160(a)(3) of title 38, United States Code, and allow VA to consider partial non-service-connected hearing loss in one ear when rating disability for veterans with compensable service- connected hearing loss in the other ear.

House bill

The House Bills contain no comparable provision.

Compromise agreement

Section 103 of the Compromise Agreement follows the Senate language.

Assessment of Acoustic Trauma Associated With Military Service From World War II to Present

Current law

There is no applicable current law.

SENATE BILL

Section 103(a) of S. 2237 would authorize the Secretary to establish a presumption of service connection for hearing loss or tinnitus in veterans who served in certain military occupational specialties during specific periods of time if VA finds that evidence warrants such a presumption. Section 103(b) would extend presumption rebuttal provisions in title 38, United States Code, to cover service-connected hearing loss, should such a presumption be established.

Section 103(c) of the Senate Bill would require VA to enter into a contract with the National Academy of Sciences (''NAS'') or an equivalent scientific organization to review scientific evidence on forms of acoustic trauma that could contribute to hearing disorders for personnel serving in specific military occupational specialties. Section 103(c)(2)(B) of the Senate Bill would direct NAS to identify forms of acoustic trauma likely to cause hearing damage in servicemembers, and, in section 103(c)(2)(C), to determine whether such damage would be immediate, cumulative, or delayed. Section 103(c)(2)(D) of the Senate Bill would require NAS to assess when audiometric data collected by the military services became adequate to allow an objective assessment of individual exposure by VA, examining a representative sample of records from World War II to present by period of service. Section 103(c)(2)(E) of the Senate Bill would require NAS to identify military occupational specialties in which servicemembers are likely to be exposed to sufficient acoustic trauma to cause hearing disorders.

Section 103(d) of S. 2237 would require VA to report on medical care provided to veterans for hearing disorders from fiscal years 1999–2001; on the number of disability compensation claims received and granted for hearing loss, tinnitus, or both during those years; and an estimate of the total cost to VA of adjudicating those claims in full-time employee equivalents.

House bill

The House Bills contain no comparable provision.

Compromise agreement

Section 104 of the Compromise Agreement would strike sections 103(a) and 103(b) of the Senate Bill authorizing a presumption of service connection. The Compromise Agreement follows the Senate language requiring VA to enter into a contract with NAS, but would change the focus of the study to assessment of acoustic trauma associated with military service from World War II to present.

The Compromise Agreement would strike sections 103(c)(2)(B), 103(c)(2)(D), 103(c)(2)(E), and all references to military occupational specialties. The Compromise Agreement follows the Senate language requiring NAS to determine how much exposure to acoustic trauma or noise damage during military service might cause or contribute to hearing loss, hearing threshold shift, or tinnitus, and whether this damage may be immediate- or delayed-onset, cumulative, progressive, or a combination of these.

The Compromise Agreement would preserve provisions requiring NAS to assess when audiometric measures became adequate to assess individual hearing threshold shift reliably and when sufficiently protective hearing conservation measures became available. It would also add a third provision requiring NAS to identify age, occupational history, and other factors which could contribute to an individual's noise-induced hearing loss.

In assessing when audiometric data collected by the military became adequate for VA to evaluate if a veteran's hearing threshold shift could be detected at or prior to separation, the Committees intend for NAS to review and report on a representative sample of individual records. This should reflect not only an appropriate distribution of individuals among the various Armed Forces, but within each military service branch so that these records represent servicemembers who might reasonably be expected to have different levels of noise exposure in the course of their duties. The representative sample should also include records of servicemembers discharged during or after distinct periods of war or conflict and consider the environment in which they served in order to gauge how adequately each branch collected audiometric data following World War II, the Korean conflict, the Vietnam era, and during and following the Persian Gulf War.

The Compromise Agreement would generally follow the Senate language requiring VA to report on hearing loss claims and medical treatment for hearing disorders. The Compromise Agreement would amend this language to refer to the number of decisions issued and their results, rather than claims submitted in fiscal years 2000 through 2002, and would remove references to military occupational specialties.

TITLE II—MEMORIAL AFFAIRS

Prohibition on Certain Additional Benefits For Persons Committing Capital Crimes

Current law

Sections 2411 and 2408(d) of title 38, United States Code, prohibit persons who are convicted of capital crimes from interment or memorialization in National Cemetery Administration cemeteries, Arlington National Cemetery (''ANC''), or a State cemetery that receives VA grant funding. Section 5313 of title 38, United States Code, further limits VA benefits available to veterans who die while fleeing prosecution or after being convicted of a capital crime.

Senate bill

Section 402 of S. 2237 would prohibit the issuance of Presidential Memorial Certificates, flags, and memorial headstones or grave markers to veterans convicted of or fleeing from prosecution for a State or Federal capital crime.

House bill

The House Bills contain no comparable provision.

Compromise agreement

Section 201 of the Compromise Agreement follows the Senate language.

Procedures for Disqualification of Persons Committing Capital Crimes For Interment or Memorialization in National Cemeteries

Current law

Section 2411 of title 38, United States Code, prohibits interment or memorialization in National Cemetery Administration cemeteries or in Arlington National Cemetery (''ANC'') of any person convicted of a capital crime. This section further prohibits interment or memorialization of persons found by the Secretary of Veterans Affairs or the Secretary of the Army to have committed capital crimes but who avoided conviction of the crime through flight or death preceding prosecution. In such cases, the Secretary of Veterans Affairs or the Secretary of the Army must receive notice from the Attorney General of the United States, or the appropriate State official, of the Secretary's own finding before the prohibition shall apply.

Senate bill

Section 403 of S. 2237 would eliminate the requirement that the Secretary of Veterans Affairs or the Secretary of the Army be notified of a finding by the Attorney General or

the appropriate State official in cases of persons who are found to have committed capital crimes but who avoided conviction of the crime through flight or death preceding prosecution.

House bill

The House Bills contain no comparable provision.

Compromise agreement

Section 202 of the Compromise Agreement follows the Senate language.

Application of Department of Veterans Affairs Benefit for Government Markers for Marked Graves of Veterans at Private Cemeteries to Veterans Dying on or After September 11, 2001

Current law

Section 2306(d)(1) provides that the Secretary shall furnish a government marker to those families who request one for the marked grave of a veteran buried at a private cemetery, who died on or after December 27, 2001.

House Bill

Section 6 of H.R. 4940 would make section 2306(d)(1) retroactive to veterans who died on or after September 11, 2001.

Senate Bill

The Senate Bill contains no comparable provision.

Compromise agreement

Section 203 of the Compromise Agreement follows the House language.

Authorization of Placement of Memorial in Arlington National Cemetery Honoring World War II Veterans Who Fought in the Battle of the Bulge

Current law

Section 2409 of title 38, United States Code, authorizes the Secretary of Army to erect appropriate memorials or markers in Arlington National Cemetery to honor the memory of members of the Armed Forces.

House bill

H.R. 5055 would authorize the Secretary of the Army to place in ANC a new memorial marker honoring veterans who fought in the Battle of the Bulge during World War II. The Secretary of the Army would have exclusive authority to approve an appropriate design and site within ANC for the memorial.

Senate bill

The Senate Bill contains no comparable provision.

Compromise agreement

Section 204 of the Compromise Agreement would authorize the Secretary of the Army to place in ANC a new memorial marker honoring veterans who fought in the Battle of the Bulge.

TITLE III—OTHER MATTERS

Increase in Aggregate Annual Amount Available for State Approving Agencies for Administrative Expenses for Fiscal Years 2003, 2004, 2005, 2006, and 2007

Current law

Section 3674(a)(4) of title 38, United States Code, funds State approving agencies. From fiscal years 1995 to 2000, State approving agency (''SAA'') funding was capped, with no annual increase, at $13 million. Public Law 106–419 increased SAA funding to $14 million for fiscal years 2001 and 2002. Under current law, the authorization amount was reduced to $13 million as of October 1, 2002. SAAs are the agencies that determine which schools, courses, and training programs qualify as eligible for veterans seeking to use their GI Bill benefits.

Senate bill

Section 201 of S. 2237 would restore SAA funding to $14 million per year and would increase it to $18 million per year during fiscal years 2003, 2004, and 2005.

House bill

Section 6 of H.R. 4085 contains an identical provision.

Compromise agreement

Section 301 of the Compromise Agreement would restore SAA funding at $14 million for fiscal year 2003, $18 million for fiscal year 2004, $18 million for fiscal year 2005, $19 million for fiscal year 2006, and $19 million for fiscal year 2007.

Authority for Veterans' Mortgage Life Insurance To Be Carried Beyond Age 70

Current law

Section 2106(i)(2) of title 38, United States Code, provides that Veterans' Mortgage Life Insurance (''VMLI'') shall be terminated on the veteran's seventieth birthday. VMLI is designed to provide financial protection to cover eligible veterans' home mortgages in the event of death. VMLI is issued only to those severely disabled veterans who have received grants for Specially Adapted Housing from the Department of Veterans Affairs.

House bill

Section 5(b) of H.R. 4085 would permit veterans eligible for specially-adapted housing grants to continue their VMLI coverage beyond age 70. No new policies would be issued after age 70.

Senate bill

The Senate Bill contains no comparable provision.

Compromise agreement

Section 302 of the Compromise Agreement follows the House language.

Authority To Guarantee Hybrid Adjustable Rate Mortgages

Current law

There is no authorization in current law for VA to guarantee adjustable rate mortgages (''ARMs'') and hybrid adjustable rate mortgages (''hybrid ARMs''). A hybrid ARM combines features of fixed rate mortgages and adjustable rate mortgages. A hybrid ARM has a fixed rate of interest for at least the first 3 years of the loan, with an annual interest rate adjustment after the fixed rate has expired.

Senate bill

Section 301 of S. 2237 would authorize VA to establish a three-year pilot program to guarantee hybrid ARMs and reauthorize a fiscal year-1993 to 1995 pilot program to guarantee conventional ARMs. This authority would begin in fiscal year 2003 and expire at the end of fiscal year 2005.

House bill

The House Bills contain no comparable provision.

Compromise agreement

Section 303 of the Compromise Agreement would authorize VA to guarantee hybrid ARMs for a period of two years. The effective date of this provision would be October 1, 2003.

Increase in the Amount Payable as Medal of Honor Special Pension

Current law

Section 1562 of title 38, United States Code, provides a special pension of $600 per month to recipients of the Medal of Honor. Eligibility to receive the Medal of Honor special pension is contingent upon having first been awarded the Medal of Honor.

Senate bill

Section 104 of S. 2237 would increase the Medal of Honor special pension from $600 to $1,000 per month. Beginning in January 2003, the pension amount would be adjusted annually to maintain the value of the pension in the face of the rising cost of living. The amount of this adjustment would match the percentage of the cost-of-living adjustment paid to Social Security recipients. The Senate Bill would also provide for a one-time, lump-sum payment in the amount of special pension the recipient would have received between the date of the act of valor and the date that the recipient's pension actually commenced.

House bill

H.R. 2561 would increase the special pension payable to Medal of Honor recipients from $600 to $1,000 per month, and provide a lump sum payment for existing Medal of Honor recipients in an amount equal to the total amount of special pension that the person would have received had the person received special pension during the period beginning the first day of the month that began after the act giving rise to the receipt of the Medal of Honor, and ending with the last day of the month preceding the month that such person's special compensation commenced. H.R. 2561 also would provide criminal penalties for the unauthorized purchase or possession of the Medal and for making a false representation as a Medal recipient.

Compromise agreement

Section 304 of the Compromise Agreement follows the Senate language, but would modify the effective date of the provision to September 1, 2003. It is the Committee's understanding that the first month a Medal of Honor recipient would receive special pension is October 2003.

It is the Committees' intent that the lump sum payment of special pension be determined using the rates of special pension and the laws of eligibility in effect (including applicable age requirements) for months beginning after an individual's act of gallantry. Excluded from this rule would be the law of eligibility requiring an individual to have been awarded a Medal of Honor.

Extension of Protections Under Soldiers' and Sailors' Civil Relief Act of 1940 to National Guard Members Called to Active Duty Under Title 32, United States Code

Current law

The Soldiers' and Sailors' Civil Relief Act of 1940 (''SSCRA''), sections 510 et seq., of title 50, United States Code Appendix, suspends enforcement of certain civil liabilities and provides certain rights and legal protections to servicemembers who have been called up to active duty under title 10, United States Code. However, these protections do not extend to National Guard members called to duty under section 502(f) of title 32, United States Code, ''to perform training or other duty.'' Certain homeland security duties performed under title 32, United States Code, such as protecting the nation's airports, have been carried out at the request and expense of the Federal government with National Guard members under the command of their state governors.

Senate bill

Section 401 of S. 2237 would expand SSCRA protections to include those National Guard members serving full-time, upon an order of the Governor of a State at the request of the head of a Federal law enforcement agency and with the concurrence of the Secretary of Defense, under 502(f) of title 32, United States Code for homeland security purposes.

House bill

The House Bills contain no comparable provision.

Compromise agreement

Section 305 of the Compromise Agreement would provide that when members of the National Guard are called to active service for

more than 30 consecutive days under section 502(f) of title 32, United States Code, to respond to a national emergency declared by the President, coverage under the provisions of the SSCRA would be available. The Committees note that this provision is intended to extend protections of the SSCRA to members of the National Guard when called to duty under circumstances similar to those following the terrorist attacks of September 11, 2001.

EXTENSION OF INCOME VERIFICATION AUTHORITY

Current law

Section 6103(*l*)(7)(D) of the Internal Revenue Code gives the Internal Revenue Service (''IRS'') authority to furnish income information to the VA from IRS records so that VA might determine eligibility for VA need-based pension, parents dependency and indemnity compensation, and priority for VA health-care services. This provision currently expires on September 30, 2003, pursuant to Public Law 105–33.

Section 5317 of title 38, United States Code, provides parallel authority for VA to use IRS information and requires VA to notify applicants for needs-based benefits that income information furnished by the applicant may be compared with the information obtained from the Departments of Health and Human Services and Treasury under section 6103(*l*)(7)(D). This parallel authority is scheduled to expire on September 30, 2008, pursuant to Public Law 106–409.

Senate bill

Section 106(a) of S. 2237 would extend section 6103(*l*)(7)(D) of the Internal Revenue Code through September 30, 2011. Section 106(b) would extend section 5317 of title 38, United States Code, through September 30, 2011.

House bill

The House Bills contain no comparable provision.

Compromise agreement

Section 306 of the Compromise Agreement would extend section 6103(*l*)(7)(D) of the Internal Revenue Code through September 30, 2008.

Fee for Loan Assumption

Current law

Section 3729(b)(2)(1) of title 38, United States Code, requires a 0.50 percent loan fee for active-duty servicemembers, veterans, Reservists, and others participating in loan assumptions under section 3714.

Senate bill

The Senate Bill contains no comparable language.

House bill

The House Bills contain no comparable language.

Compromise agreement

Section 307 of the Compromise Agreement would increase the loan fee for assumptions for loans closed more than 7 days after enactment in fiscal year 2003 from 0.50 percent to 1.0 percent. The Committees intend this fee increase to expire at the end of fiscal year 2003.

TITLE IV—JUDICIAL MATTERS

The U.S Court of Appeals for Veterans Claims (''CAVC'') is an Article I Court of limited jurisdiction. It has come to the Committees' attention that the Administration has disregarded Congressional intent in interpreting the CAVC to be part of the Executive Branch and subject to rescissions of Executive Branch agency budgets, pursuant to section 1403 of Public Law 107–206. The Committees note that while the budget for the Court is included in the President's budget, the Executive Branch has no authority to review it. Public Law 100–687, section 4082(a). It is the Committees' intent to clarify that the CAVC is not part of the Executive Branch. The Committees have so stated on other occasions, *e.g.*, ''The Court, established by the Congress under Article I of the Constitution to exercise judicial power, has unusual status as an independent tribunal that is not subject to the control of the President or the executive branch.'' House of Representatives Report 107–156, July 24, 2001, and Senate Report 107–86, October 15, 2001.

Standard for Reversal by Court of Appeals for Veterans Claims of Erroneous Finding of Fact by Board of Veterans' Appeals

Current law

Under section 7261(a)(4) of title 38, United States Code, the Court of Appeals for Veterans Claims applies a ''clearly erroneous'' standard of review to findings of fact made by the Board of Veterans' Appeals (''BVA''). The ''clearly erroneous'' standard has been defined as requiring CAVC to uphold BVA findings of fact if the findings are supported by ''a plausible basis in the record . . . even if [CAVC] might not have reached the same factual determinations.'' *Wensch* v. *Principi*, 15 Vet. App. 362, 366–68 (2001). The recent U.S. Court of Appeals for the Federal Circuit decision of *Hensley* v. *West*, 212 F.3d 1255 (Fed. Cir. 2000) emphasized that CAVC should perform only limited, deferential review of BVA decisions, and stated that BVA fact-finding ''is entitled on review to substantial deference.'' *Id*. at 1263.

Section 5107(b) of title 38, United States Code, provides that VA must find for the claimant when, in considering the evidence of record, there is an approximate balance of positive and negative evidence regarding any material issue including the ultimate merits of the claim. This ''benefit of the doubt'' standard applicable to proceedings before VA is unique in administrative law. Under the benefit of the doubt rule, unless the preponderance of the evidence is against the claimant, the claim is granted. *Gilbert* v. Derwinski, 1 Vet. App. 49 (1990) and Forshey v. Principi, 284 F.3d 1335 (Fed. Cir. 2002).

Senate bill

Section 501 of S. 2237 would amend section 7261(a)(4) of title 38 to change the standard of review CAVC applies to BVA findings of fact from ''clearly erroneous'' to ''unsupported by substantial evidence.'' Section 502 would also cross-reference section 5107(b) in order to emphasize that the Secretary's application of the ''benefit of the doubt'' to an appellant's claim would be considered by CAVC on appeal.

House bill

The House Bills contain no comparable provision.

Compromise agreement

Section 401 of the Compromise Agreement follows the Senate language with the following amendments.

The Compromise Agreement would modify the standard of review in the Senate bill in subsection (a) by deleting the change to a ''substantial evidence'' standard. It would modify the requirements of the review the Court must perform when it is making determinations under section 7261(a) of title 38, United States Code. Since the Secretary is precluded from seeking judicial review of decisions of the Board of Veterans Appeals, the addition of the words ''adverse to the claimant'' in subsection (a) is intended to clarify that findings of fact favorable to the claimant may not be reviewed by the Court. Further, the addition of the words ''or reverse'' after ''and set aside'' is intended to emphasize that the Committees expect the Court to reverse clearly erroneous findings when appropriate, rather than remand the case.

New subsection (b) would maintain language from the Senate bill that would require the Court to examine the record of proceedings before the Secretary and BVA and the special emphasis during the judicial process on the benefit of the doubt provisions of section 5107 (b) as it makes findings of fact in reviewing BVA decisions. This would not alter the formula of the standard of review on the Court, with the uncertainty of interpretation of its application that would accompany such a change. The combination of these changes is intended to provide for more searching appellate review of BVA decisions, and thus give full force to the ''benefit of doubt'' provision.

The Compromise Agreement would also modify the effective date of this provision to apply to cases that have not been decided prior to the enactment of this Act. This provision would not apply to cases in which a decision has been made, but are not final because the time to request panel review or to appeal to the U.S. Court of Appeals for the Federal Circuit (''Federal Circuit'') has not expired.

Review by Court of Appeals for the Federal Circuit of Decisions of Law

Current law

Under section 7292(a) of title 38, United States Code, the Federal Circuit may only review CAVC decisions involving questions of law ''with respect to the validity of any statute or regulation.'' It does not explicitly have the authority to hear appeals of CAVC decisions that are not clearly legal interpretations of statutes or regulations.

Senate bill

Section 502 of S. 2237 would amend sections 7292(a) and (c) of title 38, United States Code, to specifically provide for appellate review of a CAVC decision on any rule of law.

House bill

The House Bills contain no comparable provision.

Compromise agreement

Section 402 of the Compromise Agreement follows the Senate language.

Authority of Court of Appeals for Veterans Claims to Award Fees Under Equal Access to Justice Act to Non-Attorney Practitioners

Current law

Currently, section 2412(d) of title 28, United States Code, the Equal Access to Justice Act (''EAJA''), shifts the burden of attorney fees from the citizen to the government in cases where the government's litigation position is not substantially justified and the citizen qualifies under certain income and asset criteria. Qualified non-attorneys admitted to practice before the CAVC may only receive fees if the EAJA application is signed by an attorney.

Senate bill

Section 503 of S. 2237 would allow qualified non-attorneys admitted to practice before the CAVC to be awarded fees under EAJA for representation provided to VA claimants without the requirement that an attorney sign the EAJA application.

House bill

The House Bills contain no comparable provision.

Compromise agreement

Section 403 of the Compromise Agreement follows the Senate language.

The Committees expect that in determining the amount of reasonable fees payable to non-attorney practitioners, the Court will apply the usual rules applicable to fees

for the work of other non-attorneys such as paralegals and law students based upon prevailing market rates for the kind and quality of the services furnished. 28 U.S.C. §2412(d)(2)(A). See, Sandoval v. Brown, 9 Vet. App. 177, 181 (1996).

LEGISLATIVE PROVISIONS NOT ADOPTED

ARLINGTON NATIONAL CEMETERY

Current law

Eligibility for burial at Arlington National Cemetery is governed by federal regulations at section 553.15 of title 32, Code of Federal Regulations. The following categories of persons are eligible for in-ground burial: active duty members of the Armed Forces, except those members serving on active duty for training; retired members of the Armed Forces who have served on active duty, are on a retired list and are entitled to receive retirement pay; former members of the Armed Forces discharged for disability before October 1, 1949, who served on active duty and would have been eligible for retirement under 10 U.S.C. 1202 had the statute been in effect on the date of separation; honorably discharged members of the Armed Forces awarded the Medal of Honor, Distinguished Service Cross, Air Force Cross or Navy Cross, Distinguished Service Medal, Silver Star, or Purple Heart; former prisoners of war who served honorably and who died on or after November 30, 1993; provided they were honorably discharged from the Armed Forces, elected federal officials (the President, Vice President, and Members of Congress), federal cabinet secretaries and deputies, agency directors and certain other high federal officials (level I and II executives), Supreme Court Justices, and chiefs of certain diplomatic missions; the spouse, widow or widower, minor child (under 21 years of age) and, at the discretion of the Secretary of the Army, certain unmarried adult children, and certain surviving spouses.

House bill

H.R. 4940 would codify eligibility criteria for in-ground burial at Arlington National Cemetery: members of the Armed Forces who die on active duty; retired members of the Armed Forces, including reservists who served on active duty; members or former members of a reserve component who, but for age, would have been eligible for retired pay; members of a reserve component who die in the performance of duty while on active duty training or inactive duty training; former members of the Armed Forces who have been awarded the Medal of Honor, Distinguished Service Cross (Air Force Cross or Navy Cross), Distinguished Service Medal, Silver Star, or Purple Heart; former prisoners of war who die on or after November 30, 1993; the President or any former President; members of the Guard or Reserves who served on active duty, who are eligible for retirement, but who have not yet retired; the spouse, surviving spouse, minor child and at the discretion of the Superintendent of Arlington, and certain unmarried adult children. Veterans who do not meet these requirements might qualify for the placement of their cremated remains in Arlington's columbarium.

H.R. 4940 would also provide the President the authority to grant a waiver for burial at Arlington in the case of an individual not otherwise eligible for burial under the criteria outlined above but whose acts, service, or contributions to the Armed Forces were so extraordinary as to justify burial at Arlington. The President would be allowed to delegate the waiver authority only to the Secretary of the Army.

H.R. 4940 would codify existing regulatory eligibility for interment of cremated remains in the columbarium at Arlington (generally, this includes all veterans with honorable service and their dependents), clarify that only memorials honoring military service may be placed at Arlington and set a 25-year waiting period for such memorials, and clarify that in the case of individuals buried in Arlington before the date of enactment, the surviving spouse is deemed to be eligible if buried in the same gravesite.

Senate bill

The Senate Bill contains no comparable provision.

Increase of Veterans' Mortgage Life Insurance (''VMLI'') Coverage to $150,000

Current law

Section 2106(b) of title 38, United States Code, provides that VMLI may not exceed $90,000.

House bill

Section 5(a) of H.R. 4085 would increase the maximum amount of coverage available under Veterans' Mortgage Life Insurance from $90,000 to $150,000. This would increase the amount of the outstanding mortgage, which would be payable if the veteran were to die before the mortgage is paid in full.

Senate bill

The Senate Bill contains no comparable provision.

Uniform Home Loan Guaranty Fees for Qualifying Members of the Selected Reserve and Active Duty Veterans

Current law

Section 3729(b) of title 38, United States Code, provides the amounts in fees to be collected from each person participating in VA's Home Loan Guaranty Program. Currently, members of the Selected Reserve pay a 0.75 percent higher funding fee under the home loan program than other eligible veterans.

House bill

Section 4 of H.R. 4085 would amend the Loan Fee Table in section 3729(b) of title 38, United States Code, to provide for uniformity in the funding fees charged to members of the Selected Reserve and active duty veterans for VA home loans. The fee would be reduced for the period beginning on October 1, 2002, and ending on September 30, 2005.

Senate bill

The Senate Bill contains no comparable provision.

Prohibit Assignment of Monthly Veterans Benefits and Create an Education and Outreach Campaign About Financial Services Available to Veterans

Current law

Section 5301 of title 38, United States Code, currently prohibits the assignment or attachment of a veteran's disability compensation or pension benefits. In recent years, private companies have offered contracts to veterans that exchange up-front lump sums for future benefits.

Senate bill

Section 105 of S. 2237 would clarify the applicability of the prohibition on assignment of veterans benefits through agreements regarding future receipt of compensation, pension, or dependency and indemnity compensation. This provision would make violation of this prohibition punishable by a fine and up to one year in jail.

This provision would also require VA to create a five-year education and outreach campaign to inform veterans about available financial services.

House bill

The House Bills contain no comparable provision.

Clarification of Retroactive Application of Provisions of the Veterans Claims Assistance Act

Current law

Public Law 106–475, the Veterans Claims Assistance Act of 2000 (''VCAA''), restored and enhanced VA's duty to assist claimants in developing their claims for veterans benefits. Specifically, section 3(a) of the VCAA requires VA to take certain steps to assist claimants.

Two recent decisions by the U.S. Court of Appeals for the Federal Circuit have found that the provisions in the VCAA pertaining to VA's duty to assist cannot be applied retroactively to claims pending at the time of its enactment. In Dyment v. Principi, 287 F.3d 1377 (Fed. Cir. 2002), the Federal Circuit stated: ''The Supreme Court has held that a federal statute will not be given retroactive effect unless Congress has made its contrary intention clear. There is nothing in the VCAA to suggest that section 3(a) was intended to applied [sic] retroactively.'' In Bernklau v. Principi, 291 F.3d 795, 806 (Fed. Cir. 2002), the Court again concluded: ''[S]ection 3(a) of the VCAA does not apply retroactively to require that proceedings that were complete before the Department of Veterans Affairs and were on appeal to the Court of Appeals for Veterans Claims or this court be remanded for readjudication under the new statute.''

Senate bill

Section 504 of S. 2237 would apply section 3 of VCAA retroactively to cases that were ongoing either at various adjudication levels within VA or pending at the applicable Federal courts prior to the date of VCAA's enactment. Section 505 of the Senate Bill would provide for claims decided between the handing down of the Dyment case and enactment of this provision to receive the full notice, assistance, and protection afforded under the VCAA.

House bill

The House Bills contain no comparable provision.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. Without objection, the various titles are amended.

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN THE ENGROSSMENT OF VARIOUS LEGISLATIVE MEASURES

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that, in the engrossment of the measures just passed, the Clerk be authorized to correct spelling, punctuation, numbering, and cross references, and to make such other changes as may be necessary to reflect the actions of the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

GENERAL LEAVE

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the measures just passed and to insert extraneous material thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment bills and concurrent resolution of the House of the following titles:

H.R. 3758. An act for the relief of So Hyun Jun.

H.R. 3988. An act to amend title 36, United States Code, to clarify the requirements for eligibility in the American Legion.

H.R. 4727. An act to reauthorize the national dam safety program, and for other purposes.

H.R. 5590. An act to amend title 10, United States Code, to provide for the enforcement and effectiveness of civilian orders of protection on military installations.

H. Con. Res. 487. concurrent resolution authorizing the printing as a House document of a volume consisting of the transcripts of the ceremonial meeting of the House of Representatives and Senate in New York City on September 6, 2002, and a collection of statements by Members of the House of Representatives and Senate from the Congressional Record on the terrorist attacks of September 11, 2001.

The message also announced that the Senate has passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 3908. An act to reauthorize the North American Wetlands Conservation Act, and for other purposes.

H.R. 5557. An act to amend the Internal Revenue Code of 1986 to provide a special rule for members of the uniformed services and Foreign Service in determining the exclusion of gain from the sale of a principal residence and to restore the tax exempt status of death gratuity payments to members of the uniformed services, and for other purposes.

The message also announced that the Senate has passed bills and joint resolution and a concurrent resolution of the following titles in which the concurrence of the House is requested:

S. 2520. An act to amend title 18, United States Code, with respect to the sexual exploitation of children.

S. 2934. An act to amend title 36, United States Code, to clarify the requirements for eligibility in the American Legion.

S. J. Res. 42. Joint resolution commending Sail Boston for its continuing advancement of the maritime heritage of nations, its commemoration of the nautical history of the United States, and its promotion, encouragement, and support of young cadets through training.

S. Con. Res. 155. Concurrent resolution affirming the importance of a national day of prayer and fasting, and expressing the sense of Congress that November 27, 2002, should be designated as a national day of prayer and fasting.

PROVIDING FOR PRINTING AND BINDING OF REVISED EDITION OF RULES AND MANUAL OF HOUSE OF REPRESENTATIVES

Mr. ARMEY. Mr. Speaker, I offer a resolution (H. Res. 614) and ask unanimous consent for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 614

Resolved, That a revised edition of the Rules and Manual of the House of Representatives for the One Hundred Eighth Congress be printed as a House document, and that three thousand additional copies shall be printed and bound for the use of the House of Representatives, of which nine hundred copies shall be bound in leather with thumb index and delivered as may be directed by the Parliamentarian of the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

APPOINTMENT OF COMMITTEE OF TWO MEMBERS TO INFORM THE PRESIDENT THAT THE TWO HOUSES HAVE COMPLETED THEIR BUSINESS OF THE SESSION

Mr. ARMEY. Mr. Speaker, I offer a privileged resolution (H. Res. 615) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 615

Resolved, that a committee of two Members be appointed by the House to join a similar committee appointed by the Senate, to wait upon the President of the United States and inform him that the two Houses have completed their business of the session and are ready to adjourn, unless the President has some other communication to make to them.

The resolution was agreed to.

A motion to reconsider was laid on the table.

APPOINTMENT AS MEMBERS OF THE COMMITTEE TO INFORM THE PRESIDENT THAT THE TWO HOUSES HAVE COMPLETED THEIR BUSINESS OF THE SESSION AND ARE READY TO ADJOURN

The SPEAKER pro tempore. Pursuant to House Resolution 615, the Chair appoints the following Members of the House to the Committee to notify the President:

The gentleman from Texas, Mr. ARMEY;

The gentleman from Missouri, Mr. GEPHARDT.

AUTHORIZING SPEAKER, MAJORITY LEADER, AND MINORITY LEADER TO ACCEPT RESIGNATIONS AND TO MAKE APPOINTMENTS AUTHORIZED BY LAW OR BY THE HOUSE NOT WITHSTANDING SINE DIE ADJOURNMENT

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that notwithstanding the adjournment of the second session of the 107th Congress, the Speaker, the majority leader, and the minority leader be authorized to accept resignations and to make appointments authorized by law or by the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

AUTHORIZING CHAIRMAN AND RANKING MINORITY MEMBER OF EACH STANDING COMMITTEE AND SUBCOMMITTEE TO EXTEND REMARKS IN RECORD

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that the chairman and ranking minority member of each standing committee and each subcommittee be permitted to extend their remarks in the RECORD, up to and including the RECORD'S LAST PUBLICATION, AND TO INCLUDE A SUMMARY OF THE WORK OF THAT COMMITTEE OR SUBCOMMITTEE.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

GRANTING MEMBERS OF THE HOUSE PRIVILEGE TO REVISE AND EXTEND REMARKS IN CONGRESSIONAL RECORD UNTIL LAST EDITION IS PUBLISHED

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that Members may have until publication of the last edition of the CONGRESSIONAL RECORD authorized for the second session of the 107th Congress by the Joint Committee on Printing to revise and extend their remarks and to include brief, related extraneous material on any matter occurring before the adjournment of the second session sine die.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

CONVENING OF FIRST SESSION OF THE 108TH CONGRESS

Mr. ARMEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate joint resolution (S.J. Res. 53) and ask for its immediate consideration in the House.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 53

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the first regular session of the One Hundred Eighth Congress begin at noon on Tuesday, January 7, 2003.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

HOUR OF MEETING ON TUESDAY, NOVEMBER 19, 2002

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Tuesday, November 19, 2002.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

APPOINTMENT OF HONORABLE WAYNE T. GILCHREST TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS THROUGH REMAINDER OF THE SECOND SESSION OF 107TH CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
November 14, 2002.

I hereby appoint the Honorable WAYNE T. GILCHREST or, if not available to perform this duty, the Honorable TOM DAVIS to act as Speaker pro tempore to sign enrolled bills and joint resolutions through the remainder of the second session of the One Hundred Seventh Congress.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

The SPEAKER pro tempore. Without objection, the appointment is approved.

There was no objection.

□ 0300

INVESTING IN AMERICA'S FUTURE ACT OF 2002

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that the bill (H.R. 4664) to authorize appropriations for fiscal years 2003, 2004, and 2005 for the National Science Foundation, and for other purposes, be considered to have been taken from the Speaker's table and the Senate amendments concurred in.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Science Foundation Authorization Act of 2002''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The National Science Foundation has made major contributions for more than 50 years to strengthen and sustain the Nation's academic research enterprise that is the envy of the world.

(2) The economic strength and national security of the United States and the quality of life of all Americans are grounded in the Nation's scientific and technological capabilities.

(3) The National Science Foundation carries out important functions in supporting basic research in all science and engineering disciplines and in supporting science, mathematics, engineering, and technology education at all levels.

(4) The research and education activities of the National Science Foundation promote the discovery, integration, dissemination, and application of new knowledge in service to society and prepare future generations of scientists, mathematicians, and engineers who will be necessary to ensure America's leadership in the global marketplace.

(5) The National Science Foundation must be provided with sufficient resources to enable it to carry out its responsibilities to develop intellectual capital, strengthen the scientific infrastructure, integrate research and education, enhance the delivery of mathematics and science education in the United States, and improve the technological literacy of all people in the United States.

(6) The emerging global economic, scientific, and technical environment challenges longstanding assumptions about domestic and international policy, requiring the National Science Foundation to play a more proactive role in sustaining the competitive advantage of the United States through superior research capabilities.

(7) Commercial application of the results of Federal investment in basic and computing science is consistent with longstanding United States technology transfer policy and is a critical national priority, particularly with regard to cybersecurity and other homeland security applications, because of the urgent needs of commercial, academic, and individual users as well as the Federal and State Governments.

SEC. 3. POLICY OBJECTIVES.

In allocating resources made available under section 5, the Foundation shall have the following policy objectives:

(1) To strengthen the Nation's lead in science and technology by—

(A) increasing the national investment in general scientific research and increasing investment in strategic areas;

(B) balancing the Nation's research portfolio among the life sciences, mathematics, the physical sciences, computer and information science, geoscience, engineering, and social, behavioral, and economic sciences, all of which are important for the continued development of enabling technologies necessary for sustained international competitiveness;

(C) expanding the pool of scientists and engineers in the United States;

(D) modernizing the Nation's research infrastructure; and

(E) establishing and maintaining cooperative international relationships with premier research institutions, with the goal of such relationships being the exchange of personnel, data, and information in an effort to alleviate problems common to the global community.

(2) To increase overall workforce skills by—

(A) improving the quality of mathematics and science education, particularly in kindergarten through grade 12;

(B) promoting access to information technology for all students;

(C) raising postsecondary enrollment rates in science, mathematics, engineering, and technology disciplines for individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b);

(D) increasing access to higher education in science, mathematics, engineering, and technology fields for students from low-income households; and

(E) expanding science, mathematics, engineering, and technology training opportunities at institutions of higher education.

(3) To strengthen innovation by expanding the focus of competitiveness and innovation policy at the regional and local level.

SEC. 4. DEFINITIONS.

In this Act:

(1) ACADEMIC UNIT.—The term ''academic unit'' means a department, division, institute, school, college, or other subcomponent of an institution of higher education.

(2) BOARD.—The term ''Board'' means the National Science Board established under section 2 of the National Science Foundation Act of 1950 (42 U.S.C. 1861).

(3) COMMUNITY COLLEGE.—The term ''community college'' has the meaning given such term in section 3301(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7011(3)).

(4) DIRECTOR.—The term ''Director'' means the Director of the National Science Foundation established under section 2 of the National Science Foundation Act of 1950 (42 U.S.C. 1861).

(5) ELEMENTARY SCHOOL.—The term ''elementary school'' has the meaning given that term by section 9101(18) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801(18)).

(6) ELIGIBLE NONPROFIT ORGANIZATION.—The term ''eligible nonprofit organization'' means a nonprofit research institute, or a nonprofit professional association, with demonstrated experience and effectiveness in mathematics or science education as determined by the Director.

(7) FOUNDATION.—The term ''Foundation'' means the National Science Foundation established under section 2 of the National Science Foundation Act of 1950 (42 U.S.C. 1861).

(8) HIGH-NEED LOCAL EDUCATIONAL AGENCY.—The term ''high-need local educational agency'' means a local educational agency that meets one or more of the following criteria:

(A) It has at least one school in which 50 percent or more of the enrolled students are eligible for participation in the free and reduced price lunch program established by the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

(B) It has at least one school in which—

(i) more than 34 percent of the academic classroom teachers at the secondary level (across all academic subjects) do not have an undergraduate degree with a major or minor in, or a graduate degree in, the academic field in which they teach the largest percentage of their classes; or

(ii) more than 34 percent of the teachers in two of the academic departments do not have an undergraduate degree with a major or minor in, or a graduate degree in, the academic field in which they teach the largest percentage of their classes.

(C) It has at least one school whose teacher attrition rate has been 15 percent or more over the last three school years.

(9) INSTITUTION OF HIGHER EDUCATION.—The term ''institution of higher education'' has the meaning given such term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(10) LOCAL EDUCATIONAL AGENCY.—The term ''local educational agency'' has the meaning given such term by section 9101(26) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801(26)).

(11) MASTER TEACHER.—The term ''master teacher'' means a mathematics or science teacher who works to improve the instruction of mathematics or science in kindergarten through grade 12 through—

(A) participating in the development or revision of science, mathematics, engineering, or technology curricula;

(B) serving as a mentor to mathematics or science teachers;

(C) coordinating and assisting teachers in the use of hands-on inquiry materials, equipment, and supplies, and when appropriate, supervising acquisition and repair of such materials;

(D) providing in-classroom teaching assistance to mathematics or science teachers; and

(E) providing professional development, including for the purposes of training other master teachers, to mathematics and science teachers.

(12) NATIONAL RESEARCH FACILITY.—The term ''national research facility'' means a research facility funded by the Foundation which is available, subject to appropriate policies allocating access, for use by all scientists and engineers affiliated with research institutions located in the United States.

(13) SECONDARY SCHOOL.—The term ''secondary school'' has the meaning given that term by section 9101(38) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801(38)).

(14) STATE.—Except with respect to the Experimental Program to Stimulate Competitive Research, the term ''State'' means one of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or any other territory or possession of the United States.

(15) STATE EDUCATIONAL AGENCY.—The term ''State educational agency'' has the meaning given such term by section 9101(41) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801(41)).

(16) UNITED STATES.—The term ''United States'' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

(a) FISCAL YEAR 2003.—

(1) IN GENERAL.—There are authorized to be appropriated to the Foundation $5,536,390,000 for fiscal year 2003.

(2) SPECIFIC ALLOCATIONS.—Of the amount authorized under paragraph (1)—

(A) $4,155,690,000 shall be made available to carry out research and related activities, of which $704,000,000 shall be for information technology research described in paragraph (1) of section 8 and $301,000,000 shall be for nanoscale science and engineering described in paragraph (2) of section 8;

(B) $1,006,250,000 shall be made available for education and human resources, of which—

(i) $200,000,000 shall be for mathematics and science education partnerships described in section 9;

(ii) $20,000,000 shall be for the Robert Noyce Scholarship Program described in section 10; and

(iii) $25,000,000 shall be for the science, mathematics, engineering, and technology talent expansion program described in paragraph (7) of section 8;

(C) $172,050,000 shall be made available for major research equipment and facilities construction;

(D) $191,200,000 shall be made available for salaries and expenses;

(E) $3,500,000 shall be made available for the Office of the National Science Board, including salaries and compensation for members of the Board and staff appointed under section 4 of the National Science Foundation Act of 1950 (42 U.S.C. 1863), travel and training costs for members of the Board and such staff, general and Board operating expenses, representational expenses for the Board, honorary awards made by the Board, Board reports (other than the report entitled ''Science and Engineering Indicators''), and contracts; and

(F) $7,700,000 shall be made available for the Office of Inspector General.

(b) FISCAL YEAR 2004.—

(1) IN GENERAL.—There are authorized to be appropriated to the Foundation $6,390,832,000 for fiscal year 2004.

(2) SPECIFIC ALLOCATIONS.—Of the amount authorized under paragraph (1)—

(A) $4,799,822,000 shall be made available to carry out research and related activities, of which $774,000,000 shall be for information technology research described in paragraph (1) of section 8 and $350,000,000 shall be for nanoscale science and engineering described in paragraph (2) of section 8;

(B) $1,157,188,000 shall be made available for education and human resources, of which—

(i) $300,000,000 shall be for mathematics and science education partnerships described in section 9;

(ii) $20,000,000 shall be for the Robert Noyce Scholarship Program described in section 10; and

(iii) $30,000,000 shall be for the science, mathematics, engineering, and technology talent expansion program described in paragraph (7) of section 8;

(C) $211,182,000 shall be made available for major research equipment and facilities construction;

(D) $210,320,000 shall be made available for salaries and expenses;

(E) $3,850,000 shall be made available for the Office of the National Science Board for the purposes described in subsection (a)(2)(E); and

(F) $8,470,000 shall be made available for the Office of Inspector General.

(c) FISCAL YEAR 2005.—

(1) IN GENERAL.—There are authorized to be appropriated to the Foundation $7,378,343,000 for fiscal year 2005.

(2) SPECIFIC ALLOCATIONS.—Of the amount authorized under paragraph (1)—

(A) $5,543,794,000 shall be made available to carry out research and related activities;

(B) $1,330,766,000 shall be made available to carry out education and human resources, of which—

(i) $400,000,000 shall be for mathematics and science education partnerships described in section 9;

(ii) $20,000,000 shall be for the Robert Noyce Scholarship Program described in section 10; and

(iii) $35,000,000 shall be for the science, mathematics, engineering, and technology talent expansion program described in paragraph (7) of section 8;

(C) $258,879,000 shall be made available for major research equipment and facilities construction;

(D) $231,337,000 shall be made available for salaries and expenses;

(E) $4,250,000 shall be made available for the Office of the National Science Board for the purposes described in subsection (a)(2)(E); and

(F) $9,317,000 shall be made available for the Office of Inspector General.

(d) FISCAL YEAR 2006.—There are authorized to be appropriated to the Foundation $8,519,776,000 for fiscal year 2006.

(e) FISCAL YEAR 2007.—There are authorized to be appropriated to the Foundation $9,839,262,000 for fiscal year 2007.

(f) CONTINGENT AUTHORIZATION.—

(1) IN GENERAL.—Funds are authorized to be appropriated under subsections (d) and (e), contingent on a determination by Congress that the Foundation has made successful progress toward meeting management goals consisting of—

(A) strategic management of human capital;

(B) competitive sourcing;

(C) improved financial performance;

(D) expanded electronic government; and

(E) budget and performance integration.

(2) CONSIDERATION.—In making that determination, Congress shall take into consideration whether or not the Director of the Office of Management and Budget has certified that the Foundation has, overall, made successful progress toward meeting those goals.

SEC. 6. OBLIGATION OF MAJOR RESEARCH EQUIPMENT AND FACILITIES CONSTRUCTION FUNDS.

(a) FISCAL YEAR 2003.—None of the funds authorized under section 5(a)(2)(C) may be obligated until 30 days after the first report required under section 14(a)(2) is transmitted to the Congress.

(b) FISCAL YEAR 2004.—None of the funds authorized under section 5(b)(2)(C) may be obligated until 30 days after the report required by June 15, 2003, under section 14(a)(2) is transmitted to the Congress.

(c) FISCAL YEAR 2005.—None of the funds authorized under section 5(c)(2)(C) may be obligated until 30 days after the report required by June 15, 2004, under section 14(a)(2) is transmitted to the Congress.

(d) FISCAL YEAR 2006.—None of the funds authorized under section 5(d) may be obligated for major research equipment and facilities construction until 30 days after the report required by June 15, 2005, under section 14(a)(2) is transmitted to the Congress.

(e) FISCAL YEAR 2007.—None of the funds authorized under section 5(e) may be obligated for major research equipment and facilities construction until 30 days after the report required by June 15, 2006, under section 14(a)(2) is transmitted to the Congress.

SEC. 7. ANNUAL PLAN FOR ALLOCATION OF FUNDING.

Not later than 60 days after the date of enactment of legislation providing for the annual appropriation of funds for the Foundation, the Director shall submit to the Committee on Science and the Committee on Appropriations of the House of Representatives, and to the Committee on Commerce, Science, and Transportation, the Committee on Health, Education, Labor, and Pensions, and the Committee on Appropriations of the Senate, a plan for the allocation of funds authorized by this Act for the corresponding fiscal year. The portion of the plan pertaining to Research and Related Activities shall include a description of how the allocation of funding—

(1) will affect the average size and duration of research grants supported by the Foundation by field of science, mathematics, and engineering;

(2) will affect trends in research support for major fields and subfields of science, mathematics, and engineering, including for emerging multidisciplinary research areas; and

(3) is designed to achieve an appropriate balance among major fields and subfields of science, mathematics, and engineering.

SEC. 8. SPECIFIC PROGRAM AUTHORIZATIONS.

From amounts authorized to be appropriated under section 5, the Director shall carry out the Foundation's research and education programs, including the following initiatives in accordance with this section:

(1) INFORMATION TECHNOLOGY.—An information technology research program to support competitive, merit-reviewed proposals for research, education, and infrastructure support in areas related to cybersecurity, terascale computing systems, software, networking, scalability, communications, data management, and remote sensing and geospatial information technologies.

(2) NANOSCALE SCIENCE AND ENGINEERING.—A nanoscale science and engineering research and education program to support competitive, merit-reviewed proposals that emphasize—

(A) research aimed at discovering novel phenomena, processes, materials, and tools that address grand challenges in materials, electronics, optoelectronics and magnetics, manufacturing, the environment, and health care; and

(B) supporting new research and interdisciplinary centers and networks of excellence, including shared national user facilities, infrastructure, research, and education activities on the societal implications of advances in nanoscale science and engineering.

(3) PLANT GENOME RESEARCH.—(A) A plant genome research program to support competitive, merit-reviewed proposals—

(i) that advance the understanding of the structure, organization, and function of plant genomes; and

(ii) that accelerate the use of new knowledge and innovative technologies toward a more complete understanding of basic biological processes in plants, especially in economically important plants such as corn and soybeans.

(B) Regional plant genome and gene expression research centers to conduct research and dissemination activities that may include—

(i) basic plant genomics research and genomics applications, including those related to cultivation of crops in extreme environments

and to cultivation of crops with reduced reliance on fertilizer, herbicides, and pesticides;

(ii) basic research that will contribute to the development or use of innovative plant-derived products;

(iii) basic research on alternative uses for plants and plant materials, including the use of plants as renewable feedstock for alternative energy production and nonpetroleum-based industrial chemicals and precursors; and

(iv) basic research and dissemination of information on the ecological and other consequences of genetically engineered plants.

Competitive, merit-based awards for centers under this subparagraph shall be to consortia of institutions of higher education or nonprofit organizations. The Director shall, to the extent practicable, ensure that research centers established under this subparagraph collectively examine as many different agricultural environments as possible, enhance the excellence of existing Foundation programs, and focus on plants of economic importance.

(C) Research partnerships to focus on—

(i) basic genomic research on crops grown in the developing world;

(ii) basic plant genome research that will advance and expedite the development of improved cultivars, including those that are pest-resistant, produce increased yield, reduce the need for fertilizers, herbicides, or pesticides, or have increased tolerance to stress;

(iii) basic research that could lead to the development of technologies to produce pharmaceutical compounds such as vaccines and medications in plants that can be grown in the developing world; and

(iv) research on the impact of plant biotechnology on the social, political, economic, health, and environmental conditions in countries in the developing world.

Competitive, merit-based awards for partnerships under this subparagraph shall be to institutions of higher education, nonprofit organizations, or consortia of such entities that enter into a partnership that shall include one or more research institutions in one or more developing nations, and that may also include for-profit companies involved in plant biotechnology. The Director, by means of outreach, shall encourage inclusion of historically Black colleges and universities, Hispanic-serving institutions, tribally controlled colleges and universities, Alaska Native-serving institutions, and Native Hawaiian-serving institutions in consortia that enter into such partnerships.

(4) INNOVATION PARTNERSHIPS.—An innovation partnerships program to support competitive, merit-reviewed proposals that seek to stimulate innovation at the regional level through new partnerships involving States, regional governmental entities, local governmental entities, industry, academic institutions, and other related organizations in strategically important fields of science and technology.

(5) MATHEMATICS AND SCIENCE EDUCATION PARTNERSHIPS.—The mathematics and science education partnerships program described in section 9.

(6) ROBERT NOYCE SCHOLARSHIP PROGRAM.—The Robert Noyce Scholarship Program described in section 10.

(7) SCIENCE, MATHEMATICS, ENGINEERING, AND TECHNOLOGY TALENT EXPANSION PROGRAM.—(A) A program of competitive, merit-based, multi-year grants for eligible applicants to increase the number of students studying toward and completing associate's or bachelor's degrees in science, mathematics, engineering, and technology, particularly in fields that have faced declining enrollment in recent years.

(B) In selecting projects under this paragraph, the Director shall strive to increase the number of students studying toward and completing baccalaureate degrees, concentrations, or certificates in science, mathematics, engineering, or technology who are individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b).

(C) The types of projects the Foundation may support under this paragraph include those that promote high quality—

(i) interdisciplinary teaching;

(ii) undergraduate-conducted research;

(iii) mentor relationships for students;

(iv) bridge programs that enable students at community colleges to matriculate directly into baccalaureate science, mathematics, engineering, or technology programs;

(v) internships carried out in partnership with industry; and

(vi) innovative uses of digital technologies, particularly at institutions of higher education that serve high numbers or percentages of economically disadvantaged students.

(D)(i) In order to receive a grant under this paragraph, an eligible applicant shall establish targets to increase the number of students studying toward and completing associate's or bachelor's degrees in science, mathematics, engineering, or technology.

(ii) A grant under this paragraph shall be awarded for a period of 5 years, with the final 2 years of funding contingent on the Director's determination that satisfactory progress has been made by the grantee toward meeting the targets established under clause (i).

(iii) In the case of community colleges, a student who transfers to a baccalaureate program, or receives a certificate under an established certificate program, in science, mathematics, engineering, or technology shall be counted toward meeting a target established under clause (i).

(E) For each grant awarded under this paragraph to an institution of higher education, at least 1 principal investigator shall be in a position of administrative leadership at the institution of higher education, and at least 1 principal investigator shall be a faculty member from an academic department included in the work of the project. For each grant awarded to a consortium or partnership, at each institution of higher education participating in the consortium or partnership, at least 1 of the individuals responsible for carrying out activities authorized under this paragraph at that institution shall be in a position of administrative leadership at the institution, and at least 1 shall be a faculty member from an academic department included in the work of the project at that institution.

(F) In this paragraph, the term ''eligible applicant'' means—

(i) an institution of higher education;

(ii) a consortium of institutions of higher education; or

(iii) a partnership between—

(I) an institution of higher education or a consortium of such institutions; and

(II) a nonprofit organization, a State or local government, or a private company, with demonstrated experience and effectiveness in science, mathematics, engineering, or technology education.

(8) SECONDARY SCHOOL SYSTEMIC INITIATIVE.—A program of competitive, merit-based grants for State educational agencies or local educational agencies that supports the planning and implementation of agency-wide secondary school reform initiatives designed to promote scientific and technological literacy, meet the mathematics and science education needs of students at risk of not achieving State student academic achievement standards, reduce the need for basic skill training by employers, and heighten college completion rates through activities, such as—

(A) systemic alignment of secondary school curricula and higher education freshman placement requirements;

(B) development of materials and curricula that support small, theme-oriented schools and learning communities;

(C) implementation of enriched mathematics and science curricula for all secondary school students;

(D) strengthened teacher training in mathematics, science, and reading as it relates to technical and specialized texts;

(E) laboratory improvement and provision of instrumentation as part of a comprehensive program to enhance the quality of mathematics, science, engineering, and technology instruction; or

(F) other secondary school systemic initiatives that enable grantees to leverage private sector funding for mathematics, science, engineering, and technology scholarships.

In awarding grants under this paragraph, the Director shall give priority to agencies that serve high poverty communities.

(9) EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE RESEARCH.—The Experimental Program to Stimulate Competitive Research, established under section 113 of the National Science Foundation Authorization Act of 1988 (42 U.S.C. 1862g), that is designed to enhance—

(A) research in mathematics, science, and engineering throughout the States eligible to participate in the program and the Commonwealth of Puerto Rico;

(B) research infrastructure in the States eligible to participate in the program and the Commonwealth of Puerto Rico; and

(C) the geographic distribution of Federal research and development support.

(10) THE SCIENCE AND ENGINEERING EQUAL OPPORTUNITIES ACT.—A comprehensive program designed to advance the goals of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885 et seq.), including programs to—

(A) provide support to minority-serving institutions; and

(B) ensure that reports required under sections 36 and 37 of such Act are submitted to the—

(i) Committee on Science of the House of Representatives;

(ii) Committee on Health, Education, Labor, and Pensions of the Senate; and

(iii) Committee on Commerce, Science, and Transportation of the Senate.

(11) ASTRONOMICAL RESEARCH AND INSTRUMENTATION.—An astronomical research program to support competitive, merit-reviewed proposals that—

(A) will advance understanding of—

(i) the origins and characteristics of planets, the Sun, other stars, the Milky Way Galaxy, and extragalactic objects (such as clusters of galaxies and quasars); and

(ii) the structure and origin of the universe; and

(B) support related activities such as developing advanced technologies and instrumentation, funding undergraduate and graduate students, and satisfying other instrumentation and research needs.

SEC. 9. MATHEMATICS AND SCIENCE EDUCATION PARTNERSHIPS.

(a) PROGRAM AUTHORIZED.—

(1) IN GENERAL.—(A) The Director shall carry out a program to award grants to institutions of higher education or eligible nonprofit organizations (or consortia of such institutions or organizations) to establish mathematics and science education partnership programs to improve elementary and secondary mathematics and science instruction.

(B) Grants shall be awarded under this subsection on a competitive, merit-reviewed basis.

(2) PARTNERSHIPS.—(A) In order to be eligible to receive a grant under this subsection, an institution of higher education or eligible nonprofit organization (or consortium of such institutions or organizations) shall enter into a partnership with one or more local educational agencies that may also include a State educational agency or one or more businesses.

(B) A participating institution of higher education shall include mathematics, science, or engineering departments in the programs carried out through a partnership under this paragraph.

(3) USES OF FUNDS.—Grants awarded under this subsection shall be used for activities that draw upon the expertise of the partners to improve elementary or secondary education in mathematics or science and that are consistent with State mathematics and science student academic achievement standards, including—

(A) recruiting and preparing students for careers in elementary or secondary mathematics or science education;

(B) offering professional development programs, including summer or academic year institutes or workshops, designed to strengthen the capabilities of mathematics and science teachers;

(C) offering innovative preservice and inservice programs that instruct teachers on using technology more effectively in teaching mathematics and science, including programs that recruit and train undergraduate and graduate students to provide technical support to teachers;

(D) developing distance learning programs for teachers or students, including developing courses, curricular materials, and other resources for the in-service professional development of teachers that are made available to teachers through the Internet;

(E) developing a cadre of master teachers who will promote reform and improvement in schools;

(F) offering teacher preparation and certification programs for professional mathematicians, scientists, and engineers who wish to begin a career in teaching;

(G) developing tools to evaluate activities conducted under this subsection;

(H) developing or adapting elementary school and secondary school mathematics and science curricular materials that incorporate contemporary research on the science of learning;

(I) developing initiatives to increase and sustain the number, quality, and diversity of prekindergarten through grade 12 teachers of mathematics and science, especially in underserved areas;

(J) using mathematicians, scientists, and engineers employed by private businesses to help recruit and train mathematics and science teachers;

(K) developing and offering mathematics or science enrichment programs for students, including after-school and summer programs;

(L) providing research opportunities in business or academia for students and teachers;

(M) bringing mathematicians, scientists, and engineers from business and academia into elementary school and secondary school classrooms; and

(N) any other activities the Director determines will accomplish the goals of this subsection.

(4) MASTER TEACHERS.—Activities carried out in accordance with paragraph (3)(E) shall—

(A) emphasize the training of master teachers who will improve the instruction of mathematics or science in kindergarten through grade 12;

(B) include training in both content and pedagogy; and

(C) provide training only to teachers who will be granted sufficient nonclassroom time to serve as master teachers, as demonstrated by assurances their employing school has provided to the Director, in such time and such manner as the Director may require.

(5) SCIENCE ENRICHMENT PROGRAMS FOR GIRLS.—Activities carried out in accordance with paragraph (3)(K) and (L) shall include elementary school and secondary school programs to encourage the ongoing interest of girls in science, mathematics, engineering, and technology and to prepare girls to pursue undergraduate and graduate degrees and careers in science, mathematics, engineering, or technology. Funds made available through awards to partnerships for the purposes of this paragraph may support programs for—

(A) encouraging girls to pursue studies in science, mathematics, engineering, and technology and to major in such fields in postsecondary education;

(B) tutoring girls in science, mathematics, engineering, and technology;

(C) providing mentors for girls in person and through the Internet to support such girls in pursuing studies in science, mathematics, engineering, and technology;

(D) educating the parents of girls about the difficulties faced by girls to maintain an interest and desire to achieve in science, mathematics, engineering, and technology, and enlisting the help of parents in overcoming these difficulties; and

(E) acquainting girls with careers in science, mathematics, engineering, and technology and encouraging girls to plan for careers in such fields.

(6) RESEARCH IN SECONDARY SCHOOLS.—Activities carried out in accordance with paragraph (3)(K) may include support for research projects performed by students at secondary schools. Uses of funds made available through awards to partnerships for purposes of this paragraph may include—

(A) training secondary school mathematics and science teachers in the design of research projects for students;

(B) establishing a system for students and teachers involved in research projects funded under this subsection to exchange information about their projects and research results; and

(C) assessing the educational value of the student research projects by such means as tracking the academic performance and choice of academic majors of students conducting research.

(7) STIPENDS.—Grants awarded under this subsection may be used to provide stipends for teachers or students participating in training or research activities that would not be part of their typical classroom activities.

(b) SELECTION PROCESS.—

(1) APPLICATION.—An institution of higher education or an eligible nonprofit organization (or a consortium of such institutions or organizations) seeking funding under subsection (a) shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require. The application shall include, at a minimum—

(A) a description of the partnership and the role that each member will play in implementing the proposal;

(B) a description of each of the activities to be carried out, including—

(i) how such activities will be aligned with State mathematics and science student academic achievement standards and with other activities that promote student achievement in mathematics and science;

(ii) how such activities will be based on a review of relevant research;

(iii) why such activities are expected to improve student performance and strengthen the quality of mathematics and science instruction; and

(iv) any activities that will encourage the interest of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b) in mathematics, science, engineering, and technology and will help prepare such individuals to pursue postsecondary studies in these fields;

(C) a description of the number, size, and nature of any stipends that will be provided to students or teachers and the reasons such stipends are needed;

(D) a description of how the partnership will serve as a catalyst for reform of mathematics and science education programs;

(E) a description of how the partnership will assess its success;

(F) a description of how the partnership will collaborate with the State educational agency to ensure that successful partnership activities may be replicated throughout the State; and

(G) a description of the manner in which the partnership will be continued after assistance under this section ends.

(2) REVIEW OF APPLICATIONS.—In evaluating the applications submitted under paragraph (1), the Director shall consider, at a minimum—

(A) the ability of the partnership to carry out effectively the proposed programs;

(B) the extent to which the members of the partnership are committed to making the partnership a central organizational focus;

(C) the degree to which activities carried out by the partnership are based on relevant research and are likely to result in increased student achievement;

(D) the degree to which such activities are aligned with State mathematics and science student academic achievement standards;

(E) the likelihood that the partnership will demonstrate activities that can be widely implemented as part of larger scale reform efforts; and

(F) the extent to which the activities will encourage the interest of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b) in mathematics, science, engineering, and technology and will help prepare such individuals to pursue postsecondary studies in these fields.

(3) AWARDS.—In awarding grants under this section, the Director shall—

(A) give priority to applications in which the partnership includes a high-need local educational agency or a high-need local educational agency in which at least one school does not make adequate yearly progress, as determined pursuant to part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.); and

(B) ensure that, to the extent practicable, a substantial number of the partnerships funded under this section include businesses.

(c) ACCOUNTABILITY AND DISSEMINATION.—

(1) ASSESSMENT REQUIRED.—The Director shall evaluate the program established under subsection (a). At a minimum, such evaluation shall—

(A) use a common set of benchmarks and assessment tools to identify best practices and materials developed and demonstrated by the partnerships; and

(B) to the extent practicable, compare the effectiveness of practices and materials developed and demonstrated by the partnerships authorized under this section with those of partnerships funded by other State or Federal agencies.

(2) DISSEMINATION OF RESULTS.—(A) The results of the evaluation required under paragraph (1) shall be made available to the public and shall be provided to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate.

(B) Materials developed under the program established under subsection (a) that are demonstrated to be effective shall be made widely available to the public.

(3) ANNUAL MEETING.—The Director, in consultation with the Secretary of Education, shall convene an annual meeting of the partnerships participating under this section to foster greater national collaboration.

(4) REPORT ON COORDINATION.—The Director, in consultation with the Secretary of Education, shall provide an annual report to the Committee on Science of the House of Representatives, the Committee on Education and the Workforce of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate describing how the program authorized

under this section has been and will be coordinated with the program authorized under part B of title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6601 et seq.). The report under this paragraph shall be submitted along with the President's annual budget request.

(5) TECHNICAL ASSISTANCE.—At the request of an eligible partnership or a State educational agency, the Director shall provide the partnership or agency with technical assistance in meeting any requirements of this section, including providing advice from experts on how to develop—

(A) a quality application for a grant; and

(B) quality activities from funds received from a grant under this section.

SEC. 10. ROBERT NOYCE SCHOLARSHIP PROGRAM.

(a) SCHOLARSHIP PROGRAM.—

(1) IN GENERAL.—The Director shall carry out a program to award grants to institutions of higher education (or consortia of such institutions) to provide scholarships, stipends, and programming designed to recruit and train mathematics and science teachers. Such program shall be known as the ''Robert Noyce Scholarship Program''.

(2) MERIT REVIEW.—Grants shall be provided under this subsection on a competitive, merit-reviewed basis.

(3) USE OF GRANTS.—Grants provided under this section shall be used by institutions of higher education or consortia—

(A) to develop and implement a program to encourage top college juniors and seniors majoring in mathematics, science, and engineering at the grantee's institution to become mathematics and science teachers, through—

(i) administering scholarships in accordance with subsection (c);

(ii) offering programs to help scholarship recipients to teach in elementary schools and secondary schools, including programs that will result in teacher certification or licensing; and

(iii) offering programs to scholarship recipients, both before and after they receive their baccalaureate degree, to enable the recipients to become better mathematics and science teachers, to fulfill the service requirements of this section, and to exchange ideas with others in their fields; or

(B) to develop and implement a program to encourage science, mathematics, or engineering professionals to become mathematics and science teachers, through—

(i) administering stipends in accordance with subsection (d);

(ii) offering programs to help stipend recipients obtain teacher certification or licensing; and

(iii) offering programs to stipend recipients, both during and after matriculation in the program for which the stipend is received, to enable recipients to become better mathematics and science teachers, to fulfill the service requirements of this section, and to exchange ideas with others in their fields.

(b) SELECTION PROCESS.—

(1) APPLICATION.—An institution of higher education or consortium seeking funding under this section shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require. The application shall include, at a minimum—

(A) a description of the scholarship or stipend program that the applicant intends to operate, including the number of scholarships or the size and number of stipends the applicant intends to award, and the selection process that will be used in awarding the scholarships or stipends;

(B) evidence that the applicant has the capability to administer the scholarship or stipend program in accordance with the provisions of this section; and

(C) a description of the programming that will be offered to scholarship or stipend recipients during and after their matriculation in the program for which the scholarship or stipend is received.

(2) REVIEW OF APPLICATIONS.—In evaluating the applications submitted under paragraph (1), the Director shall consider, at a minimum—

(A) the ability of the applicant to effectively carry out the program;

(B) the extent to which the applicant is committed to making the program a central organizational focus;

(C) the degree to which the proposed programming will enable scholarship or stipend recipients to become successful mathematics and science teachers;

(D) the number and quality of the students that will be served by the program; and

(E) the ability of the applicant to recruit students who would otherwise not pursue a career in teaching.

(c) SCHOLARSHIP REQUIREMENTS.—

(1) IN GENERAL.—Scholarships under this section shall be available only to students who are—

(A) majoring in science, mathematics, or engineering; and

(B) in the last 2 years of a baccalaureate degree program.

(2) SELECTION.—Individuals shall be selected to receive scholarships primarily on the basis of academic merit, with consideration given to financial need and to the goal of promoting the participation of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b).

(3) AMOUNT.—The Director shall establish for each year the amount to be awarded for scholarships under this section for that year, which shall be not less than $7,500 per year, except that no individual shall receive for any year more than the cost of attendance at that individual's institution. Individuals may receive a maximum of 2 years of scholarship support.

(4) SERVICE OBLIGATION.—If an individual receives a scholarship, that individual shall be required to complete, within 6 years after graduation from the baccalaureate degree program for which the scholarship was awarded, 2 years of service as a mathematics or science teacher for each year a scholarship was received. Service required under this paragraph shall be performed in a high-need local educational agency.

(d) STIPENDS.—

(1) IN GENERAL.—Stipends under this section shall be available only to mathematics, science, and engineering professionals who, while receiving the stipend, are enrolled in a program to receive certification or licensing to teach.

(2) SELECTION.—Individuals shall be selected to receive stipends under this section primarily on the basis of academic merit, with consideration given to financial need and to the goal of promoting the participation of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b).

(3) DURATION.—Individuals may receive a maximum of 1 year of stipend support.

(4) SERVICE OBLIGATION.—If an individual receives a stipend under this section, that individual shall be required to complete, within 6 years after graduation from the program for which the stipend was awarded, 2 years of service as a mathematics or science teacher for each year a stipend was received. Service required under this paragraph shall be performed in a high-need local educational agency.

(e) CONDITIONS OF SUPPORT.—As a condition of acceptance of a scholarship or stipend under this section, a recipient shall enter into an agreement with the institution of higher education—

(1) accepting the terms of the scholarship or stipend pursuant to subsections (c) and (g), or subsection (d);

(2) agreeing to provide the awarding institution of higher education with annual certification of employment and up-to-date contact information and to participate in surveys provided by the institution of higher education as part of an ongoing assessment program; and

(3) establishing that any scholarship recipient shall be liable to the United States for any amount that is required to be repaid in accordance with the provisions of subsection (g).

(f) COLLECTION FOR NONCOMPLIANCE.—

(1) MONITORING COMPLIANCE.—An institution of higher education (or consortium thereof) receiving a grant under this section shall, as a condition of participating in the program, enter into an agreement with the Director to monitor the compliance of scholarship and stipend recipients with their respective service requirements.

(2) COLLECTION OF REPAYMENT.—(A) In the event that a scholarship recipient is required to repay the scholarship under subsection (g), the institution shall be responsible for collecting the repayment amounts.

(B) Except as provided in subparagraph (C), any such repayment shall be returned to the Treasury of the United States.

(C) A grantee may retain a percentage of any repayment it collects to defray administrative costs associated with the collection. The Director shall establish a single, fixed percentage that will apply to all grantees.

(g) FAILURE TO COMPLETE SERVICE OBLIGATION.—

(1) GENERAL RULE.—If an individual who has received a scholarship under this section—

(A) fails to maintain an acceptable level of academic standing in the educational institution in which the individual is enrolled, as determined by the Director;

(B) is dismissed from such educational institution for disciplinary reasons;

(C) withdraws from the baccalaureate degree program for which the award was made before the completion of such program;

(D) declares that the individual does not intend to fulfill the service obligation under this section; or

(E) fails to fulfill the service obligation of the individual under this section,

such individual shall be liable to the United States as provided in paragraph (2).

(2) AMOUNT OF REPAYMENT.—(A) If a circumstance described in paragraph (1) occurs before the completion of one year of a service obligation under this section, the United States shall be entitled to recover from the individual, within one year after the date of the occurrence of such circumstance, an amount equal to—

(i) the total amount of awards received by such individual under this section; plus

(ii) the interest on the amounts of such awards which would be payable if at the time the awards were received they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States,

multiplied by 2.

(B) If a circumstance described in paragraph (1)(D) or (E) occurs after the completion of one year of a service obligation under this section, the United States shall be entitled to recover from the individual, within one year after the date of the occurrence of such circumstance, an amount equal to the total amount of awards received by such individual under this section minus ½ of the amount of the award received per year for each full year of service completed, plus the interest on such amounts which would be payable if at the time the amounts were received they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States.

(3) EXCEPTIONS.—The Director may provide for the partial or total waiver or suspension of any service or payment obligation by an individual under this section whenever compliance by the individual with the obligation is impossible or would involve extreme hardship to the individual, or if enforcement of such obligation

with respect to the individual would be unconscionable.

(h) DATA COLLECTION.—Institutions or consortia receiving grants under this section shall supply to the Director any relevant statistical and demographic data on scholarship recipients and stipend recipients the Director may request, including information on employment required by subsection (e).

(i) DEFINITIONS.—In this section—

(1) the term ''cost of attendance'' has the meaning given such term in section 472 of the Higher Education Act of 1965 (20 U.S.C. 1087ll);

(2) the term ''mathematics and science teacher'' means a mathematics, science, or technology teacher at the elementary school or secondary school level;

(3) the term ''mathematics, science, or engineering professional'' means a person who holds a baccalaureate, masters, or doctoral degree in science, mathematics, or engineering and is working in that field or a related area;

(4) the term ''scholarship'' means an award under subsection (c); and

(5) the term ''stipend'' means an award under subsection (d).

SEC. 11. ESTABLISHMENT OF CENTERS FOR RESEARCH ON MATHEMATICS AND SCIENCE LEARNING AND EDUCATION IMPROVEMENT.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—(A) The Director shall award grants to institutions of higher education (or consortia thereof) to establish multidisciplinary Centers for Research on Learning and Education Improvement.

(B) Grants shall be awarded under this paragraph on a competitive, merit-reviewed basis.

(2) PURPOSE.—The purpose of the Centers shall be to conduct and evaluate research in cognitive science, education, and related fields and to develop ways in which the results of such research can be applied in elementary school and secondary school classrooms to improve the teaching of mathematics and science.

(3) FOCUS.—(A) Each Center shall be focused on a different challenge faced by elementary school or secondary school teachers of mathematics and science. In determining the research focus of the Centers, the Director shall consult with the National Academy of Sciences and the Secretary of Education and take into account the extent to which other Federal programs support research on similar questions.

(B) The proposal solicitation issued by the Director shall state the focus of each Center and applicants shall apply for designation as a specific Center.

(C) At least one Center shall focus on developing ways in which the results of research described in paragraph (2) can be applied, duplicated, and scaled up for use in low-performing elementary schools and secondary schools to improve the teaching and student achievement levels in mathematics and science.

(D) To the extent practicable and relevant to its focus, every Center shall include, as part of its research, work designed to quantitatively assess and improve the ways that information technology is used in the teaching of mathematics and science.

(b) SELECTION PROCESS.—

(1) APPLICATION.—An institution of higher education (or a consortium of such institutions) seeking funding under this section shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require. The application shall include, at a minimum, a description of—

(A) the initial research projects that will be undertaken by the Center and the process by which new projects will be identified;

(B) how the Center will work with other research institutions and schools to broaden the national research agenda on learning and teaching;

(C) how the Center will promote active collaboration among physical, biological, and social science researchers;

(D) how the Center will promote active participation by elementary and secondary mathematics and science teachers and administrators; and

(E) how the results of the Center's research can be incorporated into educational practices, and how the Center will assess the success of those practices.

(2) REVIEW OF APPLICATIONS.—In evaluating the applications submitted under paragraph (1), the Director shall consider, at a minimum—

(A) the ability of the applicant to effectively carry out the research program, including the activities described in paragraph (1)(E);

(B) the experience of the applicant in conducting research on the science of teaching and learning and the capacity of the applicant to foster new multidisciplinary collaborations;

(C) the capacity of the applicant to attract elementary school and secondary school teachers from a diverse array of schools, and with diverse professional experiences, for participation in Center activities; and

(D) the capacity of the applicant to attract and provide adequate support for graduate students to pursue research at the intersection of educational practice and basic research on human cognition and learning.

(3) AWARDS.—The Director shall ensure, to the extent practicable, that the Centers funded under this section conduct research and develop educational practices designed to improve the educational performance of a broad range of students, including individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b).

(c) ANNUAL CONFERENCE.—The Director shall convene an annual meeting of the Centers to foster collaboration among the Centers and to further disseminate the results of the Centers' activities.

(d) COORDINATION.—The Director shall coordinate with the Secretary of Education in—

(1) disseminating the results of the research conducted pursuant to grants awarded under this section to elementary school teachers and secondary school teachers; and

(2) providing programming, guidance, and support to ensure that such teachers—

(A) understand the implications of the research disseminated under paragraph (1) for classroom practice; and

(B) can use the research to improve such teachers' performance in the classroom.

SEC. 12. DUPLICATION OF PROGRAMS.

(a) IN GENERAL.—The Director shall review the education programs of the Foundation that are in operation as of the date of enactment of this Act to determine whether any of such programs duplicate the programs authorized under this Act.

(b) IMPLEMENTATION.—As programs authorized under this Act are implemented, the Director shall—

(1) terminate any duplicative program being carried out by the Foundation or merge the duplicative program into a program authorized under this Act; and

(2) not establish any new program that duplicates a program that has been implemented pursuant to this Act.

(c) REPORT.—

(1) REVIEW.—The Director of the Office of Science and Technology Policy shall review the education programs of the Foundation to ensure compliance with the provisions of this section.

(2) SUBMISSION.—Not later than 1 year after the date of enactment of this Act, and annually thereafter as part of the annual Office of Science and Technology Policy's budget submission to Congress, the Director of the Office of Science and Technology Policy shall complete a report on the review carried out under this subsection and shall submit the report to the Committee on Science and the Committee on Appropriations of the House of Representatives, and to the Committee on Commerce, Science, and Transportation, the Committee on Health, Education, Labor, and Pensions, and the Committee on Appropriations of the Senate.

SEC. 13. MAJOR RESEARCH INSTRUMENTATION.

(a) REVIEW AND ASSESSMENT.—The Director shall conduct a review and assessment of the major research instrumentation program and, not later than 1 year after the date of enactment of this Act, submit a report of findings and recommendations to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate. The report shall include—

(1) estimates of the needs, by major field of science and engineering and by types of institutions of higher education, for the types of research instrumentation that are eligible for acquisition under the guidelines of the major research instrumentation program;

(2) a description of the distribution of awards and funding levels by year, by major field of science and engineering, and by type of institution of higher education for the program, since the inception of the major research instrumentation program; and

(3) an analysis of the impact of the major research instrumentation program on the research instrumentation needs that were documented in the Foundation's 1994 survey of academic research instrumentation needs.

(b) NATIONAL ACADEMY OF SCIENCES ASSESSMENT ON INTERDISCIPLINARY RESEARCH AND ADVANCED INSTRUMENTATION CENTERS.—

(1) ASSESSMENT.—Not later than 3 months after the date of enactment of this Act, the Director shall enter into an arrangement with the National Academy of Sciences to assess the need for an interagency program to establish and support fully equipped, state-of-the-art university-based centers for interdisciplinary research and advanced instrumentation development.

(2) TRANSMITTAL TO CONGRESS.—Not later than 15 months after the date of the enactment of this Act, the Director shall transmit to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate the assessment conducted by the National Academy of Sciences together with the Foundation's reaction to the assessment authorized under paragraph (1).

SEC. 14. MAJOR RESEARCH EQUIPMENT AND FACILITIES CONSTRUCTION PLAN.

(a) PRIORITIZATION OF PROPOSED MAJOR RESEARCH EQUIPMENT AND FACILITIES CONSTRUCTION.—

(1) DEVELOPMENT OF PRIORITIES.—(A) The Director shall—

(i) develop a list indicating by number the relative priority for funding under the major research equipment and facilities construction account that the Director assigns to each project the Board has approved for inclusion in a future budget request; and

(ii) submit the list described in clause (i) to the Board for approval.

(B) The Director shall update the list prepared under subparagraph (A) each time the Board approves a new project that would receive funding under the major research equipment and facilities construction account, as necessary to prepare reports under paragraph (2), and, from time to time, submit any updated list to the Board for approval.

(2) ANNUAL REPORT.—Not later than 90 days after the date of enactment of this Act, and not later than each June 15 thereafter, the Director shall transmit to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate a report containing—

(A) the most recent Board-approved priority list developed under paragraph (1)(A);

(B) a description of the criteria used to develop such list; and

(C) a description of the major factors for each project that determined the ranking of such project on the list, based on the application of the criteria described pursuant to subparagraph (B).

(3) CRITERIA.—The criteria described pursuant to paragraph (2)(B) shall include, at a minimum—

(A) scientific merit;

(B) broad societal need and probable impact;

(C) consideration of the results of formal prioritization efforts by the scientific community;

(D) readiness of plans for construction and operation;

(E) the applicant's management and administrative capacity of large research facilities;

(F) international and interagency commitments; and

(G) the order in which projects were approved by the Board for inclusion in a future budget request.

(b) FACILITIES PLAN.—

(1) IN GENERAL.—Section 201(a)(1) of the National Science Foundation Authorization Act of 1998 (42 U.S.C. 1862l(a)(1)) is amended to read as follows:

''(1) IN GENERAL.—The Director shall prepare, and include as part of the Foundation's annual budget request to Congress, a plan for the proposed construction of, and repair and upgrades to, national research facilities, including full life-cycle cost information.''.

(2) CONTENTS OF PLAN.—Section 201(a)(2) of the National Science Foundation Authorization Act of 1998 (42 U.S.C. 1862l(a)(2)) is amended—

(A) in subparagraph (A), by striking ''(1);'' and inserting ''(1), including costs for instrumentation development;'';

(B) in subparagraph (B), by striking ''and'' after the semicolon;

(C) in subparagraph (C), by striking ''construction.'' and inserting ''construction;''; and

(D) by adding at the end the following:

''(D) for each project funded under the major research equipment and facilities construction account—

''(i) estimates of the total project cost (from planning to commissioning); and

''(ii) the source of funds, including Federal funding identified by appropriations category and non-Federal funding;

''(E) estimates of the full life-cycle cost of each national research facility;

''(F) information on any plans to retire national research facilities; and

''(G) estimates of funding levels for grants supporting research that will be conducted using each national research facility.''.

(3) DEFINITION.—Section 2 of the National Science Foundation Authorization Act of 1998 (42 U.S.C. 1862k note) is amended—

(A) by redesignating paragraphs (3) through (5) as paragraphs (4) through (6), respectively; and

(B) by inserting after paragraph (2) the following:

''(3) FULL LIFE-CYCLE COST.—The term 'full life-cycle cost' means all costs of planning, development, procurement, construction, operations and support, and shut-down costs, without regard to funding source and without regard to what entity manages the project or facility involved.''.

(c) PROJECT MANAGEMENT.—No national research facility project funded under the major research equipment and facilities construction account shall be managed by an individual whose appointment to the Foundation is temporary.

(d) BOARD APPROVAL OF MAJOR RESEARCH EQUIPMENT AND FACILITIES PROJECTS.—

(1) IN GENERAL.—The Board shall explicitly approve any project to be funded out of the major research equipment and facilities construction account before any funds may be obligated from such account for such project.

(2) REPORT.—Not later than September 15 of each fiscal year, the Board shall report to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Health, Education, Labor, and Pensions of the Senate, and the Committee on Science of the House of Representatives on the conditions of any delegation of authority under section 4 of the National Science Foundation Act of 1950 (42 U.S.C. 1863) that relates to funds appropriated for any project in the major research equipment and facilities construction account.

(e) NATIONAL ACADEMY OF SCIENCES STUDY ON MAJOR RESEARCH EQUIPMENT AND FACILITIES CONSTRUCTION.—

(1) STUDY.—Not later than 3 months after the date of enactment of this Act, the Director shall enter into an arrangement with the National Academy of Sciences to perform a study on setting priorities for a diverse array of disciplinary and interdisciplinary Foundation-sponsored large research facility projects.

(2) TRANSMITTAL TO CONGRESS.—Not later than 15 months after the date of the enactment of this Act, the Director shall transmit to the Committee on Science and the Committee on Appropriations of the House of Representatives, and to the Committee on Commerce, Science, and Transportation, the Committee on Health, Education, Labor, and Pensions, and the Committee on Appropriations of the Senate, the study conducted by the National Academy of Sciences together with the Foundation's reaction to the study authorized under paragraph (1).

SEC. 15. ADMINISTRATIVE AMENDMENTS.

(a) BOARD MEETINGS.—

(1) IN GENERAL.—Section 4(e) of the National Science Foundation Act of 1950 (42 U.S.C. 1863(e)) is amended by striking the second and third sentences and inserting ''The Board shall adopt procedures governing the conduct of its meetings, including delivery of notice and a definition of a quorum, which in no case shall be less than one-half plus one of the confirmed members of the Board.''.

(2) OPEN MEETINGS.—The Board and all of its committees, subcommittees, and task forces (and any other entity consisting of members of the Board and reporting to the Board) shall be subject to section 552b of title 5, United States Code.

(3) COMPLIANCE AUDIT.—The Inspector General of the Foundation shall conduct an annual audit of the compliance by the Board with the requirements described in paragraph (2). The audit shall examine the proposed and actual content of closed meetings and determine whether the closure of the meetings was consistent with section 552b of title 5, United States Code.

(4) REPORT.—Not later than February 15 of each year, the Inspector General of the Foundation shall transmit to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate the audit required under paragraph (3) along with recommendations for corrective actions that need to be taken to achieve fuller compliance with the requirements described in paragraph (2), and recommendations on how to ensure public access to the Board's deliberations.

(b) CONFIDENTIALITY OF CERTAIN INFORMATION.—Section 14(i) of the National Science Foundation Act of 1950 (42 U.S.C. 1873(i)) is amended to read as follows:

''(i)(1)(A) Information supplied to the Foundation or a contractor of the Foundation in survey forms, questionnaires, or similar instruments for purposes of section 3(a)(5) or (6) by an individual, an industrial or commercial organization, or an educational, academic, or other nonprofit institution when the institution has received a pledge of confidentiality from the Foundation, shall not be disclosed to the public unless the information has been transformed into statistical or abstract formats that do not allow for the identification of the supplier.

''(B) Information that has not been transformed into formats described in subparagraph (A) may be used only for statistical or research purposes.

''(C) The identities of individuals, organizations, and institutions supplying information described in subparagraph (A) may not be disclosed to the public.

''(2) In support of functions authorized by section 3(a)(5) or (6), the Foundation may designate, at its discretion, authorized persons, including employees of Federal, State, or local agencies or instrumentalities (including local educational agencies) and employees of private organizations, to have access, for statistical or research purposes only, to information collected pursuant to section 3(a)(5) or (6) that allows for the identification of the supplier. No such person may—

''(A) publish information collected pursuant to section 3(a)(5) or (6) in such a manner that either an individual, an industrial or commercial organization, or an educational, academic, or other nonprofit institution that has received a pledge of confidentiality from the Foundation can be specifically identified;

''(B) permit anyone other than individuals authorized by the Foundation to examine data that allows for such identification relating to an individual, an industrial or commercial organization, or an academic, educational, or other nonprofit institution that has received a pledge of confidentiality from the Foundation; or

''(C) knowingly and willfully request or obtain any nondisclosable information described in paragraph (1) from the Foundation under false pretenses.

''(3) Violation of this subsection is punishable by a fine of not more than $10,000, imprisonment for not more than 5 years, or both.''.

(c) APPOINTMENT.—Section 4(g) of the National Science Foundation Act of 1950 (42 U.S.C. 1863(g)) is amended by striking the second sentence and inserting ''Such staff shall be appointed by the Chairman and assigned at the direction of the Board.''.

(d) SCHOLARSHIP ELIGIBILITY.—The Director shall not exclude part-time students from eligibility for scholarships under the Computer Science, Engineering, and Mathematics Scholarship program.

SEC. 16. SCIENCE AND ENGINEERING EQUAL OPPORTUNITIES ACT AMENDMENTS.

Section 32 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885) is amended—

(1) in subsection (a), by striking ''backgrounds.'' and inserting ''backgrounds, including persons with disabilities.''; and

(2) in subsection (b)—

(A) by inserting '', including persons with disabilities,'' after ''backgrounds''; and

(B) by striking ''and minorities'' each place the term appears and inserting '', minorities, and persons with disabilities''.

SEC. 17. UNDERGRADUATE EDUCATION REFORM.

(a) IN GENERAL.—The Director shall award grants, on a competitive, merit-reviewed basis, to institutions of higher education to expand previously implemented reforms of undergraduate science, mathematics, engineering, or technology education that have been demonstrated to have been successful in increasing the number and quality of students studying toward and completing associate's or baccalaureate degrees in science, mathematics, engineering, or technology.

(b) USES OF FUNDS.—Activities supported by grants under this section may include—

(1) expansion of successful reform efforts beyond a single course or group of courses to achieve reform within an entire academic unit;

(2) expansion of successful reform efforts beyond a single academic unit to other science, mathematics, engineering, or technology academic units within an institution;

(3) creation of multidisciplinary courses or programs that formalize collaborations for the purpose of improved student instruction and research in science, mathematics, engineering, and technology;

(4) expansion of undergraduate research opportunities beyond a particular laboratory, course, or academic unit to engage multiple academic units in providing multidisciplinary research opportunities for undergraduate students;

(5) expansion of innovative tutoring or mentoring programs proven to enhance student recruitment or persistence to degree completion in science, mathematics, engineering, or technology;

(6) improvement of undergraduate science, mathematics, engineering, and technology education for nonmajors, including education majors; and

(7) implementation of technology-driven reform efforts, including the installation of technology to facilitate such reform, that directly impact undergraduate science, mathematics, engineering, or technology instruction or research experiences.

(c) SELECTION PROCESS.—

(1) APPLICATIONS.—An institution of higher education seeking a grant under this section shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require. The application shall include, at a minimum—

(A) a description of the proposed reform effort;

(B) a description of the previously implemented reform effort that will serve as the basis for the proposed reform effort and evidence of success of that previous effort, including data on student recruitment, persistence to degree completion, and academic achievement;

(C) evidence of active participation in the proposed project by individuals who were central to the success of the previously implemented reform effort; and

(D) evidence of institutional support for, and commitment to, the proposed reform effort, including a description of existing or planned institutional policies and practices regarding faculty hiring, promotion, tenure, and teaching assignment that reward faculty contributions to undergraduate education equal to, or greater than, scholarly scientific research.

(2) REVIEW OF APPLICATIONS.—In evaluating applications submitted under paragraph (1), the Director shall consider at a minimum—

(A) the evidence of past success in implementing undergraduate education reform and the likelihood of success in undertaking the proposed expanded effort;

(B) the extent to which the faculty, staff, and administrators of the institution are committed to making the proposed institutional reform a priority of the participating academic unit;

(C) the degree to which the proposed reform will contribute to change in institutional culture and policy such that a greater value is placed on faculty engagement in undergraduate education, as evidenced through promotion and tenure policies; and

(D) the likelihood that the institution will sustain or expand the reform beyond the period of the grant.

(3) GRANT DISTRIBUTION.—The Director shall ensure, to the extent practicable, that grants awarded under this section are made to a variety of types of institutions of higher education.

SEC. 18. REPORTS.

(a) GRANT SIZE AND DURATION.—Not later than 6 months after the date of enactment of this Act, the Director shall transmit to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate a report describing the impact that increasing the average grant size and duration would have on minority-serving institutions and on institutions located in States where the Foundation's Experimental Program to Stimulate Competitive Research (established under section 113 of the National Science Foundation Authorization Act of 1988 (42 U.S.C. 1862g)) is carrying out activities.

(b) FACULTY.—Not later than 3 months after the date of enactment of this Act, the Director shall enter into an arrangement with the National Academy of Sciences to assess gender differences in the careers of science and engineering faculty. This study shall build on the Academy's work on gender differences in the carriers of doctoral scientists and engineers and examine issues such as faculty hiring, promotion, tenure, and allocation of resources including laboratory space. Upon completion, the results of this study shall be transmitted to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate.

(c) GRANT FUNDING.—Not later than 3 months after the date of enactment of this Act, the Director shall enter into an agreement with an appropriate party to assess gender differences in the distribution of external Federal research and development funding. This study shall examine differences in amounts requested and awarded, by gender, in major Federal external grant programs. Upon completion, the results of this study shall be transmitted to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate.

(d) STUDY OF BROADBAND NETWORK ACCESS FOR SCHOOLS AND LIBRARIES.—

(1) REPORT TO CONGRESS.—The Director shall conduct a study of the issues described in paragraph (3), and not later than 1 year after the date of the enactment of this Act, transmit to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate a report including recommendations to address those issues. Such report shall be updated annually for 4 additional years.

(2) CONSULTATION.—In preparing the reports under paragraph (1), the Director shall consult with Federal agencies and educational entities as the Director considers appropriate.

(3) ISSUES TO BE ADDRESSED.—The reports shall—

(A) identify the availability of high-speed, large bandwidth capacity access to different demographic groups served by elementary schools, secondary schools, and libraries in the United States;

(B) identify how the provision of high-speed, large bandwidth capacity access to the Internet to such schools and libraries can be effectively utilized within each school and library;

(C) consider the effect that specific or regional circumstances may have on the ability of such institutions to acquire high-speed, large bandwidth capacity access to achieve universal connectivity as an effective tool in the education process; and

(D) include options and recommendations to address the challenges and issues identified in the reports.

(e) MINORITY-SERVING INSTITUTION FUNDING.—

(1) ANNUAL REPORTING REQUIRED.—The Director shall submit an annual report, along with the President's annual budget request, to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate on the amount of funding awarded by the Foundation to minority-serving institutions, including funding received as members of consortia. The report shall include information on such funding to minority-serving institutions—

(A) expressed as a percentage of funding to all institutions of higher education for each appropriations account within the Foundation's budget; and

(B) for the preceding 10 years.

(2) REPORT ON WAYS TO IMPROVE FUNDING.—Within one year after the date of enactment of this Act, the Director shall submit to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate a report on recommendations on how the Foundation can improve funding to minority-serving institutions.

SEC. 19. EVALUATIONS.

(a) EDUCATION.—

(1) IN GENERAL.—The Director, through the Research, Evaluation and Communication Division of the Education and Human Resources Directorate of the Foundation, shall evaluate the effectiveness of all undergraduate science, mathematics, engineering, or technology education activities supported by the Foundation in increasing the number and quality of students, including individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b) studying toward and completing associate's or baccalaureate degrees in science, mathematics, engineering, and technology. In conducting the evaluation, the Director shall consider information on—

(A) the number of students enrolled in undergraduate science, mathematics, engineering, and technology programs;

(B) student academic achievement, including quantifiable measurements of students' mastery of content and skills;

(C) persistence to degree completion, including students who transfer from science, mathematics, engineering, and technology programs to programs in other academic disciplines; and

(D) placement during the first year after degree completion in post-graduate education or career pathways.

(2) ASSESSMENT BENCHMARKS AND TOOLS.—The Director, through the Research, Evaluation and Communication Division of the Education and Human Resources Directorate of the Foundation, shall establish a common set of assessment benchmarks and tools, and shall enable every Foundation-sponsored project to incorporate the use of these benchmarks and tools in their project-based assessment activities.

(3) REPORTS TO CONGRESS.—Not later than 3 years after the date of the enactment of this Act, and once every 3 years thereafter, the Director shall transmit to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate a report containing the results of evaluations under paragraph (1).

(b) AWARDS.—Notwithstanding any other provision of this Act, the Director shall annually evaluate a random sample of grants, contracts, or other awards made pursuant to this Act.

(c) DISSEMINATION.—The Director shall—

(1) provide for the dissemination of the results of the evaluations conducted pursuant to this section to the public; and

(2) provide notice to the public that such evaluations are available.

SEC. 20. REPORT BY COMMITTEE ON EQUAL OPPORTUNITIES IN SCIENCE AND ENGINEERING.

As part of the first report required by section 36(e) of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885c(e)) transmitted to Congress after the date of enactment of this Act, the Committee on Equal Opportunities in Science and Engineering shall include—

(1) a summary of its findings over the previous 10 years;

(2) a description of past and present policies and activities of the Foundation to encourage full participation of women, minorities, and persons with disabilities in science, mathematics, and engineering fields, including activities in support of minority-serving institutions; and

(3) an assessment of the trends in participation in Foundation activities, and an assessment of the success of Foundation policies and activities, along with proposals for new strategies or the broadening of existing successful strategies toward facilitating the goals of that Act.

SEC. 21. ADVANCED TECHNOLOGICAL EDUCATION PROGRAM.

(a) CORE SCIENCE AND MATHEMATICS COURSES.—Section 3(a) of the Scientific and Advanced-Technology Act of 1992 (42 U.S.C. 1862i(a)) is amended—

(1) by inserting '', and to improve the quality of their core education courses in science and mathematics'' after ''education in advanced-technology fields'';

(2) in paragraph (1) by inserting ''and in core science and mathematics courses'' after ''advanced-technology fields''; and

(3) in paragraph (2) by striking ''in advanced-technology fields'' and inserting ''who provide instruction in science, mathematics, and advanced-technology fields''.

(b) ARTICULATION PARTNERSHIPS.—Section 3(c)(1)(B) of the Scientific and Advanced-Technology Act of 1992 (42 U.S.C. 1862i(c)(1)(B)) is amended—

(1) by striking ''and'' at the end of clause (i);

(2) by striking the period at the end of clause (ii) and inserting a semicolon; and

(3) by adding after clause (ii) the following new clauses:

''(iii) provide students with research experiences at bachelor's-degree-granting institutions participating in the partnership, including stipend support for students participating in summer programs; and

''(iv) provide faculty mentors for students participating in activities under clause (iii), including summer salary support for faculty mentors.''.

(c) NATIONAL SCIENCE FOUNDATION REPORT.—Within 6 months after the date of the enactment of this Act, the Director shall transmit a report to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate on—

(1) efforts by the Foundation and awardees under the program carried out under section 3 of the Scientific and Advanced-Technology Act of 1992 (42 U.S.C. 1862i) to disseminate information about the results of projects;

(2) the effectiveness of national centers of scientific and technical education established under section 3(b) of the Scientific and Advanced-Technology Act of 1992 (42 U.S.C. 1862i(b)) in serving as national and regional clearinghouses of information and models for best practices in undergraduate science, mathematics, and technology education; and

(3) efforts to satisfy the requirement of section 3(f)(4) of the Scientific and Advanced-Technology Act of 1992 (42 U.S.C. 1862i(f)(4)).

SEC. 22. REPORT ON FOUNDATION BUDGETARY AND PROGRAMMATIC EXPANSION.

The Board shall prepare a report to address and examine the Foundation's budgetary and programmatic growth provided for by this Act. The report shall be submitted to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate within one year after the date of the enactment of this Act and shall include—

(1) recommendations on how the increased funding should be utilized;

(2) an examination of the projected impact that the budgetary increases will have on the Nation's scientific and technological workforce;

(3) a description of new or expanded programs that will enable institutions of higher education to expand their participation in Foundation-funded activities;

(4) an estimate of the national scientific and technological research infrastructure needed to adequately support the Foundation's increased funding and additional programs; and

(5) a description of the impact the budgetary increases provided under this Act will have on the size and duration of grants awarded by the Foundation.

SEC. 23. ASTRONOMY AND ASTROPHYSICS ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—The Foundation and the National Aeronautics and Space Administration shall jointly establish an Astronomy and Astrophysics Advisory Committee (in this section referred to as the ''Advisory Committee'').

(b) DUTIES.—The Advisory Committee shall—

(1) assess, and make recommendations regarding, the coordination of astronomy and astrophysics programs of the Foundation and the National Aeronautics and Space Administration;

(2) assess, and make recommendations regarding, the status of the activities of the Foundation and the National Aeronautics and Space Administration as they relate to the recommendations contained in the National Research Council's 2001 report entitled ''Astronomy and Astrophysics in the New Millennium'', and the recommendations contained in subsequent National Research Council reports of a similar nature; and

(3) not later than March 15 of each year, transmit a report to the Director, the Administrator of the National Aeronautics and Space Administration, and the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate on the Advisory Committee's findings and recommendations under paragraphs (1) and (2).

(c) MEMBERSHIP.—The Advisory Committee shall consist of 13 members, none of whom shall be a Federal employee, including—

(1) 5 members selected by the Director;

(2) 5 members selected by the Administrator of the National Aeronautics and Space Administration; and

(3) 3 members selected by the Director of the Office of Science and Technology Policy.

(d) SELECTION PROCESS.—Initial selections under subsection (c) shall be made within 3 months after the date of the enactment of this Act. Vacancies shall be filled in the same manner as provided in subsection (c).

(e) CHAIRPERSON.—The Advisory Committee shall select a chairperson from among its members.

(f) COORDINATION.—The Advisory Committee shall coordinate with the advisory bodies of other Federal agencies, such as the Department of Energy, which may engage in related research activities.

(g) COMPENSATION.—The members of the Advisory Committee shall serve without compensation, but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(h) MEETINGS.—The Advisory Committee shall convene, in person or by electronic means, at least 4 times a year.

(i) QUORUM.—A majority of the members serving on the Advisory Committee shall constitute a quorum for purposes of conducting the business of the Advisory Committee.

(j) DURATION.—Section 14 of the Federal Advisory Committee Act shall not apply to the Advisory Committee.

SEC. 24. MINORITY-SERVING INSTITUTIONS UNDERGRADUATE PROGRAM.

(a) IN GENERAL.—The Director is authorized to establish a new program to award grants on a competitive, merit-reviewed basis to Hispanic-serving institutions, Alaska Native-serving institutions, Native Hawaiian-serving institutions, and other institutions of higher education serving a substantial number of minority students to enhance the quality of undergraduate science, mathematics, and engineering education at such institutions and to increase the retention and graduation rates of students pursuing associate's or baccalaureate degrees in science, mathematics, engineering, or technology.

(b) PROGRAM COMPONENTS.—Grants awarded under this section shall support—

(1) activities to improve courses and curriculum in science, mathematics, and engineering;

(2) faculty development;

(3) stipends for undergraduate students participating in research; and

(4) other activities consistent with subsection (a), as determined by the Director.

(c) PROGRAM COORDINATION.—This program shall be coordinated with and in addition to the ongoing Historically Black Colleges and Universities Undergraduate Program and the Tribal Colleges and Universities Program.

(d) INSTRUMENTATION.—Funding for instrumentation is an allowed use of grants awarded under this section and under the ongoing Historically Black Colleges and Universities Undergraduate Program and the Tribal Colleges and Universities Program.

SEC. 25. STUDY ON RESEARCH AND DEVELOPMENT FUNDING DATA DISCREPANCIES.

(a) STUDY.—The Director, in consultation with the Director of the Office of Management and Budget and the heads of other Federal agencies, shall enter into agreement with the National Academy of Sciences to conduct a comprehensive study to determine the source of discrepancies in Federal reports on obligations and actual expenditures of Federal research and development funding.

(b) CONTENTS.—The study shall—

(1) examine the relevance and accuracy of reporting classifications and definitions used in the reports described in subsection (a);

(2) examine whether the classifications and definitions are used consistently across Federal agencies for data gathering;

(3) examine whether and how Federal agencies use reports described in subsection (a), and describe any other sources of similar data used by those agencies;

(4) recommend alternatives for modifications to the current reporting process and system that would—

(A) accommodate emerging fields of science and changing practices in the conduct of research and development;

(B) minimize, to the extent possible, the burden imposed on the reporters of these data;

(C) increase the consistency of application of the system across the Federal agencies including the Office of Management and Budget and the Foundation;

(D) encourage the use of new technologies to increase accuracy, timeliness, and consistency of the reported data between the agencies and the research performers; and

(E) overcome systemic shortfalls; and

(5) recommend an implementation timeline for the modifications recommended under paragraph (4), and recommend specific responsibilities for the program and budget offices in the agencies, taking into consideration required

changes to the current computer systems and processes used by the agencies.

(c) SUBMISSION.—The Director shall submit a report on the results of the study to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate within one year after the date of enactment of this Act.

(d) IMPLEMENTATION.—Within 6 months after the completion of the study required by subsection (a), the Director of the Office of Science and Technology Policy shall submit to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate a plan for implementation of the recommendations of the study.

SEC. 26. PLANNING GRANTS.

The Director is authorized to accept planning proposals from applicants who are within .075 percentage points of the current eligibility level for the Experimental Program to Stimulate Competitive Research. Such proposals shall be reviewed by the Foundation to determine their merit for support under the Experimental Program to Stimulate Competitive Research or any other appropriate program.

Amend the title so as to read: ''An Act to authorize appropriations for fiscal years 2003, 2004, 2005, 2006, and 2007 for the National Science Foundation, and for other purposes.''.

Mr. ARMEY (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from Texas?

There was no objection.

A motion to reconsider was laid on the table.

NORTH AMERICAN WETLANDS CONSERVATION REAUTHORIZATION ACT

Mr. ARMEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3908) to reauthorize the North American Wetlands Conservation Act, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

(1) Page 2, line 19, strike out all after ''inserting'' down to and including ''birds'' in line 21 and insert: *''and habitats associated with wetland ecosystems*

(2) Page 2, lines 22 and 23, strike out [dependent] and insert: *associated*

(3) Page 2, line 25, strike out [dependent] and insert: *associated*

(4) Page 4, line 3, strike out all after ''inserting'' down to and including ''thereof)'' in line 4 and insert: *''(but at least 30 percent and not more than 60 percent)*

(5) Page 4, line 9, strike out all after ''inserting'' down to and including ''thereof)'' in line 10 and insert: *''(but at least 40 percent and not more than 70 percent)*

(6) Page 5, after line 11, insert:

(2) In section 2(a)(12) (16 U.S.C. 4401(a)(12)), by inserting ''and in 1994 by the Secretary of Sedesol for Mexico'' after ''United States''.

(7) Page 5, line 12, strike out [(2)] and insert: *(3)*

(8) Page 5, line 17, strike out [(3)] and insert: *(4)*

(9) Page 5, after line 18, insert:

(5) In section 3(6) (16 U.S.C. 4402(6)), by inserting after ''1986'' the following: '', and by the Secretary of Sedesol for Mexico in 1994, and subsequent dates''.

(10) Page 5, line 19, strike out [(4)] and insert: *(6)*

(11) Page 5, line 22, strike out [(5)] and insert: *(7)*

(12) Page 6, line 1, strike out [(6)] and insert: *(8)*

(13) Page 6, after line 2, insert:

(9) In section 5(b) (16 U.S.C. 4404(b)), by striking ''by January 1 of each year,'' and inserting ''each year''.

(10) In section 5(d) (16 U.S.C. 4404(d)), by striking ''one Council member'' and inserting ''2 Council members''.

(14) Page 6, line 3, strike out [(7)] and insert: *(11)*

(15) Page 6, line 6, strike out [(8)] and insert: *(12)*

(16) Page 6, line 10, strike out [(9)] and insert: *(13)*

(17) Page 6, line 13, strike out [(10)] and insert: *(14)*

(18) Page 7, after line 3, insert:

SEC. 9. CHESAPEAKE BAY INITIATIVE.

Section 502(c) of the Chesapeake Bay Initiative Act of 1998 (16 U.S.C. 461 note; Public Law 105–312) is amended by striking ''2003'' and inserting ''2008''.

Mr. ARMEY (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from Texas?

There was no objection.

A motion to reconsider was laid on the table.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BOYD (at the request of Mr. GEPHARDT) for today on account of family business.

Mr. SAWYER (at the request of Mr. GEPHARDT) for today after 8:15 p.m. on account of an official congressional delegation event.

Mr. WATT of North Carolina (at the request of Mr. GEPHARDT) for today after 9:00 p.m. on account of an official congressional delegation event.

Mr. WYNN (at the request of Mr. GEPHARDT) for today after 8:00 p.m. on account of an official congressional delegation event.

Mr. YOUNG of Florida (at the request of Mr. ARMEY) for today after 7:30 p.m. on account of illness in the family.

Mr. DIAZ-BALART (at the request of Mr. ARMEY) for today and the balance of the week on account of a family emergency.

Mr. GILMAN (at the request of Mr. ARMEY) for today after 8:35 p.m. and the balance of the week on account of attending the Trans-Atlantic Legislators Dialogue Conference.

Mr. HYDE (at the request of Mr. ARMEY) for today after 8:35 p.m. and the balance of the week on account of attending the Trans-Atlantic Legislators Dialogue Conference.

Mr. ISSA (at the request of Mr. ARMEY) for today after 8:35 p.m. and the balance of the week on account of attending the Trans-Atlantic Legislators Dialogue Conference.

Mr. TOOMEY (at the request of Mr. ARMEY) for today on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

The following Members (at the request of Mr. TURNER) to revise and extend their remarks and include extraneous material:

Mr. HOYER, for 5 minutes, today.
Mr. FILNER, for 5 minutes, today.
Ms. KAPTUR, for 5 minutes, today.
Ms. NORTON, for 5 minutes, today.
Mr. SHERMAN, for 5 minutes, today.
Mr. CUMMINGS, for 5 minutes, today.
Mr. VISCLOSKY, for 5 minutes, today.
Mr. HILL, for 5 minutes, today.
Ms. CARSON of Indiana, for 5 minutes, today.
Mr. MCGOVERN, for 5 minutes, today.
Mr. SKELTON, for 5 minutes, today.
Mr. MCDERMOTT, for 5 minutes, today.
Mr. GORDON, for 5 minutes, today.
Mr. DAVIS of Illinois, for 5 minutes, today.

The following Members (at the request of Mr. ARMEY) to revise and extend their remarks and include extraneous material:

Mr. JONES of North Carolina, for 5 minutes, today.
Mr. KIRK, for 5 minutes, today.
Mr. BURTON of Indiana, for 5 minutes, today.
Mr. BILIRAKIS, for 5 minutes, today.
Mr. SMITH of Michigan, for 5 minutes, today.
Mr. COX, for 5 minutes, today.
Mr. CANNON, for 5 minutes, today.
Mr. GUTKNECHT, for 5 minutes, today.
Mr. SHAW, for 5 minutes, today.
Mr. DREIER, for 5 minutes, today.
Mr. LATOURETTE, for 5 minutes, today.
Mr. ROYCE, for 5 minutes, today.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 958. An act to provide for the use and distribution of the funds awarded to the Western Shoshone identifiable group under Indian Claims Committee Docket Numbers 326–A–1, 326–A–3, 326–K, and for other purposes; to the Committee on Resources.

S. 1742. An act to prevent the crime of identity theft, mitigate the harm to individuals victimized by identity theft, and for

other purposes; to the Committee on the Judiciary in addition to the Committee on Financial Services for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

S. 2845. An act to extend for one year procedural relief provided under the USA PATRIOT Act for individuals who were or are victims or survivors of victims of a terrorist attack on the United States on September 11, 2000; to the Committee on the Judiciary.

S. 3067. An act to amend title 44, United States Code, to extend certain Government information security reform for one year, and for other purposes; to the Committee on Government Reform.

S.J. Res. 42. Joint resolution commending Sail Boston for its continuing advancement of the maritime heritage of nations, its commemoration of the nautical history of the United States, and its promotion, encouragement, and support of young cadets through training; to the Committee on Transportation and Infrastructure in addition to the Committee on International Relations for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

ENROLLED BILLS SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1070. An act to amend the Federal Water Pollution Control Act to authorize the Administrator of the Environmental Protection Agency to carry out projects and conduct research for remediation of sediment contamination in areas of concern in the Great Lakes, and for other purposes.

H.R. 2546. An act to amend title 49, United States Code, to prohibit States from requiring a license or fee on account of the fact that a motor vehicle is providing interstate pre-arranged ground transportation service, and for other purposes.

H.R. 3340. An act to amend title 5, United States Code, to allow certain catch-up contributions to the Thrift Savings Plan to be made by participants age 50 or over; to reauthorize the Merit Systems Protection Board and the Office of Special Counsel; and for other purposes.

H.R. 3389. An act to reauthorize the National Sea Grant College Program Act, and for other purposes.

H.R. 3394. An act to authorize funding for computer and network security research and development and research fellowship programs, and for other purposes.

H.R. 4878. An act to provide for estimates and reports of improper payments by Federal agencies.

H.R. 5349. An act to facilitate the use of a portion of the former O'Reilly General Hospital in Springfield, Missouri, by the local Boys and Girls Club through the release of the reversionary interest and other interests retained by the United States in 1955 when the land was conveyed to the State of Missouri.

ADJOURNMENT

Mr. ARMEY. Mr. Speaker, I promised myself I would stay until the last dog died, and it turns out I am the last dog.

Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 5 minutes a.m.), under its previous order, the House adjourned until Tuesday, November 19, 2002, at noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

9973. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule — Canadian Border Ports; Blaine and Lynden, WA [Docket No. 02-064-1] received November 12, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9974. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule — Mediterranean Fruit Fly; Removal of Quarantined Area [Docket No. 01-093-3] received November 12, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9975. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule — Gypsy Moth Generally Infested Areas [Docket No. 02-053-2] received November 12, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9976. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule — Low Pathogenic Avian Influenza; Payment of Indeminity [Docket No. 02-048-1] (RIN: 0579-AB46) received November 12, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9977. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule — Change in Disease Status of Israel Because of BSE [Docket No. 02-072-2] received November 12, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9978. A communication from the President of the United States, transmitting his requests for FY 2003 budget amendments for the Department of Justice and the National Aeronautics and Space Administration; (H. Doc. No. 107—281); to the Committee on Appropriations and ordered to be printed.

9979. A letter from the Comptroller, Department of Defense, transmitting a report of a violation of the Antideficiency Act by the Department of the Navy, Case Number 98-02, pursuant to 31 U.S.C. 1351; to the Committee on Appropriations.

9980. A letter from the Assistant General Counsel for Regulations, Department of Housing and Urban Development, transmitting the Department's final rule — Housing Choice Voucher Program Homeownership Option: Eligibility of Units Owned or Controlled by a Public Housing Agency [Docket No. FR-4759-I-01] (RIN: 2577-AC39) received November 6, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

9981. A letter from the Assistant General Counsel for Regulations, Department of Housing and Urban Development, transmitting the Department's final rule — Testimony of Employees in Legal Proceedings [Docket No. FR-4783-F-01] (RIN: 2501-AC90) received November 1, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

9982. A letter from the General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule — Changes in Flood Elevation Determinations [Docket No. FEMA-P-7612] received November 6, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

9983. A letter from the General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule — Final Flood Elevation Determinations — received November 6, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

9984. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule — Special Supplemental Nutrition Progam for Women, Infants and Children: Exclusion of Military Housing Payments (RIN: 0584-AD34) received November 5, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

9985. A letter from the Acting Assistant General Counsel for Regulations, Office of the General Counsel, Department of Education, transmitting the Department's final rule — Student Assistance General Provisions — received November 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

9986. A letter from the Acting Assistant General Counsel for Regulations, Office of the General Counsel, Department of Education, transmitting the Department's final rule — Federal Student Aid Programs (RIN: 1845-AA2 3) received November 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

9987. A letter from the Director, OSHA Standards and Guidance, Department of Labor, transmitting the Department's final rule — Exit Routes, Emergency Action Plans, and Fire Prevention Plans (RIN: 1218-AB82) received November 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

9988. A letter from the Attorney Advisor, NHTSA, Department of Transportation, transmitting the Department's final rule — Consumer Information; Safety Rating Program for Child Restraint Systems [Docket No. NHTSA-02-10053] (RIN: 2127-AI65) received November 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9989. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Notice of Halting the Sanctions Clocks for the Commonwealth of Virginia's Failure to Submit Required State Implementation Plan for the NOX SIP Call [FRL-7249-5] received October 29, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9990. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standard Benzene Waste Operations [FRL-7405-6] (RIN: 2060-AJ87) received November 5, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9991. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of State Plan for Designated Facilities and Pollutants; State of Mississippi [MS-200302(a); FRL-7404-2] received November 5, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9992. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Revisions to the California State Implementation Plan, Imperial County Air Pollution Control District [CA242-0373a; FRL-395-8] received November 7, 2002, pursuant to 5 U.S.C.

801(a)(1)(A); to the Committee on Energy and Commerce.

9993. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Designation of Areas for Air Quality Planning Purposes; Redesignation of Particulate Matter Unclassifiable Areas; Redesignation of Hydrographic Area 61 for Particulate Matter, Sulfur Dioxide, and Nitrogen Dioxide; State of Nevada [FRL-7408-2] received November 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9994. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; Texas; Environmental Speed Limit Revision; and Voluntary Mobile Emission Reduction Program Commitment for the Houston/Galveston (HG) Ozone Nonattainment Area [TX-144-1-7581; FRL-7407-1] received November 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9995. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; South Carolina; Adoption of Revision Governing Credible Evidence and Removal of Standard 3 [SC-041, 046-200211(a); FRL-7406-7] received November 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9996. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Revisions to Allegheny County Articles XX and XXI [PA134-138-4193a; FRL-7391-6] received November 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9997. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Designation of Areas for Air Quality Planning Purposes; Pennsylvania; Redesgination of the Allegheny County Carbon Monoxide Nonattainment Area and Approval of Miscellaneous Revisions [PA181-4181a; FRL-7399-4] received November 5, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9998. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Revisions to the Arizona State Implementation Plan, Pinal County Air Quality Control District [AZ 080-0060; FRL-7261-6] received November 5, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9999. A letter from the Acting Principal Deputy Associate Administrator, Environnmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production [FRL-7406-6] (RIN: 2060-AE78) received November 5, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10000. A letter from the Chair, State Energy Advisory Board, transmitting the Board's tenth annual report, pursuant to 42 U.S.C. 6325; to the Committee on Energy and Commerce.

10001. A letter from the Director of Government Affairs, Commission on International Religious Freedom, transmitting a report on human rights conditions in Afghanistan; to the Committee on International Relations.

10002. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's final rule — Amendments of the United States Munitions List — received November 12, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

10003. A letter from the Chairman, Appraisal Subcommittee, Federal Financial Institutions Examination Council, transmitting the combined report for the Inspector General Act and the Federal Fiancial Manager's Integrity Act, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform.

10004. A letter from the Chairman, Consumer Product Safety Commission, transmitting the Commission's 2002 Fair Act Inventory Report; to the Committee on Government Reform.

10005. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Revised Freedom of Information Act Regulations [OEI-2002-0005; FRL-7404-4] (RIN: 2025-AA04) received November 5, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

10006. A letter from the Executive Director, Office of Navajo and Hopi Indian Relocation, transmitting the FY 2002 report pursuant to the Federal Managers' Financial Integrity Act and the 1988 Amendments to the Inspector General Act, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform.

10007. A letter from the Chair, United States Access Board, transmitting the Board's consolidated report for the Inspector General Act and the Federal Fiancial Manager's Integrity Act, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform.

10008. A letter from the Chairman, United States Merit Systems Protection Board, transmitting the FY 2002 combined report pursuant to the Federal Managers' Financial Integrity Act and the 1988 Amendments to the Inspector General Act, pursuant to 31 U.S.C. 3512(c)(3)and Public Law 100—504; to the Committee on Government Reform.

10009. A letter from the Chairman, Office of the General Counsel, Federal Election Commission, transmitting the Commission's final rule — Contribution Limitations and Prohibitions [Notice 2002-22] received November 12, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on House Administration.

10010. A letter from the Deputy Assistant Secretary, Fish and Wildlife Service, Department of the Interior, transmitting the Department's final rule — Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for Eriodictyon capitatum (Lompoc yerba santa) and Deinandra increscens ssp. villosa (Gaviota tarplant) (RIN: 1018-AG88) received November 4, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10011. A letter from the Assitant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting the Department's final rule — Endangered and Threatened Wildlife and Plants; Final Rule to Establish Thirteen Additional Manatee Protection Areas in Florida (RIN: 1018-AH80) received November 4, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10012. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Experimental Setnet Sablefish Landings To Qualify Limited Entry Sablefish-Endorsed Permits for Tier Assignment [Docket No. 020606142-2234-02; I.D. 041802F] (RIN: 0648-AP39) received November 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10013. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Using Trawl Gear in Bering Sea and Aleutian Islands Management Area [Docket No. 011218304-1304; I.D. 102802E] received November 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10014. A letter from the Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Atlantic Highly Migratory Species (HMS): NOAA Information Collection Requirements: Technical Amendment [Docket No. 020925233-2223-01; I.D. 0910021] (RIN: 0648-AP89) received November 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10015. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fraser River Sockeye and Pink Salmon Fisheries; Inseason Orders [I.D. 101102B] received November 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10016. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic [Docket No. 001005281-0369-02; I.D. 102302A] received November 6, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10017. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action 4 — Adjustment of the Commerical Fishery from the U.S.-Canada Border to Cape Falcon, OR [Docket No. 020430101-2101-01; I.D. 072402D] received November 5, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10018. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action No. 9 — Closure and Reopening of the Recreational Fishery from Cape Falcon to Humbug Mountain, OR [Docket No. 020430101-2101-01; I.D. 082802B] received November 5, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10019. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action 13--Adjustment of the Commercial Fishery from the U.S.-Canada Border to Cape Falcon, OR [Docket No. 020430101-2101-01; I.D. 092602A] received November 5, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10020. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final

rule — Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action 14--Adjustment of the Recreational Fishery from Leadbetter Point, WA to Cape Falcon, OR (Columbia River Area) [Docket No. 020430101-2101-01; I.D. 101102C] received November 5, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10021. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action 17--Adjustment of the Ceremonial and Subsistence Harvest Regulations for the Ocean Salmon Fisheries of the Quileute Tribe [Docket No. 020430101-2101-01; I.D. 101102G] received November 5, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10022. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action 16--Adjustment of the Commerical Fishery from the Oregon-California Border to the Humboldt South Jetty [Docket No. 020430101-2101-01; I.D. 101102F] received November 5, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10023. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action 15--Closure of the Commercial Fishery from Humbug Mountain, OR to the Oregon-California Border [Docket No. 020430101-2101-01; I.D. 101102D] received November 5, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10024. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action 8 — Closure of the Commercial Fishery from Humbug Mountain, OR, to the Oregon-California Border [Docket No. 020430101-2101-01; I.D. 082802A] received November 5, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10025. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action 11 — Adjustment of the Recreational Fishery from the U.S.-Canada Border to Cape Falcon, OR [Docket No. 020430101-2101-01; I.D. 082802D] received November 5, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10026. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action 12--Adjustment of the Recreational Fishery from the Queets River to Leadbetter Point, WA (Westport Area) [Docket No. 020430101-2101-01; I.D. 092502H] received November 5, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10027. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action 10 — Adjustment of the Commercial Fishery from the U.S.-Canada Border to Cape Falcon, OR [Docket No. 020430101-2101-01; I.D. 082802C] received November 5, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10028. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Annual Specifications and Management Measures; Trip Limit Adjustments; Correction [Docket No. 011231309-2090-03; I.D. 092602B] received October 29, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10029. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Security Zones; Captain of the Port Detroit Zone, Selfridge Air National Guard Base, Lake St Clair [CGD09-02-523] (RIN: 2115-AA97) received October 31, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10030. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Anchorages and Security Zones; Oahu, Maui, Hawaii, and Kauai, HI [CGD14-02-001] (RIN: 2115-AA97) received October 31, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10031. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Agusta S.p.A. Model A119 Helicopters [Docket No. 2002-SW-46-AD; Amendment 39-12910; AD 2002-21-04] (RIN: 2120-AA64) received October 29, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10032. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Cirrus Design Corporation Model SR20 and SR22 Airplanes [Docket No. 2002-CE-41-AD; Amendment 39-12908; AD 2002-21-02] (RIN: 2120-AA64) received October 29, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10033. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Rockwell Collins, Inc. AFD-3010 Adaptive Flight Display Units [Docket No. 2002-CE-39-AD; Amendment 39-12906; AD 2002-20-09] (RIN: 2120-AA64) received October 29, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10034. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier-Rotax GmbH Type 912 F, 912 S, and 914 F Series Reciprocating Engines [Docket No. 2002-NE-17-AD; Amendment 39-12846; AD 2002-16-07] (RIN: 2120-AA64) received October 29, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10035. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; MD Helicopters, Inc., Model MD900 Helicopters [Docket No. 2001-SE-25-AD; Amendment 39-12837; AD 2002-15-07] (RIN: 2120-AA64) received October 29, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10036. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class D Airspace; Henderson Airport; Las Vegas, NV [Airspace Docket No. 02-AWP-4] received October 29, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10037. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Amendment of Class E Airspace, Matawan, NJ [Airspace Docket No. 02-AEA-16] received October 29, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10038. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Amendment of Class E5 Airspace; Morganton, NC [Airspace Docket No. 02-ASO-17] received october 29, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10039. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E5 Airspace; Marion, NC [Airspace Docket No. 02-ASO-13] received October 29, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10040. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Amendment of Class E5 Airspace; Andrews — Murphy, NC [Airspace Docket No. 02-ASO-16] received October 29, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10041. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E5 Airspace; Highlands, NC [Airspace Docket No. 02-ASO-12] received October 29, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10042. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E5 Airspace; Sylva, NC [Airspace Docket No. 02-ASO-15] received October 29, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10043. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E5 Airspace; Franklin, NC [Airspace Docket No. 02-ASO-10] received October 29, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10044. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Amendment of Class E5 Airspace; Prestonburg, KY [Airspace Docket No. 02-ASO-9] received October 29, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10045. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Amendment of Class E5 Airspace; Asheville, NC [Airspace Docket No. 02-ASO-11] received October 29, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10046. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bell Helicopter Textron Canada Limited Canada Limited Model 407 Helicopters [Docket No. 2002-SW-38-AD; Amendment 39-12935; AD 2002-22-10] (RIN: 2120-AA64) received November 8, 2002,

pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10047. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30337; Amdt. No. 3029] received November 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10048. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter France Model AS332C, L, and L1 Helicopters [Docket No. 2002-SW-36-AD; Amendment 39-12934; AD 2002-22-09] (RIN: 2120-AA64) received November 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10049. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Agusta S.p.A. Model A109E Helicopters [Docket No. 2002-SW-42-AD; Amendment 39-12936; AD 2002-17-51] (RIN: 2120-AA64) received November 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10050. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 737 Series Airplanes [Docket No. 2001-NM-251-AD; Amendment 39-12940; AD 2002-20-07 R1] (RIN: 2120-AA64) received November 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10051. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Rockwell Collins, Inc. FMC-4200, FMC-5000, and FMC-6000 Flight Management Computers [Docket No. 2000-CE-13-AD; Amendment 39-12939; AD 2002-22-13] (RIN: 2120-AA64) received November 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10052. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Drawbridge Operating Regulations; Illinois Waterway, Joliet, IL [CGD08-02-025] (RIN: 2115-AE47) received November 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10053. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Security Zone; San Juan, Puerto Rico [CGD 07-02-132] (RIN: 2115-AA97) received November 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10054. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Anchorage Grounds; Frenchman Bay, Bar Harbor, ME [CGD 01-02-027] (RIN: 2115-AA98) received November 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10055. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Drawbridge Operation Regulations; Shrewsbury River, NJ [CGD01-02-122] (RIN: 2115-AE47) received November 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10056. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Drawbridge Operation Regulation; Illinois Waterway, Joliet, IL [CGD08-02-024] (RIN: 2115-AE47) received October 31, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10057. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Drawbridge Operation Regulations: Connecticut River, CT [CGD01-02-100] (RIN: 2115-AE47) received October 31, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10058. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Drawbridge Operation Regulations: Danvers River, MA [CGD01-02-118] received October 31, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10059. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Notice of Request for Initial Proposals (IPs) for Projects to be Funded from the Water Quality Cooperative Agreement Allocation (CFDA 66.463 — Water Quality Cooperative Agreements) [FRL-7402-9] received November 5, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10060. A letter from the Acting Deputy General Counsel, Small Business Administration, transmitting the Administration's final rule — Small Business Investment Companies (RIN: 3245-AE88) received November 6, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Small Business.

10061. A letter from the Acting Deputy General Counsel, Small Business Administration, transmitting the Administration's final rule — Small Business Size Standards; Inflation Adjustment to Size Standards (RIN: 3245-AE56) received November 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Small Business.

10062. A letter from the Chief, Regulations Branch, Department of the Treasury, transmitting the Department's final rule — General Order Warehouses [T.D. 02-65] (RIN: 1515-AC57) received November 4, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10063. A letter from the Chief Counsel, Bureau of the Public Debt, Department of the Treasury, transmitting the Department's final rule — Sale and Issue of Marketable Book-Entry Treasury Bills, Notes, and Bonds; Reporting of Net Long Position and Application of the 35 Percent Limit [Department of the Treasury Circular, Public Debt Series No. 1-93] received November 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10064. A letter from the United States Trade Representative, Executive Office of the President, transmitting notification that the President intends to initiate negotiations for a free trade agreement with the five members countries of the Southern African Customs Union; to the Committee on Ways and Means.

10065. A letter from the United States Trade Representative, Executive Office of the President, transmitting notification that the President is engaged in negotiations to strengthen, and extend, as well as establish new trade agreements under the auspices of the World Trade Organizations; to the Committee on Ways and Means.

10066. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Weighted Average Interest Rate Update [Notice 2002-74] received November 12, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10067. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Last in, First-out Inventories (Rev. Rul. 2002-77) received October 30, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10068. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Changes in Annual Accounting Period [Notice 2002-72] received October 30, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10069. A letter from the Chief, Regulations, Internal Revenue Service, transmitting the Service's final rule — Eligible basis reduced by federal grants (Rev. Rul. 2002-65) received October 30, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10070. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Definition of Real Estate Investment Trust (Rev. Rul. 2002-38) received November 7, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10071. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Department's final rule — Charitable, etc., contributions and gifts; allowance of deduction (Rev. Rul. 2002-67) received November 7, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10072. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Low-Income Housing Credit (Rev. Rul. 2002-72) received November 7, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10073. A letter from the Secretary, Department of Energy, transmitting a report regarding programs for the protection, control and accounting of fissile materials in the countries of the former Soviet Union, second half of FY 2002, pursuant to 22 U.S.C. 5952 nt.; jointly to the Committees on Armed Services and International Relations.

10074. A letter from the Regulations Coordinator, CMM, Department of Health and Human Services, transmitting the Department's final rule — Medicare Program; Correction of Certain Calendar Year 2002 Payment Rates Under the Hospital Outpatient Prospective Payment System and the Pro Rata Reduction on Transitional Pass-Though Payments; Correction of Technical and Typographical Errors [CMS-1159-F4] (RIN: 0938-AK54) received October 21, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Energy and Commerce and Ways and Means.

10075. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of the Presidential Determination No. 2003-03 regarding waiver and certification of statutory provisions regarding the Palestine Liberation Organization; jointly to the Committees on International Relations and Appropriations.

10076. A letter from the FAA and NASA Administrators, Department of Transportation, transmitting the final report entitled, ''Subsonic Noise Reduction Technology,'' pursuant to 49 U.S.C. app. 1353 note; jointly to the Committees on Transportation and Infrastructure and Science.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 1452. A bill to amend the Immigration and Nationality Act to permit certain long-term permanent resident aliens to seek cancellation of removal under such Act, and for other purposes; with an amendment (Rept. 107–785). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 5334. A bill to ensure that a public safety officer who suffers a fatal heart attack or stroke while on duty shall be presumed to have died in the line of duty for purposes of public safety officer survivor benefits (Rept. 107–786). Referred to the Committee of the Whole House on the state of the Union.

Mr. SAXTON: Joint Economic Committee. Report of the Joint Economic Committee on the 2002 Economic Report of the President (Rept. 107–788). Referred to the Committee of the Whole House on the State of the Union.

Mr. GOSS: Committee of Conference. Conference report on H.R. 4628. A bill to authorize appropriations for fiscal year 2003 for intelligence and intelligence-related activities of the United states Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes (Rept. 107–789). Ordered to be printed.

REPORTED BILL SEQUENTIALLY REFERRED

Under clause 2 of rule XII, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. BURTON: Committee on Government Reform. H.R. 2458. A bill to enhance the management and promotion of electronic Government services and processes by establishing a Federal Chief Information Officer within the Office of Management and Budget, and by reestablishing a broad framework of measurers that require using Internet-based information technology to enhance citizen access to Government information and services, and for other purposes, with an amendment; referred to the Committee on Judiciary for a period ending not later than November 14, 2002, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(k), rule X (Rept. 107–787, Pt. 1).

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. THOMAS:

H.R. 5728. A bill to amend the Internal Revenue Code of 1986 to provide fairness in tax collection procedures and improved administrative efficiency and confidentiality and to reform its penalty and interest provisions; to the Committee on Ways and Means. Considered and agreed to.

By Mr. TANNER (for himself, Mr. BERRY, Mr. MATHESON, Mr. ROSS, Mr. STENHOLM, Mr. HILL, Mr. MOORE, Mr. PETERSON of Minnesota, Mr. TURNER, and Mr. FORD):

H.R. 5729. A bill to amend title XVIII of the Social Security Act to revise and improve payments to providers of services under the Medicare Program, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. YOUNG of Alaska:

H.R. 5730. A bill to relocate the drydock vessel EX-COMPETENT; to the Committee on Armed Services, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WU:

H.R. 5731. A bill to provide for additional benefits under the Temporary Extended Unemployment Compensation Act of 2002; to the Committee on Ways and Means.

By Mr. BRADY of Texas:

H.R. 5732. A bill to amend the Clean Air Act regarding the conformity of transportation projects to implementation plans, and for other purposes; to the Committee on Energy and Commerce.

By Mr. SCHIFF:

H.R. 5733. A bill to amend the Foreign Assistance Act of 1961 to ensure that projects and activities carried out with United States assistance are appropriately identified overseas as ''American Aid'', and for other purposes; to the Committee on International Relations.

By Mr. SMITH of Michigan:

H.R. 5734. A bill to amend title II of the Social Security Act and the Internal Revenue Code of 1986 to provide prospectively for personalized retirement security through personal retirement savings accounts to allow for more control by individuals over their Social Security retirement income, to amend such title and the Balanced Budget and Emergency Deficit Control Act of 1985 to protect social security surpluses, and to provide other reforms relating to benefits under such title II; to the Committee on Ways and Means.

By Mr. HINCHEY:

H.R. 5735. A bill to amend the Internal Revenue Code of 1986 to allow individuals a refundable credit against income tax for Social Security taxes paid on up to $25,000 of wages; to the Committee on Ways and Means.

By Ms. ROS-LEHTINEN (for herself and Mr. DEUTSCH):

H.R. 5736. A bill to provide for the conveyance of certain real property by the Administrator of General Services; to the Committee on Government Reform.

By Ms. ROS-LEHTINEN (for herself, Mr. DIAZ-BALART, Mr. FOLEY, Mr. SMITH of New Jersey, Mr. WEXLER, Mr. TANCREDO, Mr. GILMAN, Mr. BURTON of Indiana, and Mr. ENGEL):

H.R. 5737. A bill to posthumously revoke the naturalization of Eriberto Mederos; to the Committee on the Judiciary.

By Mr. SHIMKUS (for himself, Mr. HASTERT, Mr. NETHERCUTT, Mr. HAYWORTH, and Ms. DEGETTE):

H.R. 5738. A bill to amend the Public Health Service Act with respect to special diabetes programs for Type I diabetes and Indians; to the Committee on Energy and Commerce. Considered and agreed to.

By Mr. HONDA (for himself, Mr. PAYNE, Mrs. CLAYTON, Mr. PALLONE, Mr. STARK, Mr. KENNEDY of Rhode Island, Ms. LEE, Mr. CONYERS, Mr. ACEVEDO-VILA, Mr. LIPINSKI, Mrs. CHRISTENSEN, Mr. WYNN, and Mr. POMBO):

H.R. 5739. A bill to protect children from foods that pose a significant choking hazard; to the Committee on Energy and Commerce.

By Mr. TAUZIN (for himself, Mr. DINGELL, Mr. BILIRAKIS, and Mr. BROWN of Ohio):

H.R. 5740. A bill to amend title XXI of the Social Security Act to extend the availability of allotments for fiscal years 1998 through 2001 under the State Children's Health Insurance Program (SCHIP); to the Committee on Energy and Commerce.

By Mrs. WILSON of New Mexico:

H.R. 5741. A bill to establish the T'uf Shur Bien Preservation Trust Area in the Cibola National Forest, and for other purposes; to the Committee on Resources.

By Mr. FRELINGHUYSEN (for himself, Mr. FERGUSON, Mr. PALLONE, and Mr. HOLT):

H.R. 5742. A bill to prohibit a State from imposing a discriminatory commuter tax on nonresidents, and for other purposes; to the Committee on the Judiciary.

By Mr. FOLEY:

H.R. 5743. A bill to improve funeral home, cemetery, and crematory inspection systems, to establish consumer protections relating to funeral service contracts, and for other purposes; to the Committee on Energy and Commerce.

By Mr. GEKAS:

H.R. 5744. A bill to amend title 11 of the United States Code, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GEKAS:

H.R. 5745. A bill to amend title 11 of the United States Code, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LAMPSON:

H.R. 5746. A bill to provide that the State and local income tax withholding provisions of section 11502 of title 49, United States Code, shall not apply to the Metro-North Railroad or its employees; to the Committee on Transportation and Infrastructure, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. LOWEY (for herself, Mr. WAXMAN, Mr. BROWN of Ohio, Ms. DELAURO, Mr. SMITH of Washington, Ms. LEE, Mr. HOLT, Mr. HINCHEY, Mr. DEFAZIO, Ms. ROYBAL-ALLARD, Mr. LANGEVIN, Ms. RIVERS, Mr. LEVIN, Ms. NORTON, Mr. PRICE of North Carolina, Mr. NADLER, Mr. FROST, Mr. PALLONE, Mr. ROTHMAN, Mr. RANGEL, and Mr. GEORGE MILLER of California):

H.R. 5747. A bill to amend the Federal Food, Drug, and Cosmetic Act to establish labeling requirements regarding allergenic substances in food, and for other purposes; to the Committee on Energy and Commerce.

By Ms. MCKINNEY:

H.R. 5748. A bill to protect public assets, natural heritage, and native biodiversity on Federal public lands by banning all further degradation, development, and extraction on such lands, and for other purposes; to the Committee on Resources, and in addition to the Committees on Agriculture, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MEEHAN:

H.R. 5749. A bill to create a 4-year pilot program that makes small, non-profit child care businesses eligible for SBA 504 loans; to the Committee on Small Business.

By Mrs. MEEK of Florida:

H.R. 5750. A bill to amend the Immigration and Nationality Act to eliminate the restriction on judicial review of detention and release determinations and to provide a right to a bond hearing before an immigration judge to all aliens in removal and summary removal proceedings; to the Committee on the Judiciary.

By Mrs. MEEK of Florida:

H.R. 5751. A bill to provide the same immigration adjustment rights for Haitians as is provided for Cubans; to the Committee on the Judiciary.

By Mr. OBERSTAR:

H.R. 5752. A bill to provide for the use or distribution of the funds awarded to the Minnesota Chippewa Tribe in Minnesota Chippewa Tribe v. United States, Docket Nos. 19 and 188, United States Court of Federal Claims; to the Committee on Resources.

By Mr. PASTOR:

H.R. 5753. A bill to authorize the Secretary of the Interior to participate in the Yuma East Wetlands Project in the vicinity of Yuma, Arizona; to the Committee on Resources.

By Mr. RAMSTAD:

H.R. 5754. A bill to amend the Internal Revenue Code of 1986 to provide that the foreign tax credit not be redetermined with respect to refunds of unlawful foreign taxes to taxpayers who successfully challenge those taxes; to the Committee on Ways and Means.

By Mr. ROEMER:

H.R. 5755. A bill to authorize the establishment of a commemorative work on Federal land in the District of Columbia and its environs to honor James Madison in recognition of his distinguished career in public service; to the Committee on Resources.

By Mr. UDALL of New Mexico:

H.R. 5756. A bill to amend title VI of the Public Utility Regulatory Policies Act of 1978 to establish a Federal renewable energy portfolio standard for certain retail electric utilities, and for other purposes; to the Committee on Energy and Commerce.

By Mr. WU (for himself, Mr. BLUMENAUER, Mr. OBERSTAR, Ms. MCCOLLUM, and Mr. DEFAZIO):

H.R. 5757. A bill to extend temporarily waivers granted to States with respect to programs of aid to families with dependent children; to the Committee on Ways and Means.

By Mr. HONDA (for himself, Mr. HASTINGS of Florida, Mr. MCDERMOTT, Mr. TOWNS, Mr. GONZALEZ, Mr. FROST, Mr. UNDERWOOD, Mr. ABERCROMBIE, Mr. BACA, Ms. PELOSI, Mr. DEFAZIO, Ms. NORTON, Ms. WOOLSEY, Mr. WU, Ms. LOFGREN, Mr. CAPUANO, Ms. CARSON of Indiana, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. GEORGE MILLER of California, Mr. DAVIS of Illinois, Mr. MEEKS of New York, Mr. FILNER, Ms. BROWN of Florida, Ms. LEE, Mr. RADANOVICH, and Mr. PITTS):

H.J. Res. 125. A joint resolution posthumously proclaiming soldiers of Asian descent who fought in the Civil War to be honorary citizens of the United States; to the Committee on the Judiciary.

By Ms. CARSON of Indiana:

H. Con. Res. 518. Concurrent resolution expressing the sense of Congress that the deployment of United States Armed Forces against Iraq without prior specific authorization by the United Nations Security Council and specific congressional authorization pursuant to a declaration of war would constitute a violation of the obligations of the United States under the United Nations Charter and a violation of the United States Constitution, respectively; to the Committee on International Relations.

By Mr. CHABOT (for himself and Mr. PORTMAN):

H. Con. Res. 519. Concurrent resolution recognizing and honoring America's Jewish community on the occasion of its 350th anniversary, supporting the designation of an ''American Jewish History Month'', and for other purposes; to the Committee on Government Reform.

By Mr. GRAVES:

H. Con. Res. 520. Concurrent resolution expressing the sense of Congress that the Secretary of Agriculture should reexamine the authorities governing the Conservation Reserve Program and adjust the program to the maximum extent practicable to assist agricultural producers adversely affected by severe drought conditions; to the Committee on Agriculture.

By Mr. HONDA (for himself, Mr. SHERMAN, Mr. MATSUI, Mr. WU, Mr. SCHIFF, Ms. LEE, Ms. LOFGREN, Mr. STARK, Mr. FILNER, Mr. WAXMAN, and Mrs. NAPOLITANO):

H. Res. 613. A resolution honoring the life of Dr. Chang-Lin Tien, model educator, diplomat, and mentor; to the Committee on Government Reform.

By Mr. ARMEY:

H. Res. 614. A resolution providing for the printing of a revised edition of the Rules and Manual of the House of Representatives for the One Hundred Eighth Congress; considered and agreed to.

By Mr. ARMEY:

H. Res. 615. A resolution providing for a committee of two Members to be appointed by the House to inform the President; considered and agreed to.

By Mr. ROEMER (for himself, Mr. WYNN, Mr. HONDA, and Mr. BUYER):

H. Res. 616. A resolution recognizing the 2002 United States Professors of the Year; to the Committee on Education and the Workforce.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

422. The SPEAKER presented a memorial of the Legislature of the State of California, relative to Assembly Joint Resolution No. 47 memorializing the President and Congress of the United States to stand firm in their resolve to uphold the intent and substance of the current provision of Title IX of the Education Amendments of 1972; to the Committee on Education and the Workforce.

423. Also, a memorial of the Senate of the State of New Jersey, relative to Senate Resolution No. 62 memorializing the Congress of the United States to reconsider the deregulation of the cable television industry and permit the states to fully regulate the cable television industry; to the Committee on Energy and Commerce.

424. Also, a memorial of the Legislature of the State of California, relative to Assembly Joint Resolution No. 63 memorializing the Congress of the United States that the extradition from Mexico of all criminals who face lifees sentences is a matter of urgent and enduring importance to the State of California; to the Committee on International Relations.

425. Also, a memorial of the Legislature of the State of California, relative to Assembly Joint Resolution No. 48 memorializing the Congress of the United States and the President of the United States to increase the administration's efforts to encourage initiatives that will help promote and achieve reunification, reconciliation, stability, and prosperity in Cyprus within the context of the ongoing efforts under the United Nations Secretary General's auspices and on the basis of the relevant United Nations Security Council Resolutions; to the Committee on International Relations.

426. Also, a memorial of the Legislature of the State of California, relative to Assembly Joint Resolution No. 44 memorializing the Congress of the United States that the Legislature of the State of California hereby designates April 24, 2002, as ''California Day of Remembrance for the Armenian Genocide of 1915-1923''; to the Committee on Government Reform.

427. Also, a memorial of the Senate of the State of Michigan, relative to Senate Resolution No. 244 memorializing the Congress of the United States that the legislature commemorate October 2002 as Respect Month and October 30, 2002, as Respect Your Neighborhood Day on a permanent basis in the state of Michigan; to the Committee on Government Reform.

428. Also, a memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to House Resolution No. 685 memorializing the Congress of the United States to declare September 11 as ''National Day of Life Appreciation and Freedom''; to the Committee on Government Reform.

429. Also, a memorial of the Legislature of the State of California, relative to Assembly Joint Resolution No. 52 memorializing the Congress and President of the United States to enact H.R. 3917 to designate a National Memorial at the crash site of Flight 93 in Somerset County, Pennsylvania to pay tribute to and honor the true heroes of this nation; to the Committee on Resources.

430. Also, a memorial of the Legislature of the State of Utah, relative to House Joint Resolution No. 17 memorializing the United States Congress that the Legislature of the state of Utah approves the closure of the district court within the municipal boundaries of Murray City, Utah; to the Committee on the Judiciary.

431. Also, a memorial of the Legislature of the State of Utah, relative to House Joint Resolution No. 14 memorializing the United States Congress that the Legislature proposes to amend the Utah Constitution to modify language relating to an additional debt limit for certain municipalities; to the Committee on the Judiciary.

432. Also, a memorial of the Legislature of the State of California, relative to House Joint Resolution No. 11 memorializing the United States Congress that the Legislature proposes to amend the Utah Constitution to require advance notice of legislative business in a special session, with certain exceptions; to the Committee on the Judiciary.

433. Also, a memorial of the Legislature of the State of Utah, relative to Senate Joint Resolution No. 4 memorializing the United States Congress that the Legislature proposes to amend the Utah Constitution to allow counties sharing a common boundary to adjust the boundary; to the Committee on the Judiciary.

434. Also, a memorial of the Legislature of the State of Utah, relative to Senate Joint Resolution No. 16 memorializing the United States Congress that the Legislature recognizes the service and sacrifices of the public safety and security personnel whose many hours of labor ensured the safety and security of athletes and spectators at the 2002 Olympic Winter Games; to the Committee on the Judiciary.

435. Also, a memorial of the Legislature of the State of Utah, relative to Senate Joint Resolution No. 2 memorializing the United States Congress that the Legislature proposes to amend the Education Article of the

Utah Constitution; to the Committee on the Judiciary.

436. Also, a memorial of the Legislature of the State of Utah, relative to Senate Joint Resolution No. 6 memorializing the United States Congress that the Legislature urges the Tax Review Commission to conduct a two-year study of certain tax exemptions, suggests the scope of the study, and requests the Commission ot make annual reports to the Revenue and Taxation Interin Committee; to the Committee on the Judiciary.

437. Also, a memorial of the Legislature of the State of Utah, relative to Senate Joint Resolution No. 10 memorializing the United States Congress that the Legislature proposes to amend the Revenue and Taxation Article of the Utah Constitution; to the Committee on the Judiciary.

438. Also, a memorial of the Senate of the State of Michigan, relative to Senate Resolution No. 242 memorializing the Congress of the United States that the legislature condemns the decision of the Ninth United States Circuit Court of Appeals that ruled that the Pledge of Allegiance is unconstitutional; to the Committee on the Judiciary.

439. Also, a memorial of the Legislature of the State of California, relative to Assembly Joint Resolution No. 39 memorializing the President and the Congress of the United States to suspend or eliminate the requirement that security screeners be citizens of the United States, and instead provide that those individuals must meet the same immigration requirements as persons who serve in the National Guard; to the Committee on Transportation and Infrastructure.

440. Also, a memorial of the Legislature of the State of California, relative to Assembly Joint Resolution No. 50 memorializing the Congress of the United States and the President to support and enact legislation that would establish a federal/state partnership to use the knowledge and skills of the local county veterans service officers to assist the United States Department of Veterans Affairs in eliminating the veterans claims processing backlog in order that America's veterans can take advantage of the benefits that the United States has authorized for them for their faithful and loyal service to a grateful nation; to the Committee on Veterans' Affairs.

441. Also, a memorial of the Legislature of the State of California, relative to Assembly Joint Resolution No. 34 memorializing the Congress and the President of the United States to fund the National Defense Authorization Act For Fiscal Year of 2002, to eliminate the penalty imposed against disabled military retirees for concurrent receipt of retirement and disability compensation; jointly to the Committees on Armed Services and Veterans' Affairs.

442. Also, a memorial of the Legislature of the State of California, relative to Assembly Joint Resolution No. 37 memorializing the Congress that the Legislature of the State of California opposes any action by the President and the administration that would impose a Taft-Hartley injunction against waterfront unions, would remove union workers from coverage by the National Labor Relations Act, or would send military personnel to the West Coast docks to assist in a lockout of waterfront union workers; jointly to the Committees on Education and the Workforce and Armed Services.

443. Also, a memorial of the Legislature of the State of California, relative to Assembly Joint Resolution No. 25 memorializing the Congress of the United States that the Legislature of the State of California recognizes the important role that sustainably managed forests and products from those forests will continue to play in meeting the needs of the citizens of California; jointly to the Committees on Resources and Agriculture.

444. Also, a memorial of the Senate of the State of Delaware, relative to Senate Resolution No. 21 memorializing the Congress of the United States to enact legislation extending coverage under the Medicare program for oral as well as injected anticancer drugs; jointly to the Committees on Ways and Means and Energy and Commerce.

445. Also, a memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to House Resolution No. 668 memorializing the Congress of the United States to adopt legislation requiring the Medicare program to cover all oral anticancer drugs; jointly to the Committees on Ways and Means and Energy and Commerce.

446. Also, a memorial of the Senate of the State of New Jersey, relative to Senate Resolution No. 65 memorializing the Congress of the United States to adopt legislation requiring the Medicare program to cover all oral anti-cancer drugs; jointly to the Committees on Ways and Means and Energy and Commerce.

447. Also, a memorial of the Legislature of the State of California, relative to Assembly Joint Resolution No. 26 memorializing President and Congress of the United States to stand firm in protecting the financial interest of military reserve personnel and to enact new legislation that strengthens the provisions of the Soldiers and Sailors Relief Act of 1940; jointly to the Committees on Veterans' Affairs, Financial Services, and the Judiciary.

448. Also, a memorial of the Legislature of the State of California, relative to Assembly Joint Resolution No. 6 memorializing the President of the United States and the Congress of the United States to enact legislation containing provisions similar to the Retirement Security and Savings Act of 2000; jointly to the Committees on Ways and Means, Education and the Workforce, and Government Reform.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 175: Mr. JEFF MILLER of Florida.
H.R. 408: Ms. EDDIE BERNICE JOHNSON of Texas
H.R. 422: Mr. CONYERS and Mr. MEEHAN.
H.R. 440: Mr. MCNULTY.
H.R. 647: Mr. BARTLETT of Maryland.
H.R. 826: Mr. MCINNIS, Mr. WILSON of South Carolina, and Mr. ROGERS of Kentucky
H.R. 912: Mr. ANDREWS, Mr. SCHIFF, and Mr. LYNCH.
H.R. 914: Mr. ROGERS of Kentucky.
H.R. 1520: Mr. SHUSTER and Mr. LEWIS of Georgia.
H.R. 1555: Mr. FARR of California
H.R. 1774: Mr. GOODLATTE.
H.R. 2157: Mr. WYNN.
H.R. 2770: Mr. DEAL of Georgia, Mrs. BIGGERT, and Mr. WHITEFIELD
H.R. 2820: Mr. ROGERS of Kentucky.
H.R. 3041: Mrs. MYRICK.
H.R. 3132: Mr. LAMPSON and Mr. KENNEDY of Rhode Island.
H.R. 3183: Mr. ADERHOLT.
H.R. 3505: Ms. NORTON and Ms. WOOLSEY.
H.R. 3567: Mr. CANTOR.
H.R. 3665: Mr. MEEHAN.
H.R. 3710: Mr. CAMP.
H.R. 3733: Mr. FROST.
H.R. 3752: Mr. GUTIERREZ.
H.R. 3781: Mr. KILDEE.
H.R. 3782: Mr. ROGERS of Kentucky.
H.R. 3834: Mr. PAYNE.
H.R. 3956: Ms. HART.
H.R. 4018: Mr. ANDREWS and Mr. MOLLOHAN.
H.R. 4113: Ms. BERKLEY.
H.R. 4579: Mr. SIMMONS.
H.R. 4707: Ms. JACKSON-LEE of Texas.
H.R. 4799: Mr. DEUTSCH.
H.R. 4943: Mr. FRANK and Ms. JACKSON-LEE of Texas.
H.R. 4979: Mr. SWEENEY.
H.R. 5031: Mr. GOODLATTE.
H.R. 5036: Mr. FILNER.
H.R. 5085: Ms. HARMAN.
H.R. 5089: Mr. WATT of North Carolina.
H.R. 5252: Mr. CLAY.
H.R. 5270: Mr. PASTOR and Ms. DELAURO.
H.R. 5285: Mr. BORSKI.
H.R. 5337: Ms. ESHOO.
H.R. 5383: Mrs. KELLY.
H.R. 5395: Mr. VISCLOSKY.
H.R. 5396: Mr. VISCLOSKY.
H.R. 5398: Mr. RAMSTAD.
H.R. 5411: Mr. WOLF, Mr. WEXLER, Mr. DEFAZIO, Mr. BOEHLERT, Ms. JACKSON-LEE of Texas, and Mr. ACKERMAN.
H.R. 5414: Mr. HINOJOSA and Mr. GARY G. MILLER of California.
H.R. 5416: Mr. KENNEDY of Rhode Island.
H.R. 5458: Mr. HINCHEY, Mr. HOLT, Mr. PRICE of North Carolina, Ms. LEE, Ms. LOFGREN, Mr. INSLEE, Ms. SCHAKOWSKY, Mr. SIMMONS, Mr. BOUCHER, Mr. ACKERMAN, Ms. BROWN of Florida, and Mr. WEXLER.
H.R. 5479: Mr. SOUDER and Mr. DEUTSCH.
H.R. 5487: Mr. HONDA.
H.R. 5489: Mr. HONDA.
H.R. 5490: Mr. HONDA.
H.R. 5600: Mr. CROWLEY.
H.R. 5624: Mrs. LOWEY.
H.R. 5644: Mr. MCGOVERN.
H.R. 5655: Mr. DELAY, Mr. SAM JOHNSON of Texas, Ms. GRANGER, Mr. EDWARDS, Mr. RODRIGUEZ, Mr. GONZALEZ, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. LAMPSON, Mr. GREEN of Texas, Mr. ORTIZ, Mr. HINOJOSA, Mr. REYES, Mr. THORNBERRY, Mr. CULBERSON, Mr. SESSIONS, Mr. PAUL, and Mr. SANDLIN.
H.R. 5663: Mr. WAXMAN, Mr. MCGOVERN, and Ms. EDDIE BERNICE JOHNSON of Texas.
H.R. 5669: Ms. NORTON, Mrs. TAUSCHER, Mr. ETHERIDGE, Mr. FILNER, Ms. LOFGREN, Mr. FROST, Ms. JACKSON-LEE of Texas, and Mr. WATT of North Carolina.
H.R. 5684: Mr. FRANK.
H.R. 5685: Mr. JEFF MILLER of Florida.
H.J. Res. 97: Mr. NADLER.
H. Con. Res. 181: Mr. CARSON of Oklahoma.
H. Con. Res. 362: Mr. GOODLATTE, Mr. SOUDER, and Mr. WOLF.
H. Con. Res. 445: Mr. MANZULLO.
H. Con. Res. 454: Mr. BLUNT, Mr. DOOLEY of California, Mr. GARY G. MILLER of California, Mr. RAMSTAD, Mr. EHRLICH, Mr. FROST, Mrs. KELLY, Mr. LAMPSON, Mr. PRICE of North Carolina, and Mr. SOUDER.
H. Con. Res. 477: Mr. MCGOVERN.
H. Con. Res. 515: Mr. WYNN.
H. Res. 105: Mr. WYNN.
H. Res. 454: Mr. BROWN of Ohio.
H. Res. 484: Mr. MORAN of Virginia and Mr. ISAKSON.
H. Res. 504: Mr. BURTON of Indiana.
H. Res. 505: Mr. HOBSON.
H. Res. 554: Mr. FILNER
H. Res. 560: Mr. LATOURETTE, Mr. KIRK, Mr. SAWYER, and Mr. MCHUGH.
H. Res. 594: Ms. GRANGER and Mr. HOUGHTON.
H. Res. 604: Mr. STARK.
H. Res. 610: Mr. WYNN.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H. Con. Res. 507: Mrs. JONES of Ohio.

PETITIONS, ETC.

Under clause 3 of rule XII, petitions and papers were laid on the clerk's desk and referred as follows:

82. The SPEAKER presented a petition of the Faichuk Commission for Statehood, Faichuk Islands, relative to FCR No. 77 petitioning the United States Congress that the Faichuk region is an ideal military provisioning site and now open for United States Armed Forces use open completion of a feasibility study; to the Committee on Armed Services.

83. Also, a petition of the Legislature of Rockland County, New York, relative to Resolution No. 650 petitioning the United States Congress to enact the Younger Americans Act; to the Committee on Education and the Workforce.

84. Also, a petition of the Board of Trustees of the Utah School and Trust Lands, relative to a Resolution petitioning the United States Congress that the Board endorses and supports the Action Plan for Public Lands and Education; to the Committee on Education and the Workforce.

85. Also, a petition of the Wyoming County Board of Supervisors, New York, relative to Resolution No. 02-298 petitioning the United States Congress to support an increase in the federal medical assistance percentage (FMAP); to the Committee on Energy and Commerce.

86. Also, a petition of the Legislature of Rockland County, New York, relative to Resolution No. 602 petitioning the United States Congress that the legislature expresses its support for a joint resolution authorizing the use of force by the United States Armed Forces against Iraq before such force is deployed against Iraq; to the Committee on International Relations.

87. Also, a petition of the Legislature of Rockland County, New York, relative to Resolution No. 651 petitioning the United States Congress to support ratification of the United Nations Convention on the Rights of the Child; to the Committee on International Relations.

88. Also, a petition of the City of Miami Commission, Florida, relative to Resolution No. 02-860 petitioning the United States Congress to review the ''Position Statement/Paper'' of the City of Miami Commission on the status of women and children in Afghanistan and Pakistan; to the Committee on International Relations.

89. Also, a petition of the City Commission of the City of Hollywood, Florida, relative to Resolution No. R-2002-366 petitioning the United States Congress to finalize immediately 2003 funding for homeland security; to the Committee on Government Reform.

90. Also, a petition of the City Council of Douglasville, Georgia, relative to Resolution No. 02-130 petitioning the United States Congress that the Mayor and City Council stand firm in support of the Pledge of Allegiance we have known, recited, and affirmed; to the Committee on the Judiciary.

91. Also, a petition of the Legislature of Rockland County, New York, relative to Resolution No. 594 petitioning the United States Congress to enact the Education Works Act of 2002; jointly to the Committees on Ways and Means and Education and the Workforce.

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Congressional Record

PROCEEDINGS AND DEBATES OF THE 107th CONGRESS, SECOND SESSION

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Senate

HOMELAND SECURITY ACT OF 2002—Continued

Mr. BYRD [continuing]. We have done the same thing right here. This was concocted in secrecy in the darkness of the night. It didn't see the light of day until yesterday—484 pages. We are expected to pass this. We are expected to invoke cloture on it tomorrow and pass it and tell the American people they are safer after the passage of that monstrosity.

No doubt there are some good things about that bill. There are some good things in it. Some of the provisions in this 484-page bill have come out of Senator LIEBERMAN's committee's deliberations, and it passed. Some of these have been discussed before, but not all of them. There are a lot of provisions in this bill that had not seen the light of day until yesterday.

The press has been kept in the dark. The press is going to realize all too late what has happened to the people's right to know that we were going to pass right here in this bill. I am going to address those provisions briefly in a few minutes. I hope the press will stay tuned because I want to point out to the press what is about to happen to the people's right to know.

I have often had my differences with reporters, but I am a firm believer in the freedom of the press and in the responsibilities of the fourth estate. If the Congress is going to so willingly blindfold itself to the inner workings of this administration and this new bureaucracy, I hope the press will not be so compliant. Hear me, those in the fourth estate. You stay tuned. I will point out part of this bill in a few minutes. But if you haven't read it as yet, it is going to turn your stomach because you believe in the people's right to know. I hope it will keep a watchful eye. I am talking about the media. I hope the media will keep a watchful eye on this new agency. Unfortunately, provisions contained in this bill will make it harder for the fourth estate—harder for you in the press—and harder for the people to do so.

I still find it difficult to believe that the American war on terrorism hinges on the building of a new, huge bureaucracy. Our plan to eradicate a vicious, cunning nest of vipers is to reorganize the Government.

NOTICE

If the 107th Congress, 2d Session, adjourns sine die on or before November 22, 2002, a final issue of the Congressional Record for the 107th Congress, 2d Session, will be published on Monday, December 16, 2002, in order to permit Members to revise and extend their remarks.

All material for insertion must be signed by the Member and delivered to the respective offices of the Official Reporters of Debates (Room HT–60 or S–123 of the Capitol), Monday through Friday, between the hours of 10:00 a.m. and 3:00 p.m. through Friday, December 13. The final issue will be dated Monday, December 16, 2002, and will be delivered on Tuesday, December 17, 2002.

None of the material printed in the final issue of the Congressional Record may contain subject matter, or relate to any event that occurred after the sine die date.

Senators' statements should also be submitted electronically, either on a disk to accompany the signed statement, or by e-mail to the Official Reporters of Debates at ''Record@Sec.Senate.gov''.

Members of the House of Representatives' statements may also be submitted electronically by e-mail, to accompany the signed statement, and formatted according to the instructions for the Extensions of Remarks template at http://clerkhouse.house.gov. The Official Reporters will transmit to GPO the template formatted electronic file only after receipt of, and authentication with, the hard copy, and signed manuscript. Deliver statements to the Official Reporters in Room HT–60.

Members of Congress desiring to purchase reprints of material submitted for inclusion in the Congressional Record may do so by contacting the Congressional Printing Management Division, at the Government Printing Office, on 512–0224, between the hours of 8:00 a.m. and 4:00 p.m. daily.

By order of the Joint Committee on Printing.

MARK DAYTON, *Chairman.*

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

Printed on recycled paper.

I have read much about Senator BYRD and whether or not he would filibuster this bill. If I thought for a moment I could kill this bill here tonight by filibustering it, I would do it. But there are a lot of Senators here who wouldn't know a filibuster—a lot of people who wouldn't know a filibuster—if they met one on the way home. There are a lot of people who wouldn't know it if they met it in the middle of the road.

I intend to stand on my feet and try to expose some of the things in this bill that are not going to be good for the American people and which will not contribute to their safety.

Our plan to eradicate a vicious, cunning nest of vipers is to reorganize the Government. This is a massive reorganization. This is our battle plan—talking about the administration. This is its priority. This is our ammunition against the terrorist threat to our homeland.

A certain Senator here a few days ago talked about killing snakes. He talked about snakes in his State. He knew snakes when he saw them. Well, there are some snakes in West Virginia too. I knew about those snakes when I walked the red clay hills of southern West Virginia in Mercer County. We had copperheads back in those hills in those days and a few rattlesnakes. There are snakes. I know a snake when I see it. I saw a snake in this bill. This bill is a snake. If I could chop off its head, kill it dead, dead, dead, I would do it.

This 484 pages right here is what I am talking about. This is our initiative—this is the administration's ammunition. They know better than that. They know that is not going to make this homeland one whit safer.

I have listened very hard. I do not hear the American people clamoring for us to build a new, cumbersome, bureaucratic leviathan.

The midterm elections—despite what many of the pundits may believe—had little to do with the creation of this new Department. The American people weren't clamoring for this new bureaucracy. While Americans cast their ballots, they may have had hopes for safer communities than protection from terrorism, but I sincerely doubt that they were voting to create a huge, new bureaucracy.

Surely nobody believes that building a giant bureaucracy has suddenly become the nemesis to the threat of the acts of madmen on our people here at home.

With a battle plan such as the Bush administration is proposing, instead of crossing the Delaware River to capture the Hessian soldiers on Christmas Day, George Washington would have stayed on his side of the river and built a bureaucracy.

During the Civil War, President Lincoln would dismiss one general after another until he found one capable of building a better bureaucracy.

Perhaps what we are lacking to make this new idea really resonate with the American people is a powerful, stimulating slogan—a dramatic slogan such as the kind of slogan that we politicians slap on bumper stickers, one that would serve to inspire and unite our soldiers and our citizens.

Maybe we could draw from history to see how our new lust for a huge bureaucracy would fair.

I can picture Nathan Hale saying: I regret that I have but one bureaucracy to lose. I regret that I have but one life to give for my bureaucracy.

I can hear Captain John Paul Jones on September—I believe it was September 23, 1779—shouting: I have not yet begun to fight for my bureaucracy.

I can think of Commodore Oliver Perry hoisting his famous flag upon his ship with the motto: Don't give up the bureaucracy.

I can just imagine Commodore Stephen Decatur returning from the war on the Barbary Coast, offering his famous toast: My bureaucracy, right or wrong.

It just gives me chills to think of the people of Texas remembering the Alamo and being inspired to fight with the restoring battle cry: Remember the bureaucracy.

What about the professorial President Woodrow Wilson taking us into World War I with the proclamation: The world must be made safe for bureaucracy.

I was born during his administration. Nonsense, of course. But it has been said that necessity is the mother of invention. I guess then that political expediency has now become the mother of bureaucracy.

I don't think there is much doubt that the Senate will pass this legislation to restructure our homeland defense agencies. But my point is that the administration's plan is a sham. It is a sham. It is a political ploy. It worked well during the campaign. It was worked up in haste and for the wrong reasons.

Homeland security is a serious and dangerous matter involving the lives and the livelihoods of millions of Americans. We ought to be ashamed of ourselves to offer our people a quick bureaucratic pacifier instead of taking our time and working thoughtfully and carefully on an effective and lasting plan for the protection of the American people.

What we ought to be even more ashamed of, however, is the manner in which we are passing this bill. Prior to our recessing, hundreds of amendments were filed to make changes to the pending bill that had been reported by the Governmental Affairs Committee.

There were hundreds of amendments up at that desk. Yet Senators are choosing not to call up amendments. We are told that any amendments to this bill would force a conference with the House.

Now, get this. We are told that if we amend this bill, it will force a conference with the House of Representatives and could delay or even kill this bill. So Senators are being urged not to call up their amendments. And in many instances, they are choosing not to call up their amendments.

Is the Senate afraid of its own shadow? Are we afraid to think, to debate, to ask questions, to stand for something? Are we afraid to stand for something? Are we afraid to stand against a President of the United States? Is the Senate afraid to stand up against an administration, a political administration? Is the Senate afraid? Are Senators afraid to stand up against the President, to be the loyal opposition at this time of great distress?

It is a dangerous thing when a President believes that he is so right that he should be given any and all powers he deems necessary to achieve his ends. That is a dangerous thing. It is dangerous when a President believes that he possesses the people's consent to freely tamper with their rights and their liberties.

But it is considerably more dangerous when the elected officials such as ourselves, whose duty it is to protect the people's liberties against the excesses of an overreaching Executive, an overreaching White House, accede to a President's every request. Shame on us. Shame on us.

And it is even worse when we not only fail to impose restraint but actually aid and abet the Executive in a brazen power grab. That is exactly what this is.

The American people feel unsettled. They are nervous. They are jittery. They are scared. And they have every right to be. Their President has spent months and loads of taxpayers' dollars frightening them. Their Government has issued an unceasing proliferation of warnings about potential violence.

But the threats to our homeland go well beyond terrorist attacks. Our Nation is threatened, perhaps most seriously threatened, by a mentality that says that Presidents should have a free hand to do whatever they deem necessary whenever they deem to do it as necessary.

Our President has been speaking a great deal in recent months about our enemies and how they hate our freedoms. Mr. President, I doubt that they hate our freedoms. They hate our arrogance. They do not hate our freedoms. They hate our arrogance.

Our President has made protecting our freedoms a rallying cry. I have been working at protecting our freedoms for 50 years in this Congress. Fifty years come January 3 I have been working at protecting our freedoms. I have been helping to appropriate the moneys for our men and our women who serve in our military services.

The President has touched a raw nerve with the public, in speech after speech after speech about foreign terrorists who are attacking their liberties, and yet, in many ways, it is this President's proposals that are the most serious threats to the liberties of Americans.

We should be standing up and fighting for what is right in this legislation. That is the place to start to fight. That is where we start to fight to protect this land of ours, these people of ours, its institutions, the institutions of our country.

We should be standing up and fighting for what is right in this legislation. We talk about justice. Justice is fine. But what is right? We should be debating, offering amendments, and telling the American people like it is. We should be honest enough to admit that this new Department is a massive undertaking that is far more likely to provide political security for its proponents than to provide domestic security for the American people out there, at least for the foreseeable future.

I do not believe this is a time for us or for the American people to cower in a corner. I do not believe this is a time for the elected representatives of the American people to run like whipped dogs. This is a time for us to seize the power that was established for us by the courageous Founders of our Nation.

Mr. President, were it not for this Constitution, which I hold in my hand, you would not be presiding over this body at this moment. I say that to every Senator who sits in this body. And I say that for the people on the staffs of Senators. You would not be here. You would not be here, I would not be here were it not for this Constitution and for the great compromise—talk about a compromise—the great compromise which was entered into on July 16, 1787, out of which came this Senate, and the equality of votes of every State that is represented in this body.

This is not a time to be voiceless. This is not a time to be silent. This is not a time to vote for cloture and to hurry away home. This is not a time to give in and to give up on the ideals that led to the creation of our country.

Far too many Americans failed to go to the polls on election day and vote—far too many. I spoke of Nathan Hale, who said: ''I only regret that I have but one life to lose for my country.'' And how many Americans did not even walk around the corner to cast a vote? They did not give one vote for their country. Far too many felt that the outcome of the election was beyond their control, that their votes would make no difference.

Today, I see far too many Members in this Senate falling into the same desultory way of thinking. Our votes matter, if we have the guts to make them matter. But, no, we are going to tuck our tails between our legs and run like whipped dogs and vote for cloture and go home. That is not right.

The American people have a right to know what is in these 484 pages. My constituents have a right to know. Your constituents, Mr. President, have a right to know. The constituents of every Senator on both sides of the aisle have a right to know what is in this bill.

We Senators have a right to know what is in this bill. We Senators ought to insist that we not invoke cloture on tomorrow but that we wait. Invoking cloture is all right down the road somewhere, maybe a week from now, but we ought to take the time to study this bill. Our staffs ought to know what is in this bill. We ought to know what is in this bill before we cast our votes.

Yes, I admit the handwriting on the wall is all too obvious. But I will do what is right in my frail way of thinking and seeing things. I will vote against this bill, unless it is amended—unless it is amended.

(Mr. CORZINE assumed the Chair.)

Mr. BYRD. I will probably vote against it, anyhow, because we are being pressured into voting for something that has not had a committee hearing, not a single hearing, 484 pages. There has not been a single hearing on this bill. There have been no witnesses called to testify in support of this bill. There have been no witnesses who have had an opportunity to stand before a committee and oppose this bill.

That is no way to legislate. Yet we are going to pass one of the most far-reaching pieces of legislation that we have passed in my 50 years in Congress.

It will provide for a massive shift of power. To whom? To the President of the United States. If he were a Democrat, I would oppose this just as vociferously, just as strongly, just as bitterly as I oppose this piece of legislation right here. I don't oppose it because we have a Republican President. I am going to oppose it because it gives away the powers of the people. It provides for a massive shift of power to the executive branch. It upsets that delicate balance of power the Framers provided to the American people over 200 years ago.

The popularity of a President is a fleeting thing, a fleeting thing. Our duty to our Nation is not.

One serious problem with the legislation before the Senate is the expanded authority it gives to the executive branch to conduct its actions in secret. Here is where I hope the press, the fourth estate, will pay close attention.

I have great respect for a free press. I have not always been happy with what the free press has written about me, but in my 50 years, I think overall the press has been very fair to me. I have no complaints. Some of the things the press has said that I didn't like I deserved. I am for a free press.

One serious problem with the legislation currently before the Senate is the expanded authority that this legislation gives to the executive branch to conduct its actions in secret, protected from the oversight, protected from the scrutiny of the Congress, the media, and the American people.

An example of this expanded secrecy that has been added in this new bill can be found in the exemptions that it provides from the Federal Advisory Committee Act. This is section 871 of the new substitute that we have just been given, the substitute that fell like manna from heaven. But this didn't come from heaven, I can assure you. It fell into our laps about 48 hours ago without any warning, and we are asked to invoke cloture on this thing tomorrow.

Let me say that again. An example of this expanded secrecy that has been added in this new bill can be found in the exemptions it provides from the Federal Advisory Committee Act. Section 871 of this new substitute we have just been given provides the Secretary of Homeland Security blanket authority—get that, blanket authority—to exempt all advisory committees in the Department from existing public disclosure rules.

That is pretty serious. This provision was not included in Senator LIEBERMAN's substitute, but it has been slipped into this new bill which was made available to us, as I said, late Tuesday night of this week. I am told it was 5 in the morning. It appeared on the web site of the House Rules Committee, I believe, the night before, Tuesday night. It was made available to us just within these last 48 hours with the hope that Senators will not have enough time to scrutinize this dramatic change to an existing statute.

The statute I am talking about here, the Federal Advisory Committee Act, applies to the ad hoc committees that are often used in the executive branch to formulate policy. This statute, the Federal Advisory Committee Act, which has been on the books for 30 years now, requires the advice provided by these advisory committees is objective and accessible to the public.

The purpose of making this information available to the public is to allow the Congress, the media, and groups outside of Government to know how the executive branch is making important policy decisions. The role of this oversight and scrutiny from the public and a free press is central to upholding the principles of our government, of our constitutional system. It ensures that the people—the people—will be the ultimate judges of the wisdom of the policies of the Federal Government.

I understand this new Homeland Security Department will be wrestling with many issues of national security that should not be subjected to public disclosure rules. Sometimes these advisory committees will be dealing with classified intelligence information or with sensitive security policy, and making this information available to the public might compromise national security and the fight against terrorism. I understand that. But that is exactly why existing law allows the President of the United States, be he a Democrat or a Republican, to waive these public disclosure rules for any advisory committee for national security reasons.

The President can do that on a case-by-case basis in the current law. So the President has this authority today. He

will have it tomorrow. And he will be able to use it to protect any advisory committee in the Homeland Security Department from having to disclose information when national security information is involved. But he will be accountable for that. He will be responsible for that.

So why do we see an expansion of this authority given to the Secretary in this bill? Why do we see an expansion of this authority given to the Secretary of the Department of Homeland Security in this bill?

Advisory committees can already be exempted from public disclosure rules for national security reasons by the President on a case-by-case basis. So why does this bill, then, allow the Secretary of Homeland Security to exempt any committee, regardless of whether national security is pertinent?

Why is it in there? Why do we see this new blanket authority in this bill? I will tell you why. It is because this administration wants to shield itself from any scrutiny of the public. This administration has made it very clear that it does not want anyone meddling in executive branch decisions—not the Congress, not the media, not the American public.

Since the first day this administration took office, all we have seen is a concerted effort to prevent outside criticism of its policies and conduct. The White House has refused to share information or cooperate with the Congress at every turn—maybe not at every turn, but at all too many turns.

The Vice President has refused to release documents concerning a secret energy working group, even after court orders demanding that he do so. We have read in the newspapers that the Attorney General is trying to expand the powers of the Justice Department to operate in secret, appealing another court decision that rejected his new secrecy rule. Even Tom Ridge, the President's top man in the war on terrorism, refused to testify before Congress about the steps that the administration was taking to protect the American people.

With the President's support, top officials in this administration have stonewalled Congress—stonewalled the Congress. Tom Ridge stonewalled the Appropriations Committee of the U.S. Senate. I know; I am the chairman of that committee. Invitation after invitation was extended by my colleague, Senator STEVENS, and myself for him to appear before the Appropriations Committee to testify. The answer was no. With the President's support, top officials in the administration have stonewalled Congress, stonewalled the media, and they have stonewalled the American public. Now they are hoping to expand their ability to operate in secret, to allow even less public scrutiny. There it is. It is in the bill.

The provisions in the bill allow the Secretary to use ad hoc advisory committees to craft policy in secret, without making specific findings that such secrecy is necessary in any particular instance. This unnecessary new blanket authority will give the President carte blanche to expand the culture of secrecy that now permeates this White House.

This substitute language that we have just been given also provides the same blanket exemption from disclosure rules for the Justice Department's new Office of Science and Technology. This new exemption will allow John Ashcroft, the Attorney General, to conduct even more of his duties in secret, even after the courts and the press have recently rebuked the Justice Department for secrecy abuses. This Senate is being asked to authorize the Attorney General to cloak even more of the Justice Department's activities in secrecy.

I am worried that exempting this new Science and Technology Office will allow the Justice Department to provide special treatment for corporate campaign contributors who are pushing new technologies.

Let me say that again. I am worried that exempting this new Science and Technology Office will allow the Justice Department to provide special treatment for corporate campaign contributors who are pushing new technologies. These exemptions are unnecessary and they are a danger to our people's liberty.

I believe that I have a duty to the people I represent to do what I can to improve this legislation. So I hope to offer an amendment to strike these exemptions from the bill. I will do whatever I can do to improve the legislation and keep the people and the press from being locked out of the process. The people have a right to know.

I am not among those who are willing to let this Senate be beaten into rubber stamping the language sent to us by the House. It is our job as legislators to see that the Senate protects the interests of the people who sent us here and who will foot the bill for this behemoth department.

The public disclosure exemptions in this bill are a license for abuse. I do not believe that they are worthy of the Senate's approval. So I am doing everything I can to see that this Senate does not roll over at the command of any President—whether he is a Democrat or a Republican or an Independent—when there are dangerous provisions remaining in this bill that ought not be put into law.

These issues are too fundamental to let slide with the vain hope that we will get a chance to revisit them next year. Don't forget, it is easier to pass a law than it is to repeal that law. We only need a majority in each body to pass a law and have the President sign it. Once that law is on the books, in order to repeal it, a President can veto the repeal. And, then, if only one-third plus one in either body uphold that President's veto, that is the end of it. There won't be any repeal.

The Senate must act, and act responsibly, and we ought not to be in all that hurry to pass this legislation.

Having been up until almost 2 o'clock this morning, I am tired. I want to speak a little longer. I won't be able to speak tomorrow. The Senate is going to vote on cloture in the morning. And as I wet my finger and hold it to the wind, I sense that the pressure is going to be on tomorrow to invoke cloture on this bill.

Here it is, 484 pages. It has only seen the light of 2 days—yesterday and today. It has not been before a committee; there has not been a single hearing on this bill; not a single witness has appeared before any committee in support of this 484-page bill. I doubt that any Senator in this body knows everything there is to know about this bill. I do believe that the great majority of Senators know very little about this bill, and what little most Senators know about this bill comes about as a result of some of the provisions in the bill that have been lifted out of the legislation that was reported out of Senator LIEBERMAN's committee when the bill was reported earlier this year.

Mr. President, the pressure is on. We are going to be asked to vote for cloture tomorrow. I will be surprised if the Senate does not vote for cloture. But I appeal to Senators on both sides of the aisle not to vote for cloture. Nathan Hale regretted that he had but one life to lose for his country. I hope Senators will take the same view about their responsibilities to the people.

They have a responsibility to stay until they know what is in this bill, and not to invoke cloture on it until they know what is in it, until their staffs know what is in it, and until they, Senators, have had an opportunity to offer amendments to make corrections in the bill.

I daresay many Senators will find provisions in this bill they have not seen in any bill before, that are new to this bill, that are new to the Senate, and that they, those Senators, dislike. They have a duty to their constituents. I do not have to tell other Senators what their duties are to their constituents. They have the same duties to their constituents that I have to my constituents. But I have a duty to my constituents not to roll over and play dead, not to roll over and appear to be oblivious to what is in the bill, just pass it and go home and say: We have passed a bill creating the Department of Homeland Security. Whoopee. This will make us all safer.

This will not make us one whit, not one tiny whit safer.

That bill, if it passed tomorrow, would not be implemented for another year. It will take another 12 months before it is implemented. The same people who will be out there protecting the homes of the American people a year from today, if they are out there a year from today, will be out there tomorrow. They are out there tonight.

They are out there on the borders—the northern border, the southern border—the Atlantic coastline, the Pacific coastline, the gulf coastline, the ports of this country, the ports of entry.

They are out there tonight protecting the airports. They are protecting the ports of entry all over this country. They are protecting the nuclear facilities, the nuclear plants. They are standing at their stations in the law enforcement agencies. They are standing at their stations in the fire departments. They are standing at their stations in the health departments. They are out there now. They are out there tonight. When I go home to sleep tonight and pray the Lord my soul to keep, they will be out there. I will be asleep; they will be there.

This bill is not what is putting them there. They are already there, and they are being put there by the taxpayers' money that flows through the Appropriations Committee in this Senate. So they are there. Do not think for a moment that this country has to have this bill creating this massive bureaucracy in which there will be at least 28 agencies that will be crammed into a new Department—170,000 people employed.

May I say to the people sitting back here on the benches—I am talking to these staff people right back here—pay attention here—170,000 people employed in this new agency. They are not employed by virtue of these 484 pages in this bill.

The Senate apparently is on a path to rush to consider this legislation, and we can all say: Whoopee, let's go home now. We have created a Department of Homeland Security. Everybody is safer now.

But don't you believe it.

The Senate's legislative counsel did not finish drafting this behemoth bill until the wee hours of yesterday morning, and now Senators are being pressured to pass it without question and without comment. What a shabby way to treat the security and safety of the American people, those people who are looking right at us through those electronic lenses.

As I have said all along, this new Department likely will take many years to become effective. We should not simply put a new name on a hodgepodge of agencies and claim that the Nation is, ipso facto, instantly safer. What a sham. What a sham. A lot of Senators who vote for this are going to come to realize that when it is too late to change their votes. What a sham. Yet this legislation is being bull-rushed through Congress and is being hailed as the great homeland security panacea.

This new bill is 484 pages long. Here it is. I have not weighed it, but it weighs as heavy as 484 pages. Yet we will not be one whit closer to homeland security if it passes.

If the House and Senate wanted to provide true protections, we would be working to complete action on the appropriations bills instead of playing this gargantuan shell game. If the President wanted to do more than score political points in a rehashed retread of a stump speech, he would loose the bonds, he would cut the handcuffs from the House leadership and urge them to pass appropriations bills which contain critical homeland security funds that could provide real protection for our people, and provide it quickly.

Those dollars could make a difference today. Those dollars and the protections they would fund could save people's lives. We need not wait for a new Department to set up yet another huge bureaucracy. Instead, the House leadership is stuck in concrete. The appropriations bills may never see the light of day. There are 11 of them—11 of them—that have been reported from the Senate Appropriations Committee. They may never see the light of day, and the security of American people continues to be at risk.

How many tape recordings of Osama bin Laden do we need to hear before we start to take immediate action to protect ourselves in a meaningful way, not in a sham, sham legislative procedure that will produce another massive bill, massive shift of power, in a massive new bureaucracy? How many more threats do we need to hear? How many more threats need to be made?

Just in recent times, in recent hours the newspapers are reporting that U.S. intelligence officials believe that terrorist groups may be planning a new wave of attacks on Western targets. According to these reports, our intelligence agencies have detected a significant spike in intelligence chatter during the last 10 days that strongly indicate new assaults are being planned.

What more warning do we need? Do we have to wait until the chatter turns into screams of terror? Do we really believe this new Department of Homeland Security will provide the immediate protections that are so desperately needed? We are not only fooling ourselves, we are also jeopardizing the lives of the American people.

The new Department of Homeland Security will provide no immediate security—none. The legislation gives the President another year in which to put the pieces of this Department together. That is a year without any significant improvements to our Nation's protections. Maybe we should rename this the Department of Homeland Security Delay.

The appropriations bills, on the other hand, that are languishing in the other body controlled by the President's party would provide real security right now. All we have to do is just enact them.

The Senate Appropriations Committee reported appropriations bills for fiscal year 2003 that contained a total of $25.6 billion for homeland defense funding.

That is a lot of money, $25.6 billion for homeland defense. That is real money for the real defense of our homeland that could be available now, under our committee-reported bill, if the House Republican leadership on the other side of the Capitol could get White House permission to complete action on those appropriations bills. It could be done now.

The House is getting ready to leave town. They do not have to leave town. They could stay in town. We ought to pass those appropriations bills. That is money available now to protect lives and prevent future attacks. But under this constant stream of continuing resolutions, many homeland defense investments cannot take place.

The Commerce Justice State appropriations bill, the Treasury appropriations bill, the Agriculture appropriations bill, the VA/HUD appropriations bill, the Labor, Health and Human Services appropriations bill, these are fancy names that probably do not mean that much to anyone listening, but to the security and safety of the American people, these bills mean a whole lot more than a new letterhead on the same old Government stationery, which will come about as a result of the passage of this 484-page bill.

Instead, we are being told to create this new bureaucracy and put funding for homeland security on autopilot with a constant stream of continuing resolutions. It is an irresponsible path and one I hope Congress has the wisdom to avoid. The Senate's VA/HUD and Commerce Justice State appropriations bills provide more than $3.5 billion for police officers, for firefighters, and for other first responders. That is $3.5 billion that could be made available next week. All that has to be done is for the House to get the signal from the executive branch which controls the Republican leadership in the House. All that is needed is for the White House to unloose the shackles that are on the House leadership and say, pass that appropriations bill. We restored over $1 billion of cuts the President proposed for State and local law enforcement programs. That is real safety, without any delay.

What is the administration's response? The administration says we are spending too much money on the security of the American people.

Mr. President, you cannot place a price tag on homeland security. You cannot protect lives on the cheap.

The Senate Labor, Health and Human Services appropriations bill provides $3.8 billion to protect against biological and chemical weapons. We know that terrorists have them. We are fools if we do not invest in defenses against these weapons. The funds in these appropriations bills help to provide real savings now, without delay. You do not have to wait on passing a 484-page bill which cannot be implemented for another 12 months.

What is the President's response? Hold the line on the appropriations, he says. Hold the line. He has stopped the House Republican leadership from allowing these investments in homeland security to move forward.

Mr. President—I am talking to the President at the other end of the avenue—you cannot place a price tag on homeland security. You cannot protect lives on the cheap.

The Senate Agriculture appropriations bill includes more than $150 million for the Food and Drug Administration to ensure our food supply is protected from terrorism and to accelerate the development and approval of medicines and tests to protect Americans from bioterrorism agents. This is a real saving. There is no delay here. Just pass the appropriations bill. We stand ready. But the administration has the handcuffs on the House leadership.

Apparently the administration thinks a safe food supply and vaccines to counter anthrax are too expensive. I say once again, a price tag cannot be placed on homeland security. You cannot protect lives on the cheap.

Take the Senate Commerce-Justice-State appropriations bill. It funds new FBI agents. The Treasury appropriations bill funds critical border security initiatives. These bills represent billions of dollars for homeland security. They help to provide real safety without delay, but regrettably the White House says no deal. According to this administration, the price is too high.

In my 50 years in Congress, if the Lord lets me live a few more days, this is the most cynical and potentially most devastating political game any administration has ever played. I am talking about administrations under Republican Presidents and under Democratic Presidents.

While funding battles are not uncommon and while many Congresses and administrations have not agreed on all the priorities, there has never been such a dispute that threatens the security of the American people. This administration would rather protect its political backside than the lives of this Nation's citizens. It is a calculated, cynical, manipulative, and irresponsible approach that I pray does not result in lost lives.

It disgusts me that the President has worked with the House Republican leadership to delay these appropriations bills. That is exactly what has happened. You mark my word. After the new year, when there is a new administration that takes over and this body goes under Republican control, as the other body will be under Republican control, you watch how fast those appropriations bill will pass. They will then pass, and this administration will be able to say; see now how things work under this new administration, how fast we get things done. I think that is the game we will see.

In fact, at the administration's urging, the House of Representatives has not considered a regular appropriations bill in 16 weeks. That is 4 months. And the White House machinations have not stopped at the regular appropriations bills. At the direction of the administration, $8.9 billion for homeland security investments were squeezed out of supplemental appropriations bills approved unanimously by the Senate Appropriations Committee, made up of 15 Democrats and 14 Republicans. If the President were serious about homeland security, we would do far more than simply pass a feel-good bill of 484 pages that creates a new department. We would pass these appropriations bills. We would train our first responders. We would provide them with equipment to carry out their mission of protecting the American people. We would put more agents on the borders. We would close the security loopholes in our ports. We would buy vaccines and increase our capacity to handle an attack using a biological weapon. We would invest in immediate homeland security initiatives and not rely on a campaign slogan to protect us 6 months or 1 year or even 5 years from now.

I hope we will not try to sell the American people this bill of goods on homeland security. It is nothing but snake oil. A new department would be welcome, but it will not be enough. We need to do much more and we need to do it quickly.

The Senate Appropriations Committee reported appropriations bills for fiscal year 2003 that contained a total of $25.6 billion for non-DOD homeland defense funding, an increase of $5 billion over the levels approved last year. That is real money for the defense of our homeland that could be available now, under our committee-reported bills for fiscal year 2003, if the White House would but take off the shackles from the House Appropriations Committee and let it work, let it complete action on the bills in the regular manner.

This authorizing bill we are debating right now provides nothing immediately for homeland defense. It has a 12-month transition period built into it. It sounds good. It will make a good headline. But it does nothing immediately to increase the security of our country. The appropriations bills, on the other hand, would do something immediately. Right now, all we have to do is enact. That is real money for real protection.

Under the continuing resolution we are operating under now, the significant increases for homeland defense funding that we approved in our committee bills cannot take place. Let me give some examples of what will not be funded under the continuing resolution.

Under the continuing resolution, only $651 million will be available for the Office of Domestic Preparedness to train and equip State and local law enforcement personnel to handle biological and chemical weapons, this compared to $2 billion that would be available in the Senate Commerce-Justice-State appropriations bill. Crucial bioterrorism research will be postponed. The Senate Labor-HHS appropriations bill provided nearly $1.5 billion for bioterrorism activities at the National Institutes of Health. This would fund research and infrastructure improvements necessary to develop countermeasures against smallpox, anthrax, and other deadly pathogens. Bioterrorism funding for NIH under a long-term continuing resolution would be limited to approximately $107 million.

The fiscal year 2003 Senate bill contains a large increase for hospital preparedness funding. Why worry about local hospitals? Again, just today news accounts detail a warning from the FBI to hospitals in Houston, San Francisco, Chicago, and Washington, DC, that they may be targets of a terrorist threat perhaps from anthrax. That is getting close to home, Washington, DC. The $593 million worth of grants in the Senate appropriations bill are necessary to make sure hospitals have the proper equipment, the staff, and the training to handle a bioterrorism attack. A long-term continuing resolution, however, would provide only $129 million in fiscal year 2003 for this activity. In total, a long-term continuing resolution for the Labor-HHS bill would provide only $1.8 billion for bioterrorism preparedness in fiscal year 2003. This is $2 billion less than the committee-reported appropriations bill. What a difference.

Under the continuing resolution, only $540 million would be available to local fire departments, from FEMA, for training and equipping firemen for weapons of mass destruction. For fiscal year 2003, the Senate committee VA-HUD appropriations bill provided a total of $900 million for the fire grant program.

On September 11, 2001, in New York City, we learned that fire and police could not communicate by radio, undermining the response to those vicious terrorist attacks. This is a nationwide problem. We found that out as we conducted testimony on our appropriations bills earlier this year in hearings conducted by the Senate Appropriations Committee. We included $180 million in the committee bill for grants for interoperable communications equipment for firefighters, none of which would be available under the continuing resolution. Under the continuing resolution, $180 million that the committee approved for grants to upgrade State and local emergency operation centers would not be funded and $75 million for grants to upgrade FEMA's 28 research and rescue teams would not be funded.

The Coast Guard is also one of the largest agencies to be included in the new Department of Homeland Security. The Coast Guard just signed the largest procurement contract in the history of the entire Department of Transportation, the so-called deep water capability replacement project. It is a comprehensive effort to modernize the Coast Guard's aging fleet of ships, planes, and helicopters so that the agency can better execute its homeland security and other missions.

Under the continuing resolution—that is what we will be operating under—the Coast Guard will have to start delaying the procurement of long-range aircraft as soon as December. In fact, due to the absence of adequate funding, the Coast Guard will have to start paying contract penalties totaling $500,000 per month.

So at the same time as the Coast Guard is being merged into the new homeland security agency, the inadequate funding provided under the continuing resolution will mean the Coast Guard will delay the procurement of critical homeland security aircraft while simultaneously wasting half a million of the taxpayers' dollars every month on contract penalties.

The Senate committee Treasury-general government bill added $18 million to the Customs Service for container security administration. This funding allows for inspection of shipping containers before they reach U.S. ports. Currently, only 2 percent of the containers that come into this country are inspected. Yet this funding will not be available under the continuing resolution.

The Senate committee energy and water bill includes $64 million to provide for the security guards at critical Corps of Engineer infrastructure sites. Under a long-term continuing resolution, this funding would not be available. Pass the appropriations bill. There is the money. It is available.

This Congress faces a choice. Despite its myriad problems, we will likely pass this legislation to create a Department of Homeland Security. The President will make his speeches to try to convince the American people to feel good. My, we can feel good about this new Department we will have created. What the President will not tell the American people is that the shiny new Department will not be effective until far into the future. What he will not tell the American people is that in the interim, they—the American people—may be less safe rather than more safe because of the chaos and confusion inherent in massive Government reorganizations. What he will not tell the American people is that he continues—he, the President—to block investments that would help to protect the American people from terrorist attacks today.

If we truly want to protect our constituents, if we truly want to make a difference in our constituents' lives, we will provide the funds that are so critically needed. We will support the FBI. We will support the police officers. The funds will support our firefighters in our hometown. We will strengthen our border patrols and our port security. We will take steps to fight terrorism today. We will not wait until the station is ready at the new Department of Homeland Security. The price of continued delay is simply too great to fathom.

Mr. President:

The Moving Finger writes; and, having writ,
Moves on; nor all your Piety nor Wit
Shall lure it back to cancel half a Line,
Nor all your Tears wash out a Word of it.

So, Mr. President, tonight I am writing the record. I will not have that opportunity tomorrow because on tomorrow the Senate will vote to invoke cloture. I urge Senators not to do that, not to vote to invoke cloture tomorrow. Senators should give themselves more time, give their staffs more time to study these 484 pages in this new bill, this bill that has not seen a committee witness, this bill that has not been in a committee room, this bill that was unknown to the Members of this Senate 48 hours ago—a massive bill providing for a massive shift of power to the President of the United States. And once that power is shifted, Senators, remember, it is going to be very difficult to retrieve that power. Yet the legislative branch is just about to do that.

The executive branch never hesitates to stand up in defense of its prerogatives. The judicial branch never hesitates to stand up in defense of its prerogatives. But the same cannot be said of the legislative branch. Nearly always in the legislative branch, half of the branch is made up of supporters of the administration. If it were a monarchy, these would be supporters of the king. If it were in the days of the Revolution, they would be Tories. Half the legislative branch stands up in the defense of the king, in the defense of the executive branch. Only half, if that many, stand up in defense of the legislative branch. Yet we all in this legislative branch, whether we are members of the party that controls the administration or not, we stand before that desk up there and we lift our hand to Almighty God and we put a hand upon the Holy Bible and we swear an oath to support and defend the Constitution of the United States against all enemies, foreign and domestic.

Are we doing that? Are we supporting and defending this Constitution which provides for a balance of powers, a separation of powers, three departments equally balanced? Is that what we are supporting? That is what we swore to support. That is what we swore we would support. But not all of us are going to vote that way.

There are half of us in the two bodies, roughly speaking, who are always ready to run to the executive branch and uphold the executive branch against our own nest, against the legislative branch. I hope it will not be that way tomorrow. I hope that Senators will say whoa, whoa, whoa, just hold on here; let's just wait a little bit. Let's don't vote for cloture today. Let's have a few more days to debate this legislation, see what's in it, offer amendments to it, clean it up, protect the American people, their liberties and their rights. I call upon Senators to do that.

I have watched the Senate floor today. I have heard the assertion made that the Senate has been considering the pending homeland security bill for 7 weeks now. Let's be clear about that. The Senate just received this homeland security bill, not 7 weeks ago but just the night before yesterday. We have had access to it for 36 to 48 hours, perhaps. The Senate did spend 7 weeks debating another homeland security bill, but that bill is no longer before the Senate. That bill is no longer before the Senate. All of those weeks of debate and amendments have been thrown out the window. In its place we are now debating a new bill, crafted in secret, crafted behind the shades and curtains of darkness; a new bill which many of us have not had the time to read because we just received it. I haven't had time to read it. I have only read parts of it. I haven't had time to read this bill.

We were not involved in drafting this bill. I had nothing to do with the drafting of that bill. It did not go through the committee process. There were no hearings, no markups. It was drafted, not unlike the President's plan, behind closed doors and hidden away from the eyes of the American public. So I must say I am a little distressed when I hear Senators saying that the Congress should pass this bill quickly because we have exhausted debate on it.

I grow even more distressed when I read in this morning's papers that a number of controversial provisions had been quietly inserted into this new bill in the hopes that no one would notice them before the bill passed.

Congress Daily reported this morning that provisions have been inserted into this bill to eliminate or reduce a manufacturer's product liability. Sure enough, title VIII of the new bill would authorize the new Homeland Security Secretary to provide manufacturers with liability protections for a broad range of items, from drugs to life preservers, in case such equipment malfunctions or does not work. According to the Democratic staff of the Governmental Affairs Committee, even if manufacturers sold equipment, technology, or drugs that they knew would not work as intended, the manufacturer could not be held liable for punitive damages unless he knowingly participated in the terrorist act giving rise to the injuries.

Do Senators know that? Do Senators know that this bill does just that? Exactly. Do Senators know that?

Congress Daily reports that limited liability protections already in place for vaccines would be expanded in this bill to include vaccine components such as the preservative Thimerosal, manufactured by Eli Lilly and Company. These drugs, I am informed, are already the subject of class action lawsuits by parents who claim the product's high mercury levels have caused their children's autism.

I have heard other Senators expressing dismay about these provisions that have been slipped into this bill. I have heard other Senators expressing puzzlement, dismay, consternation, surprise—to find such provisions, to find

this bill as it is. And yet we are being asked to invoke cloture tomorrow, invoke cloture so that we limit ourselves in future debate to 30 hours, a total of 30 hours on this bill.

The American people out there don't know this. The American people are being told that this is a great bill, this is a good bill, we are about to create a Department of Homeland Security and you will all be safer, ladies and gentlemen, out there in the hills and the prairies and the valleys and the mountains. You will all be safer.

The American people are being hoodwinked. We are complicitous in going along with the idea—going along with this sham. We are all guilty of going along with this. Yet we are going to invoke cloture on ourselves. We are going to invoke the gag rule.

We hear that this Senate is the greatest deliberative body in the world—greatest deliberative body in the world, the Senate of the United States. Yet we have been on this bill now parts of 2 days—just parts—and tomorrow morning we are going to put the gag rule on. We are going to invoke cloture so that we will deprive ourselves of the opportunity and we will deprive ourselves willingly of the opportunity to expose the weaknesses of this bill—to expose to the people who send us here, the judges of our political fortunes. We are going to say no to the people who send us here when we put this gag rule into effect and say to ourselves that we are not going to be interested in debating this longer than 30 hours, if that much time is used. We are saying to the American people who send us here we are putting the gag rule on you. We are putting the blindfolder on you.

How many of us would like to go to the American people in the next campaign for reelection and tell them that we believe in blindfolding them, and we don't believe they should know what is in this bill. It has some good provisions, I am sure, but we are willing to shut ourselves off here.

This is a bad bill—bad because there are some provisions in it that are bad—not all but some provisions in it are bad. Some provisions we don't even know about. We intend to vote on it—pig in a poke, blindfold ourselves, gag ourselves. We are willing to do that.

Are we willing to draw our moneys, our salaries? The American people pay us to represent them, to protect them, to protect their liberties, to protect their Constitution. If the American people knew that there were certain provisions in here of which some Senators were just becoming aware, the American people would say to all of us: Hold up. Take a look at that bill. Don't you vote for that homeland security bill until you fully know what you are doing. They would say: Hold up here. Don't you come back to me asking for my vote again if you are going to vote to hoodwink the American people by shutting off debate so you can get out of there, so you can go home. We ought to be right here. Here is where we ought to be until we know what is in this bill. We ought not pass this bill now. We ought to pass the appropriations bills that provide real homeland security for the American people.

So these drugs, as I say, are already the subject of class action lawsuits by parents who claim the products with high mercury levels have caused their children's autism. Is this what the President's homeland security proposal is really all about—exempting multibillion-dollar pharmaceutical companies from lawsuits when the products they sell to the American public do not function properly or, even worse, injure or kill somebody—multibillion-dollar companies from lawsuits when the technological products they sell to the American people do not function properly? What is this? Is this a payoff for those companies for their contributions in the past election?

Yet another provision in the bill would require liability claims against smallpox vaccine manufacturers to go through the Federal tort system.

Let me say that again.

Yet another provision in the bill would require liability claims against smallpox vaccine manufacturers to go through the Federal tort system. The Federal Government would pay the damages. And punitive damages would be banned.

The new bill also would limit liabilities for airport screening companies and high-tech firms that develop equipment for domestic security. It would aid the airline industry by extending aviation war-risk insurance for a year, and giving airports another year to install baggage screening equipment.

I wonder how many Senators know that provision is in this bill.

According to the New York Times, the bill would reverse an earlier measure and allow American companies that have moved offshore in order to evade taxes to contract with the Homeland Security Department.

How about that? How many Senators know that? Let me say that again.

The bill would reverse an earlier measure and allow American companies that have moved offshore in order to evade taxes to contract with the Homeland Security Department.

These kinds of provisions underscore just how ridiculous this homeland security debate has become. Anyone who opposes this legislation will be labeled unpatriotic. You can count on that. The sting of that political attack is enough to allow gobs of complete and utter junk to be shoved in this bill and shoved through the Congress with lightning speed. The fear of being subjected to utterly vile campaign political attacks is allowing a slew of dangerous provisions—provisions that would never ever get through on their own—to be pushed along with hardly a glance. Just hold your nose, pinch it, and vote for cloture and vote for this bill. Go home feeling good. Oh, we passed some feel-good legislation. Whoopee, great, hot diggedy dog. We passed a piece of feel-good legislation.

The American people should be afraid. The American people should be very afraid not only of Osama bin Laden and Saddam Hussein but of the monumental cynicism driven by this White House, and regrettably unopposed by this body.

Mr. President, I apologize to the Senate, to the staff, to the pages, all who work in this body—they work hard; they work long hours—for detaining you from going home early and getting an early supper. We call it supper down in West Virginia. Call it dinner, if you wish. We have kept you waiting, and I apologize for my part. Who else has done it? I am the one rascal here who has kept you waiting. I apologize for that.

Had we not been faced with a cloture vote tomorrow, I could have waited until tomorrow and said these things. But when else am I supposed to say it? If cloture is invoked tomorrow, I will have no opportunity to say it. Then we only have 30 hours—all of us, 100 Senators have 30 hours—and I suppose that is an hour each at most.

There is a record standing. There is a record that stands with him who holds the waters in his hands; there is a record that stands. That record will be written, and it will be there for the next thousand years for all who want to read it.

I believe the American people expect us to oppose this way of legislating. It is not as our children are being told the way to make laws.

Mr. President, I end my remarks, as I began them earlier today, by reading from 1st Corinthians, chapter 14, verse 8 and verse 9:

> For if the trumpet give an uncertain sound, who shall prepare himself to the battle?
>
> So likewise ye, except ye utter by the tongue words easy to be understood, how shall it be known what is spoken? For ye shall speak into the air.

Mr. President, that is the way I began my remarks. If we pass this bill, we are going to be the trumpet that gives forth an uncertain sound. The American people are going to be told, and they are going to believe, that they are made more safe, but we will have sent forth an uncertain sound. The people will not be made more safe by this piece of legislation.

The PRESIDING OFFICER. Senator from Alaska.

Mr. STEVENS. Mr. President, I have two short statements that I would like to make concerning this legislation. The first deals with the use of appropriated funds.

As my colleagues know, one of the major issues confronting Congress with respect to establishing the Department of Homeland Security was the extent to which the Homeland Secretary would be given the authority to transfer funds between appropriations accounts or among the organizations and programs within the new Department.

Underlying this issue are two critical questions—how best to give the Homeland Secretary the flexibility he or she needs to organize and operate the new Department, and how best to preserve the Congress's constitutional authority to appropriate funds and to oversee their use.

Previous versions of the Homeland Security Department legislation included extensive language governing how the Department would allocate and use appropriated funds and funds generated through property disposal or gifts from outside the Federal Government.

The compromise embodied in the final version of the Homeland Security Department legislation now before us takes a somewhat different approach, but the net effect is the same: Congress's appropriations authorities are maintained. Transferred funds must be used for the purposes for which they were appropriated, and Congress must approve, in advance, the reallocation of transferred funds away from their originally intended purposes.

Language added to the final bill reinforces the requirement that personnel, assets, and obligations transferred to the new Department shall be allocated in accordance with section 1531(a)(2) of title 31, United States Code. That section of permanent law requires that funds transferred within or between Executive branch agencies to finance transferred functions or activities must be used for a purpose for which the appropriation was originally available.

During the final negotiations on this bill, any language dealing directly with use of the general authority to transfer funds was dropped, since it is an authorization act. That authority will be included in the continuing resolution that I hope we will pass to keep the Federal Government functioning after we adjourn or recess this year. Since virtually every annual appropriations act includes general transfer authority language, the negotiators agreed that it was more consistent and effective to include the new Department's transfer authority in an appropriations act. The continuing resolution is our first appropriations opportunity to accomplish this objective. I intend to see to it that it will be in the resolution if at all possible, and I believe it is already agreed to.

The negotiators did retain in the authorization bill the language regarding property disposal and gifts. The language also requires that the new Department submit a detailed budget request annually beginning with fiscal year 2004. That will be the request we receive next year.

The continuing resolution language provides general transfer authority of $500 million for fiscal year 2003 and the same amount in fiscal year 2004. It stipulates that this authority may not be used unless for higher priority items, based on unforeseen homeland security requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by the Congress. The language provides an additional $140 million in transfer authority for fiscal year 2003 for the salaries and expenses associated with the initiation of the Department.

The appropriations language further requires that the Senate and House Committees on Appropriations receive 15 days' advance notice before any funding transfer is made, and it establishes that the new Department will submit formal reprogramming requests to these committees for any proposed funding transfer. The language further stipulates that, of the total amount of transfer authority provided, and except as otherwise specifically authorized by law, not to exceed two percent of any appropriations available to the Home Secretary may be transferred between appropriations. I am satisfied those meet our general requirements, although they are not in the original request I made in the Governmental Affairs Committee on which I serve.

In many respects, these provisions mirror language that is included annually in every Department of Defense Appropriations Act. In addition, use of transfer authority would be subject to approval or disapproval in writing by the Committees on Appropriations, which would review reprogramming requests submitted and considered under established procedures based on the reprogramming procedures used by the Defense Department and Congress for defense transfer authority actions. We intend to mirror the procedure that has been used so successfully with regard to defense matters when we are reviewing national security matters.

Finally, the authorization bill includes a provision intended to help Congress to assess the long-term funding requirements for the new Department. That provision requires annual submission of a Future Years Homeland Security Program that projects spending requirements for at least five fiscal years. This detailed, multi-year document is due beginning with the fiscal year 2005 budget request.

The final authorization language, and the language in the continuing resolution, preserve the statutory and administrative requirements needed to ensure that any funds made available to the new Department are used effectively and efficiently and according to the will of the people as reflected through their elected Senators and Representatives.

This language, and the annual appropriations process, ensure that the Homeland Security has the appropriate authorities to organize and operate the new Department, and that Congress will remain directly engaged in deciding how appropriated funds are used, or reallocated, by the Executive branch.

In so doing, I believe, and it has been my intent working with the distinguished chairman, that this language preserves Congress's Constitutional and rightful role in our government—a role that the Founding Fathers intended and that our constituents demand. Our constitutional oath requires Members to assure that our constituents' demand for our oversight will be fulfilled.

I have a second short statement. I have been very interested in preserving the Coast Guard's non-homeland security mission performance under this bill. I will discuss for the Senate today a vitally important section of the homeland security legislation that we consider here.

This section—Section 888—is entitled ''Preserving Coast Guard Mission Importance,'' and its implementation is essential to maintaining without significant reduction the Coast Guard's non-homeland security capabilities and missions.

We all recognize the critical homeland security missions the Coast Guard performs. However, it is just as critical to the United States that the Coast guard effectively and successfully accomplish its non-homeland security missions. The criticality of these non-homeland security missions extends far beyond the 30 coastal and Great Lake states. These non-homeland security missions affect the maritime safety, law enforcement, environmental conditions, and economic security of our entire nation.

The Coast Guard's non-homeland security missions are marine safety, search and rescue, aids to navigation, living marine resources—including fisheries law enforcement, marine environmental protection, and ice operations.

All these missions are critical to the well-being of Alaskans, and we rely on the Coast Guard virtually every day for protection and assistance in these mission areas. I am confident that my colleagues who also will speak on this section of the bill will attest further to the importance to their states and to the rest of the nation of preserving the Coast Guard's vital non-homeland security capabilities and missions.

Preserving these missions and capabilities is the fundamental intent and purpose of Section 888.

The Coast Guard cannot accomplish its non-homeland security missions effectively and successfully unless its current capabilities in these areas are preserved intact and without significant reduction. Section 888 mandates the preservation of these capabilities, and of the Coast Guard's authorities and functions in these areas, unless Congress specifies otherwise in subsequent acts.

I would add at this point that, since September 11, 2001, the Coast Guard has assumed greatly expanded homeland security responsibilities without seeing a reduction in its non-homeland security requirements. This is a strong justification for allocating even more total resources to the Coast Guard on an annual and long-term basis.

Section 888 further reinforces and protects the Coast Guard's non-homeland security missions and capabilities by preventing the diversion of any mission, function, or asset—including ships, aircraft, and helicopters—to the principal and continuing use of any other organization, unit, or entity of the Homeland Security Department. This restriction is intended to minimize, if not eliminate, any prospect of the diversion from the Coast Guard of the personnel, equipment or other resources needed to perform its non-homeland security missions. Personnel details or assignments that do not reduce the Coast Guard's capability to perform these missions are permitted.

Section 888 further prohibits the Homeland Secretary from reducing the Coast Guard's non-homeland security missions and capabilities substantially or significantly unless Congress specifies otherwise in subsequent Acts.

The Homeland Security Secretary may waive this restriction for no more than 90 days, but he or she must first declare and certify to Congress that a clear, compelling, and immediate need exists for such a waiver.

If he or she exercises the waiver authority, the Homeland Secretary must submit to Congress a detailed justification. Thus, the elected Senators and Representatives of the American people will have an opportunity to determine whether they agree or disagree with the waiver. We will have the opportunity to assess the impact of such a waiver on the Coast Guard's non-homeland security missions and to make our views known should there be any cause for concerns.

The language in Section 888 does provide more flexibility than the Coast Guard-related language in the earlier versions of the Homeland Security Department bills that we have been debating since July. However, this latest language still will protect the Coast Guard from any major changes to its non-homeland security missions and capabilities because it clearly does not provide the authority to make wholesale and sweeping changes in these areas.

This final language also includes other important provisions that will contribute to the Coast Guard's overall well-being and effectiveness as part of the new Homeland Security Department, as well as help preserve its non-homeland security missions and capabilities. These provisions have been carried over from at least one of the previous versions of the legislation, or they have been crafted to further enhance the Coast Guard's position in the new Department.

These provisions include language transferring the Coast Guard to the new Department as a freestanding and distinct entity that is not under the jurisdiction of any of the Department's new directorates, and language ensuring that the Service's Commandant shall report directly to the Homeland Secretary without being required to report through any other departmental official.

Take separately and together, these subsections strengthen the institutional position of the Coast Guard and the Commandant within the Department, thus enhancing the Service's ability to compete for resources and to influence policy in both the non-homeland security and homeland security areas. They are an unambiguous statement by the Congress about the importance of the Coast Guard and all its missions within the Department.

Another subsection requires the new Department's Inspector General to report annually to Congress on the mission performance of the Coast Guard, with a particular emphasis on the non-homeland security missions. This information should help Congress identify whether additional actions are needed to preserve these non-homeland security missions and capabilities.

The Homeland Secretary also is required by another subsection to report to Congress not later than 90 days after enactment of the Act on whether the procurement rate in the Service's top-priority modernization program—the integrated deepwater system—can be accelerated by 10 years. Timely implementation of the Deepwater program is essential to maintaining and improving the Coast Guard's capabilities to accomplish all its missions. Congress should consider whether accelerating the program is an affordable and cost-effective way to accomplish these objectives, especially in the non-homeland security area.

A final subsection ensures that the conditions and restrictions in Section 888 shall not apply when the Coast Guard operates as a service in the Navy under section 3 of title 14, United States code. It would be inappropriate to apply these conditions and restrictions under such circumstances. Under section 3 of title 14, the Coast Guard becomes part of the Navy in Wartime or as directed by the President.

In summary, Section 888 resulted from productive negotiations with the White House and our House colleagues during which all sides strived to make reasonable compromises that would enable Congress to pass a final version of the Homeland Security Department legislation during this post-election session. Refinements suggested by the Coast Guard also are included in the language.

The language maintains the structural and operational integrity of the Coast Guard, the authority of the Commandant, the non-homeland security missions of the Coast Guard, and the Service's capabilities to carry out these missions even as it is transferred to the new Department. The language is clearly intended to assure that the important homeland security priorities of the new Department will not eclipse the Coast Guard's crucial non-homeland security missions and capabilities.

Section 888 strikes the right balance at this time between maintaining the Coast Guard's vital non-homeland security missions and capabilities and permitting it to carry out important homeland security responsibilities.

Just as importantly, this language and the annual appropriations process, ensure that Congress will remain directly engaged in deciding the extent to which any significant changes occur in the future to the Coast Guard's non-homeland security missions and capabilities. Congress's continued and direct engagement in such matters is essential given the importance to the American people of these missions and capabilities.

And again, these missions and capabilities are vital to my State of Alaska.

I thank my distinguished friend for allowing me to make these two statements. I am late to a meeting. I wanted to make sure we explained to the Senate what we have done in modifying this bill.

I know it does not meet totally the requirements and approval of my friend from West Virginia. But I do think, under the circumstances, that we will have this continued role of supervision and we will retain the same type of control over reprogrammings of the new Homeland Security Department that we have over the Department of Defense. We should be able to continue in the future the same kind of Congressional connection to the changes in the use of funds—and there will be changes, based on changing priorities, changing circumstances—and we are part of that process. It will not be done without the prior approval of Congress.

I think I can assure my friend, in my judgment, we have preserved to the maximum extent possible our constitutional role in this process as it goes forward. There is no question every appropriations bill annually will address this issue and we will address it as we have in connection with defense matters in the past.

I thank my friend from West Virginia.

Mr. BYRD. Mr. President, the distinguished Senator is welcome. I appreciate what he has said. I hope the Senator's assurances—I know they are sincerely given—will prove to be direct and true. I must say I have great concerns about this legislation as it is written as to the verbiage that we find in this new package that is on our desks today. It made its appearance yesterday. I hope the distinguished Senator from Alaska is accurate and that he is correct, and that the assurances which he has been given and which he is giving will prove to be the case.

I have a great deal of confidence in my friend from Alaska. I have implicit confidence in him. I have never had that confidence shaken. But that confidence I have in him does not extend beyond him, I have to say truthfully, to the people in this administration. But I do trust my friend and I know he will try to his level best to see to it that the administration deals fairly

and squarely with us in the appropriations process.

With that, I again thank him.

Mr. STEVENS. Mr. President, if the Senator will yield——

Mr. BYRD. Yes, I yield.

Mr. STEVENS. I give the Senator my assurance we will continue to work together to assure we maintain our constitutional role in the activities of this new Department. But I also feel it is absolutely necessary that this bill be passed this year because if it is not, regardless of the size of the bill, it will literally die at the end of December and we will have to start all over again. With the tensions facing the world and challenges our Government faces to maintain homeland security, it is absolutely essential we start forward. We have a slight disagreement on that. But I do believe this bill gives us a framework to work with this subject.

I think the ongoing responsibility to assure the new Department will continue to be effective will primarily rest with the appropriations process. This will be an enormous demand, a new demand on our Treasury, to fund a wholly new type of homeland security.

We are consolidating a whole series of agencies, hopefully bringing about some new efficiencies. But it will require increased money.

Senator BYRD and I have, will continue to have, the role of seeing to it the Senate's operations with regard to the appropriations process are fully understood by the new homeland security department and its personnel, and that we will work effectively to see to it we fulfill our constitutional responsibility with regard to control of the people's money.

Mr. BYRD. Mr. President, I thank the distinguished Senator. I have never seen anything in the demeanor of the distinguished Senator from Alaska, anything in his words, anything in his daily activities, the record he has made here, that would create any doubt, as far as I am concerned, in him and his intention to carry this out. I have to say I don't have the same kind of confidence in the people at the other end of the avenue. I think we are making a huge mistake in passing this bill at this time.

I think the appropriations the distinguished Senator from Alaska and I have worked together in making possible, along with the other members of our committee—I think those appropriations, which have not been signed into law by the President, some of which have not passed the other body, and most of which have been held in check by the other body at the behest of the administration—those would have given to the American people far more security than would this bill. But as to the Senator, my trust in him—as I said it before and I will say it again—is implicit. I have no doubt he intends to do the best he can to see this appropriations process goes along as the Framers and as our predecessors have intended.

Mr. STEVENS. I thank the Senator.

Mr. AKAKA. Mr. President, I rise to discuss the critical distinctions between the legislation as reported out by the Governmental Affairs Committee and the House passed bill, creating a Department of Homeland Security.

I think it is wise to proceed cautiously when creating a mega-Department of Homeland Security which would encompass approximately 22 agencies and involve about 170,000 employees. We all recognize that we face new threats, and we all recognize the need to better coordinate efforts to protect Americans from these threats. However, it is also critically important, as the distinguished senior Senator from West Virginia has repeatedly noted, to consider carefully what is being proposed to ensure that any legislation enhances our security and does not detract from it.

William Safire describes in Thursday's New York Times how the House proposed Homeland Security Act will create a computerized dossier on the private life of every American citizen. I urge my colleagues to read Mr. Safire's prescient column entitled, ''You Are a Suspect''. His arguments are one reason why we should proceed cautiously to creating a Department of Homeland Security.

The President compares the reorganization of agencies within the federal government into a new Department of Homeland Security to the creation of the Department of Defense after World War II. But the two departments that were combined to create the Department of Defense, the Department of the Army and the Department of the Navy, had the same primary mission, to defend the United States. They had similar cultures and management priorities. This is not true of the proposed new Department of Homeland Security. Many of the agencies, such as the Coast Guard, the Immigration and Naturalization Service, and the Federal Emergency Management Agency, have varying missions, priorities and cultures.

Any far-reaching change to the structure of the federal government demands thorough and open discussion. Senator LIEBERMAN has done a great service to his country by holding hearings and debating extensively the structure of such a department. But there needs to be further debate and amendment to the proposal offered by the Republicans.

Let me make a dozen points as to why the legislation reported out by our Governmental Affairs Committee, which was subjected to numerous public hearings, represents an improvement over legislation passed by the House last night and why the House proposal, supported by the President, is seriously flawed.

First, the House proposal raises serious concerns about the collection, use, and dissemination of private information, the issue addressed by Mr. Safire. It gives the Secretary broad access to information relating to investigations and places restrictions on the authority of the inspector general to conduct inquiries into the new department's operations. Our committee substitute corrected this oversight by creating both a strong Civil Rights Officer and a strong Chief Privacy Officer.

The privacy officer would assist the Department with the development and implementation of policies and procedures to ensure that privacy considerations and safeguards are incorporated and implemented in programs and activities, and that information is handled in a manner that minimizes the risks of harm to individuals from inappropriate disclosure. Such officers are necessary to protect Americans from encroachments on their civil liberties.

The committee-reported legislation created a powerful civil rights officer, ensuring compliance with all civil rights laws, coordinating with the administration, assisting in the development and implementation of civil rights policies, and reporting to the Inspector General on matters warranting further investigation. In contrast, the new bill just passed by the House would only require the Civil Rights Officer to review and assess alleged abuses and report to Congress. In the House bill the Secretary appoints the officer and in the Governmental Affairs committee-reported bill the President appoints and the Senate confirms the officer, ensuring greater accountability. The Committee alternative worked to ensure that civil rights were not violated in the first instance.

The threat of a ''Big Brother'' new department cannot be overemphasized. With the President proposing programs like the Terrorism Information and Prevention System, Operation TIPS, a national program to encourage volunteers to report suspect activities to the Department of Justice, and the Department of Defense's new ''Total Information Awareness,'' we need strong protections against violations of Americans' privacy and civil rights. The first defense of our freedom comes from a system with checks and balances. The House proposal, supported by the President, does not contain sufficient checks and balances.

Second, under the first House-passed bill and the President's original proposal, whistleblowers were not protected. Merit Systems Protection Board, MSPB, appeal rights as well as Office of Special Counsel, OSC, enforcement were not included. I am pleased to say that under the proposal before us today, whistleblowers retain most of their rights. However, the bill does not go far enough. Due to the waiver of collective bargaining rights, third-party arbitration may not be protected for those federal employees who are union members and blow the whistle. Third party arbitration is an effective way to resolve whistle blower cases due to the hostile decisions of the Federal Circuit.

Third, the administration proposal transfers the Transportation Security

Agency, TSA, into the new department. Baggage screeners are our first line of defense against terrorism on our airlines, and they need to have the same protections as our border patrol agents, INS employees, and custom inspectors so that they can come forward to disclose risks to our public health and safety. The committee's bill, as a result of an amendment offered by Senator LEVIN and myself, gave full whistleblower rights to baggage screeners and their supervisors and to contract screeners. This is something that the House proposal fails to do.

Fourth, the new administration-supported bill gives minimal assurances that non-homeland security functions in the 22 agencies to be absorbed in the new Department will be preserved and not eliminated or diminished. The committee's amendment, which I offered with Senator CARPER, required that all non-homeland security functions of each agency be identified, along with the resources needed to preserve these functions, and the additional changes needed to ensure that non-homeland security functions would not be diminished. The new proposal drops this critical reporting requirement. In fact, the new bill removes all reports to Congress which would allow Congress to monitor closely the creation of the new department and to ensure vital non-homeland security functions are preserved.

Fifth, the committee-reported bill provided critical management guidance to the development of an effective homeland security mission. Agencies need specific guidance on how to achieve success. There are over 40 federal agencies with homeland security missions—some to be within the new department but others to remain outside. For many, homeland security is a new responsibility that must be added to existing missions. Agencies will need to rationalize their new homeland security missions with their existing responsibilities. The committee's amendment provided for a process for ensuring that this occurs. The House proposal does not.

Sixth, the House-passed bill creates a new Under Secretary for Information Analysis and Infrastructure Protection with two subordinate directorates, including one for intelligence which is given extraordinary access to sensitive information, both domestic and foreign. Under the House formulation as supported by the President, the new Secretary can trump the authority of the Director of Central Intelligence. The new directorate will duplicate work already being performed by the CIA's Counter Terrorism Center. Furthermore, Section 202 of the President's bill requires all agencies to provide all information to the new Department, including information which might pertain to intelligence sources and methods, without the Secretary even having to request that information. This gives this new office unprecedented access with few checks and balances, suggesting that the new office may have the capability to intrude to an extraordinary extent into the private lives of individual American citizens. These are very worrisome developments. The new formulation risks endangering our individual, as well as our national, security. Senator THOMPSON, Senator LIEBERMAN, Senator LEVIN and I had worked out an amendment which was contained in the committee bill. This amendment should have been accepted by the President. I am deeply troubled concerning the administration's new mission for the Department's intelligence directorate.

Seventh, the latest proposal does not address the serious shortcomings across the Federal Government in communicating security threats to the public. The American people are confused and frustrated by threat advisories without direction and repeated statements by the administration that future terrorist attacks are inevitable. The committee bill ensured that the Secretary of the new Department worked with state and local officials to develop more effective alert systems, more useful warnings, and improved communication with the public and private sector. In short, the Governmental Affairs Committee's legislation would have empowered the American people to play a role in the war on terrorism.

Eighth, this new proposal transfers the Plum Island Animal Disease Center from the Department of Agriculture to the Department of Homeland Security. However, many potential agriculture terrorism diseases, such as anthrax, are not studied at Plum Island. Rather than pulling off one piece of the Department of Agriculture's much needed and underappreciated laboratory network, the Governmental Affairs Committee alternative left Plum Island where it was and instead ensured coordination and consultation between the Department of Homeland Security and Agriculture on bioterrorism research priorities.

Ninth, the House proposal does not address serious shortfalls in emergency preparedness and response capabilities for agricultural terrorism. The Lieberman alternative acknowledged the importance of agriculture to our national economy and the dangers that an infectious animal or plant disease could pose to human health, rural America, and our Nation's economy. A large scale agricultural disease outbreak, whether of natural or deliberate origin, will require rapid and coordinated efforts by the Department of Agriculture, the Federal Emergency Management Agency, the Environmental Protection Agency, the Departments of Health and Human Services, Transportation, Defense, and Justice, and local and State emergency managers. The committee's amendment ensured that agricultural health diseases were considered in security assessments and that the animal health and agriculture communities would be included in planning, training, and response activities.

Tenth, in the name of flexibility, the President's initial proposal waived all of the provisions of title 5 leaving federal employees without protection from discrimination or whistleblower retaliations. The House proposal maintains most of title 5; however, it allows for the waiver of provisions affecting collective bargaining rights and appeal rights. One of the key factors to the so-called success of the Federal Aviation Administration, FAA, and the Internal Revenue Service, IRS, two agencies that have managerial flexibilities, is the strong role federal labor unions play in the shaping of the personnel system and in resolving employee disputes through third-party arbitration. This third-party arbitration is even more critical since cases involving coercion to participate in political activity, violations of veterans preference rights, giving unlawful preference or advantage to any employee, or other prohibited personnel practices can no longer be appealed to an independent body such as the Merit Systems Protection Board, MSPB. The personnel system at the FAA removed MSPB appeal rights in 1996 only to have them reinstated by Congress in 2000 at the urging of Federal employees and managers.

While the merit system principles are designed to ensure that Federal employment is efficient, fair, open to all, and free from political interference, the civil service rules of title 5, reinforced by collective bargaining rights, provide the framework for implementing and enforcing merit principles. Without such laws in place, the principles we all strive for cannot be reached. The Governmental Affairs Committee's reported bill preserved all of title 5, protected collective bargaining rights, and provided additional flexibilities governmentwide.

Some 25 years ago, the Civil Service Reform Act, CSRA, of 1978 responded to the same issues confronting our Government today. The act established the principles of openness and procedural justice that define the civil service today. It created the Merit Systems Protection Board and the Office of Special Counsel to protect the rights of Federal employees. The Federal Labor Relations Authority was created to oversee labor-management practices. The act provided a statutory basis for the collective bargaining rights of Federal workers. It prohibited reprisals against employees who expose government fraud, waste and abuse. Those in the Federal workforce demonstrate their loyalty and dedication not just to their employer but to their country every day. On September 11, the Federal workforce responded with courage, dedication, and sacrifice. Why is the President repaying their sacrifice by undermining their rights and our civil service by proposing these changes?

Eleventh, the House legislation fails to protect veterans by allowing the

waiver of chapter 77 of title 5 relating to appeals. This would make veterans go to an agency management-operated process to challenge anti-veteran personnel actions by the same agency management. Under current law, veterans 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. This will no longer be possible under the House bill. The Committee's bill would have preserved MSPB review of veterans' preference complaints. Ironically, as we are in the midst of a war on terrorism and have authorized a war against Iraq, the Administration is weakening veterans' preference rights. This is fundamentally wrong.

Twelfth, the House proposal and the Governmental Affairs Committee-reported bill include provisions protecting the confidential sharing of critical infrastructure information. With cyber attacks on the rise, government and industry leaders have been seeking a way to facilitate the sharing of information related to cyber vulnerabilities and attacks. Sharing such information is important because 85 percent of the Nation's infrastructure is controlled by private utility, telecommunications, or other similar companies. Despite the need to facilitate information sharing, I question the extent to which such information will be protected and the impact of such protections on environmental and public health laws.

In general, the owners and operators of critical infrastructure are concerned about the type and scope of information they are being asked to submit to the government. This data deals with vulnerabilities, incidents, and remedies which, if made available to business competitors or to the general public, could compromise their competitive position, expose them to liability, disclose sensitive information to terrorists and others who might wish to disrupt the function of their infrastructure, or harm their public relations.

However, current law provides adequate protection to the private sector for disclosing this type of information to the Federal Government. Nonetheless, industry has expressed its concern over non-binding case law that could be overturned. As such, the Governmental Affairs Committee bill provided a narrow exception to the Freedom of Information Act which closely follows current law. This provision was designed to facilitate the sharing of information with the Federal Government, while at the same time providing citizens with necessary information on public health and environmental issues. The Committee bill was careful not to provide an inadvertent safe harbor for those who violate Federal health and safety statutes.

For these reasons, I believe that the Governmental Affairs Committee's legislation offered a more effective approach to guarding homeland security than the proposal advocated by the President who recently stated that ''our job—our government's greatest responsibility is to protect the American people. ''I agree with the President, but I do not agree that by voting for the President's flawed proposal we will be adequately protecting the American people.

Mr. JEFFORDS. Mr. President, I would like to commend Senator CORZINE for his efforts to address the serious issue of chemical site security. The Chemical Security Act, S. 1602, which I cosponsored, would require ''high priority'' facilities to improve security and reduce hazards. The bipartisan and strong support for this issue was demonstrated last July when the bill unanimously passed the Senate Environment and Public Works Committee.

Across the country, thousands of industrial facilities use dangerous chemicals in amounts that could endanger nearby communities if the facilities were attacked by terrorists. According to the Environmental Protection Agency's Risk Management Planning program, there are 123 facilities where a release of chemicals could threaten more than 1 million people. There are also more than 700 facilities from which a chemical release could threaten more than 100,000 residential neighbors. Yet there is no Federal security standard for chemical facilities, no Federal guidelines on facility proximity to neighboring communities, and no Federal agency overseeing the operations and safety of these facilities.

This bill is not intended to address chemical accidents. The Clean Air Act already provides existing authority. However, a review of the chemical accident data provides clear insight into the dangers associated with chemical releases from these facilities. Federal data suggests that in 1998 there were almost 50,000 incidents—fires, spills and explosions—over 100 deaths, and nearly 5,000 injuries, related to chemical industrial accidents in the United States. Some analysts suggest that for each catastrophic chemical accident that causes a fatality, there are 300 recordable incidents and 30,000 near misses. One estimate suggests that U.S. chemical accidents cost about $15 billion a year.

In 1999, Congress required the Department of Justice to issue, within 3 years, a report to Congress on the vulnerability of chemical facilities to criminal and terrorist activity. For over a year, the Senate Environment and Public Works Committee has been asking for this report. Beyond a very thin and useless preliminary draft, the administration has not complied with this requirement of the Clean Air Act amendments. The Justice Department claims that funding constraints have impacted their work. This excuse is completely unacceptable, as is the administration's delay in addressing what may be this Nation's biggest terrorist vulnerability. Three years ago, Congress recognized the potential risks to our Nation's chemical security. Not 1 more year or month should pass with this issue unresolved.

Press reports highlight the public's frustration. In September, Newsweek reported a failing grade to the Federal Government in protecting chemical plants and other hazardous materials. I believe the article accurately described the forces blocking action: ''industry lobbyists and infighting among a multitude of government agencies trying to defend their turf have combined to hold (Governor) Ridge's office and the Environmental Protection Agency at bay.''

I ask my colleague to step beyond bureaucratic delays and special interest pressures to think of the families that could be impacted by our inaction here today. We must act on this issue as soon as possible.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SCHUMER). 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, I extend my appreciation to the Senator from Iowa who has other things to do, but he has agreed to be here for a few minutes.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider Calendar Nos. 788, 789, 851, 911, 922, 926, 1031, 1032, 1033, 1034, 1071 through 1135, 1147 through 1176; and all nominations placed on the Secretary's desk. I further ask that the nominations be confirmed en bloc, the motion to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and any statements be printed in the appropriate place in the RECORD, and the Senate then resume legislative session, with the preceding all occurring with no intervening action or debate.

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

The nominations considered and confirmed en bloc are as follows:

NATIONAL LABOR RELATIONS BOARD

Rene Acosta, of Virginia, to be a Member of the National Labor Relations Board for the remainder of the term expiring August 27, 2003.

Dennis P. Walsh, of Maryland, to be a Member of the National Labor Relations Board for the term of five years expiring December 16, 2004.

DEPARTMENT OF ENERGY

Kyle E. McSlarrow, of Virginia, to be Deputy Secretary of Energy.

THE JUDICIARY

John M. Rogers, of Kentucky, to be United States Circuit Judge for the Sixth Circuit.

DEPARTMENT OF AGRICULTURE

Phyllis K. Fong, of Maryland, to be Inspector General, Department of Agriculture.

FEDERAL COMMUNICATIONS COMMISSION

Jonathan Steven Adelstein, of South Dakota, to be a Member of the Federal Communications Commission for the remainder of the term expiring June 30, 2003.

DEPARTMENT OF THE TREASURY

Wayne Abernathy, of Virginia, to be an Assistant Secretary of the Treasury.

FEDERAL MARITIME COMMISSION

Rebecca Dye, of North Carolina, to be a Federal Maritime Commissioner for the term expiring June 30, 2005

DEPARTMENT OF TRANSPORTATION

Roger P. Nober, of Maryland, to be a Member of the Surface Transportation Board for a term expiring December 31, 2005.

REFORM BOARD (AMTRAK)

David McQueen Laney, of Texas, to be a Member of the Reform Board (Amtrak) for a term of five years.

THE JUDICIARY

Stanley R. Chesler, of New Jersey, to be United States District Judge for the District of New Jersey.

Rosemary M. Collyer, of Maryland, to be United States District Judge for the District of Columbia.

Mark E. Fuller, of Alabama, to be United States District Judge for the Middle District of Alabama.

Daniel L. Hovland, of North Dakota, to be United States District Judge for the District of North Dakota.

Kent A. Jordan, of Delaware, to be United States District Judge for the District of Delaware.

James E. Kinkeade, of Texas, to be United States District Judge for the Northern District of Texas.

Robert G. Klausner, of California, to be United States District Judge for the Central District of California.

Robert B. Kugler, of New Jersey, to be United States District Judge for the District of New Jersey.

Ronald B. Leighton, of Washington, to be United States District Judge for the Western District of Washington.

Jose L. Linares, of New Jersey, to be United States District Judge for the District of New Jersey.

Alia M. Ludlum, of Texas, to be United States District Judge for the Western District of Texas.

William J. Martini, of New Jersey, to be United States District Judge for the District of New Jersey.

Thomas W. Phillips, of Tennessee, to be United States District Judge for the Eastern District of Tennessee.

Linda R. Reade, of Iowa, to be United States District Judge for the Northern District of Iowa.

William E. Smith, of Rhode Island, to be United States District Judge for District of Rhode Island.

Jeffrey S. White, of California, to be United States District Judge for the Northern District of California.

Freda L. Wolfson, of New Jersey, to be United States District Judge for District of New Jersey.

EXPORT-IMPORT BANK OF THE UNITED STATES

Philip Merrill, of Maryland, to be President of the Export-Import Bank of the United States for the remainder of the term expiring January 20, 2005.

DEPARTMENT OF STATE

Kim R. Holmes, of Maryland, to be an Assistant Secretary of State (International Organizations).

Maura Ann Harty, of Florida, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be an Assistant Secretary of State (Consular Affairs).

Ellen R. Sauerbrey, of Maryland, for the rank of Ambassador during her tenure of service as the Representative of the United States of America on the Commission on the Status of Women of the Economic and Social Council of the United Nations.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Quanah Crossland Stamps, of Virginia, to be Commissioner of the Administration for Native Americans, Department of health and Human Services.

NATIONAL INDIAN GAMING COMMISSION

Philip N. Hogen, of South Dakota, to be Chairman of the National Indian Gaming Commission for the term of three years.

FARM CREDIT ADMINISTRATION

Nancy C. Pellett, of Iowa, to be a Member of the Farm Credit Administration Board, Farm Credit Administration for a term expiring May 31, 2008.

DEPARTMENT OF DEFENSE

Otis Webb Brawley, Jr., of Georgia, to be a Member of the Board of Regents of the Uniformed Services University of the Health Sciences for a term expiring June 20, 2003.

NATIONAL LABOR RELATIONS BOARD

Robert J. Battista, of Michigan, to be a Member of the National Labor Relations Board for the term of five years expiring December 16, 2007.

Wilma B. Liebman, of the District of Columbia, to be a Member of the National Labor Relations Board for the term of five years expiring August 27, 2006.

Peter Schaumber, of the District of Columbia, to be a Member of the National Labor Relations Board for the term of five years expiring August 27, 2005.

NATIONAL COUNCIL ON DISABILITY

Joel Kahn, of Ohio, to be a Member of the National Council on Disability for a term expiring September 17, 2004.

Patricia Pound, of Texas, to be a Member of the National Council on Disability for a term expiring September 17, 2005.

Linda Wetters, of Ohio, to be a Member of the National Council on Disability for a term expiring September 17, 2003.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

David Gelernter, of Connecticut, to be a Member of the National Council on the Arts for a term expiring September 3, 2006.

NATIONAL MUSEUM SERVICES BOARD

A. Wilson Greene, of Virginia, to be a Member of the National Museum Services Board for a term expiring December 6, 2004.

Judith Ann Rapanos, of Michigan, to be a Member of the National Museum Services Board for a term expiring December 6, 2002.

Judith Ann Rapanos, of Michigan, to be a Member of the National Museum Services Board for a term expiring December 6, 2007.

Maria Mercedes Guillemard, of Puerto Rico, to be a Member of the National Museum Services Board for a term expiring December 6, 2005.

Nancy S. Dwight, of New Hampshire, to be a Member of the National Museum Services Board for a term expiring December 6, 2005.

Peter Hero, of California, to be a Member of the National Museum Services Board for a term expiring December 6, 2006.

Thomas E. Lorentzen, of California, to be a Member of the National Museum Services Board for a term expiring December 6, 2006.

NATIONAL INSTITUTE FOR LITERACY

Juan R. Olivarez, of Michigan, to be a Member of the National Institute for Literacy Advisory Board for a term of one year.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

James M. Stephens, of Virginia, to be a Member of the Occupational Safety and Health Review Commission for a term expiring April 27, 2005.

BARRY GOLDWATER SCHOLARSHIP & EXCELLENCE IN EDUCATION FOUNDATION

Peggy Goldwater-Clay, of California, to be a Member of the Board of Trustees of the Barry Goldwater Scholarship and Excellence in Education Foundation for a term expiring June 5, 2006.

NATIONAL INSTITUTE FOR LITERACY

Carol C. Gambill, of Tennessee, to be a Member of the National Institute for Literacy Advisory Board for a term of three years.

NATIONAL MUSEUM SERVICES BOARD

Beth Walkup, of Arizona, to be a Member of the National Museum Services Board for a term expiring December 6, 2003.

DEPARTMENT OF EDUCATION

John Portman Higgins, of Virginia, to be Inspector General, Department of Education.

DEPARTMENT OF STATE

J. Cofer Black, of Virginia, to be Coordinator for Counterterrorism, with the rank and status of Ambassador at Large.

INTERNATIONAL JOINT COMMISSION, UNITED STATES AND CANADA

Irene B. Brooks, of Pennsylvania, to be a Commissioner on the part of the United States on the International Joint Commission, United States and Canada.

BROADCASTING BOARD OF GOVERNORS

Blanquita Walsh Cullum, of Virginia, to be a Member of the Broadcasting Board of Governors for a term expiring August 13, 2005.

DEPARTMENT OF STATE

Peter DeShazo, of Florida, a Careen Member of the Senior Foreign Service, Class of Minister-Counselor, for the rank of Ambassador during tenure of service as Deputy Permanent Representative of the United States of America to the Organization of American States.

David N. Greenlee, of Maryland, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Bolivia.

John Randle Hamilton, of North Carolina, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Guatemala.

OVERSEAS PRIVATE INVESTMENT CORPORATION

Collister Johnson, Jr., of Virginia, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 2004.

DEPARTMENT OF STATE

John F. Keane, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Paraguay.

OVERSEAS PRIVATE INVESTMENT CORPORATION

John L. Morrison, of Minnesota, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 2004.

INTERNATIONAL JOINT COMMISSION, UNITED STATES AND CANADA

Allen I. Olson, of Minnesota, to be a Commissioner on the part of the United States

on the International Joint Commission, United States and Canada.

FOREIGN SERVICE

PN2230 Foreign Service nominations (152) beginning William Joseph Burns, and ending Michael L. Young, which nominations were received by the Senate and appeared in the Congressional Record of October 8, 2002

PN2231 Foreign Service nominations (144) beginning Jon Christopher Karber, and ending Peter Fernandez, which nominations were received by the Senate and appeared in the Congressional Record of October 8, 2002

NOMINATION OF JOHN M. ROGERS

Mr. LEAHY. Madam President, last night, the Senate voted to confirm the nomination of John Rogers who is nominated to the U.S. Court of Appeals for the Sixth Circuit. By confirming this nomination, we are trying to move forward in providing help to the Sixth Circuit. Earlier this year, we held a hearing for Judge Julia Gibbons to a seat on the Sixth Circuit, who was confirmed by the Senate on July 29, 2002 by a vote of 95 to 0. With last night's vote, the Democratic-led Senate confirmed the 15th judge to our Federal Courts of Appeal and our 98th judicial nominee since the change in Senate majority in July 2001. I have placed a separate statement in the RECORD on the occasion of confirming that many of this President's judicial nominees in just 16 months.

Republicans often say that almost half of the seats on the Sixth Circuit are vacant but what they fail to acknowledge is that most of those vacancies arose during the Clinton Administration and before the change in majority last summer. None, zero, not one of the Clinton nominees to those current vacancies on the Sixth Circuit received a hearing by the Judiciary Committee under Republican leadership. With the confirmation of Professor Rogers, we have reduced the number of vacancies on that court to six, but four of those remaining lack home-State consent due to the President's failure to address the legitimate concerns of Senators in that circuit whose nominees were blocked by Republicans during the period of Republican control of the Senate.

The Sixth Circuit vacancies are a prime and unfortunate legacy of the past partisan obstructionist practices under Republican leadership. Vacancies on the Sixth Circuit were perpetuated during the last several years of the Clinton administration when the Republican majority refused to hold hearings on the nominations of Judge Helene White, Kathleen McCree Lewis and Professor Kent Markus to vacancies in the Sixth Circuit.

One of those seats has been vacant since 1995, the first term of President Clinton. Judge Helene White of the Michigan Court of Appeals was nominated in January 1997 and did not receive a hearing on her nomination during the more than 1,500 days before her nomination was withdrawn by President Bush in March of last year. Judge White's nomination may have set an unfortunate record.

Her nomination was pending without a hearing for more over 4 years—51 months. She was first nominated in January 1997 and renominated and renominated through March of last year when President Bush chose to withdraw her nomination. Under Republican control, the committee averaged hearings on only about eight Courts of Appeals nominees a year and, in 2000, held only five hearings on Courts of Appeals nominees all year.

In contrast, Professor Rogers was the fifteenth Court of Appeals nominee of President Bush to receive a hearing by the committee in less than a year since the reorganization of the Senate Judiciary Committee. In 16 months we held hearings on 20 circuit court nominations. Professor Rogers was being treated much better than Kathleen McCree Lewis, a distinguished African American lawyer from a prestigious Michigan law firm. She never had a hearing on her 1999 nomination to the Sixth Circuit during the years it was pending before it was withdrawn by President Bush in March 2001.

Professor Kent Markus, another outstanding nominee to a vacancy on the Sixth Circuit that arose in 1999, never received a hearing on his nomination before his nomination was returned to President Clinton without action in December 2000. While Professor Markus' nomination was pending, his confirmation was supported by individuals of every political stripe, including 14 past presidents of the Ohio State Bar Association and more than 80 Ohio law school deans and professors.

Others who supported Professor Markus include prominent Ohio Republicans, including Ohio Supreme Court Chief Justice Thomas Moyer, Ohio Supreme Court Justice Evelyn Stratton, Congresswoman DEBORAH PRYCE, and Congressman DAVID HOBSON, the National District Attorneys Association, and virtually every major newspaper in the state.

In his testimony to the Senate in May, Professor Markus summarized his experience as a federal judicial nominee, demonstrating how the ''history regarding the current vacancy backlog is being obscured by some.'' Here are some of things he said:

On February 9, 2000, I was the President's first judicial nominee in that calendar year. And then the waiting began. . . .

At the time my nomination was pending, despite lower vacancy rates than the 6th Circuit, in calendar year 2000, the Senate confirmed circuit nominees to the 3rd, 9th and Federal Circuits. . . . No 6th circuit nominee had been afforded a hearing in the prior two years. Of the nominees awaiting a Judiciary Committee hearing, there was no circuit with more nominees than the 6th Circuit.

With high vacancies already impacting the 6th Circuit's performance, and more vacancies on the way, why, then, did my nomination expire without even a hearing? To their credit, Senator DEWINE and his staff and Senator HATCH's staff and others close to him were straight with me.

Over and over again they told me two things: (1) There will be no more confirmations to the 6th Circuit during the Clinton Administration[.] (2) This has nothing to do with you; don't take it personally it doesn't matter who the nominee is, what credentials they may have or what support they may have—see item number 1. . . . The fact was, a decision had been made to hold the vacancies and see who won the presidential election. With a Bush win, all those seats could go to Bush rather than Clinton nominees.

As Professor Markus identified, some on the other side of the aisle held these seats open for years for another President to fill, instead of proceeding fairly on the consensus nominees pending before the Senate. Some were unwilling to move forward, knowing that retirements and attrition would create four additional seats that would arise naturally for the next President. That is why there are now so many vacancies on the Sixth Circuit.

Had Republicans not blocked President Clinton's nominees to this court, if the three Democratic nominees had been confirmed and President Bush appointed the judges to the other vacancies on the Sixth Circuit, that court would be almost evenly balanced between judges appointed by Republicans and Democrats. That is what Republican obstruction was designed to avoid, balance. The same is true of a number of other circuits, with Republicans benefitting from their obstructionist practices of the preceding six and a half years. This combined with President Bush's refusal to consult with Democratic Senators about these matters is particularly troubling.

Long before some of the recent voices of concern were raised about the vacancies on that court, Democratic Senators in 1997, 1998, 1999, and 2000 implored the Republican majority to give the Sixth Circuit nominees hearings. Those requests, made not just for the sake of the nominees but for the sake of the public's business before the court, were ignored. Numerous articles and editorials urged the Republican leadership to act on those nominations.

Fourteen former presidents of the Michigan State Bar pleaded for hearings on those nominations. The former Chief Judge of the Sixth Circuit, Judge Gilbert Merritt, wrote to the Judiciary Committee Chairman years ago to ask that the nominees get hearings and that the vacancies be filled. The Chief Judge noted that, with four vacancies—the four vacancies that arose in the Clinton administration the Sixth Circuit ''is hurting badly and will not be able to keep up with its work load due to the fact that the Senate Judiciary Committee has acted on none of the nominations to our Court.'' He predicted: ''By the time the next President is inaugurated, there will be six vacancies on the Court of Appeals. Almost half of the Court will be vacant and will remain so for most of 2001 due to the exigencies of the nomination process. Although the President has nominated candidates, the Senate has refused to take a vote on any of them.''

However, no Sixth Circuit hearings were held in the last three full years of the Clinton administration—almost his

entire second presidential term—despite these pleas. Not one. Since the shift in majority last summer, the situation has been exacerbated further as two additional vacancies have arisen.

The committee's April 25th hearing on the nomination of Judge Gibbons to the Sixth Circuit was the first hearing on a Sixth Circuit nomination in almost 5 years, even though three outstanding, fair-minded individuals were nominated to the Sixth Circuit by President Clinton and pending before the Committee for anywhere from one year to over four years. Judge Gibbons was confirmed by the Senate on July 29, 2002, by a vote of 95 to 0. We did not stop there, but proceeded to hold a hearing on a second Sixth Circuit nominee, Professor Rogers, just a few short months later in June.

Just as we held the first hearing on a Sixth Circuit nominee in many years, the hearing we held on the nomination of Judge Edith Clement to the Fifth Circuit last year was the first on a Fifth Circuit nominee in seven years and she was the first new appellate judge confirmed to that Court in six years.

When we held a hearing on the nomination of Judge Harris Hartz to the Tenth Circuit last year, it was the first hearing on a Tenth Circuit nominee in six years and he was the first new appellate judge confirmed to that Court in 6 years. When we held the hearing on the nomination of Judge Roger Gregory to the Fourth Circuit last year, it was the first hearing on a Fourth Circuit nominee in three years and he was the first appellate judge confirmed to that court in three years.

A number of vacancies continue to exist on many Courts of Appeals, in large measure because the recent Republican majority was not willing to hold hearings or vote on half—56 percent—of President Clinton's Courts of Appeals nominees in 1999 and 2000 and was not willing to confirm a single judge to the Courts of Appeals during the entire 1996 session.

From the time the Republicans took over the Senate in 1995 until the reorganization of the committee last July, circuit vacancies increased from 16 to 33, more than doubling. Democrats have broken with that recent history of inaction. In the last 16 months, we have held 26 judicial nominations hearing, including 20 hearings for circuit court nominees.

Professor Roger's nomination was also the fourth judicial nomination from Kentucky to be considered by the committee in its first year, and the eighth nomination from Kentucky overall. There are no judicial vacancies left in the State.

Professor Rogers of the University of Kentucky College of Law has experience as an appellate litigator and a teacher, and is a prolific author on a number of difficult legal topics. It is important to note that aspects of his record raise concerns. As a professor, he has been a strong proponent of judicial activism. No Clinton judicial nominee with such published views would ever have been confirmed during the period of Republican control. In his writings, Professor Rogers has called on lower court judges to reverse higher court precedents, if the lower court judge thinks the higher court will ultimate reverse its own precedent. Such an activist approach is inappropriate in the lower federal courts. The Supreme Court itself has noted that lower courts should follow Supreme Court precedent and not anticipate future decisions in which the Supreme Court may exercise its prerogative to overrule itself.

Prognostications about how the Supreme Court will rule often turns out to be wrong. For example, some predicted that the Supreme Court would overturn Miranda, but the Supreme Court, in an opinion by Chief Justice Rehnquist, declined to do so. Similarly, people like Professor Rogers have called on the Supreme Court to overturn Roe v. Wade, but thus far the Supreme Court has rejected calls to reverse itself in this important decision regarding the rights of women and has resisted calls to return this country to the awful period of dangerous back alley abortions.

Professor Rogers also suggested in his academic writings that lower court judges should consider the political views of Justices in making the determination of when lower courts should overrule Supreme Court precedent. In his answers to the committee, Professor Rogers acknowledged that he had taken that position but he now says that lower courts should not look to the views of Justices expressed in speeches or settings other than their opinions. Also, in his answers to the committee, Professor Rogers said he would give great weight to Supreme Court dicta, or arguments that are not part of the holding of the case. I would like to take this opportunity to urge him to take seriously the obligation of a judge to follow precedent and the holdings of the Supreme Court, rather than to look to dicta for views that may support his own personal views. I would also urge him resist acting on his academic notion that a judge should diverge from precedent when he anticipates that the Supreme Court may eventually do so.

Professor Rogers has assured us that he would follow precedent and not overrule higher courts, despite his clear advocacy of that position in his writings as a scholar. He has sworn under oath that he would not follow the approach that he long advocated. As with President Bush's Eighth Circuit nominee Lavenski Smith, who was confirmed earlier this summer, I am hopeful that Professor Rogers will be a person of his word: that he will follow the law and not seek out opportunities to overturn precedent or decide cases in accord with his private beliefs rather than his obligations as a judge.

I would also note that during his tenure at the Justice Department, Professor Rogers appeared to support an expansive view of the power of the executive branch vis-a-vis Congress. I am hopeful, however, that Professor Rogers will recognize the important difference between being a zealous advocate for such positions and being a fair and impartial judge sworn to follow precedents and the law.

When he was asked to describe any work he had handled which was not popular but was nevertheless important, he said that the case which came to mind was one in which he defended the CIA against a lawsuit seeking damages for the CIA's illegal opening of the private mail of tens of thousands of U.S. citizens during this 1970s or 1980s. Those were dark days of overreaching by the intelligence community against the rights of ordinary law-abiding American citizens. Although times have changed forever since the tragic events of September 11, I think it is important that the American people have access to judges who will uphold the Constitution against government excesses while also giving acts of Congress the presumption of constitutionality to which our laws are entitled by precedent.

Professor Rogers has repeatedly assured the committee, however, that he would follow precedent and not seek to overturn decisions affecting the privacy of women or any other decision of the Supreme Court. Senator MCCONNELL has also personally assured me that Professor Rogers will not be an activist but is sincerely committed to following precedent if he is confirmed. I sincerely hope that his decisions on the Sixth Circuit do not prove us wrong.

Mr. HATCH. Madam President, I am particularly pleased today to speak in support of the confirmation of John M. Rogers to the U.S. Court of Appeals for the Sixth Circuit. As we know, there is a judicial vacancy crisis in the Sixth Circuit and the addition of Mr. ROGERS to the bench represents a positive step in alleviating that regrettable situation.

John M. Rogers is currently the Thomas P. Lewis Professor at the University of Kentucky College of Law, where he has taught since 1978. He is a Phi Beta Kappa graduate of Stanford University and an Order of the Coif graduate of the University of Michigan Law School, where he served on the Michigan Law Review. He is an expert in international, administrative, and constitutional law and a respected teacher and scholar.

Prior to teaching, Professor Rogers was an appellate attorney in the Civil Division of the United States Department of Justice. This work, and a later stint at DOJ, led to his being awarded a Special Commendation for Outstanding Service to the Civil Division of the U.S. Department of Justice. Rogers has twice been a Fulbright Senior Lecturer in the People's Republic of China, and is a member of the Council on Foreign Relations. He has also

served this country for 28 years as a reserve officer in the U.S. Army Reserve and the Kentucky Army National Guard.

All of these accomplishments and contributions explain why the American Bar Association has rated Professor Rogers unanimously qualified. I agree with that judgment, I applaud President Bush for making this nomination, and I urge all of my colleagues to confirm Professor Rogers to the Sixth Circuit. I am confident he will serve with distinction as a Federal judge.

NOMINATIONS OF U.S. DISTRICT COURT NOMINEES

Mr. HATCH. Madam President, I rise in support of the fine group of district court nominees who are being confirmed tonight. I have reviewed their individual records and I find all of them to be excellent choices for the Federal bench. Permit me a moment to highlight the merits of each nominee.

U.S. Magistrate Judge Stanley R. Chesler, our nominee to the District Court for the District of New Jersey, received his undergraduate degree from Harpur College. He then went on to do graduate work at Brooklyn College where he accumulated 30 graduate credits in education. While working as teacher during the day, he graduated magna cum laude and first in his class from St. John's University School of Law, receiving no less then 12 American Jurisprudence Awards and consistently making the dean's list.

Upon graduation, Magistrate Judge Chesler joined the Bronx District Attorney's Office and specialized in prosecuting public corruption, organized crime, narcotics and fraud cases. In 1980 he became a Special Attorney for the U.S. Department of Justice's Newark Organized Crime Strike Force, before becoming an Assistant United States Attorney. During his career at the Department of Justice, he was awarded the Special Commendation Award and the Special Achievement Award. The nominee was then appointed by the New Jersey District Court judges to the office of Magistrate Judge in 1987. Magistrate Judge Chesler has also been recognized by his colleagues in receiving an ABA rating of Unanimously Well Qualified.

Rosemary Collyer, our nominee to the U.S. District Court for the District of Columbia, is a graduate of the University of Denver School of Law. She began her career at the Denver firm of Sherman & Howard as an associate in the labor and employment law group. Four years later she was nominated by President Reagan and confirmed by the Senate to be the Chairman of the Federal Mine Safety and Health Review Commission, which reviews decisions of specialized administrative law judges who adjudicate cases dealing with mine safety, health and discrimination claims under Federal law.

In 1984 Ms. Collyer was nominated by President Reagan and confirmed by the Senate to be General Counsel of the National Labor Relations Board. In this capacity, she served as the nationwide prosecutor of labor law violations, overseeing election processes, representing the NLRB before State and Federal courts, and overseeing agency personnel and budget matters. Since 1989, Ms. Collyer has been a partner at Crowell & Moring in Washington, D.C. Her specialization has been in labor law and employment law.

A July 22, 2002 Legal Times article reported that Ms. Collyer is ''well-regarded by her fellow labor lawyers.'' One colleague asserted, ''She cares about getting it right. She is definitely capable of navigating complex cases.'' Another stated that during her time of government service, ''she was an oasis of perceived neutrality. She pandered to no one.'' These are traits that will undoubtedly serve Ms. Collyer well upon her confirmation to the Federal bench.

Mark E. Fuller, nominated to be a U.S. District Court Judge for the Middle District of Alabama, is an excellent choice for the federal bench. After graduating from the University of Alabama School of Law in 1985, Mr. Fuller joined the firm of Cassady, Fuller & Marsh, a small litigation firm specializing in all aspects of state and federal practice in rural southeast Alabama. He became a partner in 1986 and remained with the firm until 1996, handling insurance and corporate defense work, and domestic relations, real estate, and corporate law matters.

From 1987 to 1992 and from 1995 to 1996, Mr. Fuller worked as a part-time Assistant District Attorney. In 1996 Mr. Fuller accepted the position of Chief Assistant District Attorney for Alabama's Twelfth Judicial Circuit, serving there until 1997, when he was appointed District Attorney in the same office. While working in the District Attorney's office, Mr. Fuller has represented the people of Pike and Coffee counties in criminal cases, including capital murder trials and juvenile and district court matters. In 1998 Mr. Fuller was elected to a full six-year term as District Attorney. He oversees the operations of the office and continues to handle criminal jury trials.

Daniel Hovland, nominated to the District Court for the District of North Dakota, promises to be an excellent federal judge. Upon graduation from the University of North Dakota School of Law, he served as a law clerk to the Honorable Ralph J. Erickstad on the North Dakota Supreme Court. He then accepted a position with the Office of the Attorney General for North Dakota, working as an Assistant Attorney General and acting as Director of the Consumer Fraud Division from 1980 to 1983.

From there he moved into private practice, working with Fleck Mather & Strutz from 1983 to 1994 and Smith Bakke Hovland & Oppegard from 1994 to the present. As a trial lawyer, Mr. Hovland handles personal injury, wrongful death, medical malpractice, employment/labor, and product liability cases. While in private practice, Mr. Hovland has gained experience particularly helpful for the federal bench. Since 1994 he has served as an Administrative Law Judge for North Dakota's Office of Administrative Hearings, he currently serves on the North Dakota Parole Board, and he has experience with mediation and arbitration.

Kent A. Jordan, who has been nominated to the U.S. District Court for the District of Delaware, comes fully recommended by Senators BIDEN and CARPER, and I urge my colleagues to support him as well.

Mr. Jordan possesses the experience needed for handling the court's heavy caseload of intellectual property, government corruption, and corporate matters. Following graduation from Georgetown University Law Center in 1984, he served as a law clerk to the Honorable James L. Latchum, judge on the U.S. District Court for the District of Delaware. He then worked in private practice with a Wilmington, Delaware, firm, focusing on corporate and commercial litigation. From 1987 to 1992, Mr. Jordan worked in public service as an Assistant U.S. Attorney for the District of Delaware, advancing to become lead attorney on many civil and criminal issues.

Mr. Jordan currently works as a Vice President and General Counsel for the Corporation Service Company, which provides registered agent, public records filing and retrieval, corporate and intellectual property information management, and litigation information management services.

James E. Kinkeade, nominated to the U.S. District Court for the Northern District of Texas, is a graduate of Baylor University School of Law. Judge Kinkeade began work as a law clerk and then associate for Brewer & Price in Irving, Texas. One year later he became a partner at Power & Kinkeade Law Firm. He represented a large number of closely held businesses and acted as local counsel for several national corporations. In addition, he had an active domestic relations and criminal practice. Judge Kinkeade served as an Associate Municipal Judge for the City of Irving from 1976–1980.

Judge Kinkeade stopped practicing law in January of 1981 to become a judge for the County Criminal Court in Dallas, Texas. In fall of 1981, he became a judge for the 194th District Court of Texas. Since 1988, Judge Kinkeade has served on the State of Texas, 5th District Court of Appeals. In addition, Judge Kinkeade has served as an adjunct professor for over 10 years at the Texas Wesleyan School of Law. He received the Outstanding Adjunct Professor award four times while teaching Professional Responsibility.

Judge Robert Gary Klausner, who has been nominated to the District Court for the Central District of California, graduated from Loyola Law School (Los Angeles) in 1967. Though awarded

a merit scholarship by Loyola he supported himself as a gas station attendant. Upon graduation, he commenced his service as an active duty officer in the U.S. Army, rising to the rank of Captain and receiving the Bronze Star.

After leaving the Army, Judge Klausner worked as a Deputy District Attorney for Los Angeles County. In 1974, he became Court Commissioner to the Pasadena Municipal Court for 6 years. In 1980, he became a Judge to that Court. Judge Klausner then left the Pasadena Municipal Court to become a Judge for the Los Angeles Superior Court. He has been with the Los Angeles Superior Court for the last 17 years. This nominee's life has been dedicated to the people of California and I cannot urge the Senate enough to confirm this well-qualified and well-deserving nominee.

Our nominee to the District of New Jersey, Judge Robert Byron Kugler, graduated from Rutgers, Camden Law School and then clerked for the Honorable John F. Gerry of the United States District Court in Camden, New Jersey. In 1979, he was appointed Assistant Camden County Prosecutor and then one year later he was appointed Deputy Attorney General for the New Jersey Department of Law and Public Safety. In these positions, he prosecuted criminal cases brought by county and/or State law enforcement agencies. As a prosecutor, Judge Kugler tried over 30 cases to jury verdict and over 100 cases to verdict in bench trials.

In 1982 Judge Kugler entered private practice and focused on matters of civil and criminal litigation. While in private practice, he tried as sole counsel to verdict over 50 cases. Before becoming a Magistrate Judge, Judge Kugler qualified for appointment by the New Jersey Supreme Court as a Certified Trial Attorney and Certified Civil Trial Attorney. Since 1992, Judge Kugler has been a United States Magistrate Judge in the District Court for the District of New Jersey. In January of 2002, the Camden County Bar Association presented its most prestigious award, the Peter J. Devine Award, to Judge Kugler and his wife for their service to the community and bar.

Ronald B. Leighton, who has been nominated to the U.S. District Court in the Western District of Washington, is a highly experienced and respected federal trial attorney. Upon graduation from UC—Hastings College of Law, Mr. Leighton clerked for the Honorable Frank Richardson of the California Supreme Court. He then joined the Tacoma, WA, firm of Gordon, Thomas, Honeywell, Malanca, Peterson & Daheim, becoming a partner in 1978. He has remained with the same firm to the present day, working as a trial attorney with emphasis on complex litigation in Federal court.

Mr. Leighton's excellence as a litigator has not gone unrecognized. Among other honors, he is a member of the American College of Trial Attorneys, the American Board of Trial Advocates, the International Association of Defense Counsel, and the International Society of Barristers. He has represented clients on both sides of the docket.

Mr. Leighton was nominated by President George H.W. Bush to the same position in the spring of 1992, but the Democrat-controlled Judiciary Committee did not grant him a hearing. I am pleased that we can finally vote Mr. Leighton to the federal court, and I urge my colleagues to join me in my support.

Nominated to the U.S. District Court for the District of New Jersey, Judge Jose Luis Linares immigrated to the United States from Cuba when he was 12 years old. He received his undergraduate degree from Jersey City State University in 1975, where he was a member of the National Honor Society. He then graduated from Temple Law School in 1978. During his studies at Temple, he was on the Dean's List for 2 years and was the recipient of the that law school's Barristers' Society Award for Excellence in Trial Advocacy.

Judge Linares started his career with the New York Department of Investigation, where he supervised white-collar crime and corruption investigations in the City of New York. Later, as an attorney at Horowitz, Bross, Sinnins & Imperial, P.A., he was responsible for the preparation and trial of both civil and criminal cases. In 1982, Judge Linares started his own law firm, litigating both civil and criminal cases with a focus on complex medical malpractice and product liability cases. After 18 years as a partner in his own firm, in its many incarnations, he was appointed as a Judge to the New Jersey Superior Court in Essex County. He currently oversees complex medical malpractice cases in the Civil Division of the court. His fellow attorney's are quite impressed with his record as well. He has received the highest rating by the ABA, unanimously Well Qualified. I am proud to say that I will vote for this nominee and I recommend him without reservation to the Senate.

Nominated to the U.S. District Court for the Western District of Texas, Judge Alia Moses Ludlum, graduated from the University of Texas School of Law in 1986. She continued her law school job as a law clerk in the Travis County Attorney's Office, where she eventually was promoted to Assistant County Attorney. She held a variety of positions in the office, first as Intake Attorney, then as Trial Attorney, and ultimately as Chief of the office's Appellate Division. Her primary responsibility as an Assistant County Attorney was the prosecution of criminal cases at the trial and appellate levels. She also handled all civil expunction suits and some mental health commitment cases, and represented battered spouses in protective order proceedings.

After 4 years at the County Attorney's Office, Judge Ludlum was hired to work as the sole resident AUSA in the Del Rio Division of the U.S. Attorney's Office for the Western District of Texas. She was eventually elevated to the position of Senior Litigation Attorney, then promoted to Chief of the Del Rio Division. As an AUSA, Judge Ludlum prosecuted an average of 125 felony criminal case per year. In 1997, Judge Ludlum became a part-time magistrate judge for the Western District of Texas, Del Rio Division. She assumed that position on a full-time basis in 2000.

William J. Martini, who has been nominated to the U.S. District Court for the District of New Jersey, has solid prosecutorial and private practice experience, as well as congressional service all of which will serve him well on the federal bench.

A graduate of Rutgers School of Law, Mr. Martini served as a law clerk for the Superior Court of New Jersey, before working as an assistant prosecutor in the Hudson County (New Jersey) Prosecutor's Office. He then took a position as an assistant U.S. Attorney in the U.S. Attorney's Office in Newark, NJ, where he tried a dozen criminal jury trials to completion. Beginning in 1977, Mr. Martini worked as a sole practitioner, initially representing criminal defendants and later branching out into civil litigation, including plaintiff's personal injury suits and commercial contract matters. Following a term serving the people of New Jersey in the House of Representatives, he joined Sills Cummis Radin Tischman Epstein and Gross as partner, focusing on governmental affairs/regulatory law and general litigation.

Magistrate Judge Thomas Wade Phillips, nominated to the District Court for the Eastern District of Tennessee, received his undergraduate degree from Berea College in 1965. After college, he attended Vanderbilt University School of Law on a full academic scholarship. In law school he was an assistant articles editor for the law review and was the recipient of the Dean's Award for Best Senior Dissertation. After graduation, he was commissioned into the United States Army, Judge Advocate General Corps, where he received a Appellate Advocacy Award, Government Appellate Division, in 1973. During that same year, he retired from the military and earned an LL.M. in Labor Law from George Washington University Law School.

Entering private practice, he was an associate at two firms, before becoming a partner at the firm of Baker, Worthington, Cossley, Stansberry & Woolf. During this period, he was elected to and served for nearly fifteen years as the county attorney for Scott County. From 1977 to 1986 he was a partner at two different firms. In 1986, Magistrate Judge Phillips became a Senior Partner in the firm of Phillips and Williams. He held this position until 1991 when he was appointed United States Magistrate Judge for the Eastern District of Tennessee. On October 17, 2000, he was appointed Chief

United States Magistrate Judge for the Eastern District of Tennessee. He continues to serve in this capacity. The ABA has given him their highest rating of Unanimously Well Qualified.

Upon graduation from Drake University Law School, Judge Linda Reade, nominated to the U.S. District Court for the Northern District of Iowa, became an associate with a Des Moines area law firm where she worked on litigation involving federal and state civil law. In 1981, she moved to the Des Moines firm of Rosenberg and Margulies, where she worked for three years litigating federal and state, and civil and criminal law.

From 1984 to 1986, Judge Reade worked on both federal and state, and civil and criminal cases as a partner in that firm. In 1986, she became an Assistant United States Attorney for the Southern District of Iowa. In 1990, she was promoted to Chief of the General Criminal Division in the United States Attorney's Office for the Southern District of Iowa. Since 1993, Judge Reade has served as a general jurisdiction State District Court Judge in Des Moines, Iowa, where she has maintained a low reversal rate. She has also lectured on civil procedure and trial practice (1995–2000) and taught trial practice for two semesters at Drake University Law School (1988 and 1990). Judge Reade is well prepared to serve as a district court judge.

William E. Smith, who has been nominated to the U.S. District Court for the District of Rhode Island, joined Edwards & Angell, LLP, right after law school, and he is a member of the firm's labor, employment, and litigation departments. His practice has included representing management in union contract negotiations, union organizing drives, arbitration proceedings, employment discrimination matters, sexual harassment, wage and hour law, OSHA, OFCCP compliance and investigations, and other Department of Labor investigations.

While at his firm, in 1993, Mr. Smith successfully competed to become City Solicitor of Warwick, Rhode Island (under Mayor Lincoln Chafee). As such, he led a team of lawyers who took over all of the city's legal work for a fixed fee. He was also retained that year to be legal counsel to the Rhode Island Secretary of State, performing labor, employment and other matters. In 1994, he was hired by the Rhode Island Department of Administration as outside labor-litigation counsel for a number of arbitration cases. He also worked for the Rhode Island courts during an organizing drive of clerical employees and a restructuring of the court system and as a judge on the municipal court for 4½ years. Mr. Smith has since returned to private practice with Edwards & Angell.

Jeffery Steven White, who has been nominated to the Northern District of California, is a prime example of the high quality attorneys that President Bush has nominated to the Federal bench. He received his undergraduate degree from Queens College of the City University of New York in 1977. He then graduated magna cum laude from the State University of New York, Buffalo's School of Law in 1980. During his studies at SUNY Buffalo, he was a Research Editor of the Law Review and graduated first in his class.

Upon graduation, Mr. White became a Trial Attorney for the U.S. Department of Justice, Criminal Division—Management/Labor Section. In 1971 he joined the U.S. Attorney Office for the District of Maryland as an Assistant U.S. Attorney. During his tenure at this position, he was designated as an outstanding Assistant United States Attorney in 1974 and 1976. He then returned to the Department of Justice in 1977 to work as a Senior Grade Trial Attorney in the Public Integrity Section of the Criminal Division. In 1978, Mr. White began a 24 year association with the law firm of Orrick, Herrington & Sutcliffe. He quickly rose to become Chairman of the firm's Litigation Department, a position that he held from 1985 to 2000.

Freda L. Wolfson, who has been nominated to the District Court for the District of New Jersey, is a great choice for the federal court. Upon graduation from Rutgers University School of Law, Judge Wolfson was a litigation associate at Lowenstein, Sandler, Kohl, Fisher & Boylan. Her practice mostly involved commercial litigation and employment litigation. She also represented a habeas corpus petitioner in federal court and represented several criminal defendants as pro bono counsel.

From 1981–1986, she was a litigation associate at Clapp & Eisenberg where she focused on commercial litigation, employment litigation, and defense of ski areas. In addition, she frequently appeared before the New Jersey Casino Control Commission. In 1986, Judge Wolfson was appointed a United States Magistrate Judge, District of New Jersey. Since 1990, she has presided over 32 civil trials, 18 jury trials, and 14 bench trials. She has served on the Third Circuit's Task Force for Indigent Litigants in Civil Cases since 1998.

I am proud to support all of these nominees. They have excellent educational backgrounds, they have terrific legal experience, and they have the temperament to excel on the bench. I urge my colleagues to join me in my unqualified support.

NOMINATION OF JUDGE THOMAS PHILLIPS

Mr. THOMPSON. Madam President, I am very pleased that the Senate is taking up the nomination of judge Thomas Phillips, who is the President's nominee to fill a vacancy on the United States District Court for the Eastern District of Tennessee.

Judge Phillips was born and raised in Scott County, TN, the home county of our former colleague, Senator Howard Baker. His academic record is superb. A Phi Beta Kappa graduate of Berea College in Kentucky, he went on to attend Vanderbilt Law School, my own alma mater, on a full academic scholarship. While at Vanderbilt, he was an editor of the Law Review and received the Dean's Award for Best Senior Dissertation.

Upon finishing law school, Judge Phillips joined the Army Judge Advocate General's Corps, which awarded him its Outstanding Appellate Advocacy Award and the Army Commendation Medal in 1973. While serving in the Army, Judge Phillips also received a master of laws degree from George Washington University Law School here in Washington.

In 1973, Judge Phillips returned to Tennessee and entered the private practice of law. Public service called him back, however, and in 1976, Judge Phillips was elected as County Attorney for Scott County. Between 1976 and 1991, Judge Phillips continued to serve as Scott County Attorney, being reelected four times, while continuing to engage in private law practice with his own firm in his home town, Oneida. During this period, he tried hundreds of cases.

In 1991, Judge Phillips was appointed by the judges of the Eastern District of Tennessee to serve as a Magistrate Judge in Knoxville, the position he continues to hold. During the time he has served as Magistrate Judge, he has earned the respect of all who have appeared before him for his demeanor, courtesy, and intellect. During the rigorous screening process that Senator FRIST and I undertook to review the records of interested candidates for this judgeship, we heard uniformly and highly favorable comments about Judge Phillips.

I think the record before the committee demonstrates his outstanding qualifications. I cite just one example. In over 11 years on the bench, out of thousands of decisions and recommendations, Judge Phillips has been reversed on just two occasions, and on only one occasion has a District Judge rejected his recommendations.

Judge Phillips has excelled not only in his professional career, but in his commitment to his community as well. He has promoted legal education by serving as a member of the Inns of Court and by teaching at the University of Tennessee Law School. He is an Elder of the Huntsville Presbyterian Church, a member of the American Legion, and a leader of the American, Tennessee, Scott County, and Knoxville Bar Associations. In private practice, Judge Phillips provided extensive pro bono services and served on the boards of Scott County Hospital and Opportunities for the Handicapped.

I would be remiss if I failed to note the importance of moving forward with this nomination. Traditionally, two district judges sit in Knoxville, Tennessee's third largest city. Late last year and early this year, Judge Jordan and Judge Jarvis respectively assumed senior status, leaving the district court in Knoxville with no active judges. I

want to express my thanks and appreciation to both senior judges for the service they rendered for many years on the Federal bench in Knoxville.

I am confident that there is no one better qualified to fill the large hold left by Judge Jordan and Judge Jarvis than Judge Phillips. I am pleased to endorse Judge Phillips and urge my colleagues to support his nomination.

NOMINATION OF EUGENE SCALIA—MOTION TO PROCEED

Mr. GRASSLEY. Mr. President, I move to proceed to consider the nomination of Eugene Scalia to be solicitor for the Department of Labor.

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

The motion is not agreed to.

LEGISLATIVE SESSION

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

IDENTITY THEFT VICTIMS ASSISTANCE ACT OF 2002

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 382, S. 1742.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1742) to prevent the crime of identity theft, mitigate the harm to individuals victimized by identity theft, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

[Strike the part printed in black brackets and insert the part printed in italic.]

S. 1742

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 ''Restore Your Identity Act of 2001''.

[SEC. 2. FINDINGS.

[Congress finds that—

[(1) the crime of identity theft is the fastest growing crime in the United States;

[(2) the Federal Trade Commission reports that between March and June of 2001, the total number of identity theft victims in the Commission's Complaint Clearinghouse System, tallied from November 1999, increased from 45,593 to 69,370;

[(3) consumer inquiries and complaints to the Federal Trade Commission Identity Theft Hotline increased from 68,000 to over 97,000 over the same 3-month period, and consumer calls into the Hotline increased in the same period from 1,800 calls per week to over 2,000;

[(4) the Federal Trade Commission estimates that the call volume to the Identity Theft Hotline represents only 5 to 10 percent of the actual number of victims of identity theft;

[(5) victims of identity theft often have extraordinary difficulty restoring their credit and regaining control of their identity because of the viral nature of identity theft;

[(6) identity theft may be ruinous to the good name and credit of consumers whose identities are misappropriated, and victims of identity theft may be denied otherwise well-deserved credit, may have to spend enormous time, effort, and sums of money to remedy their circumstances, and may suffer extreme emotional distress including deep depression founded in profound frustration as they address the array of problems that may arise as a result of identity theft;

[(7) victims are often required to contact numerous Federal, State, and local law enforcement agencies, consumer credit reporting agencies, and creditors over many years, as each event of fraud arises;

[(8) the Government, business entities, and credit reporting agencies have a shared responsibility to assist identity theft victims, to mitigate the harm that results from fraud perpetrated in the victim's name;

[(9) victims of identity theft need a nationally standardized means of—

[(A) reporting identity theft to law enforcement, consumer credit reporting agencies, and business entities; and

[(B) evidencing their true identity to business entities and credit reporting agencies;

[(10) one of the greatest law enforcement challenges posed by identity theft is that stolen identities are often used to perpetrate crimes in many different localities in different States, and although identity theft is a Federal crime, most often, State and local law enforcement agencies are responsible for investigating and prosecuting the crimes; and

[(11) the Federal Government should assist State and local law enforcement agencies to effectively combat identity theft and the associated fraud.

[SEC. 3. DEFINITIONS.

[In this Act, the following definitions shall apply:

[(1) BUSINESS ENTITY.—The term ''business entity'' means—

[(A) a creditor, as that term is defined in section 103 of the Truth in Lending Act (15 U.S.C. 1602);

[(B) any financial information repository;

[(C) any financial service provider; and

[(D) any corporation, trust, partnership, sole proprietorship, or unincorporated association (including telecommunications, utilities, and other service providers).

[(2) CONSUMER.—The term ''consumer'' means an individual.

[(3) FINANCIAL INFORMATION.—The term ''financial information'' means information identifiable as relating to an individual consumer that concerns the amount and conditions of the assets, liabilities, or credit of the consumer, including—

[(A) account numbers and balances;

[(B) nonpublic personal information, as that term is defined in section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809); and

[(C) codes, passwords, social security numbers, tax identification numbers, State identifier numbers issued by a State department of licensing, and other information used for the purpose of account access or transaction initiation.

[(4) FINANCIAL INFORMATION REPOSITORY.—The term ''financial information repository'' means a person engaged in the business of providing services to consumers who have a credit, deposit, trust, stock, or other financial services account or relationship with that person.

[(5) IDENTITY THEFT.—The term ''identity theft'' means an actual or potential violation of section 1028 of title 28, United States Code, or any other similar provision of Federal or State law.

[(6) MEANS OF IDENTIFICATION.—The term ''means of identification'' has the meanings given the terms ''identification document'' and ''means of identification'' in section 1028 of title 18, United States Code.

[(7) VICTIM.—The term ''victim'' means a consumer whose means of identification or financial information has been used or transferred (or has been alleged to have been used or transferred) without the authority of that consumer with the intent to commit, or to aid or abet, identity theft or any other violation of law.

[SEC. 4. IDENTITY THEFT TREATED AS RACKETEERING ACTIVITY.

[Section 1961(1)(B) of title 18, United States Code, is amended by inserting '', or any similar offense chargeable under State law'' after ''identification documents)''.

[SEC. 5. TREATMENT OF IDENTITY THEFT MITIGATION.

[(a) INFORMATION AVAILABLE TO VICTIMS.—

[(1) IN GENERAL.—A business entity possessing information relating to an identity theft, or who may have entered into a transaction, provided credit, products, goods, or services, accepted payment, or otherwise done business with a person that has made unauthorized use of the means of identification of the victim, shall, not later than 10 days after receipt of a written request by the victim, provide, without charge, to the victim or to any Federal, State, or local governing law enforcement agency or officer specified by the victim copies of all related application and transaction information and any information required pursuant to subsection (b).

[(2) RULE OF CONSTRUCTION.—Nothing in this section requires a business entity to disclose information that the business entity is otherwise prohibited from disclosing under any other provision of Federal or State law, except that any such provision of law that prohibits the disclosure of financial information to third parties shall not be used to deny disclosure of information to the victim under this section.

[(b) VERIFICATION OF IDENTITY.—

[(1) IN GENERAL.—Unless a business entity is otherwise able to verify the identity of a victim making a request under subsection (a)(1), the victim shall provide to the business entity as proof of positive identification, at the election of the business entity—

[(A) a copy of a police report evidencing the claim of the victim of identity theft;

[(B) a copy of a standardized affidavit of identity theft developed and made available by the Federal Trade Commission; or

[(C) any affidavit of fact that is acceptable to the business entity for that purpose.

[(c) LIMITATION ON LIABILITY.—No business entity may be held liable for an action taken in good faith to provide information under this section with respect to an individual in connection with an identity theft to other financial information repositories, financial service providers, merchants, law enforcement authorities, victims, or any person alleging to be a victim, if—

[(1) the business entity complies with subsection (b); and

[(2) such action was taken—

[(A) for the purpose of identification and prosecution of identity theft; or

[(B) to assist a victim in recovery of fines, restitution, rehabilitation of the credit of the victim, or such other relief as may be appropriate.

[(d) AUTHORITY TO DECLINE TO PROVIDE INFORMATION.—A business entity may decline

to provide information pursuant to subsection (a) if, in the exercise of good faith and reasonable judgment, the business entity believes that—

[(1) this section does not require disclosure of the information; or

[(2) the request for the information is based on a misrepresentation of fact by the victim relevant to the request for information.

[(e) NO NEW RECORDKEEPING OBLIGATION.—Nothing in this section creates an obligation on the part of a business entity to retain or maintain information or records that are not otherwise required to be retained or maintained in the ordinary course of its business or under other applicable law.

[SEC. 6. AMENDMENTS TO THE FAIR CREDIT REPORTING ACT.

[(a) CONSUMER REPORTING AGENCY BLOCKING OF INFORMATION RESULTING FROM IDENTITY THEFT.—Section 611 of the Fair Credit Reporting Act (15 U.S.C. 1681i) is amended by adding at the end the following:

[''(e) BLOCK OF INFORMATION RESULTING FROM IDENTITY THEFT.—

[''(1) BLOCK.—Not later than 30 days after the date of receipt of proof of the identity of a consumer and an official copy of a police report evidencing the claim of the consumer of identity theft, a consumer reporting agency shall permanently block the reporting of any information identified by the consumer in the file of the consumer resulting from the identity theft, so that the information cannot be reported, except as provided in paragraph (3).

[''(2) NOTIFICATION.—A consumer reporting agency shall promptly notify the furnisher of information identified by the consumer under paragraph (1) that the information may be a result of identity theft, that a police report has been filed, that a block has been requested under this subsection, and the effective date of the block.

[''(3) AUTHORITY TO DECLINE OR RESCIND.—

[''(A) IN GENERAL.—A consumer reporting agency may decline to block, or may rescind any block, of consumer information under this subsection if—

[''(i) in the exercise of good faith and reasonable judgment, the consumer reporting agency believes that—

[''(I) the information was blocked due to a misrepresentation of fact by the consumer relevant to the request to block; or

[''(II) the consumer knowingly obtained possession of goods, services, or moneys as a result of the blocked transaction or transactions, or the consumer should have known that the consumer obtained possession of goods, services, or moneys as a result of the blocked transaction or transactions; or

[''(ii) the consumer agrees that the blocked information or portions of the blocked information were blocked in error.

[''(B) NOTIFICATION TO CONSUMER.—If the block of information is declined or rescinded under this paragraph, the affected consumer shall be notified promptly, in the same manner as consumers are notified of the reinsertion of information pursuant to subsection (a)(5)(B).

[''(C) SIGNIFICANCE OF BLOCK.—For purposes of this paragraph, the prior presence of blocked information in the file of a consumer is not evidence of whether the consumer knew or should have known that the consumer obtained possession of any goods, services, or monies as a result of the block.''.

[(b) STATUTE OF LIMITATIONS.—Section 618 of the Fair Credit Reporting Act (15 U.S.C. 1681p) is amended by striking ''jurisdiction'' and all that follows through ''years after'' and inserting ''jurisdiction, not later than 2 years after''.

[SEC. 7. COMMISSION STUDY OF COORDINATION BETWEEN FEDERAL, STATE, AND LOCAL AUTHORITIES IN ENFORCING IDENTITY THEFT LAWS.

[(a) MEMBERSHIP.—Section 2(b) of the Internet False Identification Prevention Act of 2000 (18 U.S.C. 1028 note) is amended by inserting ''the Postmaster General, the Commissioner of the United States Customs Service,'' after ''Trade Commissioner''.

[(b) CONSULTATION.—Section 2 of the Internet False Identification Prevention Act of 2000 (18 U.S.C. 1028 note) is amended—

[(1) by redesignating subsection (d) as subsection (e); and

[(2) by inserting after subsection (c) the following:

[''(d) CONSULTATION.—The coordinating committee shall consult with interested parties, including State and local law enforcement agencies, State attorneys general, representatives of business entities (as that term is defined in section 4 of the Restore Your Identity Act of 2001), including telecommunications and utility companies, and organizations representing consumers.''.

[(c) REPORT CONTENTS.—Section 2(e) of the Internet False Identification Prevention Act of 2000 (18 U.S.C. 1028 note) (as redesignated by this section) is amended—

[(1) in subparagraph (E), by striking ''and'' at the end; and

[(2) by striking subparagraph (F) and inserting the following:

[''(F) a comprehensive description of Federal assistance to address identity theft provided to State and local law enforcement agencies;

[''(G) a comprehensive description of coordination activities between Federal, State, and local law enforcement agencies in regard to addressing identity theft and recommendations, if any, for legislative changes that could facilitate more effective investigation and prosecution of the creation and distribution of false identification documents;

[''(H) a comprehensive description of how the Federal Government can best provide to State and local law enforcement agencies timely and current information regarding terrorists or terrorist activity where such information specifically relates to identity theft; and

[''(I) recommendations, if any, for legislative or administrative changes that would—

[''(i) facilitate more effective investigation and prosecution of cases involving identity theft;

[''(ii) improve the effectiveness of Federal assistance to State and local law enforcement agencies and coordination between Federal, State, and local law enforcement agencies;

[''(iii) simplify efforts by a person necessary to rectify the harm that results from the theft of the identity of the person; and

[''(iv) if deemed appropriate, provide for the establishment of a Federal identity theft and false identification office or agency.''.

[SEC. 8. ENFORCEMENT BY STATE ATTORNEYS GENERAL.

[(a) IN GENERAL.—

[(1) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that is prohibited under this Act or under any amendment made by this Act, the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

[(A) enjoin that practice;

[(B) enforce compliance with this Act or the amendments made by this Act;

[(C) obtain damage, restitution, or other compensation on behalf of residents of the State; or

[(D) obtain such other relief as the court may consider to be appropriate.

[(2) NOTICE.—

[(A) IN GENERAL.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Attorney General of the United States—

[(i) written notice of the action; and

[(ii) a copy of the complaint for the action.

[(B) EXEMPTION.—

[(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if that attorney general determines that it is not feasible to provide the notice described in subparagraph (A) before the filing of the action.

[(ii) NOTIFICATION.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Attorney General of the United States at the same time as the action is filed.

[(b) INTERVENTION.—

[(1) IN GENERAL.—On receiving notice of an action under subsection (a)(2), the Attorney General of the United States shall have the right to intervene in that action.

[(2) EFFECT OF INTERVENTION.—If the Attorney General of the United States intervenes in an action under subsection (a), the Attorney General shall have the right to be heard with respect to any matter that arises in that action.

[(c) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this Act or the amendments made by this Act shall be construed to prevent an attorney general of a State from exercising the powers conferred on such attorney general by the laws of that State—

[(1) to conduct investigations;

[(2) to administer oaths or affirmations; or

[(3) to compel the attendance of witnesses or the production of documentary and other evidence.

[(d) ACTIONS BY THE ATTORNEY GENERAL OF THE UNITED STATES.—In any case in which an action is instituted by or on behalf of the Attorney General of the United States for violation of a practice that is prohibited under this Act or under any amendment made by this Act, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action for violation of that practice.

[(e) VENUE; SERVICE OF PROCESS.—

[(1) VENUE.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

[(2) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

[(A) is an inhabitant; or

[(B) may be found.]

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Identity Theft Victims Assistance Act of 2002''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the crime of identity theft is the fastest growing crime in the United States;

(2) victims of identity theft often have extraordinary difficulty restoring their credit and regaining control of their identity because of the viral nature of identity theft;

(3) identity theft may be ruinous to the good name and credit of consumers whose identities are misappropriated, and victims of identity theft may be denied otherwise well-deserved

credit, may have to spend enormous time, effort, and sums of money to remedy their circumstances, and may suffer extreme emotional distress including deep depression founded in profound frustration as they address the array of problems that may arise as a result of identity theft;

(4) victims are often required to contact numerous Federal, State, and local law enforcement agencies, consumer credit reporting agencies, and creditors over many years, as each event of fraud arises;

(5) the Government, business entities, and credit reporting agencies have a shared responsibility to assist identity theft victims, to mitigate the harm that results from fraud perpetrated in the victim's name;

(6) victims of identity theft need a nationally standardized means of—

(A) reporting identity theft to consumer credit reporting agencies and business entities; and

(B) evidencing their true identity and claim of identity theft to consumer credit reporting agencies and business entities;

(7) one of the greatest law enforcement challenges posed by identity theft is that stolen identities are often used to perpetrate crimes in many different localities in different States, and although identity theft is a Federal crime, most often, State and local law enforcement agencies are responsible for investigating and prosecuting the crimes; and

(8) the Federal Government should assist State and local law enforcement agencies to effectively combat identity theft and the associated fraud.

SEC. 3. DEFINITIONS.

In this Act, the following definitions shall apply:

(1) BUSINESS ENTITY.—The term ''business entity'' means—

(A) a creditor, as that term is defined in section 103 of the Truth in Lending Act (15 U.S.C. 1602);

(B) any financial information repository;

(C) any financial service provider; and

(D) any corporation, trust, partnership, sole proprietorship, or unincorporated association (including telecommunications, utilities, and other service providers).

(2) CONSUMER.—The term ''consumer'' means an individual.

(3) FINANCIAL INFORMATION.—The term ''financial information'' means information identifiable as relating to an individual consumer that concerns the amount and conditions of the assets, liabilities, or credit of the consumer, including—

(A) account numbers and balances;

(B) nonpublic personal information, as that term is defined in section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809); and

(C) codes, passwords, social security numbers, tax identification numbers, State identifier numbers issued by a State department of licensing, and other information used for the purpose of account access or transaction initiation.

(4) FINANCIAL INFORMATION REPOSITORY.—The term ''financial information repository'' means a person engaged in the business of providing services to consumers who have a credit, deposit, trust, stock, or other financial services account or relationship with that person.

(5) IDENTITY THEFT.—The term ''identity theft'' means an actual or potential violation of section 1028 of title 18, United States Code, or any other similar provision of Federal or State law.

(6) MEANS OF IDENTIFICATION.—The term ''means of identification'' has the meanings given the terms ''identification document'' and ''means of identification'' in section 1028 of title 18, United States Code.

(7) VICTIM.—The term ''victim'' means a consumer whose means of identification or financial information has been used or transferred (or has been alleged to have been used or transferred) without the authority of that consumer with the intent to commit, or to aid or abet, identity theft or any other violation of law.

SEC. 4. TREATMENT OF IDENTITY THEFT MITIGATION.

Section 1028 of title 18, United States Code, is amended by adding at the end the following:

''(i) TREATMENT OF IDENTITY THEFT MITIGATION.—

''(1) INFORMATION AVAILABLE TO VICTIMS.—

''(A) IN GENERAL.—A business entity that possesses information relating to an alleged identity theft, or that has entered into a transaction, provided credit, products, goods, or services, accepted payment, or otherwise done business with a person that has made unauthorized use of the means of identification of the victim, shall, not later than 20 days after the receipt of a written request by the victim under paragraph (2), provide, without charge, a copy of all application and transaction information related to the transaction being alleged as a potential or actual identity theft to—

''(i) the victim;

''(ii) any Federal, State, or local governing law enforcement agency or officer specified by the victim; or

''(iii) any law enforcement agency investigating the identity theft and authorized by the victim to take receipt of records provided under this subsection.

''(B) RULE OF CONSTRUCTION.—

''(i) IN GENERAL.—No provision of Federal or State law prohibiting the disclosure of financial information to third parties shall be used to deny disclosure of information to the victim under this subsection.

''(ii) LIMITATION.—Except as provided in clause (i), nothing in this subsection requires a business entity to disclose information that the business entity is otherwise prohibited from disclosing under any other provision of Federal or State law.

''(2) VERIFICATION OF IDENTITY AND CLAIM.—Unless a business entity, at its discretion, is otherwise able to verify the identity of a victim making a request under subsection (a)(1), the victim shall provide to the business entity—

''(A) as proof of positive identification—

''(i) the presentation of a government-issued identification card;

''(ii) if providing proof by mail, a copy of a government-issued identification card; or

''(iii) upon the request of the person seeking business records, the business entity may inform the requesting person of the categories of identifying information that the unauthorized person provided the business entity as personally identifying information, and may require the requesting person to provide identifying information in those categories; and

''(B) as proof of a claim of identity theft, at the election of the business entity—

''(i) a copy of a police report evidencing the claim of the victim of identity theft;

''(ii) a copy of a standardized affidavit of identity theft developed and made available by the Federal Trade Commission; or

''(iii) any affidavit of fact that is acceptable to the business entity for that purpose.

''(3) LIMITATION ON LIABILITY.—No business entity may be held liable for a disclosure, made in good faith and reasonable judgment, to provide information under this section with respect to an individual in connection with an identity theft to other financial information repositories, financial service providers, merchants, law enforcement authorities, victims, or any person alleging to be a victim, if—

''(A) the business entity complies with paragraph (2); and

''(B) such disclosure was made—

''(i) for the purpose of detection, investigation, or prosecution of identity theft; or

''(ii) to assist a victim in recovery of fines, restitution, rehabilitation of the credit of the victim, or such other relief as may be appropriate.

''(4) AUTHORITY TO DECLINE TO PROVIDE INFORMATION.—A business entity may decline to provide information pursuant to paragraph (1) if, in the exercise of good faith and reasonable judgment, the business entity believes that—

''(A) this subsection does not require disclosure of the information; or

''(B) the request for the information is based on a misrepresentation of fact by the victim relevant to the request for information.

''(5) NO NEW RECORDKEEPING OBLIGATION.—Nothing in this subsection creates an obligation on the part of a business entity to obtain, retain, or maintain information or records that are not otherwise required to be retained or maintained in the ordinary course of its business or under other applicable law.

''(6) NOTIFICATION SYSTEM.—

''(A) IN GENERAL.—A business entity may establish and maintain a notification system for the business entity to comply with this subsection, including a toll-free telephone number and a mailing address.

''(B) REQUIREMENTS.—A notification system under subparagraph (A) shall permit any person to make a request to, or to correspond with, the business entity under this subsection, provided that—

''(i) the business entity informs the person—

''(I) that any person may request information under this subsection; and

''(II) of the address and toll-free telephone number established and maintained for this purpose; and

''(ii) a person representing the business entity—

''(I) responds to an information request through the toll-free number within 3 business days of receiving the request; and

''(II) facilitates the provision of such information to the person who initiated the request.''.

SEC. 5. AMENDMENTS TO THE FAIR CREDIT REPORTING ACT.

(a) CONSUMER REPORTING AGENCY BLOCKING OF INFORMATION RESULTING FROM IDENTITY THEFT.—Section 611 of the Fair Credit Reporting Act (15 U.S.C. 1681i) is amended by adding at the end the following:

''(e) BLOCK OF INFORMATION RESULTING FROM IDENTITY THEFT.—

''(1) BLOCK.—Except as provided in paragraph (3) and not later than 30 days after the date of receipt of proof of the identity of a consumer and an official copy of a police report evidencing the claim of the consumer of identity theft, a consumer reporting agency shall permanently block the reporting of any information identified by the consumer in the file of the consumer resulting from the identity theft, so that the information cannot be reported, except as provided in paragraph (3).

''(2) NOTIFICATION.—A consumer reporting agency shall promptly notify the furnisher of information identified by the consumer under paragraph (1)—

''(A) that the information may be a result of identity theft;

''(B) that a police report has been filed;

''(C) that a block has been requested under this subsection; and

''(D) of the effective date of the block.

''(3) AUTHORITY TO DECLINE OR RESCIND.—

''(A) IN GENERAL.—A consumer reporting agency may decline to block, or may rescind any block, of consumer information under this subsection if—

''(i) in the exercise of good faith and reasonable judgment, the consumer reporting agency believes that—

''(I) the information was blocked due to a misrepresentation of fact by the consumer relevant to the request to block; or

''(II) the consumer knowingly obtained possession of goods, services, or moneys as a result of the blocked transaction or transactions, or the consumer should have known that the consumer obtained possession of goods, services, or moneys as a result of the blocked transaction or transactions; or

''(ii) the consumer agrees that the blocked information or portions of the blocked information were blocked in error.

''(B) NOTIFICATION TO CONSUMER.—If the block of information is declined or rescinded under this paragraph, the affected consumer shall be notified promptly, in the same manner as consumers are notified of the reinsertion of information under subsection (a)(5)(B).

''(C) SIGNIFICANCE OF BLOCK.—For purposes of this paragraph, the prior presence of blocked information in the file of a consumer is not evidence of whether the consumer knew or should have known that the consumer obtained possession of any goods, services, or monies as a result of the block.

''(4) EXCEPTION.—A consumer reporting agency shall not be required to comply with this subsection when the agency is issuing information for authorizations, for the purpose of approving or processing negotiable instruments, electronic funds transfers, or similar methods of payment, based solely on negative information, including—

''(A) dishonored checks;

''(B) accounts closed for cause;

''(C) substantial overdrafts;

''(D) abuse of automated teller machines; or

''(E) other information which indicates a risk of fraud occurring.''.

(b) FALSE CLAIMS.—Section 1028 of title 18, United States Code, is amended by adding at the end the following:

''(j) Whoever knowingly falsely claims to be a victim of identity theft for the purpose of obtaining the blocking of information by a consumer reporting agency under section 611(e)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681i(e)(1)) shall be fined under this title, imprisoned not more than 3 years, or both.''.

(c) STATUTE OF LIMITATIONS.—Section 618 of the Fair Credit Reporting Act (15 U.S.C. 1681p) is amended to read as follows:

''SEC. 618. JURISDICTION OF COURTS; LIMITATION ON ACTIONS.

''(a) IN GENERAL.—Except as provided in subsections (b) and (c), an action to enforce any liability created under this title may be brought in any appropriate United States district court without regard to the amount in controversy, or in any other court of competent jurisdiction, not later than 2 years from the date of the defendant's violation of any requirement under this title.

''(b) WILLFUL MISREPRESENTATION.—In any case in which the defendant has materially and willfully misrepresented any information required to be disclosed to an individual under this title, and the information misrepresented is material to the establishment of the liability of the defendant to that individual under this title, an action to enforce a liability created under this title may be brought at any time within 2 years after the date of discovery by the individual of the misrepresentation.

''(c) IDENTITY THEFT.—An action to enforce a liability created under this title may be brought not later than 5 years from the date of the defendant's violation if—

''(1) the plaintiff is the victim of an identity theft; or

''(2) the plaintiff—

''(A) has reasonable grounds to believe that the plaintiff is the victim of an identity theft; and

''(B) has not materially and willfully misrepresented such a claim.''.

SEC. 6. COMMISSION STUDY OF COORDINATION BETWEEN FEDERAL, STATE, AND LOCAL AUTHORITIES IN ENFORCING IDENTITY THEFT LAWS.

(a) MEMBERSHIP; TERM.—Section 2 of the Internet False Identification Prevention Act of 2000 (18 U.S.C. 1028 note) is amended—

(1) in subsection (b), by striking ''and the Commissioner of Immigration and Naturalization'' and inserting ''the Commissioner of Immigration and Naturalization, the Chairman of the Federal Trade Commission, the Postmaster General, and the Commissioner of the United States Customs Service,''; and

(2) in subsection (c), by striking ''2 years'' and inserting ''6 years''.

(b) CONSULTATION.—Section 2 of the Internet False Identification Prevention Act of 2000 (18 U.S.C. 1028 note) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

''(d) CONSULTATION.—The coordinating committee shall consult with interested parties, including State and local law enforcement agencies, State attorneys general, representatives of business entities (as that term is defined in section 4 of the Identity Theft Victims Assistance Act of 2002), including telecommunications and utility companies, and organizations representing consumers.''.

(c) REPORT CONTENTS.—Section 2(e) of the Internet False Identification Prevention Act of 2000 (18 U.S.C. 1028 note) (as redesignated by this section) is amended—

(1) in subparagraph (E), by striking ''and'' at the end; and

(2) by striking subparagraph (F) and inserting the following:

''(F) a comprehensive description of Federal assistance provided to State and local law enforcement agencies to address identity theft;

''(G) a comprehensive description of coordination activities between Federal, State, and local law enforcement agencies that address identity theft;

''(H) a comprehensive description of how the Federal Government can best provide State and local law enforcement agencies with timely and current information regarding terrorists or terrorist activity where such information specifically relates to identity theft; and

''(I) recommendations in the discretion of the President, if any, for legislative or administrative changes that would—

''(i) facilitate more effective investigation and prosecution of—

''(I) cases involving identity theft; and

''(II) the creation and distribution of false identification documents;

''(ii) improve the effectiveness of Federal assistance to State and local law enforcement agencies and coordination between Federal, State, and local law enforcement agencies;

''(iii) simplify efforts by a person necessary to rectify the harm that results from the theft of the identity of such person; and

''(iv) if deemed appropriate, provide for the establishment of a Federal identity theft and false identification office or agency.''.

SEC. 7. ENFORCEMENT.

(a) IN GENERAL.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been, or is threatened to be, adversely affected by a violation of section 4 of this Act by any business entity, the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

(A) enjoin that practice;

(B) enforce compliance with this Act or the amendments made by this Act;

(C) obtain damages—

(i) in the sum of actual damages, restitution, and other compensation on behalf of the residents of the State; and

(ii) punitive damages, if the violation is willful or intentional; and

(D) obtain such other equitable relief as the court may consider to be appropriate.

(2) NOTICE.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Attorney General of the United States—

(A) written notice of the action; and

(B) a copy of the complaint for the action.

(b) INTERVENTION.—

(1) IN GENERAL.—On receiving notice of an action under subsection (a)(2), the Attorney General of the United States shall have the right to intervene in that action.

(2) EFFECT OF INTERVENTION.—If the Attorney General of the United States intervenes in an action under subsection (a), the Attorney General shall have the right to be heard with respect to any matter that arises in that action.

(3) SERVICE OF PROCESS.—Upon request of the Attorney General of the United States, the attorney general of a State that has filed an action under subsection (a) shall, pursuant to Rule 4(d)(4) of the Federal Rules of Civil Procedure, serve the Government with—

(A) a copy of the complaint; and

(B) written disclosure of substantially all material evidence and information in the possession of the attorney general of the state.

(c) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this Act or the amendments made by this Act shall be construed to prevent an attorney general of a State from exercising the powers conferred on such attorney general by the laws of that State—

(1) to conduct investigations;

(2) to administer oaths or affirmations; or

(3) to compel the attendance of witnesses or the production of documentary and other evidence.

(d) ACTIONS BY THE ATTORNEY GENERAL OF THE UNITED STATES.—In any case in which an action is instituted by or on behalf of the Attorney General of the United States for a violation of section 4, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action for violation of that practice.

(e) VENUE; SERVICE OF PROCESS.—

(1) VENUE.—Any action brought under subsection (a) may be brought in the district court of the United States—

(A) where the defendant resides;

(B) where the defendant is doing business; or

(C) that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(2) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) resides;

(B) is doing business; or

(B) may be found.

Mr. GRAMM. Madam President, the Senate today is considering S. 1742, the Identity Theft Victims Assistance Act of 2002. This is an important issue, and it is proper for the Senate to be giving it consideration. While the text of this bill is seriously flawed and needs careful work and refinement in order for it to have a significantly positive effect in curbing identity theft, I believe that passage of this legislation by the Senate will be seen as an indication of the importance that the Senate attaches to relieving the disruption caused in the lives of victims of these crimes.

When the Senate returns to this issue in the next Congress, I hope that the problems with this bill can be resolved, that the complexity of the issues involved can be adequately considered so that the legislation focuses on the real culprits without penalizing law-abiding citizens and businesses, and without the substantial confusion to the enforcement responsibilities of federal financial regulators that the draft before us would cause. The text in its current form would also expand opportunities for predatory lawsuits, creating new

victims, and we must avoid that. We do little good for the country that way.

Mr. REID. Mr. President, Senators CANTWELL and GRASSLEY and others have an amendment at the desk. I ask that that amendment be considered and agreed to; that the committee substitute, as amended, be agreed to; the bill, as amended, be read the third time and passed, and the motion to reconsider be laid upon the table; and that any statements be printed in the RECORD, with no intervening action or debate.

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

The amendment (No. 4954) was agreed to.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (S. 1742), as amended, was read the third time and passed, as follows:

(The bill will be printed in a future edition of the RECORD.)

Mr. REID. Mr. President, let me say I have been working in recent hours with the Senator from Washington, Ms. CANTWELL. She has worked tirelessly on this piece of legislation. She has given a number of statements on the floor related to this issue, dealing with what has taken place and what she knows regarding identity theft. I commend and applaud her for her diligence and perseverance. The burden is now on the House of Representatives. They are still in session. There is no reason in the world that they cannot pass this most important piece of legislation.

EXECUTIVE SESSION

PROMOTIONS DISCHARGED

Mr. REID. Mr. President, I ask unanimous consent the Senate proceed to executive session and the list of Coast Guard promotions which are at the desk be discharged from the Commerce Committee, the Senate proceed to their consideration, that the nominations be confirmed, the motions to reconsider be laid on the table, and that any statements appear at the appropriate place in the RECORD as if read, that the President be immediately notified of the Senate's action, and the Senate return to legislative session.

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

The nominations considered and confirmed are as follows:

U.S. COAST GUARD

To be lieutenant

Dana B. Reid, 9837

U.S. COAST GUARD RESERVE

To be captain

Douglas A Ash, 9461
Salvatore Brillante, 9714
Timothy M. Butler, 8139
Jeanne Cassidy, 9266
Daniel R Croce, 1488
Sidney J Duck III, 0729
Wayne C Dumas, 2968
Kendel D Feilen, 0842
Doreen D Fuller, 8883
Robert W Grabb, 3388
William C Hansen, 6687
Maureen B Harkins, 0444
Stephen N Jackson, 6687
Mark A Jones, 2968
John W Long, 7333
John J Madeira, 4504
David A Maes, 2808
David G O'Brien, 4748
David W. Springer, 5912
Warren E. Soloduk, 3725

U.S. COAST GUARD

To be lieutenant commander

Anthony J. Alarid, 1412
Michael S. Antonellis, 5030
Michael A. Arguelles, 4343
Hector A. Avella, 8261
Paul E. Baker, 7988
Barbara J. Barata, 8450
Christopher M. Barrows, 8561
Edward K. Beale, 7399
Scott A. Beauregard, 6053
William D. Bellatty, 1168
Bryan R. Bender, 4002
Ralph L. Benhart, 0506
Benjamin A. Benson, 3424
David F. Berliner, 6106
Paul R. Bissillon, 4694
Ronald E. Brahm, 9793
John A. Brenner, 3111
Donald L. Brown, 7391
Timothy J. Buchanan, 2428
Russell S. Burnside, 9517
William Carter, 5270
Anthony J. Ceraolo, 2139
Patrick W. Clark, 4993
Leslie W. Clayborne, 8504
Rocky L. Cole, 3491
Richard W. Condit, 6705
Vernon E. Craig, 0980
Michael W. Cribbs, 3103
Christopher Curatilo, 4587
Gregory J. Czerwonka, 4516
Christel A. Dahl, 5351
Bryan E. Dailey, 2760
James W. Dalitsch, 0853
Timothy E. Darley, 3406
Joseph E. Deer, 4579
Ann B. Deyoung, 0150
Edwin Diazrosario, 7357
Timothy E. Dickerson, 7061
Douglas C. Dixon, 8495
Jean T. Donaldson, 8896
Charlene L. Downey, 1428
Patrick J. Dugan, 5898
Kathryn C. Dunbar, 0745
John C. Durbin, 5587
Bryan L. Durr, 0817
Brian E. Edmiston, 0038
David M. Ehlers, 8010
Thomas M. Emerick, 0148
Dennis C. Evans, 2583
Rendall B. Farley, 5226
Dale C. Folsom, 4148
Christopher W. Forando, 4062
Gregory T. Fuller, 3143
Eric J. Gandee, 6250
George D. Ganoung, 2083
Christian J. Glander, 3589
Michael W. Glander, 8276
Gene G. Gonzales, 1117
Jeffrey W. Good, 7748
Mark D. Gordon, 0616
Samuel J. Goswellen, 6588
Thomas A. Griffitts, 2199
Jason R. Hamilton, 9913
Kevin J. Hanson, 3914
James A. Healy, 7844
Joseph J. Healy, 3174
Michael L. Hershberger, 5328
Joseph P. Higgins, 4706
Daniel J. Higman, 6624
Russell E. Holmes, 0974
Katherine A. Howard, 5315
Jerry A. Hubbard, 8249
David A. Husted, 3248
Jeffrey A. Janszen, 4464
Terrence M. Johns, 9778
Eugene E. Johnson, 2742
Lamar V. Johnson, 7091
Richard L. Jung, 5143
Stephen D. Jutras, 5925
Robert M. Keith, 1055
Quentin C. Kent, 7468
Ian R. Kieman, 2030
Scott H. Kim, 9552
Erich F. Klein, 4294
Nicholas R. Koester, 0771
Joseph E. Kramek, 8464
Miriam L. Lafferty, 4744
Burt A. Lahn, 9390
Robert J. Landolfi, 7916
Steven A. Lang, 7316
James R. Langevin, 7045
Scott E. Langum, 2954
Keith H. Laplant, 5221
Scott X. Larson, 4589
Stephen G. Lefave, 1917
Michael R. Leonguerrero, 7974
Michael C. Long, 8213
Jess P. Lopez, 9464
Juan Lopez, 7254
Tung T. Ly, 3465
Lisa K. Mack, 9536
William J. Makell, 6745
Joseph P. Malinauskas, 1645
August T. Martin, 6627
Carol L. McCarther, 8206
Thomas W. McDevitt, 4910
Steven P. McGee, 9864
Patrick W. McMahon, 5758
Jason A. Merriweather, 1212
James F. Miller, 6437
James W. Mitchell, 1953
Kevin G. Morgan, 3889
Patrick J. Murphy, 4093
Nicole S. Nancarrow, 2108
Randall J. Navarro, 3988
Jack C. Neve, 2871
Anthony J. Nygra, 9006
Robert R. Oatman, 3261
Stephen H. Ober, 8546
Steven F. Osgood, 0310
Keith A. Overstreet, 4897
Geoffrey D. Owen, 3140
Kim J. Pacsai, 2821
John K. Park, 9448
Edwin W. Parkinson, 7735
Vincent E. Patterson, 8433
Kevin Y. Pekarek, 3307
Daryl R. Peloquin, 5796
Matthew F. Perciak, 6792
Cornell I. Perry, 7094
Mark G. Phipps, 8278
Zachary H. Pickett, 2955
Kenneth A. Pierro, 6696
Michael E. Platt, 3176
Nathan A. Podoll, 7508
Gary K. Polaski, 2160
Ronald P. Poole, 6332
Kenneth U. Potolicchio, 7762
Steven J. Pruyn, 5380
Lee S. Putnam, 9334
Gregory M. Rainey, 6693
Jeffrey K. Randall, 7612
Sean P. Regan, 7012
Francisco S. Rego, 9178
James M. Reilly, 9209
Joshua D. Reynolds, 0674
Rodd M. Ricklefs, 6519
Ronald L. Riedinger, 6390
James V. Rocco, 2868
Stanley T. Romanowicz, 5552
Shannon D. Rooney, 9051
Charles A. Roskam, 3977
Kiley R. Ross, 0559
Aaron E. Roth, 9026
Warren J. Russell, 5602
Matthew A. Rymer, 9954
Kristina E. Saliceti, 6117
Christopher S. Schubert, 2470
James W. Seeman, 7067

Edward B. Sheppard, 3579
John P. Sherlock, 6743
Arthur R. Shuman, 0528
Michael J. Simbulan, 6792
Darell Singleterry, 3552
Jerome F. Sinnaeve, 1503
Charles G. Smith, 9733
Matthew J. Smith, 9753
Robert L. Smith, 9066
Stuart M. Sockman, 9003
Gregory Stanclik, 0645
Bion B. Stewart, 4651
Anthony A. Stobbe, 0824
Paul M. Stocklin, 4098
Carrie M. Stoffel, 8350
Christopher A. Strong, 2306
Charles W. Tenney, 3941
Laura J. Thompson, 1781
Theresa L. Tierney, 6714
Shawn C. Tripp, 4929
Nancy J. Truax, 5567
Adam J. Tyndale, 0852
Daniel D. Unruh, 0015
Joseph G. Uzmann, 3423
Matthew R. Walker, 1683
Daniel P. Walsh, 5596
Thomas F. Walsh, 6807
Michelle R. Webber, 8933
Michael C. Wessel, 1833
Richard J. Wester, 0160
Sherman P. Whitmore, 2290
Gary S. Williams, 3943
Donald L. Winfield, 1051
Charles T. Wright, 2712
Jeffrey V. Yarosh, 7292
Michael E. Yensz, 1753
Cherian Zachariah, 6501
Michael B. Zamperini, 8558

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 107–19 AND TREATY DOCUMENT NO. 107–20

Mr. REID. I ask unanimous consent that the injunction of secrecy be removed from the following treaties transmitted to the Senate on November 14, 2002, by the President of the United States:

Convention with Great Britain and Northern Ireland regarding Double Taxation and Prevention of Fiscal Evasion (Treaty Doc. 107–19); and

Protocol Amending Convention with Australia regarding Double Taxation and Prevention of Fiscal Evasion (Treaty Doc. 107–20).

I further ask that the treaties be considered as having been read the first time; that they be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

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

The messages of the President are as follows:

To the Senate of the United States:

I transmit herewith, for Senate advice and consent to ratification, the Convention Between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and on Capital Gains, signed at London on July 24, 2001, together with an exchange of notes, as amended by the Protocol signed at Washington on July 19, 2002 (the ''Convention''). I also transmit the report of the Department of State concerning the Convention.

The proposed Convention transmitted herewith would replace the Convention Between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital Gains, signed at London on December 31, 1975, as modified by a subsequent agreement and protocols.

This Convention, which is similar to tax treaties between the United States and other developed nations, provides for maximum rates of tax to be applied to various types of income, protection from double taxation of income, and for the exchange of information. The Convention also contains rules making its benefits unavailable to persons who are engaged in treaty shopping. The proposed Convention is the first U.S. income tax convention to provide a zero rate of withholding on certain direct investment dividends.

I recommend that the Senate give early and favorable consideration to this Convention, and that the Senate give its advice and consent to ratification.

To the Senate of the United States:

I transmit herewith, for Senate advice and consent to ratification, a Protocol Amending the Convention Between the Government of the United States of America and the Government of Australia for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at Canberra on September 27, 2001 (the ''Protocol''). I also transmit, for the information of the Senate, the report of the Department of State concerning the Protocol.

The Convention, as amended by the Protocol, would be similar to recent tax treaties between the United States and other developed nations. It provides maximum rates of tax to be applied to various types of income and protection from double taxation of income. The Convention, as amended by the Protocol, also provides for resolution of disputes and sets forth rules making its benefits unavailable to residents that are engaged in treaty shopping.

I recommend that the Senate give early and favorable consideration to this Protocol, and that the Senate give its advice and consent to ratification.

TREATY WITH THE GOVERNMENT OF THE REPUBLIC OF HONDURAS FOR THE RETURN OF STOLEN, ROBBED, OR EMBEZZLED VEHICLES AND AIRCRAFT

Mr. REID. I ask unanimous consent the Senate proceed to consider Executive Calendar No. 12, the Treaty with Honduras, the treaty be advanced through its parliamentary stages up to and including the presentation of the resolution of the ratification, and the Senate now vote on the resolution of ratification.

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

The question is on agreeing to the resolution of ratification.

Senators in favor of the resolution, please stand. (After a pause.) All those opposed, please stand.

In the opinion of the Chair, two-thirds of the Senators present having voted in the affirmative, the resolution of ratification is agreed to.

The resolution of ratification is as follows:

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty between the Government of the United States of America and the Government of the Republic of Honduras for the Return of Stolen, Robbed, or Embezzled Vehicles and Aircraft, with Annexes and a related exchange of notes, signed at Tegucigalpa on November 23, 2001 (Treaty Doc. 107–15).

EXTRADITION TREATY WITH PERU

Mr. REID. Mr. President, I ask unanimous consent the Senate proceed to Executive Calendar No. 13, Extradition Treaty with Peru, the treaty be advanced through its parliamentary stages up through and including the presentation of the resolution of ratification, and that the understanding and the condition be agreed to, and the Senate vote on the resolution of ratification.

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

The question is on agreeing to the resolution of ratification. Senators in favor of the resolution, please stand. (After a pause.) All those opposed, please stand.

In the opinion of the Chair, two-thirds of those present and voting having voted in the affirmative, the resolution of ratification is agreed to.

The resolution of ratification and condition are as follows:

Resolved, (two-thirds of the Senators present concurring therein),

Section 1. Advice and Consent to Ratification of the Extradition Treaty with Peru, subject to an understanding and a condition.

The Senate advises and consents to the ratification of the Extradition Treaty Between the United States of America and the Republic of Peru, signed at Lima on July 26, 2001 (Treaty Doc. 107–6; in this resolution referred to as the ''Treaty''), subject to the understanding in section 2 and the condition in section 3.

Section 2. Understanding.

The advice and consent of the Senate under section 1 is subject to the following understanding, which shall be included in the instrument of ratification:

PROHIBITION OF EXTRADITION TO THE INTERNATIONAL CRIMINAL COURT.—The United States understands that the protections contained in Article XIII concerning the Rule of Speciality would preclude the resurrender of any person extradited to the Republic of Peru from the United States to the International Criminal Court, unless the United States consents to such resurrender; and the United States shall not consent to any such

resurrender unless the Statute establishing that Court has entered into force for the United States by and with the advice and consent of the Senate in accordance with Article II, section 2 of the United States Constitution.

Section 3. Condition.

The advice and consent of the Senate under section 1 is subject to the condition that nothing in the Treaty requires or authorizes legislation or other action by the United States that is prohibited by the Constitution of the United States as interpreted by the United States.

EXTRADITION TREATY WITH LITHUANIA

Mr. REID. Mr. President, I ask unanimous consent the Senate proceed to Executive Calendar No. 14, extradition treaty with Lithuania, that the treaty be advanced through its parliamentary stages, up to and including the presentation of the resolution of ratification; that the condition be agreed to and the Senate now vote on the resolution of ratification.

The PRESIDING OFFICER. Without objection, it is so ordered. The question is on agreeing to the resolution of ratification. Senators in favor of the resolution of ratification, please stand. (After a pause.) Senators opposed, please stand.

In the opinion of the Chair, two-thirds of those voting having voted in the affirmative, the resolution is agreed to.

The resolution of ratification and condition are as follows:

Resolved, (two-thirds of the Senators present concurring therein),

Section 1. Advice and Consent to Ratification of the Extradition Treaty with Lithuania, subject to a condition.

The Senate advises and consents to the ratification of the Extradition Treaty Between the Government of the United States of America and the Government of the Republic of Lithuania, signed at Vilnius on October 23, 2001 (Treaty Doc. 107–4; in this resolution referred to as the ''Treaty''), subject to the condition in section 2.

Section 2. Condition.

The advice and consent of the Senate under section 1 is subject to the condition that nothing in the Treaty requires or authorizes legislation or other action by the United States that is prohibited by the Constitution of the United States as interpreted by the United States.

SECOND PROTOCOL AMENDING EXTRADITION TREATY WITH CANADA

Mr. REID. Mr. President, I ask unanimous consent the Senate proceed to Executive Calendar No. 15, the Second Protocol Amending Extradition Treaty with Canada; that the treaty be advanced through its parliamentary stages up to and including the presentation of the resolution of ratification; and that the Senate now vote on the resolution of ratification.

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

Senators in favor of the resolution of ratification will rise and stand until counted. (After a pause.) Those opposed will rise and stand until counted.

On a division, two-thirds of the Senators present and voting and having voted in the affirmative, the resolution of ratification is agreed to.

The resolution of ratification is as follows:

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Second Protocol Amending the Treaty on Extradition Between the Government of the United States of America and the Government of Canada, signed at Ottawa on January 12, 2001 (Treaty Doc. 107–11).

TREATY WITH BELIZE ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS

Mr. REID. Mr. President, I ask unanimous consent the Senate proceed to Executive Calendar No. 16, the treaty with Belize on mutual legal assistance in criminal matters; that the treaty be advanced through parliamentary stages up to and including the presentation of the resolution of ratification; that the understanding and conditions be agreed to; and that the Senate now vote on the resolution of ratification.

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

Senators in favor of the resolution of ratification will rise and stand until counted. (After a pause.) Those opposed will rise and stand until counted.

On a division, two-thirds of the Senators present and voting, having voted in the affirmative, the resolution is agreed to.

The resolution of ratification and conditions are as follows:

Resolved, (two-thirds of the Senators present concurring therein,

Section 1. Advice and Consent to Ratification of the Treaty with Belize on Mutual Legal Assistance in Criminal Matters, subject to an understanding and conditions.

The Senate advises and consents to the ratification of the Treaty Between the Government of the United States of America and the Government of Belize on Mutual Legal Assistance in Criminal Matters, signed at Belize, on September 19, 2000, and a related exchange of notes (Treaty Doc. 107–13; in this resolution referred to as the ''Treaty''), subject to the understanding in section 2 and the conditions in section 3.

Section 2. Understanding.

The advice and consent of the Senate under section 1 is subject to the following understanding, which shall be included in the instrument of ratification:

PROHIBITION ON ASSISTANCE TO THE INTERNATIONAL CRIMINAL COURT.—The United States shall exercise its rights to limit the use of assistance that it provides under the Treaty so that any assistance provided by the Government of the United States shall not be transferred to our otherwise used to assist the International Criminal Court unless the treaty establishing the Court has entered into force for the United States by and with the advice of the Senate in accordance with Article II, Section 2 of the United States Constitution, or unless the President has waived any applicable prohibition on provision of such assistance in accordance with applicable United States law.

Section 3. Conditions.

The advice and consent of the Senate under section 1 is subject to the following conditions:

(1) LIMITATION ON ASSISTANCE.—Pursuant to the right of the United States under the Treaty to deny legal assistance that would prejudice the essential public policy or interests of the United States, the United States shall deny any request for such assistance if the Central Authority of the United States (as designated in Article 2(2) of the Treaty), after consultation with all appropriate intelligence, anti-narcotic, and foreign policy agencies, has specific information that a senior Government official of the requesting party who will have access to information to be provided as part of such assistance is engaged in a felony, including the facilitation of the production or distribution of illegal drugs.

(2) SUPREMACY OF THE CONSTITUTION.—Nothing in the Treaty requires or authorizes legislation or other action by the United States that is prohibited by the Constitution of the United States as interpreted by the United States.

TREATY WITH INDIA ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to Executive Calendar No. 17, the treaty with India on mutual legal assistance in criminal matters; that treaty be advanced through its parliamentary stages up to and including the presentation of the resolution of ratification; that the understanding and conditions be agreed to; and that the Senate now vote on the resolution of ratification.

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

Senators in favor of the resolution of ratification will rise and stand until counted. (After a pause.) Those opposed will rise and stand until counted.

On a division, two-thirds of the Senators present and voting, having voted in the affirmative, the resolution of ratification is agreed to.

The resolution of ratification and understanding and conditions are as follows:

Resolved, (two-thirds of the Senators present concurring therein),

Section 1. Advice and Consent to Ratification of the Treaty with India on Mutual Legal Assistance in Criminal Matters, subject to an understanding and conditions.

The Senate advises and consents to the ratification of the Treaty Between the Government of the United States of America and the Government of the Republic of India on Mutual Legal Assistance in Criminal Matters, signed at New Delhi on October 17, 2001 (Treaty Doc. 107–3; in this resolution referred to as the ''Treaty''), subject to the understanding in section 2 and the conditions in section 3.

Section 2. Understanding.

The advice and consent of the Senate under section 1 is subject to the following understanding, which shall be included in the instrument of ratification:

PROHIBITION ON ASSISTANCE TO THE INTERNATIONAL CRIMINAL COURT.—The United States shall exercise its rights to limit the use of assistance that it provides under the Treaty so that any assistance provided by the Government of the United States shall not be transferred to or otherwise used to assist the International Criminal Court unless the treaty establishing the Court has entered into force for the United States by and with

the advice of the Senate in accordance with Article II, Section 2 of the United States Constitution, or unless the President has waived any applicable prohibition on provision of such assistance in accordance with applicable United States law.

Section 3. Conditions.

The advice and consent of the Senate under section 1 is subject to the following conditions:

(1) LIMITATIONS ON ASSISTANCE.—Pursuant to the right of the United States under the Treaty to deny assistance that would prejudice the essential public policy or interests of the United States, the United States shall deny any request for such assistance if the Central Authority of the United States (as designated in Article 2(2) of the Treaty), after consultation with all appropriate intelligence, anti-narcotic, and foreign policy agencies, has specific information that a senior Government official of the requesting party who will have access to information to be provided as part of such assistance is engaged in a felony, including the facilitation of the production or distribution of illegal drugs.

(2) SUPREMACY OF THE CONSTITUTION.—Nothing in the Treaty requires or authorizes legislation or other action by the United States that is prohibited by the Constitution of the United States as interpreted by the United States.

TREATY WITH IRELAND ON MUTUAL LEGAL ASSISTANCE MATTERS IN CRIMINAL MATTERS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to Executive Calendar No. 18, the treaty with Ireland on mutual legal assistance matters; that the treaty be advanced through its parliamentary stages up to and including the presentation of the resolution of ratification; that the understanding and conditions be agreed to; and that the Senate now vote on the resolution of ratification.

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

Senators in favor of the resolution of ratification will rise and stand until counted. (After a pause.) Those opposed will rise and stand until counted.

On a division, two-thirds of the Senators present and voting, having voted in the affirmative, the resolution of ratification is agreed to.

The resolution of ratification and understanding and conditions are as follows:

Resolved, (two-thirds of the Senators present concurring therein),

Section 1. Advice and Consent to Ratification of the Treaty with Ireland on Mutual Legal Assistance in Criminal Matters, subject to an understanding and conditions.

The Senate advises and consents to the ratification of the Treaty Between the Government of the United States of America and the Government of Ireland on Mutual Legal Assistance in Criminal Matters, signed at Washington on January 18, 2001 (Treaty Doc. 107–9; in this resolution referred to as the ''Treaty''), subject to the understanding in section 2 and the conditions in section 3.

Section 2. Understanding.

The advice and consent of the Senate under section 1 is subject to the following understanding, which shall be included in the instrument of ratification:

PROHIBITION ON ASSISTANCE TO THE INTERNATIONAL CRIMINAL COURT.—The United States shall exercise its rights to limit the use of assistance that it provided under the Treaty so that any assistance provided by the Government of the United States shall not be transferred to or otherwise used to assist the International Criminal Court unless the treaty establishing the Court has entered into force for the United States by and with the advice of the Senate in accordance with Article II, Section 2 of the United States Constitution, or unless the President has waived any applicable prohibition on provision of such assistance in accordance with applicable United States law.

Section 3. Conditions.

The advice and consent of the Senate under section 1 is subject to the following conditions:

(1) LIMITATION ON ASSISTANCE.—Pursuant to the right of the United States under the Treaty to deny legal assistance that would prejudice the essential public policy or interests of the United States, the United States shall deny any request for such assistance if the Central Authority of the United States (as designated in Article 2(2) of the Treaty), after consultation with all appropriate intelligence, anti-narcotic, and foreign policy agencies, has specific information that a senior Government official of the requesting party who will have access to information to be provided as part of such assistance is engaged in a felony, including the facilitation of the production or distribution of illegal drugs.

(2) SUPREMACY OF THE CONSTITUTION.—Nothing in the Treaty requires or authorizes legislation or other action by the United States that is prohibited by the Constitution of the United States as interpreted by the United States.

TREATY WITH LIECHTENSTEIN ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to Executive Calendar No. 19, the treaty with Liechtenstein on mutual legal assistance in criminal matters; that treaty be advanced through its parliamentary stages, up to and including the presentation of the resolution of ratification; that the understanding and conditions be agreed to; and that the Senate now vote on the resolution of ratification.

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

Senators in favor of the resolution of ratification will rise and stand until counted. (After a pause.) Those opposed will rise and stand until counted.

On a division, two-thirds of the Senators present and voting, having voted in the affirmative, the resolution of ratification is agreed to.

The resolution of ratification and understanding and conditions are as follows:

Resolved, (two-thirds of the Senators present concurring therein),

Section 1. Advice and Consent to Ratification of the Treaty with Liechtenstein on Mutual Legal Assistance in Criminal Matters, subject to an understanding and conditions.

The Senate advises and consents to the ratification of the Treaty Between the Government of the United States of America and the Principality of Liechtenstein on Mutual Legal Assistance in Criminal Matters, and a related exchange of notes, signed at Vaduz on July 8, 2002 (Treaty Doc. 107–16; in this resolution referred to as the ''Treaty''), subject to the understanding in section 2 and the conditions in section 3.

Section 2. Understanding.

The advice and consent of the Senate under section 1 is subject to the following understanding, which shall be included in the instrument of ratification:

PROHIBITION ON ASSISTANCE TO THE INTERNATIONAL CRIMINAL COURT.—The United States shall exercise its rights to limit the use of assistance that it provides under the Treaty so that any assistance provided by the Government of the United States shall not be transferred to or otherwise used to assist the International Criminal Court unless the treaty establishing the Court has entered into force for the United States by and with the advice of the Senate in accordance with Article II, Section 2 of the United States Constitution, or unless the President has waived any applicable prohibition on provision of such assistance in accordance with applicable United States law.

Section 3. Conditions.

The advice and consent of the Senate under section 1 is subject to the following conditions:

(1) LIMITATION ON ASSISTANCE.—Pursuant to the right of the United States under the Treaty to deny legal assistance that would prejudice the essential public policy or interests of the United States, the United States shall deny any request for such assistance if the Central Authority of the United States (as designated in Article 2(2) of the Treaty), after consultation with all appropriate intelligence, anti-narcotic, and foreign policy agencies, has specific information that a senior Government official of the requesting party who will have access to information to be provided as part of such assistance is engaged in a felony, including the facilitation of the production or distribution of illegal drugs.

(2) SUPREMACY OF THE CONSTITUTION.—Nothing in the Treaty requires or authorizes legislation or other action by the United States that is prohibited by the Constutition of the United States as interpreted by the United States.

LEGISLATIVE SESSION

Mr. REID. Mr. President, I ask unanimous consent that the Senate return to legislative session.

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

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.

RECESS SUBJECT TO THE CALL OF THE CHAIR

The PRESIDING OFFICER. In my capacity as a Senator from the State of New York, I ask unanimous consent that the order for the quorum call be rescinded.

Without objection, it is so ordered.

In my capacity as a Senator from the State of New York, I ask unanimous consent that the Senate stand in recess subject to the call of the Chair.

There being no objection, the Senate, at 9:36 p.m., recessed subject to the call of the Chair and reassembled at 10:15 p.m., when called to order by the Presiding Officer (Ms. CANTWELL).

The PRESIDING OFFICER. The Senator from New York.

ECONOMIC SECURITY AND WORKER ASSISTANCE ACT OF 2001

Mrs. CLINTON. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 308, H.R. 3529.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3529) to provide tax incentives for economic recovery and assistance to displaced workers.

There being no objection, the Senate proceeded to the consideration of the bill.

The PRESIDING OFFICER. The Senator from New York.

Mrs. CLINTON. Madam President, before formally making the unanimous consent request, I wish to thank Senator NICKLES for his understanding and cooperation in reaching this point this evening. I very much appreciate his willingness, and that of his staff, to work with us throughout today. And I am very personally grateful for his leadership and good advice and counsel.

This unemployment insurance extension is being sponsored, in addition to myself, by the Presiding Officer, the Senator from Washington, who has been a tremendous advocate, by Senator FITZGERALD of Illinois, and Senator SPECTER of Pennsylvania.

The commitment of all of the sponsors, and others, have made it possible for us to agree this evening to pass a bill that will be extremely welcomed by about 2.1 million Americans who will be able to take advantage of this extension that runs through the end of March. This will also specifically help approximately 177,000 New Yorkers as they enter the holiday season.

Obviously, this is not all that the Presiding Officer and I would have wanted. Perhaps it is more than some would have thought we should do. But I think it works out to be an acceptable compromise in bringing this about at this time.

Again, I personally thank Senator NICKLES for his extraordinary assistance.

So, Madam President, I ask unanimous consent that the substitute amendment at the desk be agreed to, the act, as amended, be read a third time, passed, and the motion to reconsider be laid upon the table, with no intervening action or debate; and that any statements related thereto be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment (No. 4960) was agreed to, as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. Section 114 of Public Law 107–229 is amended by striking ''the date specified in section 107(c) of this joint resolution'' and inserting ''March 31, 2003''.

SEC. 2. EXTENSION OF THE TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION ACT OF 2002.

(a) IN GENERAL.—Section 208 of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 30) is amended to read as follows:

''SEC. 208. APPLICABILITY.

''(a) IN GENERAL.—Except as provided in subsection (b), an agreement entered into under this title shall apply to weeks of unemployment—

''(1) beginning after the date on which such agreement is entered into; and

''(2) ending before April 1, 2003.

''(b) TRANSITION FOR AMOUNT REMAINING IN ACCOUNT.—

''(1) IN GENERAL.—Subject to paragraphs (2) and (3), in the case of an individual who has amounts remaining in an account established under section 203 as of March 29, 2003, temporary extended unemployment compensation shall continue to be payable to such individual from such amounts for any week beginning after such date for which the individual meets the eligibility requirements of this title.

''(2) NO AUGMENTATION AFTER MARCH 26, 2003.—If the account of an individual is exhausted after March 29, 2003, then section 203(c) shall not apply and such account shall not be augmented under such section, regardless of whether such individual's State is in an extended benefit period (as determined under paragraph (2) of such section).

''(3) LIMITATION.—No compensation shall be payable by reason of paragraph (1) for any week beginning after June 28, 2003.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the enactment of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 21).

The bill (H.R. 3529), as amended, was read a third time and passed.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Madam President, I thank my colleague and friend from New York for working with us. I think we have worked out an acceptable compromise. Senator FITZGERALD and Senator SPECTER were very much interested in passing this bill so we were happy to accommodate them.

In contrast to the previous legislation, which was a significant expansion over current law, of which efforts had been made to pass by unanimous consent earlier today, this is an extension of current law. It is a lot less expensive. This is an extension for 3 months.

We also did something else I think is important. We eliminated the cliff. In other words, current law would say by January 1 the 13-week Federal program would be terminated. This says, no, there is a phaseout. So there is not a cliff. At the end of March, if people are already into the system, they can complete their 13-week program. So I think it is responsible.

Also, for the benefit of my colleagues—and some have reservations about this program because, legitimately, they are wondering whether, if you continue to pay out unemployment benefits, they will stay unemployed. And I happen to appreciate many of those concerns.

Now we will not be wrapped up with this beginning in January. So this will give Congress a chance and hopefully offer some assistance to those people who really need it and also offer Congress a chance to get off to a good start without wrestling and debating this issue.

I have debated this issue more than I want to debate it. And I appreciate our colleagues on both sides willing to compromise.

The House passed a 1-month extension. This is a 3-month extension eliminating the cliff. I think it is a more orderly and more well-thought-out program that makes sense.

So I will not object to its passage and appreciate our colleagues from New York and Washington, as well as Illinois and Pennsylvania, for their cooperation in making this happen.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mrs. CLINTON. As I was listening to the Senator from Oklahoma explain why this makes sense, and particularly to eliminate the cliff that, frankly, people would have fallen off at the end of the year, right at the beginning of a new year—and hopefully providing new hope for people—I could not help but think of our colleague, Paul Wellstone. I think he is smiling down on us. I think he is up there waving his arms, pacing around, and saying, good work, and thanks for doing that.

To me, this is tremendous evidence of the kind of cooperation that can come about to bring us together to help people.

Again, I thank my friend from Oklahoma.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I have been on this floor many, many times when there have been speeches on both sides on extending unemployment insurance going back several months. This is what legislating is all about, the art of compromise. Not everyone got what they wanted. But we got something, and it is very important and very positive.

I extend my appreciation to the Presiding Officer, the Senator from Washington, who worked on this diligently, and, of course, the Senator from New York, who has worked on this very hard.

No one has been on the floor more than the Senator from Oklahoma, and he needs to be complimented because he certainly could have stopped this in the last few hours of the session. He chose not to do that. He chose to move forward on a positive note.

I, not only for the Senate, but for the respective States and the whole country, extend my appreciation to the three of you, all fine legislators.

Mr. NICKLES. Thank you.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mrs. CLINTON). Without objection, it is so ordered.

Ms. CANTWELL. Madam President, I would like to take the opportunity to congratulate my colleagues on the passage of the unemployment extension bill which we just did by unanimous consent.

This really was a bipartisan effort by the Senator from Oklahoma and from two of our colleagues, the Senator from Illinois, Mr. FITZGERALD, and the Senator from Pennsylvania, Mr. SPECTER, who played a very important role in communicating the needs of unemployment benefit extensions in their States.

I thank the Chair, the Senator from New York, Mrs. CLINTON, who has since July advocated passage of this legislation, talked about the importance of making sure that as our economy has faced a downturn, we continued to make sure the opportunities for income and stimulus in our economy were there.

As she fought for the State of New York, which has been gravely impacted by the events of 9/11 and the downturn in the economy where jobs are just not being created, the Senator got all of us in the country to realize how critical the issue was for us moving forward at a time when the economy has not returned to positive growth.

Obviously the State of Washington has been greatly impacted by that same downturn, in the aerospace industry, in high tech. This legislation will actually help over 75,000 Washingtonians who will get the benefit of having an extension of a program and, being a high unemployment State, will qualify for the benefits of that program. This is actually something I think a few Washingtonians tonight, maybe a few Seattlites, will be sleeping a little bit better from, knowing that in the impending months, as we struggle to get the economy going again, they will actually be able to meet those mortgage payments, pay those health care bills, and continue to move forward.

Economists have said this kind of stimulus has a two-to-one effect; that for every dollar spent on unemployment benefits, it generates about $2.15 into the local economy. We have done a good service for my State's economy and for New York's and Pennsylvania and Illinois, for the whole country, because we will be stimulating those individuals' disposable income.

Again, I thank the Senator from New York for her hard work and vision, pointing out last summer the need to do it, being diligent in this process. And tonight, because of this bipartisan support, there will be more Americans sleeping better as we approach the tough challenges ahead in getting our economy moving but knowing that we have not left workers behind, workers who would rather have a paycheck than an unemployment check, but at least now they will be continuing to add to the economy.

I yield the floor and suggest the absence of a quorum

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Ms. CANTWELL). Without objection, it is so ordered.

MORNING BUSINESS

Mr. REID. Madam President, I ask unanimous consent that the Senate now proceed to a period of morning business with Senators allowed to speak therein for a period not to exceed 5 minutes each.

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

IN REMEMBRANCE OF PAUL WELLSTONE

Mr. CHAFEE. Madam President, today I offer my condolences to all the friends, family members and admirers of Paul Wellstone. As has been said many times, Paul Wellstone was fiercely proud of the causes with which he associated himself. Certainly, to have Paul Wellstone articulately and strongly arguing on one's behalf was a great asset. His many friends are forever grateful for his wrestler's tenacity as he advocated for those issues in which he so emotionally believed.

Several years ago a candidate for Congress in Rhode Island retired from the campaign because of a shortage of funds, declaring that no longer could ''Mr. Smith go to Washington.'' Paul Wellstone proved that yes, indeed, Mr. Smith could go to Washington. In 1990 he challenged an incumbent who possessed a huge financial advantage in what many assumed to be a quixotic and hopeless campaign. In November of that year Paul Wellstone was the only challenger to beat an incumbent, providing inspiration forever to long shots.

Three cheers for the people of Minnesota who have shown a propensity for embracing people of divergent philosophies. In the last few years Minnesota has elected Rod Grams, Jesse Ventura and Paul Wellstone; public servants with very different approaches to the issues of the day. I join Minnesotans and Americans in mourning the death of the passionate and good-natured Paul Wellstone.

TRIBUTE TO SENATOR MAX CLELAND

Mr. CONRAD. Madam President, I am honored to pay tribute and recognize the leadership, dedication to public service and hard work of my colleague from Georgia, Senator MAX CLELAND. Few Members of the Senate have sacrified so much for their country.

Senator CLELAND has had a remarkable 30-year career in public service including a tour of duty in Vietnam in 1967 in which he was awarded the Bronze and Silver Stars for meritorious service. MAX started his career in the military soon after graduating from Stetson University, where he was a member of the Army ROTC. In 1967, he volunteered for duty in Vietnam. He quickly worked his way up the ranks, earning a promotion to Captain in 1968. In April of the same year, he was seriously wounded in a grenade explosion, which cost him both of his legs and his right arm. One month before his tour was up, he was sent home to recover from his injuries.

His dedication to public service continued when he won a seat in the Georgia State Senate. As the youngest state senator, he pushed for a State law making public facilities accessible to the disabled. In 1975, Senator CLELAND began his lifelong mission of improving the lives of the men and women in the military. MAX was asked to work for the Senate Veterans Affairs Committee, and 2 years later he accepted the position to head up the U.S. Veterans Administration. He was the youngest administrator and only Vietnam veteran to ever head up the agency. During his time with the Veterans Administration, MAX instituted the ''Vets Center Program,'' which for the first time provided psychological counseling to combat veterans. This program has now led to over 200 Vet Centers around the country.

Senator CLELAND continued his public service for the people of Georgia in 1982, when he was elected Secretary of State. During his time in this position, he fought relentlessly for campaign finance reform and to reduce telemarking fraud. Senator CLELAND also played a key role in the implementation of the National Voter Registration Act, or Motor Voter, in the State of Georgia. This in turn allowed an increase in access to government by getting nearly 1 million citizens of Georgia registered to vote.

MAX was elected to the U.S. Senate in 1996; he filled the spot that was vacated by the retiring Sam Nunn. The 6 years that he spent in the Senate were marked by his passion and drive to accomplish what was of importance to the people he served. He was a proponent for the Patients' Bill of Rights and doggedly battled for the improvement of education by way of increased resources for teacher training and certification.

As a former military man who served his country in Vietnam, Senator CLELAND brought an understanding to the Senate Chamber, of the sacrifices made by individuals in the armed forces. This understanding led him to champion military causes. As chairman of the Personnel Subcommittee of the Armed Services Committee, he fought for improvements in the quality of life of our active-duty, reserve, and retired military personnel through enhancement of the Montgomery G.I. Bill

and improvement of retirement benefits. All his hard work has not gone unnoticed, Senator CLELAND has been recognized nationally as the ''Minute Man of the Year,'' an award given by the Reserve Officers Association of America to two individuals annually for their tremendous leadership in the areas of military and national security. There is no doubt that on and off the battlefield, MAX was a leader for the Armed Forces.

Senator CLELAND also provided support to military personnel stationed at the Grand Forks Air Force Base in North Dakota. In 1997, during the devastating floods in North Dakota, several hundred active duty personnel from the Grand Forks base were unable to access disaster relief because Federal law limited assistance to personnel living on the base. Senator CLELAND, as a member of the Senate Armed Services Committee, was instrumental in amending the law to enable those servicemen living off base to be eligible for this critical disaster assistance.

MAX's bravery, courage, and passion for these issues and many others will be missed. It has been an honor to serve with somebody who represents his constituents with such energy, drive and passion. I would like to join my colleagues in wishing the Senator and his family the best in the future and paying tribute to his outstanding public service. I wish him well.

TRIBUTE TO REPRESENTATIVE JAMES V. HANSEN

Mr. HATCH. Madam President, I rise to pay tribute to my long-time friend and colleague, Representative JAMES V. HANSEN. After 22 years of dedicated service to his country and to the State of Utah, Jim has chosen to end his career as a Member of Congress and return home to Utah and to his grandchildren.

I am pleased that Mr. HANSEN will be able to enjoy his retirement, but we will miss him. Utah has never been better served by a Member of Congress. Just this year he was described by a national media source as one of the 10 most powerful Members of the House of Representatives. Considering the number of Members of that body, that is really saying something. Representative HANSEN has had a very positive impact on our Nation, but his impact on Utah and Utahns is truly incalculable.

Mr. HANSEN was the first Representative from Utah to chair a full committee. Due in large part to the respect he earned among his colleagues on both sides of the aisle, he was appointed to chair the high-profile Committee on Standards of Official Conduct.

As some of my colleagues may know, Utah is made up of about 70 percent public lands which includes national parks, Bureau of Land Management lands, national forests, national monuments, national wildlife refuges, and vast military holdings. As a very senior member of the House Armed Services Committee and the Chairman of the Committee on Natural Resources, Representative HANSEN has the protector and promoter of so many of Utah's interests.

Mr. HANSEN's service to the public has spanned more that four decades. He spent the first 12 years of his public service career on the City Council of Farmington, UT. Following that, he served for four terms as a member of the Utah House of Representatives, including one term as the Speaker of the House. In 1980, Mr. HANSEN was elected to Congress where he has served diligently until today.

Mr. HANSEN's honesty, hard work, and strong character have made him a lawmaker that we will never forget. I am one of many who will sorely miss his plain talking leadership and his wisdom on matters of public policy. On behalf of my colleagues in the Senate and the people of Utah, I would like to publicly thank JIM and his wonderful wife Ann for giving so much of themselves to their State and to their Nation.

GRATITUDE FOR NEW ZEALAND'S FIREFIGHTERS

Mr. SMITH of Oregon. Madam President, I rise today, on behalf of my State of Oregon, to express our deepest gratitude for the New Zealanders who put their lives on the line this last summer in fighting the ravenous wildfires experienced in the West.

Even as the rains of fall settle into the forests of the Pacific Northwest, it is not difficult to remember the fiery infernos that engulfed the West only a few months ago. The year 2002 was the second worst fire season in 50 years. Nationwide 21 lives were lost and 6.7 million acres were burned.

It was one of the Nation's largest fires, called the Biscuit Fire, that drew a cadre of international firefighters to Oregon, the world's best sent to join the fight against our worst disaster. The Biscuit Fire, the largest wildfire in Oregon in over a century, eventually burned 500,000 acres in southwestern Oregon. At times, firefighters put the chances of losing one or all of the Illinois Valley's four towns at 75 percent. However, 7,000 of the world's best firefighters beat the odds and staved off an exploding fire that threatened hundreds of square miles and thousands of homes. As a result of their relentless work, no lives were lost and structural loss was virtually nonexistent.

On behalf of my State of Oregon, I want to thank and commend the brave New Zealand firefighters who helped win that battle against wildfire. They are John Barnes, Darryl Robson, John Sutton, Richard McNamara, Paul Tolladay, Phil Wishnowsky, Robin Thompson, Trevor Tiday, Jock Darragh, and Ross Hamilton.

While I hope that such perilous circumstances will never call these firefighters back to Oregon or elsewhere, I know that forest fires will continue to burn and brave firefighters will continue to put their lives between the fire and ours. We will never forget that.

TRIBUTE TO SENATOR BOB SMITH

Mr. CONRAD. Madam President, I take this opportunity to pay tribute to and recognize the hard work of my colleague from New Hampshire, Senator BOB SMITH. Since joining the Senate in 1990, he has fought with honesty and commitment for the issues that he believed to be most important.

As the ranking member and former chairman of the Environment and Public Works Committee, he focused great attention on reforms of the Corps of Engineers and funding to expand and improve transportation infrastructure. Also, as a senior member of the Armed Services Committee, Senator SMITH fought passionately for a strong military, and always made national security a top priority.

I had the pleasure of working with BOB SMITH in his efforts to establish accountability measures for missing MIAs and POWs. In his capacity as a member of the Senate Select Committee on POW/MIA Affairs, Senator SMITH was very helpful in answering and addressing questions about Vietnam POWs from North Dakota. He also helped North Dakotans on POW issues from the cold war era.

I also had the privilege of serving with Senator SMITH on the Ethics Committee, which he chaired. I found him to be completely fair and non-partisan in his conduct of his duties.

He also was one of the first of my colleagues to console me on the untimely death of my chief of staff, Kent Hall.

Mr. President, it has been an honor to serve in the Senate with BOB SMITH. I have the utmost respect for his service to the people of New Hampshire. While sitting in the historic desk of Daniel Webster, he has made contributions not only to the Senate but also to our Nation. I would like to join my colleagues in wishing Senator SMITH and his family the best in the future.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Madam President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of 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 December 28, 2001 in Marshfield, MA. According to police, a teenage assailant beat a man because the assailant thought the victim was gay. The victim was standing outside a local store when a car containing three men pulled into the parking lot. One of

the men in the car yelled anti-gay obscenities at the victim. The victim entered the store with two friends, and upon exiting, was beaten by the assailant. The assailant yelled anti-gay epithets while punching and kicking the victim, continuing the beating even after the victim fell to the ground.

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.

21ST CENTURY DEPARTMENT OF JUSTICE APPROPRIATIONS AUTHORIZATION ACT

Mr. LEAHY. Madam President, I thank the Senate for voting to end debate and to pass the bipartisan 21st Century Department of Justice Authorization Act conference report. I commend the Majority Leader for bringing this important legislation the floor and filing cloture in order for the Senate to take final action on the conference report.

I regret that consideration and a vote on final passage on this important measure was delayed, but I thank the overwhelming majority of my colleagues for supporting cloture and passage of the conference report.

This measure was passed by the House, by a vote of 400 to 4, last Thursday. All Democrats were prepared to pass the conference report that same day last week and any day this week. Given the Republicans' objection to proceed to a vote and given the refusal to agree to a time agreement, the Majority Leader was required to file cloture. I am glad that the filibuster is over.

This legislation is truly bipartisan. It passed the House 400 to 4. The conference report was signed by every conferee, Republican or Democrat, including Senator HATCH and Representatives SENSENBRENNER, HYDE, and LAMAR SMITH.

Senators from both sides of the aisle spoke in favor of the legislation. In particular, I thank Senator HUTCHISON for coming to the floor on Tuesday to support this conference report. Senator HUTCHISON has spoken to me many times about the need for more judgeships along the Texas border with Mexico to handle immigration and criminal cases.

The conference report includes three new judgeships in the conference report for Texas, one more than was included in the bill reported to the Senate by the Senate Judiciary Committee and passed by the Senate last December.

I thank Senator SESSIONS for his statements on Tuesday and today in support of this bipartisan conference report.

Although he opposes Senator HATCH's legislation regarding automobile dealer arbitration, which enjoys more than 60 Senate cosponsors and 200 House cosponsors and was included in the conference report, Senator SESSIONS is supporting this conference report because it will improve the Department of Justice and support local law enforcement agencies across the nation. I appreciate Senator SESSIONS' work on the provisions in the conference report on the Paul Coverdell Forensic Sciences Improvement Grants and the Centers for Domestic Preparedness in Alabama and other States.

Senator BROWNBACK also spoke in favor of certain immigration provisions in this bill that he worked on with Senator KENNEDY, the Chairman of the Immigration Subcommittee of the Judiciary Committee. In particular, the conference report includes language sought by Senators CONRAD and BROWNBACK to reauthorize the program allowing foreign doctors educated in the United States to remain here if they will practice in underserved communities. This is a crucial provision to ensure that residents in some of our most rural states receive adequate medical care.

The conference report also contains another important immigration provision to permit H–1B aliens who have labor certification applications caught in lengthy agency backlogs to extend their status beyond the sixth year limitation or, if they have already exceeded such limitation, to have a new H–1B petition approved so they can apply for an H–1B visa to return from abroad or otherwise re-obtain H–1B status. Either a labor certification application or a petition must be filed at least 365 days prior to the end of the 6th year in order for the alien to be eligible under this section.

The slight modification to existing law made by this section is necessary to avoid the disruption of important projects caused by the sudden loss of valued employees. At a time when our economy is weak, this provision is intended to help. I thank Senator KENNEDY and Senator BROWNBACK for their work on this provision and their contributions to the conference report. I thank Senator FEINSTEIN for her excellent speech earlier this week in support of this conference report. Senator FEINSTEIN has been a tireless advocate for the needs of California, including the needs of the federal judiciary along the southern border. She has led the effort to increase judicial and law enforcement resources along our southern border. I am proud to have served as the chair of the House-Senate conference committee that unanimously reported a bill that includes five judgeships for the Southern District of California. Long overdue relief for the Southern District of California could be on the way once this conference report is adopted.

Senator BIDEN also contributed a great deal to this conference report. He has fought doggedly to authorize a new Violence Against Women Office at the Justice Department, and his efforts have borne fruit in this legislation. He has also been one of the Senate's best advocates for reauthorizing the Juvenile Justice and Delinquency Prevention Act, which we do here. In addition, he was a cosponsor of the Drug Abuse Education, Prevention, and Treatment Act, and we have included many provisions from that bill in this conference report.

I also would like to thank Senator DURBIN for statements on the Senate floor and his dedicated efforts to authorize a new Violence Against Women Office, to expand the number of Boys and Girls Clubs in our nation, and to create new judgeships in Illinois.

Senator KOHL was a tremendous help in our efforts to reauthorize the Juvenile Justice and Delinquency Prevention Act, especially Title V of that Act, which provides for crucial prevention programs for our nation's youth.

Senator CARNAHAN deserves the credit for the inclusion of the Law Enforcement Tribute Act in this conference report. That provision provides Federal assistance for local communities seeking to honor fallen law enforcement officers. Without her tireless work, we would not have been able to include that provision in this conference report.

For his part, Senator FEINGOLD was able to include his and Senator HATCH's Motor Vehicle Franchise Contract Arbitration Fairness Act in this conference report. That bill will ensure that auto dealers will have a level playing field in their disputes with the auto manufacturers.

Finally, I also thank Senator REID for his helpful comments and support throughout the debate on the legislation.

Of course, our bipartisanship is evidenced by our including authorization for additional judgeships not only in California but also in Texas, Arizona, New Mexico, Ohio, North Carolina, Illinois and Florida. I have tried to improve on the record we inherited.

In the six and one-half years that they controlled the Senate, the Republican majority was willing to add only eight judgeships to be appointed by a Democratic President, and most of those were in Texas and Arizona, States with two Republican Senators. We have, on the other hand, proceeded at our earliest opportunity to increase federal judgeships by 20, including in the border States where they are most needed, well aware these positions will be filled with appointments by a Republican President who has shown little interest in working with Democrats in the Senate. These include a number of jurisdictions with Republican Senators.

I also commend the senior Senator from California for her leadership on the ''James Guelff and Chris McCurley Body Armor Act,'' the State Criminal Alien Assistance Program reauthorization, and the many anti-drug abuse provisions included in this conference

report. She spoke eloquently on the floor of the Senate regarding many of the important provisions she has championed in this process.

This conference report will strengthen our Justice Department and the FBI, increase our preparedness against terrorist attacks, prevent crime and drug abuse, improve our intellectual property and antitrust laws, strengthen and protect our judiciary, and offer our children a safe place to go after school.

This conference report is the product of years of bipartisan work. By my count, the conference report includes significant portions of at least 25 legislative initiatives. This legislation is neither complicated nor controversial. It passed the House overwhelmingly and in short order with a strong bipartisan vote.

I thank my colleagues again for supporting the cloture motion and final passage of this conference report so that all of this bipartisan work and all the good that this legislation will do, will reach the President's desk. I particularly want to thank Senator HATCH, who worked very hard to help construct a good, fair and balanced conference report as did all of the conferees. Likewise, I want to thank Chairman SENSENBRENNER and Representative CONYERS of the House Judiciary Committee for working with us to conclude this conference report successfully.

The staffs of these Members must also be thanked for working through the summer and over the last month to bring all the pieces of the conference report together into a winning package. In particular, the House Judiciary Committee staff has been enormously helpful, including Phil Kiko, Will Moschella, Blaine Merritt, Perry Apelbaum, Ted Kalo, Sampak Garg, Bobby Vassar, and Alec French. I would also like to thank the staff of the House Education and Workforce Committee, including Bob Sweet and Denise Forte. The Senate Judiciary Committee staff has shown its outstanding professionalism and I want to thank Bruce Cohen, Beryl Howell, Ed Pagano, Tim Lynch, Jessica Berry, Robyn Schmidek and Phil Toomajian, Makan Delrahim, Leah Belaire, Michael Volkov, Melody Barnes, Esther Olavarria, Robert Toone, Neil MacBride, and Louisa Terrell.

I appreciate that not all Members were or could be conferees and participate in the conference, but after a full opportunity to study the conference report passed last week in the House by a vote of 400 to 4, I hope that even those Members who raised objection will conclude that on the whole this is a good, solid piece of legislation.

Although the debate is over, I want to address the objections raised by a few Members to this legislation. I thank these Members for coming to the floor to discuss their views and concerns, and want to show them the respect they deserve by responding to those objections. I should note that even in posing an objection to and delaying passage of the conference report—as is their rights as Senators—these Members acknowledged that there were parts of this bill they liked or may like upon review.

Contrary to those who may argue that this legislation is not a priority, it is. Congress has not authorized the Department of Justice in more than two decades. While the Justice Department would certainly continue to exist if we were to fail to reauthorize it, that is not an excuse for shirking our responsibility now. I know that Senator HATCH and Representatives SENSENBRENNER and CONYERS share my view. It is long past time for the Judiciary Committees of the House and Senate—and the Congress as a whole—to restore their proper oversight role over the Department of Justice.

Through Republican and Democratic administrations, we have allowed the Department of Justice to escape its accountability to the Senate and House of Representatives and through them to the American people. Congress, the people's representative, has a strong institutional interest in restoring that accountability. The House has recognized this, and has done its job. I am glad that we have done ours.

I agree with those Members who say that we need to give anti-terrorism priority, but not lose sight of the other important missions of the Department of Justice. The conference report takes such a balanced approach. Those critics who say that there is nothing new in this legislation to fight terrorism, have missed some important provisions in the legislation as well as my floor statements over the past week outlining what the conference report contains to help in the anti-terrorism effort.

Let me repeat the highlights of what the conference report does on this important problem.

The conference report fortifies our border security by authorizing over $20 billion for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration. It also authorizes funding for Centers for Domestic Preparedness in Alabama, Texas, New Mexico, Louisiana, Nevada, Vermont and Pennsylvania, and adds additional uses for grants from the Office of Domestic Preparedness to support State and local law enforcement agencies. These provisions have strong bipartisan support. I thank Senator SESSIONS, Senator SHELBY and Senator SPECTER for supporting cloture on the conference report and for final passage.

Another measure in the bill would correct a glitch in a law that helps prosecutors combat the international financing of terrorism. I worked closely with the White House to pass the original provision to bring the United States into compliance with a treaty that bans terrorist financing, but without this technical, non-controversial change, the provision may not be usable. This law is vital in stopping the flow of money to terrorists. Worse yet, at a time when the President is going before the U.N. emphasizing that our enemies are not complying with international law, by blocking this minor fix, we leave ourselves open to a charge that we are not complying with an anti-terrorism treaty.

I agree with other Members that we should do more to help the FBI Director in transforming the FBI from a crime fighting to a terrorism prevention agency and to help the FBI overcome its information technology, management and other problems to be the best that it can be. The Judiciary Committee reported unanimously the Leahy-Grassley FBI Reform Act, S. 1974, over six months ago to reach those goals, but this legislation has been blocked by an anonymous hold from moving forward. This conference report contains parts of that bipartisan legislation, but not the whole bill, which continues to this day to be blocked to this day.

Since the attacks of September 11 and the anthrax attacks last fall, we have relied on the FBI to detect and prevent acts of catastrophic terrorism that endanger the lives of the American people and the institutions of our country. Reform and improvement at the FBI was already important, but the terrorist attacks suffered by this country last year have imposed even greater urgency on improving the FBI. The Bureau is our front line of domestic defense against terrorists. It needs to be as great as it can.

Even before those attacks, the Judiciary Committee's oversight hearings revealed serious problems at the FBI that needed strong congressional action to fix. We heard about a double standard in evaluations and discipline. We heard about record and information management problems and communications breakdowns between field offices and Headquarters that led to the belated production of documents in the Oklahoma City bombing case. Despite the fact that we have poured money into the FBI over the last five years, we heard that the FBI's computer systems were in dire need of modernization.

We heard about how an FBI supervisor, Robert Hanssen, was able to sell critical secrets to the Russians undetected for years without ever getting a polygraph. We heard that there were no fewer than 15 different areas of security at the FBI that needed fixing.

The FBI Reform Act tackles these problems with improved accountability, improved security both inside and outside the FBI, and required planning to ensure the FBI is prepared to deal with the multitude of challenges we are facing.

We are all indebted to Senator GRASSLEY for his leadership in the area. Working with Republicans and Democrats on the Senate Judiciary Committee we unanimously reported

the FBI Reform Act more than six months ago only to be stymied in our bipartisan efforts by an anonymous Republican hold.

The conference report does not contain all of the important provisions in the FBI Reform Act that Senator GRASSLEY and I, and the other members of the Judiciary Committee, agreed were needed, but it does contain parts of that other bill.

Among the items that are, unfortunately, not in the conference report and are being blocked from passing in the stand-alone FBI Reform bill by an anonymous Republican hold are the following: Title III of the FBI Reform bill that would institute a career security officer program, which senior FBI officials have testified before our Committee would be very helpful;

Title IV of the FBI Reform bill outlining the requirements for a polygraph program along the lines of what the Webster Commission recommended;

Title VII of the FBI Reform bill that takes important steps to fix some of the double standard problems and support the FBI's Office of Professional Responsibility, which FBI Ethics and OPR agents say is very important; and

Title VIII to push along implementation of secure communications networks to help facilitate FISA processing between Main Justice and the FBI. These hard-working agents and prosecutors have to hand-carry top secret FISA documents between their offices because they still lack send secure e-mail systems.

The FBI Reform bill would help fix may of these problems and I would hope we would be able to pass all of the FBI Reform Act before the end of this Congress. These should not be controversial provisions and are designed to help the FBI.

During the debate on this conference report, some Members complained it included provisions that were not contained in either the Senate or House bills. Now, each of the proposals we have included are directly related to improving the administration of justice in the United States. We were asked to include many of them by Republican members of the House and Senate.

Let me give you some examples. The conference report reauthorizes the State Criminal Alien Assistance Program, which President Bush has sought to eliminate. On March 4 of this year, Senator KYL and Senator FEINSTEIN sent me a letter asking me to include an authorization for SCAAP—which was not authorized in either the House- or Senate-passed bill—in the conference report. That proposal had been considered and reported by the Judiciary Committee but a Republican hold has stopped Senate consideration and passage. I agreed with Senator KYL that we should authorize SCAAP. I still believe that it is the right thing to do.

In addition to including the reauthorization of SCAAP, the conferees also authorized an additional judge for Arizona. Members have been arguing for years that their States need more judges. We took those arguments seriously, and added another new judge for Arizona on top of the two that were added in 1998 and the third that was added in 2000. As I said before, we have added 20 additional judicial positions in this conference report.

Some have been critical of the conference report's authorization of funding for DEA police training in South and Central Asia, and for the United States-Thailand drug prosecutor exchange program. I believe that both of these are worthy programs that deserve the Senate's support.

I have listened to President Bush and others in his Administration and in Congress argue that terrorist organizations in Asia, including Al Qaeda, have repeatedly used drug proceeds to fund their operations. The conferees wanted to do whatever we could to break the link between drug trafficking and terror, and we would all greatly appreciate the Senate's assistance in that effort.

Beyond the relationship between drug trafficking and terrorism, the production of drugs in Asia has a tremendous impact on America.

For example, more than a quarter of the heroin that is plaguing the northeastern United States, including my State of Vermont, comes from Southeast Asia. Many of the governments in that region want to work with the United States to reduce the production of drugs, and these programs will help. It is beyond me why any Senator would oppose them.

Some have complained that the conference report demands too many reports from the Department of Justice and that this would interfere with the Department's ongoing counterterorism efforts. It is true that our legislation requires a number of reports, as part of our oversight obligations over the Department of Justice. I assure the Senate, however, that if the Department of Justice comes to the House and Senate Judiciary Committees and makes a convincing case that any reporting requirement in this legislation will hinder our national security, we will work out a reasonable accommodation. I think, however, that such a turn of events is exceedingly unlikely, as no one at the Department has mentioned any such concerns.

Some Members have complained that the conference report includes pieces of legislation that had not received Committee consideration. Let me deal with some of the specific proposals that have been cited.

The Law Enforcement Tribute Act was mentioned as a provision not considered by the Judiciary Committee, but this is incorrect. In reality, the Committee reported that bill favorably on May 16. Its passage has been blocked by an anonymous Republican hold.

Complaints have been made about inclusion of the motor vehicle franchise dispute resolution provision in the conference report for bypassing the Committee. But, again, that is incorrect. The Judiciary Committee fully considered this proposal and reported Senator HATCH's Motor Vehicle Franchise Contract Arbitration Fairness Act last October 31. It has been stalled from the Senate floor by anonymous Republican holds.

A section allowing FBI danger pay was cited as a proposal that bypassed Committee consideration, but, again, the Judiciary Committee did consider this proposal as part of the original DOJ Authorization bill, S. 1319.

Some have complained that the Federal Judiciary Protection Act, which is included in the conference report, had not come before the Committee, but on the contrary, this legislation, S. 1099, was passed the Judiciary Committee and the Senate by unanimous consent last year and in the 106th Congress, as well.

A complaint was raised on the floor about a provision on the U.S. Parole Commission being included in the conference report. That was included because the Bush Administration included it in its budget request.

A complaint was also raised about the conference report's provision establishing the FBI police to provide protection for the FBI buildings and personnel in this time of heightened concerns about terrorist attacks. Contrary to the critics, this proposal was considered by the Judiciary Committee as part of the FBI Reform Act, S. 1974, which was reported unanimously on a bipartisan basis but has been blocked by an anonymous hold.

Similarly, a complaint was made on the floor about bypassing the Committee with the provision in the conference report for the FBI to tell the Congress about how the FBI is updating its obsolete computer systems. Again, this is incorrect. This provision was included in the FBI Reform Act, S. 1974, which was considered by the Judiciary Committee and unanimously reported without objection.

Some critics have complained that the conference report includes intellectual property provisions that have passed neither the House or the Senate. It is not for lack of trying to pass these provisions through the Senate, but anonymous Republican holds have held up for months passage of the Madrid Protocol Implementation Act, S. 407. This legislation has passed the House on three separate times in three consecutive Congresses. Let us get it passed now in the conference report.

The conference report also contains another intellectual property matter, the Hatch-Leahy TEACH Act, to help distance learning. Contrary to the critics' statements, this passed the Senate in June, 2001.

The Intellectual Property and High Technology Technical Amendments Act, S. 320, contained in this conference report, was passed by the Senate at the beginning of this Congress,

in February, 2001. It is time to get this done.

The criticism made on the floor that the juvenile justice provisions in the conference report never passed the House or Senate is simply wrong. The conference report contains juvenile justice provisions passed by the House in September and October of last year, in H.R. 863 and H.R. 1900.

The criticism that the conference report contains criminal justice improvements that were passed by neither the House or the Senate glosses over two important points: First, that many of the provisions were indeed passed by the House, and, second, that others have been blocked from Senate consideration and passage by anonymous Republican holds. Let me give you some examples.

The conference report contains the Judicial Improvements Act, S. 2713 and HR 3892, that passed the House in July, 2002, but consideration by the Senate was blocked after the Senate bill was reported by the Judiciary Committee.

The Antitrust Technical Corrections bills, H.R. 809, had the same fate. After being passed by the House in March, 2001, and reported by the Senate Judiciary Committee, consideration was blocked in the Senate.

CONCLUSION

This conference report is a comprehensive attempt to ensure the administration of justice in our nation. It is not everything I would like or that any individual Member of Congress might have authored.

It is a conference report, a consensus document, a product of the give and take with the House that is our legislative process. It will strengthen our Justice Department and the FBI, increase our preparedness against terrorist attacks, prevent crime and drug abuse, improve our intellectual property and antitrust laws, strengthen and protect our judiciary, and offer our children a safe place to go after school.

The conference report merits the support of the United States Senate to help the Justice Department and the American people.

FY 2003 DEFENSE AUTHORIZATION CONFERENCE REPORT

Mr. SNOWE. Madam President, I rise today to speak briefly about my support for the fiscal year 2003 National Defense Authorization Conference Report and would like to particularly endorse its name as the Bob Stump National Defense Authorization Act for Fiscal Year 2003 in recognition of the chairman of the House Armed Services Committee's 25 years of distinguished service to that Committee.

I also acknowledge the senior Senator from Michigan, Mr. CARL LEVIN, the chairman of the Armed Services Committee, for the leadership he provided in support of the authorization bill, and, of course, the ranking member, Senator JOHN WARNER of Virginia, whose tireless efforts on behalf of veterans led to the final agreements that brought this bill to the floor.

Let me recognize the efforts of every Senator on the Committee. As a former member of that committee, I well understand the long hours and persistent effort needed to move this vital bipartisan legislation.

The conference report takes great strides toward improving the quality of service for our dedicated men and women of the military, modernizing our armed services, and making our homeland safe.

Because we recognize that our service members are our most valuable asset, this legislation makes a solid investment in their quality of life by increasing pay and enhancing educational and health care opportunities for our active duty military members and their family members. And that is only right, for today we are asking a great deal of our gallant young men and women as they guard our Nation at home and abroad in this dangerous and deadly post-September 11 world.

This legislation recognizes that we also owe a continuing debt to those who have served honorably by finally granting combat-wounded military retirees the same benefit available to every other retired Federal employee—the ability to collect full retirement pay and disability entitlements without offsets. There is much work to be done before we achieve the full equity of concurrent receipt for all disabled military retirees, but as Senator WARNER has appropriately noted, we have established a ''beachhead'' for this issue.

I do find it regrettable, however, that the conference report does not complete the job of overturning the ban on privately funded abortion services in overseas military hospitals for military women and dependents based overseas, which was reinstated in the Fiscal Year 1996 authorization bill.

This is a ban that, without merit or reason, puts the reproductive health of these women at risk . . . a ban that the Senate voted to overturn in June by a vote of 52–40. Sadly, this is the second time that this policy change, which has been supported by the majority of the Senate, has fallen victim to the conference committee process.

This ban continues to be a threat to more than just the freedoms of American military women overseas, it's also a threat to their health because it places them at the mercy of the local health care infrastructure in whatever country that they are based. While I support this conference report, I remain deeply disappointed that the conference did not include this critical change of policy regarding this arbitrary ban.

As for modernizing our forces, let me speak on an area that is critical to the security of the Nation—shipbuilding. We are learning that in order to effectively engage the forces of terror wherever they hide, we must have the ability to project our power immediately to any part of the globe. Today, we can do that by dispatching our forces in carrier battle groups or amphibious ready groups. However, as a former chair of the Seapower Subcommittee, I remained concerned, as I know the committee is, about the continuing decline in shipbuilding investments made by the Navy.

I note the conferees included detailed language about the Navy's ship acquisition program and completely agree with their conclusion that, without a fully vetted long range ship-building program, we will be faced with a Navy that is unable to carry out the missions assigned to them in both the short-term and the long-term.

To quote the report, ''Absent more immediate investment, DOD will have to reduce the number or scope of missions assigned to Navy ships. Witnesses have testified that, if neither course is incorporated in future Navy budget programs, the men and women of the Navy and the Marine Corps will bear the burden of these decisions through some combination of longer deployments and less time at home between deployments.''

I find that very troubling indeed in these dangerous times.

Therefore, I am encouraged this legislation mandates stronger shipbuilding funding and construction in the future years. Provisions such as section 1022 that requires the Navy to submit an annual 30 year shipbuilding plan with their budget request will not only assist us in understanding the Navy's ship recapitalization plan but will ensure that the Department of Defense and Navy are committed to buying the number and type of ships necessary to fulfill all of their missions.

I am also pleased that this authorization provides $2.4 billion for the construction of two DDG–51 *Arleigh-Burke* class destroyers and extends through fiscal year 2007 the multi-year procurement authority for that class. For it is these ships, along with cruisers and frigates, that provide protection to the carriers and amphibious ships we are deploying to the Persian Gulf to prosecute the war on terrorism. Surface combatants are the backbone of our Navy and I support section 1021 that requires the Secretary of the Navy to notify Congress should the number of active and reserve surface combatant ships drop below 116.

The legislation also looks to the future by authorizing almost $970 million for the development of technologies to be incorporated into the next generation of surface combatant, the DD(X) land attack destroyer. Moreover, it adds $5 million for the DDG Destroyer Optimized Manning Initiative, a Navy effort to enhance the operational effectiveness of Aegis destroyers with new technologies, policies and procedures to significantly reduce crew workload and improve readiness.

The legislation authorizes $10.4 billion, $376 million more than requested, for science and technology programs

including many that will be performed in Maine to protect our troops and our homeland such as the project designed to help identify and address the needs of military personnel in the event of a biowarfare attack.

Of potentially significant value to the Navy, it authorizes $1 million for research at the University of Maine aimed at developing a specialized structural reliability analysis process to optimize the use of polymers in future ship construction, and provides $5 million in funding for development of a Small Kill Vehicle Technology, aimed at improving the accuracy of missile and anti-missile technology.

Furthermore, among the more critical provisions of this legislation are those aimed at protecting our homeland. It provides the President with $10 billion for the war against terrorism including $4.3 billion for military operations and $1 billion for equipment replacement and upgrades to military capabilities.

And finally, the legislation includes almost $1 billion for Chem-Bio programs designed to provide advanced individual protection and equipment to detect and decontaminate chemical and biological agents, as well as an additional $480 million for DoD homeland security and consequence management.

This authorization provides the men and women of our armed forces with the equipment they need to accomplish their mission, the quality of life they have earned and security for their families. I have been proud to support this legislation because in a year when our Nation is facing unprecedented security challenges and dangers, we can do no less.

THE PIPELINE SAFETY IMPROVEMENT ACT OF 2002

Mr. HOLLINGS. Madam President, I am pleased that last night the Senate unanimously passed pipeline safety legislation in the form of H.R. 3609, the Pipeline Safety Improvement Act of 2002. This bill is the product of over three years of bipartisan work and compromise, and I thank my colleague, Senator MCCAIN, for his leadership on this important issue.

Mr. MCCAIN. I would like to thank my many colleagues for joining us in supporting this important legislation. This bill will result in improvements in the safety regulatory program at the Department of Transportation, increased levels of safety throughout our national pipeline system, and in the communities through which pipelines run. This bill contains several important improvements, including: requirements for minimum standards for pipeline integrity management programs, requirements for public education programs, and requirements that the Office of Pipeline Safety and the Research and Special Programs Administration comply with safety recommendations made by the National Transportation Safety Board and the Department of Transportation Inspector General, many of which have already been started.

Mr. HOLLINGS. To expedite enactment of the significant pipeline safety reforms included in this bill, the leadership of the Senate Committee on Commerce, Science, and Transportation has worked with the House Committees on Transportation and Infrastructure and Energy and Commerce in developing the compromise agreement. This Joint Explanatory Statement therefore represents the views of the Chairman and Ranking Member of the Senate Commerce Committee, along with the Chairmen and Ranking Members of the Transportation and Infrastructure Committee and the Energy and Commerce Committee. This Joint Explanatory Statement will provide legislative history for interpreting this important pipeline safety legislation.

I ask unanimous consent that this statement be printed in the RECORD.

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

SECTION-BY-SECTION ANALYSIS

Section 1. Short title; amendment of title 49, United States Code

This section designates the act as the ''Pipeline Safety Improvement Act of 2002.''

Section 2. One-call notification programs

This section requires that state one-call notification programs provide for the participation of government operators and contract excavators. Section 2 also requires that state one-call notification programs document enumerated items set forth in the statute. Additionally, the requirement that the Secretary of Transportation include certain information in reports submitted under section 60124 of Title 49 is made permanent. Authorizations for appropriations for grants to states for fiscal years 2003 through 2006 are provided at $1,000,000 per year, and grants for administration in section 6107(b) are updated for fiscal years 2003 through 2006. This section also amends section 6105 of Title 49 by requiring the Secretary of Transportation to encourage the states, operators of one-call notification programs, operators of underground facilities, and excavators (including government and contract excavators) to use the practices set forth in the best practices report entitled ''Common Ground,'' as periodically updated, and requires the Secretary of Transportation to provide technical assistance to a non-profit organization specifically established for the purpose of reducing construction-related damage to underground facilities. Authorizations for appropriations for fiscal years 2003 through 2006 are provided at $500,000 per year, but would not be derived from user fees collected under section 60301 of title 49.

Section 3. One-call notification of pipeline operators

This section provides for the enforcement of one-call notification programs by a state authority if the state's program meets the requirements set forth in the statute. The application of the term ''person'' who intends to engage in an activity necessitating the use of the one-call system is expanded to include government employees or contractors.

This section amends section 60123(d) of Title 49 by rearranging the phrase ''knowingly and willfully'' to address the problem raised when a court interpreted existing law to require a knowing and willful standard to, not only engaging in an excavation activity, but also to subsequently damaging a pipeline facility. The consequence of the court's interpretation makes prosecutions more difficult by requiring the government to show the defendant knew subsequent damages would result from excavation activity and that the defendant's conduct was willful. This section of the bill corrects the court's interpretation by now requiring that the ''knowingly and willfully'' standard apply only to engaging in an excavation activity.

This section also provides that penalties under the criminal penalties section can be reduced if the violator promptly reports a violation.

Section 4. State oversight role

This section amends section 60106 of Title 49 to allow the Secretary of Transportation to make an agreement with a state authority authorizing the state authority to participate in the oversight of interstate pipeline transportation including incident investigation, new construction, and other inspection and investigatory duties. However the Secretary shall not delegate the enforcement of safety standards for interstate pipeline facilities to a state authority. This section further provides that the Secretary may terminate agreements with the State authorities if a gap results in the State authority's oversight responsibilities of intrastate pipeline transportation, the State authority fails to meet requirements set forth in this section, or continued participation in the oversight of interstate pipeline transportation would not promote pipeline safety. Existing state agreements shall continue until a new agreement between the state and the DOT is executed or December 31, 2003, whichever is sooner.

Section 5. Public education programs

Section 5 amends section 60116 of Title 49 to include hazardous liquid pipeline facilities in this section requiring a continuing program to educate the public on the use of one-call notification systems, the possible hazards associated with unintended releases, and how to tell if an unintended release occurred, what steps should be taken for public safety in the event of a pipeline release, and how to report such an event. This section also requires owners and operators to review existing public education programs for effectiveness and to modify their programs as necessary. In addition, the section allows the Secretary to issue standards prescribing the elements of public education programs and develop materials for use in such programs.

Previous versions of Senate-passed pipeline safety legislation also included a provision calling for the coordination of emergency preparedness between operators of pipeline facilities and state and local officials, as well as to provide for public access to certain safety information. Agreement was not reached on how safety information could be accessed by the public in a manner that would protect security-sensitive information from distribution. The managers agreed that this issue would be better dealt with in the context of the pending homeland security legislation.

Section 6. Protection of employees providing pipeline safety information

This section adds provisions for the protection of employees who are discharged or otherwise discriminated against with respect to compensation, terms, conditions, or privileges of employment for (1) providing information to the federal government about alleged violations of Federal law relating to pipeline safety; (2) refusing to participate in any practice made illegal by Federal law relating to pipeline safety; or (3) assisting or

participating in any proceeding to carry out the purposes of pipeline safety legislation. This section establishes the procedural framework in which complaints are handled by the Secretary of Labor and the remedies available to the prevailing party.

This section contains a provision that essentially says if a preliminary order provides that an employee must be allowed to return to work, the filing of an objection by the employer ''shall not operate to stay any reinstatement remedy contained in the preliminary order.'' The intention of this language is to assure that the mere filing of an objection would not work as an automatic stay, thus precluding an employee from returning to work pending the outcome of the matter. However, this language would not preclude an employer from filing an independent motion for a stay if sufficient grounds exist for the filing of such a motion.

Section 7. Safety orders

Section 7 adds a paragraph to section 60117 of Title 49 to give the Secretary of Transportation authority to order an operator of a facility to take corrective action if the Secretary decides that a potential safety-related condition exists. The Office of Pipeline Safety (OPS) requested this provision so that corrective action could be taken immediately rather than waiting until a facility is classified as ''hazardous'' prior to requiring corrective action.

Section 8. Penalties

This section modifies the existing penalties provision set forth in section 60112 of Title 49 to allow the Secretary of Transportation to decide if the operation of a pipeline facility, is ''or would be'' hazardous to life, property, or the environment. The purpose of the modification is to give the Secretary authority to take action prior to the facility, the construction of the facility, or any component of the facility actually becoming hazardous, thereby establishing a framework of preventative actions, rather than actions only in response to an imminent hazard.

In subsection (a)(1) of section 60122, the amounts of the penalties have been increased. The per day, per incident, amount has been increased from $25,000 to $100,000. The maximum civil penalty for a related series of violations has been increased from $500,000 to $1,000,000. This section of the bill also provides that, in determining the amount of a civil penalty, the Secretary of Transportation shall consider as an additional consideration in section 60122(b) of Title 49, the adverse impact on the environment. The Secretary of Transportation may consider the economic benefit gained from the violation without reduction because of subsequent damages.

This section also modifies the enforcement section of the statute (section 60120(a)(1) of Title 49) by specifically providing that the court may award appropriate relief, including a temporary or permanent injunction, punitive damages, and the assessment of civil penalties. The current statutory language specifying that the Attorney General may proceed only at the request of the Secretary of Transportation remains in effect.

Section 8 also requires that the Comptroller General conduct a study of the actions, policies, and procedures of the Secretary of Transportation for assessing and collecting fines and penalties.

Section 9. Pipeline safety information grants to communities

Section 9 requires the Secretary of Transportation to make grants for technical assistance to local communities and groups of individuals (not including for-profit entities) relating to the safety of pipelines in local communities. The purpose of this provision is to provide grants to communities for technical assistance such as engineering or scientific analysis of pipeline safety issues. Applicants must compete for the grants in a procedure established by the Secretary of Transportation, who shall also establish the criteria for the recipients. Additionally, the Secretary must establish procedures to ensure that the funds have been properly accounted for and spent in a manner consistent with the purpose of the grants. Any one-grant recipient may not receive more than $50,000. The grant funds cannot be used for lobbying or in direct support of litigation. This section authorizes the appropriation of $1,000,000 for each of the fiscal years 2003 through 2006.

Section 10. Operator assistance in investigations

This section requires the operator of a pipeline facility to make available information and records to the Secretary of Transportation or the National Safety Transportation Board (NTSB) in the event of an accident, subject to constitutional protections for operators and employees. Actions taken by an operator pursuant to this section shall be in accordance with the terms and conditions of any applicable collective bargaining agreement.

Section 11. Population encroachment and rights-of-way

This section requires the Secretary of Transportation, along with the Federal Energy Regulatory Commission (FERC) and other federal agencies and state and local governments, to study land use practices and zoning ordinances, as well as the preservation of environmental resources, with regard to pipeline rights-of-way. Based upon the purposes set forth in this section, a report is to be written that identifies successful practices, ordinances, and laws addressing population encroachment on pipeline rights-of-way, being mindful of protecting the public safety, pipeline workers, and the environment. The report must be completed within one year from the date of enactment and provided to Congress, appropriate federal agencies, and the States for further distribution to the appropriate local authorities.

Section 12. Pipeline integrity, safety, and reliability research and development

This section requires the heads of the participating agencies to carry out a program of research, development, demonstration, and standardization to ensure the integrity of pipelines. The Secretary of Energy, Secretary of Transportation, and the Director of the National Institute of Standards and Technology (NIST) each have defined roles. The Secretary of Transportation, in coordination with the Secretary of Energy and the Director of the National Institute of Standards and Technology, shall prepare and submit to Congress a 5-year plan to guide the activities under this section. The plan shall also be submitted to the Technical Pipeline Safety Standards Committee and the Technical Hazardous Liquid Pipeline Safety Standards Committee for review. The section authorizes appropriations for the fiscal years 2003 through 2006 in the following amounts: Secretary of Energy: $10,000,000; the Secretary of Transportation: $10,000,000; and the National Institute of Standards and Technology: $5,000,000. Any sums authorized pursuant to this section shall not be derived from user fees. In addition $3,000,000 from the Oil Spill Liability Trust Fund shall be transferred to the Secretary of Transportation, as provided in appropriations Acts, to carry out programs for detection, prevention, and mitigation of oil spills for each of the fiscal years 2003 through 2006.

Even though the Secretary of Transportation does not regulate gathering lines, the participating agencies are encouraged to include such lines in their research, development, demonstration, and standardization efforts on the integrity of gathering lines.

Section 13. Pipeline qualification programs

This section requires the Secretary of Transportation to require operators of pipeline facilities to develop qualification programs for their personnel who perform covered tasks (as defined in the Code of Federal Regulations). This section also requires the Secretary to have in place standards and criteria for such qualification programs, including a method for examining or testing the qualifications of individuals who perform covered tasks. Such method may include written examination, oral examination, on-the-job training, simulations, observation during on-the-job performance, and other forms of assessment. The method may not be limited to observation of on-the-job performance, except with respect to tasks where the Secretary has determined specifically that such observation is the best method of examining or testing qualifications. Further, the Secretary must ensure that the results of any such on-the-job performance observations are documented in writing. The Secretary may waive or modify requirements if not inconsistent with pipeline safety. The Secretary is required to verify each operator's qualification program, including modifications to previously verified programs. In the event the Secretary fails to establish standards and criteria as set forth in this section, pipeline facility operators are required to develop and implement qualification programs based on the requirements of this section. The Secretary is required to report to Congress within 5 years on the status and results of personnel qualification regulations. A pilot program is established for the certification of individuals who operate computer-based systems for controlling the operations of pipelines. The pilot program seeks the participation of 3 pipeline facilities.

Section 14. Risk analysis and integrity management programs for gas pipelines

This section requires operators of pipeline facilities subject to section 60109 of Title 49 to adopt and implement a written integrity management program to reduce risks to each facility. Within 12 months of the enactment of the bill, this section requires the Secretary of Transportation to prescribe standards to direct each operator's conduct of a risk analysis and adoption and implementation of an integrity management program, which must occur within 24 months from the enactment of the section. Minimum requirements are set forth in this section for integrity management programs and for the rule regulating the same, which include a baseline integrity assessment of each of an operator's facilities which must be completed within 10 years after the enactment of the section (at least 50 percent of such facilities shall be assessed no later than 5 years after the date of enactment of this section), and a reassessment of each facility at a minimum of once every 7 years, with prioritization being based on all relevant risk factors, including any previously discovered defects or anomalies and any history of leaks, repairs, or failures.

The Secretary of Transportation is required to issue a rule on integrity management programs, and each operator of a pipeline facility subject to section 60109 of Title 49 is required to adopt and implement an integrity management program, even if the Secretary does not issue a rule. This section does not apply to natural gas distribution lines because section 60109 of Title 49 does not, nor was it intended to, apply to natural gas distribution lines.

Section 14 authorizes the Secretary of Transportation to grant waivers and modifications pursuant to section 60118(c) of Title 49 for any requirement for reassessment of a facility for reasons that may include the need to maintain local product supply or the lack of internal inspection devices. The waivers or modifications shall not be inconsistent with pipeline safety.

This section also requires that the Comptroller General conduct a study to evaluate the 7-year reassessment interval required by this section. The study is to be completed and transmitted to Congress no later than 4 years from the date of enactment.

In this section, each operator of a gas pipeline facility is required to conduct a risk analysis for facilities located in high consequence areas and to adopt and implement an integrity management program for each such facility to reduce associated risks. This section requires each operator to prioritize facilities for integrity assessment based on all risk factors, including any history of leaks, repairs, or failures, and directs the operator to give priority to facilities with the highest risks.

The Department of Transportation's Research and Special Programs Administration (RSPA) issued a final rule defining ''high consequence areas'' on August 6, 2002. The managers strongly support RSPA's regulation defining high consequence areas, although recognize that the definition could be subject to alteration by future regulatory action by RSPA.

Pipeline safety regulations have long required gas operators to survey and patrol along their pipeline rights-of-way to classify areas of population. The new definition of high consequence areas builds on the existing classification of areas where the potential consequences of a gas pipeline accident may be significant or may do considerable harm to people and their property, and includes current class 3 and 4 locations, facilities with persons who are mobility impaired, confined, or hard to evacuate, and places where people gather for recreational and other purposes.

In the July 2002 Technical Pipeline Safety Standards Committee meeting to consider the proposed definition, RSPA made clear its intent to include in its definition known areas where people gather, such as the Pecos River pipeline crossing near Carlsbad, New Mexico, which was commonly used by campers and fishermen and was the location of a pipeline rupture in August 2000 that resulted in 12 fatalities. The managers support is expressed for this new definition of high consequence areas and expect RSPA to further clarify the application of the definition in the substantive rule to be issued on integrity management programs.

Section 15. National Pipeline Mapping System

Section 15 requires operators of pipeline facilities, except distribution lines and gathering lines, to provide to the Secretary of Transportation geospatial data appropriate for use in the National Mapping System, the name and address of the person with primary operational control, and a means for a member of the public to contact the operator for additional information about the facilities. There is a requirement to update the information as necessary.

Section 16. Coordination of environmental reviews

Section 16 requires the President to establish an interagency committee for the purpose of developing and ensuring the implementation of a coordinated environmental review and permitting process in order for pipeline operators to complete all activities necessary to carry out pipeline repairs within any time periods specified by rule by the Secretary of Transportation.

The chairman of the Council on Environmental Quality shall chair the Interagency Committee, which shall consist of representatives of Federal agencies with responsibilities relating to pipeline repair projects. The Interagency Committee shall evaluate Federal permitting requirements and shall examine the access, excavation, and restoration practices of the pipeline industry for the purpose of developing a compendium of best practices used by the industry to access, excavate, and restore the site of a pipeline repair. Based upon the evaluation conducted, the members of the Interagency Committee shall enter into, by unanimous consent, a memorandum of understanding to provide for the coordinated and expedited pipeline repair permit review process so that pipeline operators may commence and complete pipeline repairs within any time periods imposed on the repair projects by rules promulgated by the Secretary of Transportation. Each agency represented on the Interagency Committee is required to revise its regulations to implement the provisions of the memorandum of understanding.

This section also provides for the implementation of alternative mitigation measures to be used by operators of pipeline facilities until all applicable permits have been granted. To the extent necessary, the Secretary of Transportation is required to revise the regulations of the Department to accommodate such implementation. However, such revisions shall not allow an operator of a pipeline facility to implement alternate mitigation measures unless to do so would be consistent with the protection of human health, public safety, and the environment; the operator has applied for and is diligently and in good faith pursuing all required Federal, state, and local permits necessary to carry out the repair project; and is compatible with pipeline safety.

The Secretary of Transportation is required to designate an ombudsman to assist in expediting pipeline repairs and resolving disagreements between Federal, state, and local permitting agencies and the operator of a pipeline facility. The actions of the ombudsman must be consistent with the protection of human health, public safety, and the environment.

The Secretary of Transportation is required to encourage states and local governments to consolidate their respective permitting processes for pipeline repair projects that are subject to any time periods for repairs specified by rule by the Secretary of Transportation.

Section 17. Nationwide toll-free number system

Section 17 requires the Secretary of Transportation to work in conjunction with the Federal Communications Commission (FCC), facility operators, excavators, and one-call notification system operators for the establishment of a nationwide toll-free 3-digit telephone number system to be used by state one-call notification systems.

Section 18. Implementation of Inspector General recommendations

Section 18 requires the Secretary of Transportation to respond to each of the recommendations of the Department of Transportation Inspector General contained in RT–2000–069 every 90 days and to submit the responses to the appropriate committees of Congress.

Section 19. NTSB safety recommendations

Section 19 requires RSPA and OPS to respond to recommendations received from the NTSB within 90 days from receipt of such recommendations. Such responses shall state the intentions of the OPS with respect to the recommendations and shall state the timetable for completing the procedures and reasons for refusals to do so. The responses shall be made available to the public. The OPS is required to submit an annual report describing each recommendation received and the OPS response to each recommendation for the previous year.

Section 20. Miscellaneous amendments

Section 20 amends section 60102(a) of Title 49 by adding language expressing that the purpose of the chapter is to provide adequate protection against risks to life and property posed by pipeline transportation pipeline facilities by improving the regulatory and enforcement authority of the Secretary of Transportation.

This section also modifies the qualifications of the individuals selected to serve on the Technical Safety Standards Committees pursuant to section 60115 of Title 49 so that none of the individuals selected for committee membership from the general public ''may have a significant financial interest in the pipeline, petroleum, or gas industry.'' The intent of this provision is to prevent industry employees and individuals with a sizable stake in the pipeline industry from serving as representatives from the general public, not prevent service from individuals who have pipeline, petroleum, or gas industry stock interests in their retirement plans.

Section 21. Technical amendments

Section 21 makes technical amendments to correct previous drafting errors in the existing legislation.

Section 22. Authorization of appropriations

Section 22 authorizes appropriations for the Department of Transportation and state grants for safety programs for the fiscal years 2003 through 2006.

Section 23. Inspections by direct assessment

Section 23 requires the Secretary of Transportation to issue regulations prescribing standards for inspections of a pipeline facility by direct assessment.

Section 24. State pipeline safety advisory committees

Section 24 requires the Secretary of Transportation to respond within 90 days after receiving recommendations from advisory committees appointed by the Governor of any state.

Section 25. Pipeline bridge risk study

Section 25 requires the Secretary of Transportation to conduct a study to determine whether cable-suspension pipeline bridges pose structural or other risks. The Secretary may only use funds specifically appropriated to carry this section.

Section 26. Study and Report on Natural Gas Pipeline and Storage Facilities in New England

Section 26 requires the Federal Energy Regulatory Commission, in consultation with the Department of Energy, to conduct a study on the natural gas pipeline transmission network in New England and natural gas storage facilities associated with that network and report back to the relevant House and Senate Committees within a year of the date of enactment.

AVERTING A BREAKDOWN IN FEDERAL TAX ENFORCEMENT

Mr. LEVIN. Madam President, many have said they want the next Congress to work on tax reform. Any tax reform effort we undertake, however, needs to address the grave warning recently provided by IRS Commissioner Charles O. Rossotti about the need for immediate steps to avert a breakdown in federal tax enforcement.

Mr. Rossotti has just completed 5 years of work to restore confidence in the effectiveness and fairness of the IRS. He left the administration last week after submitting a report to the IRS Oversight Board summarizing his efforts and the current state of the IRS. His overall conclusion was that, while the IRS made significant progress over the last 5 years in revamping its procedures and improving interactions with average taxpayers, the IRS is ''losing the war'' on stopping tax cheats.

Mr. Rossotti wrote that while the size and the complexity of the Tax Code have continued to increase, IRS enforcement resources have continue to diminish. He described the IRS as ''outnumbered'' and facing a huge and growing gap ''between the number of taxpayers whom the IRS knows are not filing, not reporting or not paying what they owe, and our capacity to require them to comply.'' Using specific facts and figures, he provides data supporting the shocking statistic that four out of five U.S. tax cheats will likely escape detection and correction action due to the IRS' limited resources to enforce the tax laws.

Mr. Rossotti also summarized what is happening among tax professionals to enable so-called sophisticated taxpayers to escape paying their fair share, and what the likely consequence is for honest taxpayers left footing the bill. Here is what he said:

> Recognizing the IRS' diminished capacity, promoters and some tax professionals are selling a wide range of tax schemes and devices designed to improperly reduce taxes to taxpayers based on the simple premise that they can get away with it. When this perception becomes increasingly widespread, the essential pillar or our tax system is lost—namely, the belief of honest taxpayers that if someone does not pay what he or she owes, then the IRS will do something about it.

Mr. Rossotti's full analysis appears in the report he filed with the IRS Oversight Board, and I ask unanimous consent for the complete text of that report to appear in the record following my remarks.

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

(See exhibit 1.)

Mr. LEVIN. This report not only sets out the scope and causes of the growing enforcement problems at the IRS, it also identifies practical and immediate steps that can be taken by Congress to avert an enforcement breakdown. Essentially, it comes down to Congress' providing the IRS with a steady increase of 2 percent per year over the next 5 years in resources for audits, investigators, and enforcement actions. This increase is not only modest, the numbers show that it will more than pay for itself through the collection of taxes that have improperly been withheld.

Federal tax reform is an important goal, but any reform effort must include a clear-eyed recognition of the growing problem of tax compliance and the need to revitalize the agency charged with ensuring all Americans pay their fair share. Mr. Rossotti was scheduled to bring the enforcement problem to the attention of Congress at a hearing in October, but that hearing was cancelled after, according to press reports, he was asked by the administration not to disclose his report or recommendation for increased enforcement resources.

To further contribute to an understanding of the scope and nature of tax noncompliance, my staff on the Permanent Subcommittee on Investigations has been digging into the problems of offshore tax evasion and tax promoters shopping improper tax shelters. I hope to have more to report on these issues early next year.

In the meantime, I urge all my colleagues to read Mr. Rossotti's report in full and take its warnings and advice to heart as we approach tax reform issues in the coming year.

EXHIBIT 1

REPORT TO THE IRS OVERSIGHT BOARD—ASSESSMENT OF THE IRS AND THE TAX SYSTEM

As the Board requested, and as my term of office draws to a close, I want to share with you my thoughts on the current state of the IRS, our tax administration system, as well as the opportunities and challenges that the agency and new commissioner will face.

The IRS is today capable of executing its mission with increasing effectiveness and efficiency. We made measurable progress on a number of high priority areas, such as e-filing, telephone and in-person taxpayer service, protection of taxpayer rights and burden reduction. We stabilized and refocused our key compliance activities to make the best use of our limited resources and are identifying and attacking systematic areas of noncompliance, such as the promotion and use of abusive tax devices. Financial management improved, as evidenced by unqualified audit opinions. Internal morale, which was heavily affected by criticism and internal and external change, turned around. Perhaps most importantly, we regained the confidence of the public and other stakeholders.

For the longer term, the IRS created a firm foundation upon which to make further progress. It includes: a modern organization structure with clear accountability for meeting the widely varying needs of specific taxpayer segments; information systems and support organizations capable of supporting operations efficiently while managing modernization; and a planning and management process for allocating resources, assigning goals to managers and measuring progress.

Our Business System Modernization Plan is beginning to deliver tangible benefits to taxpayers and practitioners. Equally important, we have a complete vision and architecture to guide the continuing modernization of every IRS business process and supporting technology.

The plans in place for FY 2003 and FY 2004 reflect aggressive but achievable productivity gains, exceeding those that were historically achieved in the private financial sector.

Taken together, these achievements demonstrate the progress we made over the past five years in the entire way we serve taxpayers, although finishing the job will still take the full decade I originally projected.

However, amidst what I believe is justified optimism for continued improvements in the performance of the IRS lies a critical problem. We are winning the battle, but losing the war. Over the last ten years, the size and complexity of the tax system increased enormously. Beyond the simple increase in number of taxpayers and revenue dollars, the majority of tax revenues now come from sources that are more subject to manipulation by those who wish to pay less than the law requires and much more difficult and time consuming for our agents to uncover. Meanwhile, the size of the IRS declined, not just relatively but in absolute terms, because of budget constraints.

The cumulative effect of these conflicting trends over a 10-year period has been to create a huge gap between the number of taxpayers whom the IRS knows are not filing, not reporting or not paying what they owe, and our capacity to require them to comply.

Recognizing the IRS' diminished capacity, promoters and some tax professionals are selling a wide range of tax schemes and devices designed to improperly reduce taxes to taxpayers based on the simple premise they can get away with it. When this perception becomes increasingly widespread, the essential pillar of our tax system is lost—namely, the belief of honest taxpayers that if someone does not pay what he or she owes, then the IRS will do something about it.

If the trend of the last ten years is allowed to continue, it is only a matter of time until this problem will emerge into the forefront of public consciousness, likely leading to an eruption of criticism such as has occurred periodically in the last 50-year history of the IRS.

Fortunately, it is not too late to solve this problem, nor is it an open-ended problem. In fact, in the past year we succeeded in quantifying better than ever the resources we need. Modernization and internal productivity improvements will provide a major part of the needed gains. However, these alone will not be sufficient to close the gap, even if we assume greater productivity gains than the private sector was able to achieve over a decade.

To succeed, we need more trained personnel to close the known compliance gap while continuing to protect taxpayer rights and provide essential services. Specifically, we must add approximately 2 percent annual net increase in staffing over five years. Even with this increase, the size of the IRS by 2010 would be smaller than it was 20 years earlier in 1990 while the economy will have increased 86 percent.

Over the same period, we must also fund adequate increases for computer modernization programs to accelerate the delivery of key projects and benefits that will provide for greater service, efficiency and productivity.

Together with effective management of the IRS, this modest level of resources can reverse the dangerous trend the tax system is currently taking—but only if it is consistently provided. If, on the other hand, the trend of the past ten years is maintained, in which the demands on tax administration increase and the capacity of the IRS declines, the eventual cost for our nation is certain to be enormous.

STARTING POINT

Before I discuss the opportunities and challenges that lie ahead, it is helpful to place them in their proper historical context.

By the mid-1990s, the public, Congress and most key stakeholders had lost confidence in the IRS. According to the Roper Starch surveys, favorable public opinion of the IRS steadily declined since the early 1980s, reaching an all-time low of 32 percent in 1998. The results of the American Customer Satisfaction Index of key federal agencies were similarly alarming. The IRS measured the lowest of any agency or institution in both surveys.

Taxpayers were not alone in their negative perceptions. Congress and many of our

stakeholders also lost confidence in the agency's ability to do its job at an acceptable level. In 1995, the Tax Systems Modernization program was terminated after several billion dollars were spent. Handling complaints about IRS treatment of constituents became a time-consuming duty in many congressional offices, and many stakeholders, especially those representing small business, had an adversarial relationship with the agency.

Poor quality service to taxpayers over the telephone or in person contributed to the public's low perceptions. At the nadir in the mid-1990s, the IRS registered 400 million busy signals a year on its toll-free lines, and when taxpayers did reach the IRS, the likelihood of getting an accurate answer or resolution to a problem was low.

A number of external factors also buffeted the IRS. Budget and staff cuts, rapid economic growth and the shift in the tax base from middle-income wage earners and domestic corporations to upper-income entrepreneurs, passthrough entities and global corporations, all contributed to a diminished capacity to cope with service and compliance demands.

The IRS responded to this pressure by emphasizing enforcement revenue and statistics as a way of justifying its budget. The IRS measured the success of its compliance activities by direct enforcement revenues. This is like a police department assessing its success by the number of traffic tickets written rather than by the safety and security of the community it serves. As we well know from the ensuing fallout, this grave mistake further alienated the public, yet failed to address the systematic, emerging compliance and budget problems.

While emphasizing enforcement statistics, the IRS was also slow to update its compliance practices, such as models used to select returns for audits and the management of the exam and collection processes. Until we changed it recently, $100,000 was the highest income class used by the IRS in assigning exam cases, although people with incomes over $100,000 pay more than 60 percent of the income tax.

Moreover, although exam coverage was declining, many of these examinations concentrated on relatively straightforward issues of deductions or timing differences, such as the use of cash versus accrual accounting by small businesses. Very little emphasis was placed on partnerships and trusts, high-income individuals or offshore accounts, although vast sums of income flow through these entities. There was no specific program to identify and combat promoters of abusive tax devices. The IRS succeeded in winning some tax shelter court cases, but there was no overall strategy for dealing with corporate tax shelters.

ACHIEVING A TURNAROUND

The IRS addressed, although certainly not completely solved, the major problems and internal constraints it faced five years ago. Some are resolved; clear plans are in place to correct the remaining ones over the next five years. This work provided the foundation for steady improvement in the effectiveness and efficiency with which the IRS carries out its mission.

Public confidence in the IRS rebounded. The Roper Starch surveys found our rating increased each of the past three years after 1998's historic low. The University of Michigan's American Customer Satisfaction Index survey released in December 2001 showed greatly improved customer satisfaction among individual taxpayers—the largest favorable gain of the 30 federal agencies surveyed.

In May 2002, the Federal Performance Project, a collaboration of Government Executive Magazine and George Washington University's Department of Public Administration, released its scorecard on federal agencies. The IRS earned a ''B-'', as compared to a ''C'' three years ago. While the trend is good, much more remains to be done. The IRS can be and should be managed at the ''A'' level and is on its way to achieving this.

This turnaround in public confidence reflects the clear progress in five distinct areas: (1) customer service, (2) stakeholder relations, (3) compliance, (4) internal management, and (5) technology and modernization.

Customer service

The customer service improvements were the most visible to individual taxpayers. The upward trend in telephone service was particularly important given how far we had to climb. By the end of the 2002 filing season, taxpayers were receiving correct responses to 83.6 percent of tax law questions and 89.9 of account questions. Access to service and time spent waiting, while still below private sector standards, improved substantially. Average wait time is down 26 percent from the previous year. Assistor access rose from 56 percent only two years ago to nearly 70 percent this year.

Last year, Web site usage smashed all records with 2.7 billion hits and 336 million files downloaded. We are well on our way to a new record this year. Also, in January 2002, we introduced a newly designed and more accessible Web site.

E-filing tripled over the past five years, and this filing season, was up 16 percent over the previous one. We are systematically removing the remaining barriers to e-filing. For example, this year, virtually all 1040 forms and schedules could be filed electronically, and no paper signature document was required. Improved electronic tax administration is also critical to better serving business taxpayers, especially given the number of forms and payments they must file and make. In September 2001, we launched Electronic Federal Tax Payment System On-Line that allows businesses large and small to save precious time by making their federal payments on-line.

We are also building a new e-file system that will grow and serve taxpayers for years to come. Scheduled to start in 2004, it will address the current system's problems. For example, it will accept complex business returns, such as 1120s, eliminate software barriers and resolve standardization issues, such as reject codes and validations.

Service in local taxpayer assistance centers, which was extremely poor in many places, improved in both quality and consistency. However, it will still take several more years to reach fully acceptable standards. Taxpayers can now schedule appointments in more than 400 locations for face-to-face meetings with IRS employees to resolve account or case problems. This helps make the well-received idea of ''Problem Solving Days'' a regular part of IRS everyday operations. While making these improvements, we are also requiring fewer personnel details from the compliance functions to filing season duty—an expensive and very unpopular practice.

Within the limits of a complex and changing Tax Code, the IRS acted to reduce taxpayer burden. For example, we simplified forms, such as the Schedule D for reporting capital gains. We also rewrote and simplified procedures, such as those for distributions from qualified retirement plans. We removed 2.6 million small business taxpayers from the time-consuming reporting and record-keeping requirements of reconciling tax returns with balance sheets. We eliminated the need for most small businesses to use the more burdensome accrual method of accounting for tax purposes. We implemented a new and much more reliable way of measuring taxpayer burden. In the newly created Office of Taxpayer Burden Reduction, we also have an organization dedicated to continuously measuring and reducing burden.

The IRS implemented 71 taxpayer rights provisions of RRA 98, including such major provisions as collection due process, expanded innocent spouse relief, third party notification and expanded opportunities for offers in compromise. The Taxpayer Advocate Service was established as an effective independent entity within the IRS. It assists taxpayers with hardship cases and makes recommendations to improve the way IRS works for them. Because of these efforts, the number of taxpayers with serious unresolved cases, such as those that generate a need for intervention by a congressional office, declined. More generally, our improved service helped to reduce the numbers of cases needing TAS intervention. In 2002, case receipts fell from 194,790 to 169,390 compared with the same 9-month period in 2001.

Stakeholder relations

In the past, relations with IRS stakeholders were often strained and adversarial. Through improved communications and frequent, substantive meetings, our relationship with Congress, oversight bodies and business groups—especially small businesses—greatly improved. Congressional hearings, once contentious, have been almost universally positive and constructive—although not without tough questioning. Much closer relationships were formed with organizations representing practitioners and small businesses. A consortium was forged with the software industry on the thorny issue of no-cost e-filing.

One of our basic strategies is to develop the kind of stakeholder relationships that can improve the efficiency and effectiveness of our services. Over the past few years, we developed a method of engaging stakeholders as part of our decision-making process. We call the new approach, ''Engage and Then Decide'' as contrasted with ''Decide and Then Explain.'' Seriously engaging key stakeholders as a regular part of the decision-making process has shown that it improves the final product, shortens the time for decisions and implementation, and strengthens relationships.

Although we successfully used this engagement approach, and have much experience with the hazards and costs of the opposite approach, IRS top management must continue to work hard to ensure that it is employed in all decision-making processes because it is so different from traditional practice in the federal government.

Compliance

As the Board is well aware, we do not have the resources to attack every case of noncompliance. Therefore, we must apply our resources to where non-compliance is greatest while still maintaining adequate coverage in other areas. We must also use carefully, but effectively, the enforcement tools available to us.

After careful study, we identified some of the most serious and current compliance problem areas. These include: (1) promoters of tax schemes of all varieties, (2) the misuse of devices such as trusts and offshore accounts to hide or improperly reduce income, (3) abusive corporate tax shelters, (4) underreporting of tax by higher-income individuals, and (5) accumulation and the failure to file and pay large amounts of employment taxes by some employers.

To address these problems, we revamped our compliance programs to refocus our resources and to use a full scope of tools and

techniques. They range from educating the public, to systematically identifying promoters and participants, to reinvigorating enforcement actions such as summons enforcement, injunctions and criminal investigation of promoters.

If we can eliminate confusion and errors before a return or form is ever filed, America's taxpayers will be spared countless numbers of notices and communications with the IRS. If we can warn taxpayers not to participate in ''too good to be true'' tax schemes, we can save taxpayers from penalties and more. Moreover, the agency will be in a better position to use its limited compliance resources on the most serious cases of non-compliance.

To achieve these purposes, we created dedicated taxpayer education and pre-filing organizations in our operating divisions, e.g., TEC and SPEC in SB/SE and W&I respectively, and pre-filing technical staffs in LMSB and TEGE. We also created new pre-filing tools, such as pre-filing agreements and industry issue resolution published guidance. We greatly stepped up our output of traditional forms of published guidance, including revenue rulings and notices, by increasing their emphasis in Chief Counsel and forging an effective working relationship with Treasury's Office of Tax Policy.

For example, this past year, both the TEC and SPEC organizations worked to raise public awareness about the slavery reparation schemes. Materials were distributed nationally and locally to African-American churches and religious coalitions, fraternities, sororities and associations, including the NAACP and the Urban League. As a result, the average weekly number of incoming slavery reparation claims declined from 1,538 in CY 2001 to 63 this year.

Although these preventive measures hold great promise, we must still detect, correct and deter non-compliance. We must focus resources, improve efficiency and use our enforcement powers appropriately, all of which we are doing.

As identified through our research and strategic planning, both SB/SE and LMSB are directing their examination resources at the most important cases and issues. Exam and collection reengineering are focused on improving the efficiency with which these cases are carried out. For example, SB/SE is tackling business tax cases, such as unpaid, in-trust taxes, including employment and withholding taxes, much earlier than in the past.

Within two years, our new Filing and Payment compliance modernization program will begin to reduce from several years to six months or less the time required to resolve most collection cases.

Other initiatives, first outlined in our Strategic Plan, are taking effect. Earlier this year, we began matching information reported on Schedule K–1 with income or losses reported on Form 1040 and other schedules. We also reinvigorated the use of long dormant enforcement tools that are needed to deal with serious cases of non-compliance, and especially, promoted tax schemes. For example, we are aggressively identifying promoters and schemes through summonses of records, including John Doe summonses on credit card accounts in offshore tax havens and vendor summonses to refine that data.

Multiple approaches were taken to aggressively attack the use of abusive tax shelters. The LMSB organization initiated 43 contacts of promoters to uncover lists of taxpayers participating in their shelters. In addition, a tax shelter disclosure initiative was launched earlier this year. As of August 1, 2002, the IRS processed 1,664 disclosures from 1,206 taxpayers who came forward. These disclosures cover 2,264 tax returns and involved more than $30 billion in claimed losses or deductions. Moreover, we announced a new policy in June 2002 to request tax accrual work papers when we audit returns that claim a tax benefit from certain tax avoidance transactions that we identified as abusive.

Civil and Criminal Lead Development Centers (LDC) were also established to identify cases of abusive tax promoters. For example, the Civil LDC works leads received from within the IRS, or from external sources, and conducts Internet searches looking for abusive tax promoters and promotional materials.

Also, the Webster Report gave a detailed blueprint for making Criminal Investigation a more effective component of tax administration. The need to refocus CI's resources on tax cases was the centerpiece of this report. CI's top priority is now investigating promoters and participants in illegal tax schemes. We also established a closer working relationship between field counsel and the operating divisions on compliance work.

This new emphasis on action against promoters has already shown results. The numbers of actions related to promoters went from ''none'' to a vigorous program. As of July 8, 2002, we had nine promoter injunctions granted, 11 promoter injunctions pending in District Court and three pending at the Department of Justice, 150 promoter exams and information requests underway, and 51 ongoing criminal investigations (numbers are for FY 01 through 02).

Also, key to successfully executing our compliance program is better data. As I discussed, the IRS failed to detect new areas of non-compliance in part because of a reliance on increasingly obsolete data from the old Taxpayer Compliance Measurement Program. (TCMP was last conducted in 1988.) In addition, we designed and are now implementing a National Research Program that will obtain the essential information with far less burden on the taxpayer. New scoring models are being developed using 21st century techniques, with interim models already deployed.

Obviously, our success in compliance also depends on a cadre of highly qualified trained individuals to perform tasks that require a high level of judgment. After a freeze of nearly six years, recruitment for professional occupations, such as revenue agent and revenue officer, restarted; training was completely revamped and improved; and employee engagement became part of balanced measures and everyday management.

Internal management

The IRS successfully made the transition to a modern customer-focused organization in which a management team has clear responsibility for meeting the needs of a specific set of taxpayers. The service needs and compliance issues of the 90 million taxpayers with wage and investment income are vastly different from those of large and mid-sized businesses, which in turn are different from those of small businesses and tax-exempt organizations. One team now works full time to understand and meet the needs of each set of taxpayers and has nationwide authority to execute its plans, eliminating the historically deep and counterproductive organizational separation between the ''field'' and the ''national office.''

Supporting these operating divisions are specialized functional units and shared services organizations to provide information technology and common support services throughout the organization.

As part of the reorganization, the number of management layers was reduced and the role of executives and senior managers is being redirected towards substantive engagement in tax administration, rather than predominantly administrative duties. A new model of executive recruitment was successfully established, which includes a recruitment of a limited number of highly experienced top executives from private industry and other government agencies to complement our internally-developed executives.

Many specialized programs, ranging from processing business returns to handling innocent spouse claims to answering tax law calls, are being consolidated into fewer locations with fewer management layers. This enables greater standardization and faster implementation of improvements.

An entirely new system of balanced measures has been designed and implemented, aligning goals throughout the organization down to the territory and site level.

The gains in service and the widespread redirection of compliance programs over the last two years reflect the benefits of a more customer-focused and accountable organization. The major benefits are still to come, in the form of continuous improvements in productivity and quality in every major program.

The improvements in customer service and other programs can also be linked to increased employee engagement in our mission and goals, increased and improved training and heightened focus on employee concerns. Among the most important of these concerns was the fair and careful administration of Section 1203—the so called ten deadly sins—so that no employee was wrongly disciplined under this section. In addition, legislative proposals were formulated and are under consideration by Congress to alleviate employee anxiety over Section 1203.

Because of these actions and focus, and according to a recent Gallup survey of IRS employees, the level of engagement within the Service increased from 49th to the 56th percentile of all public sector organizations tracked by the organization.

The IRS is also the steward of massive taxpayer revenue and budget and financial resources, and we are expected to properly account for the government's money and property. To this end, internal accounting standards were raised to a higher level. For the past two fiscal years, we received unqualified GAO opinions on our financial statements for both the Revenue and Administrative accounts. This year, we have plans in place to close the books months earlier than in prior years and to address remaining material weaknesses over the next two years.

As our FY 2003 and 2004 budget requests demonstrate, strategic planning, budgeting, resource allocation and performance goals were aligned. For the first time, we fully integrated development of our budget with the establishment of performance measures.

Technology and modernization

Critical to our success was better managing our massive technology and Business Systems Modernization program. From 15 separate information systems operations, we created one MITS organization that has the job of serving all of our operating units and managing our modernization program.

As part of this major transition, standards were established and largely implemented for hardware and software. We consolidated mainframes from 12 centers to three and established one standard for desktop and laptop hardware and software. We implemented a nationwide e-mail and voice messaging systems, standard office automation software, and security certifications and standards. We deployed important interim applications systems, including Intelligent Call Routing, Integrated Case Processing and the Integrated Collection System.

Business Systems Modernization laid the foundation for success of this massive program. Both the long-term vision and enterprise architecture were established and embedded as a living blueprint for all business and technology improvement programs.

BSM began delivering projects with tangible and meaningful benefits to taxpayers, such as moving the first set of taxpayers to a modern, reliable database early next year. Over the next five years, all individual taxpayers will be moved to it, cutting times for refunds on e-filed returns to less than a week and allowing us to provide taxpayer and employees with up-to-the-minute accuracy on their accounts. Of paramount importance, we implemented the first project on our new security system, which provides one standard for ensuring the security of all future IRS data and systems.

All major management processes, which are needed to manage this program on a continuing basis, were improved. Our goal is to obtain certification in the near future as only the second agency in the federal government to reach Level Two in the Software Engineering Institutions Capability Maturity Model.

STEADY PROGRESS CAN CONTINUE YEAR AFTER YEAR

The aforementioned progress and achievements do not mean that the IRS solved all of its problems, or that there are no more opportunities to improve. Rather, it means that the IRS addressed the major impediments and obstacles that previously stood in the way of progress and has a clear committed plan to continually reach even higher levels of performance. There should be no doubt that the IRS can be raised to a level of quality and efficiency comparable to the best managed financial services organizations.

WINNING THE BATTLE BUT LOSING THE WAR

Despite significant improvements in the management of the IRS, the health of the federal tax administration system is on a serious long-term downtrend. This is systematically undermining one of the most important foundations of the American economy.

The source of this problem is two conflicting long-term trends: one, ever increasing demands on the tax administration system due to rapid growth in the size and complexity of the economy; and two, a steady decline in IRS resources due to budget constraints. The cumulative effect of these conflicting trends over a 10–year period has been to create a huge gap between the number of taxpayers who are not filing, not reporting or not paying what they owe, and the IRS' capacity to require them to comply.

As seen in the next chart, ''Trends in Indicators of IRS Workload and Resources,'' from 1992 to 2001, weighted average returns filed, a measure of overall IRS workload, increased by 16 percent because of the economy's growth. However, during this same period, FTEs dropped 16 percent from 115,205 in FY 1992 to 95,511 in FY 2001. Since more and more of the IRS' declining resources are required to perform essential operational functions—such as processing returns, issuing refunds and answering taxpayer mail—a disproportionate reduction occurred in Field Compliance personnel, falling 28 percent from 29,730 in FY 1992 to 21,421 in FY 2002.

In assessing these trends, it is extremely important to recognize a critical fact: tax administration workload increases every year because of increased filings by taxpayers related to the long-term growth of the economy. These workload increases affect every facet of tax administration, from processing returns to answering correspondence to collecting delinquent returns to accounting for payments and refunds. In addition to this growth related to the economy, tax legislation often adds additional workload.

Looking more closely at the most recent five years (see chart), we see that the number of income tax returns increased by 12 million, while 19 tax bills were passed that changed 292 tax code sections and required 515 changes to forms and instructions. On the average, IRS workload grows at a compounded rate of 1.8 percent per year. Therefore, just to handle this increased workload, the IRS would either have to add staff—which is what occurred fairly consistently for the 45-year period from 1950 through 1995—or would have to increase productivity by 1.8 percent per year just to stay even.

FEDERAL TAX SYSTEM HAS BEEN GROWING AND CHANGING RAPIDLY FROM 1997 THROUGH 2002

Volume of activity has been growing rapidly

Income Tax Returns: 12 Million Increase—9.4%.

IRS Gross Collections: $527 Billion Increase—32.5%.

IRS Refunds Issued: $121 Billion Increase—61.3%.

Tax Code has been changing rapidly

19 Public Laws passed.

293 Tax Code provisions changed.

171 (58%) of provisions with concurrent or retroactive effective dates.

515 completed changes to forms and/or instructions.

Restructuring and Reform Act added many taxpayer rights

71 taxpayer rights.

1,900 implementing actions.

Hundreds of thousands of new transactions per year.

Innocent spouse.

Collection due process.

Offers in compromise.

Third party notification.

Section 1203 allegations.

Special events created additional activity and change

Century date change required massive three year project.

Advance rate reduction credit—126 million notices, 91 million taxpayers, $39 billion.

Returns of political organizations (section 527)—new reporting to IRS.

September 11th terrorist attack—victims relief, IRS security response, money laundering task forces.

Anthrax threat—rapid response required prior to 2002 Filing Season.

Globalization is increasing international tax activity

U.S. controlled foreign corporations up 25%.

Foreign controlled corporations up 31%.

Resources have been shrinking

IRS full-time equivalent personnel: −2,952.

This is no different from a car company producing 1.8 percent more cars or a hospital servicing 1.8 percent more patients. But, rather than increasing staff, IRS staff decreased during this period, creating a major gap in IRS capacity to administer the tax system.

In addition to growth in raw numbers, the tax revenue stream is now dominated by sources that provide greater opportunities for manipulation by those who wish to take advantage of the decline in IRS compliance resources. For example, returns for taxpayers with incomes exceeding $100,000 grew by 342 percent over 1991 levels. The enormous amounts of money that flow through ''passthrough'' entities—such as partnerships, trusts and S-corporations—also adds to the complexity of tax administration and increases the opportunities for underreporting of income. In Tax Year 2000, these ''passthrough'' entities filed 4.78 million returns with gross revenue of $6 trillion and income to partners/shareholders of more than $660 billion.

The IRS Restructuring and Reform Act of 1998 added major new or expanded taxpayer rights programs, such as innocent spouse relief, third party notification and collection due process. The rights are very important to taxpayers but created very substantial additional resource demands on the IRS to process hundreds of thousands of new transactions and additional steps in existing audits and collection actions.

Business globalization creates another administration complexity and more opportunities for reducing U.S.-reported income. From 1997–2002, U.S.-controlled foreign corporations and foreign-controlled corporations grew respectively by 25 and 31 percent.

Looking at this imbalance, one fact emerges. The IRS is simply out-numbered when it comes to dealing with the compliance risks. As noted, IRS employment (FTEs), and in particular, Field Compliance FTE steadily declined. With the decline in personnel came a decline in the coverage of all types of returns (see chart). Even after we refocus on the most egregious non-compliance cases, we can only handle a small fraction of them.

COVERAGE OF ALL TYPES PLUMMETED 60–70%

[Number of cases per thousand returns]

Fiscal year	Document matching	Correspondence exam (non-EITC)	In person exam of individuals	Exam of passthrough entities*
1992	33.1	4.0	5.8	5.1
1993	23.7	2.6	6.3	5.5
1994	23.3	2.0	6.8	5.0
1995	23.6	3.5	6.0	4.6
1996	16.6	2.6	5.6	4.7
1997	7.9	3.5	5.8	5.5
1998	14.3	2.8	4.7	5.7
1999	14.4	1.1	3.1	4.5
2000	10.8	0.9	2.0	3.6
2001	9.1	1.2	1.5	2.9

*Primarily Partnerships, S-Corporations and Fiduciaries.

The effect of these trends was to create a gap in what work the IRS should be doing and what it had the capacity to do. In the last two years, the IRS made progress in quantifying this gap, which is summarized below. As noted, the majority of the workload gap is in compliance.

SELECTED TAX ADMINISTRATION PROGRAMS WORK DONE AND NOT DONE

[Dollars in millions]

	Known workload in contacts or cases/yr				Direct revenue loss per year	Direct cost to fill gap	
	Required	Done	Gap	%Gap		FTEs	Dollars
Service To Compliant Taxpayers:							
Phone Service Level of Service	87.5	71.5	16.0	18	NA	$2,274	$114.8
In-Person Service	NA	NA	NA	NA	NA	3,084	196.7

SELECTED TAX ADMINISTRATION PROGRAMS WORK DONE AND NOT DONE—Continued

[Dollars in millions]

	Known workload in contacts or cases/yr				Direct revenue loss per year	Direct cost to fill gap	
	Required	Done	Gap	%Gap		FTEs	Dollars
Total	NA	NA	NA	NA	NA	5,358	311.5
Collection of Known Tax Debts:							
Field and Phone Accounts Receivable (TDA)	4,506,060	1,816,713	2,689,347	60	9,470	5,450	296.4
Identification and Collection of Taxes from Non-Filers:							
Non-Filer Cases (TDI)	2,490,749	625,025	1,865,724	75	1,693	2,016	101.5
Collection of Underreported Tax:							
Document Matching	13,300,000	2,926,980	10,373,020	78	6,960	4,740	229.2
Identification and Collection of Underreported Tax:							
Cases of Abusive Devices to Hide Income	82,100	17,000	65,100	79	447	3,418	272.1
Individuals Over 100,000 Income	123,006	54,468	68,538	56	266	2,603	207.2
Individuals Under 100,000 Income	843,380	296,986	546,394	65	4,492	7,435	430.1
Small Corporations	39,659	29,721	9,938	25	54	640	50.9
Mid and Large Corporations	24,523	17,684	6,839	28	6,526	1,812	180.0
Total	1,112,668	415,859	696,809	63	11,786	15,908	1,140.3
Tax Exempt:							
Reporting Compliance	20,690	6,780	13,910	67	NA	1,192	101.6
Grand Total	NA	NA	NA	NA	29,909	34,664	2,180

For each category of compliance, the IRS computed the number of known cases of taxpayers who did not file or pay, or who substantially underreported their taxes. These numbers, therefore, represent not general estimates or assumptions, but specific taxpayer cases. Based on the information available to the IRS, they should and could be treated as cases of non-compliance through collection, audit or other actions.

However, as can be seen from the chart, only a fraction of each category of case, even the most serious, can be worked with available resources. The ''gap'' represents the number of cases that should be, but cannot be worked because of resource limitations. These cases represent tens of billions of dollars per year that could be, but are not collected. More importantly, they represent a failure of fairness to the millions of honest taxpayers whose commitment to paying their taxes is based on the assumption that the IRS will act if they or their neighbors do not pay their fair share.

Tax professionals, promoters, sophisticated taxpayers and even some ordinary taxpayers are becoming more aware of our deteriorating ability to deal with compliance. Increasingly, this issue is being reported by publications ranging from The Wall Street Journal, the New York Times, Fortune and Forbes, and even on national television.

Recognizing the IRS' diminished capacity, promoters and some tax professionals are selling a wide range of schemes and devices to taxpayers based on the simple premise they can probably get away with it. When this perception becomes increasingly widespread, the essential pillar of the fairness of our tax system is lost.

Our John Doe summonses of records for credit cards issued by offshore banks in tax haven countries revealed one facet of the problem. Just one of these summons, issued in 2000 to MasterCard, yielded a large database of transactions by those using cards issued by banks in Antigua, Barbuda, the Bahamas and the Cayman Islands. Many of these taxpayers were solicited through various channels by a variety of promoters.

Indeed, some sophisticated tax professionals, including those in accounting and law firms and investment banks, are aggressively marketing tax shelters to their clients. Some of these turn out to be abusive tax avoidance transactions prohibited by the Treasury Department.

Demand is also driving up supply. There is widespread anecdotal evidence from honest practitioners about clients demanding that their return preparer find a way to reduce reported income, to the point of refusing advice from honest professionals to comply with required reporting and disclosure. In effect, they are saying, ''Get me one of these deals or I will take my business elsewhere.'' This has reached the point where recently a former IRS Commissioner was faxed a solicitation from a ''Senior Investment Manager'' that began, ''As we approach December 31st, you may have a large income tax liability for the year 2002. The amount you pay could be up to you.''

Although it is impossible to prove conclusively that attitudes towards tax compliance shifted, we must make informed judgments about behavior and trends. The only responsible conclusion I can draw is that the trend in attitudes of taxpayers and tax professionals poses a real threat to the health of the tax system and ultimately to the American economy.

If these problems and conditions are left unaddressed, we could face an enormous crisis in confidence in the tax administration system. It would not be surprising if this problem emerged into the forefront of public concern, causing an eruption about the IRS similar to those that occurred periodically over the last 50 years. The long-term impact on the economy and our nation of not reversing this trend will be extremely high.

WHAT IS NEEDED

What is the answer? Fortunately, the problem is not open-ended and can be solved with a reasonable amount of resources. We need what the National Commission on Restructuring the IRS argued for five years ago: a steady and consistent budget. It must consist of two items over the next five years. The first is a steady growth in staff in the range of 2 percent per year. The second is steadily increased funding for modernization until this program levels off several years from now.

Together with aggressive increases in productivity, as called for by the IRS Strategic Plan, this combination can solve the problem by the end of this decade. In fact, as shown in the ''Closing the Gap'' chart below, a combination of 2 percent per year staff growth with 3 percent per year productivity growth will keep up with increasing demand and close the gap by 2010. But without both elements—modest but steady staff growth and aggressive productivity increases—the trend will not be reversed.

Computer systems alone, even with the most aggressive reasonable assumptions about the productivity gains from modernization, cannot solve the problem. Trained and effective staff is also required. However, modernization will allow the IRS to perform the tax administration function with proportionately fewer staff than in the past. If the IRS staff grew by 2 percent per year through 2010, the total staff would still be smaller than it was 20 years earlier (1990), while the economy is projected to be 86 percent larger in real GDP and the tax system far more complex.

There is another critical point. Sufficient funding must be provided to fund the actual projected staffing. There is no ''extra'' funding lying around to ''absorb'' items that are mandated, but not paid for. As shown below, the IRS dollar budget consistently underfunded advertised staffing levels. The actual number of FTEs is lower every year than proposed in the budget. This is the effect of making unrealistically optimistic assumptions about such items as pay raises, inflation and other mandates, including specific mailing and notification requirements.

IRS DOLLAR BUDGET HAS CONSISTENTLY UNDER-FUNDED ADVERTISED STAFFING LEVEL

[Full Time Equivalent [FTE] Personnel without EITC]

	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004
FY 2000 President's Budget	96,767	.....	.....	.....	.....
FY 2001 President's Budget	95,523	98,051	*99,873	.....	.....
FY 2002 President's Budget	95,155	97,273	99,116	.....	.....
FY 2003 President's Budget	.....	95,511	97,548	98,727	.....
FY 2004 Treasury Submission	.....	.....	97,423	96,182	98,182

*Includes 1,822 FTE for STABLE Annualization.

Our plan already requires very rapid and sustained productivity growth of over 3 percent per year—in excess of the 2 to 2.4 percent achieved in the private sector. It supposes complete success of BSM, aggressive reallocation of internal resources, such as eliminating some submissions processing centers, rapid growth of e-filing, and use of productivity enhancing techniques, such as competitive sourcing for some activities. These items make it possible to cope with growth in filings and filling the gap in required workload with very limited staff growth, but do not make it possible in addition to ''absorb'' unfunded but required line items.

SIMPLIFYING THE TAX CODE

Most informed observers are justifiably horrified at the complexity of the Tax Code. The cost of taxpayer compliance with this code is over $80 billion per year, more than eight times the cost of the IRS budget. The sheer size and complexity in itself can be a source of disrespect for the law. Therefore, it is a worthy, though difficult and uncertain, challenge to pursue simplification to the maximum extent possible.

However, there is no proposal that has been seriously advanced for simplification that would have any significant effect in the foreseeable future on the problem of IRS resources.

Apart from the fact that even simplifying changes take time and effort to develop, pass in Congress and to implement, the reality is that the gap in IRS resources is so large that nearly all of our resources are required to perform the basic operations of the tax system and to pursue the clearest and most important cases of non-compliance.

With the exception of some resources in the large corporate sector, the IRS redirected nearly all compliance resources away from less significant technical tax issues to cope with current operational requirements and the most serious cases of non-filing, nonpayment or underreporting of income. Even then, resources are far below what is required.

The only reasonable course is to pursue parallel paths: to address the practical problem the tax administration system faces by gradually closing the gap in the capacity of the IRS to perform its essential tasks, while pursuing a parallel path attempting tax simplification.

CONCLUSION

Five years ago, the IRS embarked on a new direction. Following it, we achieved much progress for America's taxpayers, although we have much more left to do to improve the entire way the IRS works. Today, we are faced with a growing crisis—in our ability to do our job and the fairness of our tax system. We cannot turn our back on this crisis or believe that it will go away, because it will not. But like five years ago, I believe the problem is solvable. We know the right course of action and we should have the courage and resolve to take it.

ADDITIONAL STATEMENTS

TRIBUTE TO GUIDE DOGS

• Mrs. CLINTON. Madam President, after reading an article in The Saturday Evening Post about the Germans training dogs to aid veterans blinded during World War I, a blind man living in Tennessee named Morris Frank wrote to the author, ''Thousands of blind like me abhor being dependent on others. Help me and I will help them. Train me and I will bring back my dog and show people here how a blind man can be absolutely on his own.'' The author, Dorothy Harrison Eustis agreed to Mr. Frank's request, and Mr. Frank's dog Buddy became the first guide dog in America.

That was 1929 and today, there are more than 7,000 guide dogs serving in America, and two performed miracles in New York on September 11.

That morning, Roselle, a yellow Labrador Retriever and her owner, Michael Hingson, went to the office on the 78th floor of the World Trade Center. While Mr. Hingson worked, Roselle slept underneath his desk. Then the plane hit the South Tower, and what she did next was nothing short of heroic. She guided Mr. Hingson through the smoke and to the stairwell. Not only did Roselle help Mr. Hingson down 78 flights of stairs, but another woman who had been blinded by debris clutched Roselle's harness until they reached safety.

There was another yellow lab in the World Trade Center named Salty. His owner, Omar Rivera, worked on the 71st floor of the Port Authority. After the planes hit, Salty refused to leave Omar's side and walked through the smoke-filled stairway, broken glass and debris to get Mr. Rivera and a coworker to safety. Even as the North Tower collapsed and the debris cloud filled the streets, Salty remained calm, loyal, and focused on guiding Mr. Rivera to a place free from danger.

These two guide dogs performed their jobs under the most extreme circumstances. But what they did that day reinforced what guide dogs do every day—they provide independence to individuals who are blind and visually impaired so that they can live their life free from constraints. To serve as another's set of eyes, to navigate busy city streets, and to keep their owners from harm's way is a responsibility that only a loyal dog would welcome with no questions asked.

Thorughout the United States and around the world, Guide Dog Schools have given more than one hundred thousand people the chance to move about the world with freedom and dignity. Each school offers their guide dogs at no cost to the owners. All they have to do is apply, attend training, and promise to care for their dog for the rest of his or her life. The success of each school is dependent upon thousands of staff, volunteers, and generous supporters. Many people volunteer to raise puppies, socialize them and then give them up at the end of the year. And we see these dogs every day sitting patiently on the subway, stopping at walk lights, and maneuvering people around hazards that prevent a safe, straight path. They wear bright colored vests that read ''Guide Dog in Training.''

Not only did Morris Frank bring the first guide dog to America, he opened the first school in 1929, The Seeing Eye. Now in every State, guide dog schools provide an invaluable service. In California, The Guide Dog School just celebrated its 60th Anniversary, and in New York, The Guide Dog Foundation in Smithtown, has assisted New Yorkers and others from around the world since 1946. And Guiding Eyes for the Blind in Yorktown Heights has graduated more than 5,000 dogs and owners since 1954.

Each success story is testament that one good idea can transform the lives of many. But the success of the guide dog schools would not have occurred without two key components: those who believed that the blind and visually impaired could lead more independent lives with the right kind of help, and the dogs, the Labrador Retrievers, the Golden Retrievers, the German Shepherds, and other breeds that are ready, willing, and able to guide their owners through the world.

Every day, thousands of people grab on to the harness and place their trust in their companion. Some have acted with remarkable heroism like those on September 11, and we have all heard the stories about guide dogs waking their owners in the event of a fire and blocking them from the path of a speeding car. But most go through their days with quiet dignity and they deserve our utmost respect. Whether they are named Roselle or Salty or Buddy, they all respond in the same way. That harness goes on, their eyes open, and they show us that it is possible to walk through this world with a profound desire to help another so that life is limitless.•

RECOGNIZING MOTT CHILDREN'S HEALTH CENTER

• Mr. LEVIN. Madam President, I wish to express my heartfelt congratulations to the Mott Children's Health Center (MCHC), in Flint, MI, which has been selected by the American Lung Association of Michigan-Genesee Valley Region as the 2002 Corporate Health Advocate of the Year.

The American Health and Lung Association of Michigan-Genesee Valley Region grants this prestigious award to an organization that aspires to restrict or ban smoking, offers employee programs for smoking cessation, or exhibits respect and sensitivity to those suffering with lung disease. Winners must demonstrate financial support to local non-profit agencies as well as encourage employees to sit on local boards of directors for community based nonprofit organizations. Recipients also need to display a commitment to improving the quality of life of Genesee Valley's residents. MCHC has not only met but far surpassed the American Health and Lung Association's criteria and is a worthy recipient of this award.

Founded in 1939 by Charles Stuart Mott, MCHC's mission is to better the lives of Genesee County's at-risk youth through health services and community advocacy. As a health service provider, MCHC offers the Genesee County

community both emotional and physical pediatric health services, educates families on health-related issues, and supports local schools and neighborhoods with on-site health care. In order to inform community decision makers on issues related to Genesee County's children's health needs, MCHC sponsors events on matters affecting children's health, supports various state and local children's advocacy organizations, and develops educational materials on children's issues. In its 63-year history, MCHC has expanded to become a principal in child health advocacy in the Genesee Valley community and throughout Michigan.

MCHC is a recognized leader in the battle against childhood asthma, an illness that affects 15 percent of Genesee County's children. As part of the Childhood Asthma Task Force, (CATF), MCHC provides staff and other resources, including a home to CATF's three Mini Asthma Resource Centers. MCHC nurses, who dedicate themselves to educating families about asthma and available treatments, staff these CATF centers. Additionally, in its continuing effort to highlight children's respiratory health issues, last year MCHC sponsored the 29th Annual Tuuri Day Conference, which addressed topics such as ''New Approached to Pediatric Asthma'' and ''Smoking Among Children and Families.''

MCHC has a long and impressive history of advocacy for the children of Genesee Valley. I know my colleagues join me in congratulating Mott Children's Health Center for being named the 2002 Corporate Health Advocate of the Year and wishing them continued success.●

RECOGNIZING GLORIA R. BOURDON

● Mr. LEVIN. Madam President, I wish to express my sincerest congratulations to Gloria R. Bourdon of Michigan who has recently been recognized by the American Lung Association of Michigan-Genessee Valley Region as the 2002 Individual Health Advocate of the Year.

The American Lung Association of Michigan-Genesee Valley Region awards this honor to an individual who has served as board member on a health association or participated in a health related activity for at least 5 years. Recipients must contribute to the community's health, education, and general well-being. The individual must have been involved in promoting health care research, contributing to articles on health care, and involved in lung health care advocacy. Gloria Bourdon has not only met these criteria but has far exceeded them; for this she is a worthy recipient of this prestigious award.

Gloria Bourdon's promotion of children's health issues began in 1970 as a teacher in Pinconning and Linden Areas Schools, where she taught students to lead healthy lifestyles. As the Director of Health, Safety and Nutrition Services for the Genesee Intermediate School District, Gloria is now responsible for the health and safety of the children in 55 public schools, public academies, and private schools. She is also an active member of the community. She supports many coalitions including Priority Children, Childhood Asthma Task Force, and the Genesee County Curriculum Council. Her outstanding work and dedication have been recognized by various organizations. Most recently, Gloria received the Genesee County Child Advocacy Award, the Michigan Association of School Board's Health and Safety Award, and the Rainmaker Award from HealthPlus.

Gloria's dedication to children's health is evident in her writing and fundraising efforts. In 1998, she authored a Health Action Team Manual for Substance Abuse Education, Physical Activity, Nutrition Education, and Safe and Drug Free School Zones. She has assisted the American Lung Association in efforts regarding asthma, tobacco and air-quality awareness. Gloria also encourages her nursing and teaching staff to support the Association's goals.

I join the American Lung Association of Michigan-Genesee Valley Region in congratulating Gloria on her great accomplishments in promoting the health and safety of the children in Genesee County and surrounding areas. I know that my colleagues in the Senate will support me in thanking Gloria Bourdon for her efforts and wishing her well in her future endeavors.●

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 appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 9:36 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5710. An act to establish the Department of Homeland Security, and for other purposes:

At 4:08 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3758. An act for the relief of So Hyun Jun.

At 8:46 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5708. An act to reduce preexisting PAYGO balances, and for other purposes.

At 9:19 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House agrees to the amendments of the Senate to the bill (H.R. 5063) to amend the Internal Revenue Code of 1986 to provide a special rule for members of the uniformed services in determining the exclusion of gain from the sale of a principal residence and to restore the tax exempt status of death gratuity payments to members of the uniformed services, with amendments.

At 9:52 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3210) to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism.

At 10:25 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (S. 1214) to amend the Merchant Marine Act, 1936, to establish a program to ensure greater security for United States seaports, and for other purposes.

MEASURES PLACED ON THE CALENDAR

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

H.J. Res. 124. Joint resolution making further continuing appropriations for the fiscal year 2003, and for other purposes.

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–9469. A communication from the Secretary of Labor, transmitting, pursuant to law, the annual report on the Fiscal Year 2001 operations of the Office of Workers' Compensation Programs; to the Committee on Health, Education, Labor, and Pensions.

EC–9470. A communication from the Administrator, General Services Administration, transmitting the report of lease prospectuses that support the General Services Administration's Fiscal Year 2003 Capital Investment and Leasing Program; to the

Committee on Environment and Public Works.

EC–9471. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, the Commission's monthly report on the status of licensing and regulatory duties for July 2002; to the Committee on Environment and Public Works.

EC–9472. A communication from the Deputy Administrator, General Services Administration, transmitting, pursuant to law, a Report of Building Project Survey, Charlotte, NC; to the Committee on Environment and Public Works.

EC–9473. A communication from the Deputy Administrator, General Services Administration, transmitting, pursuant to law, a Report of Building Project Survey, U.S. Court of Appeals, Atlanta, GA; to the Committee on Environment and Public Works.

EC–9474. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Partial Withdrawal of Approval of 34 Clean Air Act Part 70 Operating Permits Programs in California; Announcement of a Federal Operating Permits Program'' received on October 16, 2002; to the Committee on Environment and Public Works.

EC–9475. 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 Pollution for Friction Materials Manufacturing Facilities'' received on October 16, 2002; to the Committee on Environment and Public Works.

EC–9476. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on Local Officials' Participation in Transportation Planning and Programming; to the Committee on Environment and Public Works.

EC–9477. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, the Bureau of Justice Assistance's annual report for fiscal year 2001; to the Committee on the Judiciary.

EC–9478. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relative to the Refugee Resettlement Program for the period from October 1, 1999 through September 30, 2000; to the Committee on the Judiciary.

EC–9479. A communication from the Chief, Regulation Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Tax Shelter Disclosure Statements'' (RIN 1545–BB32) received on October 28, 2002; to the Committee on Finance.

EC–9480. A communication from the Chief, Regulation Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Requirement to Maintain List of Investors in Potentially Abusive Tax Shelters'' (RIN 1545–BB33) received on October 28, 2002; to the Committee on Finance.

EC–9481. A communication from the Chief, Regulation 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—August 2002'' (Rev. Rul. 2002–64) received on October 7, 2002; to the Committee on Finance.

EC–9482. A communication from the Chief, Regulation Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Applicable Federal Rates—November 2002'' (Rev. Rul. 2002–74) received on October 21, 2002; to the Committee on Finance.

EC–9483. A communication from the Chief, Regulation Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Section 1.446–4(e)(4) hedges of Debt Instruments'' ((Rev. Rul. 2002–71) (Rev. Rul. 2002–71)) received on October 28, 2002; to the Committee on Finance.

EC–9484. A communication from the Chief, Regulation Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Modification of Rev. Rul. 2002–46'' (Rev. Rul. 2002–73) received on October 21, 2002; to the Committee on Finance.

EC–9485. A communication from the Chief, Regulation Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Certain Reinsurance Arrangements'' (Rev. Rul. 2002–70) received on October 28, 2002; to the Committee on Finance.

EC–9486. A communication from the Chief, Regulation Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Lease-in/Lease-out (LILO) transactions'' received on October 21, 2002; to the Committee on Finance.

EC–9487. A communication from the Chief, Regulations Branch, U.S. Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Presentation of Vessel Cargo Declaration to Customs Before Cargo Is Laden Aboard Vessel at Foreign Port for Transport to the United States'' received on October 28, 2002; to the Committee on Finance.

EC–9488. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Inpatient Hospital Deductible and Hospital and Extended Care Services Coinsurance Amounts for 2003'' received on October 21, 2002; to the Committee on Finance.

EC–9489. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on Waiver Exception for Medicare + Choice Provider Sponsored Organizations; to the Committee on Finance.

EC–9490. A communication from the Chairman, Office of the General Counsel, Federal Election Commission, transmitting, pursuant to law, the report of a rule entitled ''Electioneering Communications'' received on October 16, 2002; to the Committee on Rules and Administration.

EC–9491. A communication from the Chief Counsel, Bureau of the Public Debt, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''31 CFR Parts 351, 357, 359, 360, 363, Regulations Governing Treasury Securities'' received on October 9, 2002; to the Committee on Finance.

EC–9492. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Interest Rates and Appropriate Foreign Loss Payment Patterns for Determining the Qualified Insurance Income of Certain Controlled Corporations under Section 954(i)'' received on October 9, 2002; to the Committee on Finance.

EC–9493. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Notice 2002–63; Sales of Frequent Flyer Miles'' received on October 9, 2002; to the Committee on Finance.

EC–9494. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Revenue Ruling 2002–60 ; Application of Section 426(e)(3)'' received on October 9, 2002; to the Committee on Finance.

EC–9495. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Rev. Proc. 2002–16, Revision of'' (Rev. Proc. 2002–68) received on October 9, 2002; to the Committee on Finance.

EC–9496. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Announcement 2002–96; Termination of Appeals Settlement Initiative for Corporate Owned Life Insurance (COLI)'' received on October 9, 2002; to the Committee on Finance.

EC–9497. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Settlement of Section 351 Contingent Liability Tax Shelter Cases'' received on October 9, 2002; to the Committee on Finance.

EC–9498. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Settlement Initiative for Settlement 302/318 Basis-Shifting Transactions'' received on October 9, 2002; to the Committee on Finance.

EC–9499. A communication from the Chairman, Office of the General Counsel, Federal Election Commission, transmitting, pursuant to law, the report of a rule entitled ''Electioneering Communications'' received October 16, 2002; to the Committee on Rules and Administration.

EC–9500. A communication from the Assistant General Counsel for Regulations, Office of the Secretary, Department of Housing and Urban Affairs, transmitting, pursuant to law, the report of a rule entitled ''HOME Investment Partnerships Program'' received on October 28, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–9501. A communication from the Assistant Secretary for Administration and Management, Department of Health and Human Services, transmitting, pursuant to law, a report on the Department's commercial activities inventor; to the Committee on Governmental Affairs.

EC–9502. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled ''Executive Branch Fails to Implement The Telephone Fraud Amendment Act''; to the Committee on Governmental Affairs.

EC–9503. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled ''Certification Review of the Sufficiency of the Washington Convention Center Authority's Projected Revenue and Excess Reserve to Meet Projected Operating and Debt Service Expenditures and Reserve Requirements for Fiscal Year 2003''; to the Committee on Governmental Affairs.

EC–9504. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled ''Audit of Advisory Neighborhood Commission 6B for Fiscal Years 1999 Through 2002, as of June 30th''; to the Committee on Governmental Affairs.

EC–9505. A communication from the Director, Office of Compensation Administration, Office of Personnel Management, transmitting pursuant to law, the report of a rule entitled ''Basic Pay for Employees Temporary Organizations'' received October 28, 2002; to the Committee on Governmental Affairs.

EC–9506. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report entitled

''Statistical Programs of the United States Government: Fiscal Year 2003''; to the Committee on Governmental Affairs.

EC–9507. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–462, ''General Obligation Bonds and Bond Anticipation Notes for Fiscal Years 2002–2007 Authorization Act of 2002''; to the Committee on Governmental Affairs.

EC–9508. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–463, ''Mobile Telecommunications Sourcing Conformity Act of 2002''; to the Committee on Governmental Affairs.

EC–9509. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–465, ''Department of Insurance and Securities Regulation Merger Review Temporary Amendment Act of 2002''; to the Committee on Governmental Affairs.

EC–9510. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–466, ''Ward Redistricting Residential Permit Parking Extension Temporary Amendment Act of 2002''; to the Committee on Governmental Affairs.

EC–9511. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–464, ''Religious Organization Exemption Amendment Temporary Act 2002''; to the Committee on Governmental Affairs.

EC–9512. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–468, ''Washington Metropolitan Area Transit Authority Property Dedication Transfer Tax Exemption Temporary Act 2002''; to the Committee on Governmental Affairs.

EC–9513. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–467, ''Other-Type Funds Temporary Act of 2002''; to the Committee on Governmental Affairs.

EC–9514. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–469, ''Motor Vehicle Registration and Operator's Permit Issuance Enhancement Temporary Amendment Act of 2002''; to the Committee on Governmental Affairs.

EC–9515. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–471, ''Transfer of Jurisdiction of Reservation 19 and 124 Temporary Act of 2002''; to the Committee on Governmental Affairs.

EC–9516. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–470, ''Freedom Forum Real Property Tax Exemption and Equitable Real Property Tax Relief Temporary Act of 2002''; to the Committee on Governmental Affairs.

EC–9517. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–486, ''Solid Waste Transfer Station Service and Settlement Agreements Temporary Amendment Act of 2002''; to the Committee on Governmental Affairs.

EC–9518. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–487, ''Solid Waste Facility Permit Phase-Out Extension Temporary Amendment Act of 2002''; to the Committee on Governmental Affairs.

EC–9519. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–483, ''Tax Clarity and Related Amendments Temporary Act of 2002''; to the Committee on Governmental Affairs.

EC–9520. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–474, ''Automated Traffic Enforcement Fund Temporary Amendment Act of 2002''; to the Committee on Governmental Affairs.

EC–9521. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–482, ''Inheritance and Estate Tax Temporary Act of 2002''; to the Committee on Governmental Affairs.

EC–9522. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–472, ''Council Review of Existing Convention Center Site Redevelopment Temporary Amendment Act of 2002''; to the Committee on Governmental Affairs.

EC–9523. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–473, ''Capitol Hill Business Improvement District Temporary Amendment Act of 2002''; to the Committee on Governmental Affairs.

EC–9524. A communication from the Deputy Archivist of the United States, National Archives and Records Administration, transmitting, pursuant to law, the report of a rule entitled ''Debt Collection'' (RIN3095–AA77) received on October 16, 2002; to the Committee on Governmental Affairs.

EC–9525. A communication from the Deputy Archivist of the United States, National Archives and Records Administration, transmitting, pursuant to law, the report of a rule entitled ''Researcher Identification Cards'' (RIN3095–AB14); to the Committee on Governmental Affairs.

EC–9526. A communication from the Acting Director, Office of Regulatory Law, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled ''Prohibition of Interment or Memorialization in National Cemeteries and Certain State Cemeteries Due to Commission of Capitol Crimes'' received on October 28, 2002; to the Committee on Veterans' Affairs.

EC–9527. A communication from the Acting Director, Office of Regulatory Law, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled ''Loan Guaranty: Net Value and Pre-Foreclosure Debt Waivers'' received on October 28, 2002; to the Committee on Veterans' Affairs.

EC–9528. A communication from the Acting Director, Office of Regulatory Law, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled ''Recoupment of Severance Pay from VA Compensation'' received on October 15, 2002; to the Committee on Governmental Affairs.

EC–9529. A communication from the Acting Director, Office of Regulatory Law, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled ''Enrollment-Provision of Hospital and Outpatient Care to Veterans'' received on October 15, 2002; to the Committee on Governmental Affairs.

EC–9530. A communication from the Director of the Office of Insular Affairs, Department of the Interior, transmitting, pursuant to law, the report entitled ''Financial and Social Impacts of the Compacts of Free Association on the United States Insular Areas and the State of Hawaii''; to the Committee on Energy and Natural Resources.

EC–9531. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Food Labeling: Health Claims; Soluble Dietary Fiber From Certain Foods and Coronary Heart Disease'' (Doc No. 01Q–0313) received on October 28, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–9532. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Secondary Direct Food Additives Permitted in Food for Human Consumption'' (Doc. No. 02F–0042) received on October 28, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–9533. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''White Chocolate; Establishment of a Standard of Identity'' (Doc. No. 86P–0297 and 93P–0091) received on October 28, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–9534. A communication from the Assistant Secretary, Pension and Welfare Benefits Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled ''Interim Final Rule Relating to Civil Penalties Under ERISA Section 502(2)(7) and Conforming Technical Changes On Civil Penalties Under ERISA Sections 502(c)(2), 502(c)(5), and 502(c)(6)'' ((RIN1210–AA91)(1210–AA93)) received on October 21, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–9535. A communication from the Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled ''Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits'' received on October 15 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–9536. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report on the implementation of the Age Discrimination Act during fiscal year 2001; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LEAHY, from the Committee on the Judiciary, without amendment:

H.R. 3180: A bill to consent to certain amendments to the New Hampshire-Vermont Interstate School Compact.

H.R. 3988: A bill to amend title 36, United States Code, to clarify the requirements for eligibility in the American Legion..

By Mr. LEAHY, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 1655: A bill to amend title 18, United States Code, to prohibit certain interstate conduct relating to exotic animals.

By Mr. LEAHY, from the Committee on the Judiciary, with amendments:

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.

From the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 2520: A bill to amend title 18, United States Code, with respect to the sexual exploitation of children.

By Mr. LEAHY, from the Committee on the Judiciary, without amendment:

S. 2541: A bill to amend title 18, United States Code, to establish penalties for aggravated identity theft, and for other purposes.

S. 2934: A bill to amend title 36, United States Code, to clarify the requirements for eligibility in the American Legion.

By Mr. LEAHY, from the Committee on the Judiciary, without amendment and with a preamble:

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.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LEAHY for the Committee on the Judiciary.

Michael W. McConnell, of Utah, to be United States Circuit Judge for the Tenth Circuit.

Dennis W. Shedd, of South Carolina, to be United States Circuit Judge for the Fourth Circuit.

Kevin J. O'Connor, of Connecticut, to be United States Attorney for the District of Connecticut for the term of four years.

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

NOMINATIONS DISCHARGED

The following nominations were discharged from the Committee on Commerce, Science, and Transportation pursuant to the order of November 14, 2002:

Coast Guard nomination of Dana B. Reid.

Coast Guard nominations beginning Douglas A. Ash and ending Warren E. Soloduk, which nominations were received by the Senate and appeared in the Congressional Record on October 17, 2002.

Coast Guard nominations beginning Anthony J. Alarid an ending Michael B. Zamperini, which nominations were received by the Senate and appeared in the Congressional Record on November 12, 2002.

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. BARKLEY (for himself, Mr. DAYTON, Mr. DASCHLE, Mr. LOTT, Mr. AKAKA, Mr. ALLARD, Mr. ALLEN, Mr. BAUCUS, Mr. BAYH, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BREAUX, Mr. BROWNBACK, Mr. BUNNING, Mr. BURNS, Mr. BYRD, Mr. CAMPBELL, Ms. CANTWELL, Mrs. CARNAHAN, Mr. CARPER, Mr. CHAFEE, Mr. CLELAND, Mrs. CLINTON, Mr. COCHRAN, Ms. COLLINS, Mr. CONRAD, Mr. CORZINE, Mr. CRAIG, Mr. CRAPO, Mr. DEWINE, Mr. DODD, Mr. DOMENICI, Mr. DORGAN, Mr. DURBIN, Mr. EDWARDS, Mr. ENSIGN, Mr. ENZI, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. FITZGERALD, Mr. FRIST, Mr. GRAHAM, Mr. GRAMM, Mr. GRASSLEY, Mr. GREGG, Mr. HAGEL, Mr. HARKIN, Mr. HATCH, Mr. HELMS, Mr. HOLLINGS, Mr. HUTCHINSON, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Mr. KYL, Ms. LANDRIEU, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. LUGAR, Mr. MCCAIN, Mr. MCCONNELL, Ms. MIKULSKI, Mr. MILLER, Mr. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. NELSON of Nebraska, Mr. NICKLES, Mr. REED, Mr. REID, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. SANTORUM, Mr. SARBANES, Mr. SCHUMER, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH of New Hampshire, Mr. SMITH of Oregon, Ms. SNOWE, Mr. SPECTER, Ms. STABENOW, Mr. STEVENS, Mr. THOMAS, Mr. THOMPSON, Mr. THURMOND, Mr. TORRICELLI, Mr. VOINOVICH, Mr. WARNER, and Mr. WYDEN):

S. 3156. A bill to provide a grant for the construction of a new community center in St. Paul, Minnesota, in honor of the late Senator Paul Wellstone and his beloved wife, Sheila; considered and passed.

By Mr. BUNNING:

S. 3157. A bill to expand the boundaries of the Fort Donelson National Battlefield, to authorize the acquisition of land associated with the campaign that resulted in the capture of Fort Donelson in 1862, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. REED (for himself and Mr. DEWINE):

S. 3158. A bill to establish a grant program to provide comprehensive eye examinations to children, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. LINCOLN:

S. 3159. A bill to amend the Immigration and Nationality Act to render inadmissible to the United States the extended family of international child abductors, and for other purposes; to the Committee on the Judiciary.

By Mr. NELSON of Nebraska:

S. 3160. A bill to provide emergency disaster assistance to agricultural producers; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. FEINGOLD (for himself, Mr. KENNEDY, and Mr. JEFFORDS):

S. 3161. A bill to provide a definition of a prevailing party for Federal fee-shifting statutes; to the Committee on the Judiciary.

By Mr. DURBIN (for himself, Mr. NELSON of Florida, Mr. CLELAND, and Mr. EDWARDS):

S. 3162. A bill to amend title 49, United States Code, to enhance the security of transporting high-level nuclear waste and spent nuclear fuel, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DEWINE:

S. 3163. A bill to establish a grant program to enable institutions of higher education to improve schools of education; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DEWINE:

S. 3164. A bill to amend the Higher Education Act of 1965 to improve the loan forgiveness program for child care providers, including preschool teachers, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DEWINE (for himself and Mr. ROCKEFELLER):

S. 3165. A bill to provide loan forgiveness to social workers who work for child protective agencies; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DEWINE (for himself and Mr. ROCKEFELLER):

S. 3166. A bill to amend the Higher Education Act of 1965 to provide loan forgiveness for attorneys who represent low-income families or individuals involved in the family or domestic relations court systems; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DEWINE (for himself and Mr. LIEBERMAN):

S. 3167. A bill to provide grants to States and outlying areas to encourage the States and outlying areas to enhance existing or establish new statewide coalitions among institutions of higher education, communities around the institutions, and other relevant organization or groups, including anti-drug or anti-alcohol coalitions, to reduce underage drinking and illicit drug-use by students, both on and off campus; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DODD:

S. 3168. A bill to improve funeral home, cemetery, and crematory inspections systems, to establish consumer protections relating to funeral service contracts, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Ms. LANDRIEU:

S. 3169. A bill to provide for military charters between military installations and local school districts, to provide credit enhancement initiatives to promote military charter school facility acquisition, construction, and renovation, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DASCHLE (for himself and Mr. LOTT):

S.J. Res. 53. A joint resolution relative to the convening of the first session of the One Hundred Eighth Congress; considered and passed.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. DAYTON:

S. Res. 356. A resolution paying a gratuity to Trudy Lapic; considered and agreed to.

By Mrs. FEINSTEIN (for herself and Mrs. BOXER):

S. Res. 357. A resolution commending and congratulating the Anaheim Angels for their remarkable spirit, resilience, and athletic discipline in winning the 2002 World Series; considered and agreed to.

ADDITIONAL COSPONSORS

S. 486

At the request of Mr. LEAHY, the name of the Senator from New Hampshire (Mr. SMITH) was added as a cosponsor of S. 486, a bill to reduce the risk that innocent persons may be executed, and for other purposes.

S. 650

At the request of Mrs. BOXER, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 650, a bill to amend the Mineral Leasing Act to prohibit the exportation of Alaska North Slope crude oil.

S. 987

At the request of Mr. TORRICELLI, the name of the Senator from Oregon (Mr.

WYDEN) was added as a cosponsor of S. 987, a bill to amend title XIX of the Social Security Act to permit States the option to provide medicaid coverage for low-income individuals infected with HIV.

S. 1304

At the request of Mr. KERRY, the name of the Senator from Missouri (Mrs. CARNAHAN) was added as a cosponsor of S. 1304, a bill to amend title XVIII of the Social Security Act to provide for coverage under the medicare program of oral drugs to reduce serum phosphate levels in dialysis patients with end-stage renal disease.

S. 2035

At the request of Mr. JEFFORDS, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2035, a bill to provide for the establishment of health plan purchasing alliances.

S. 2445

At the request of Mrs. HUTCHISON, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. 2445, a bill to establish a program to promote child literacy by making books available through early learning, child care, literacy, and nutrition programs, and for other purposes.

S. 2577

At the request of Mr. FITZGERALD, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 2577, a bill to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to the exclusion from Federal income tax for restitution received by victims of the Nazi Regime.

S. 2752

At the request of Mr. JEFFORDS, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 2752, a bill to amend title XVIII of the Social Security Act to provide for the establishment of medicare demonstration programs to improve health care quality.

S. 2903

At the request of Mr. JOHNSON, the names of the Senator from West Virginia (Mr. ROCKEFELLER) and the Senator from Minnesota (Mr. DAYTON) were added as cosponsors 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 South Carolina (Mr. THURMOND) 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. 3081

At the request of Mr. JOHNSON, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 3081, a bill to amend the Internal Revenue Code of 1986 to suspend the tax-exempt status of designated terrorist organizations, and for other purposes.

S.J. RES. 50

At the request of Mr. MCCAIN, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S.J. Res. 50, A joint resolution expressing the sense of the Senate with respect to human rights in Central Asia.

S. RES. 339

At the request of Mrs. MURRAY, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. Res. 339, A resolution designating November 2002, as ''National Runaway Prevention Month''.

S. CON. RES. 52

At the request of Mr. CORZINE, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. Con. Res. 52, A concurrent resolution expressing the sense of Congress that reducing crime in public housing should be a priority, and that the successful Public Housing Drug Elimination Program should be fully funded.

S. CON. RES. 155

At the request of Mr. SANTORUM, the name of the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. Con. Res. 155, A concurrent resolution affirming the importance of a national day of prayer and fasting, and expressing the sense of Congress that November 27, 2002, should be designated as a national day of prayer and fasting.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. REED (for himself and Mr. DEWINE):

S. 3158. A bill to establish a grant program to provide comprehensive eye examinations to children, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. REED. Mr. President, I rise today to introduce the ''Children's Vision Improvement and Learning Readiness Act.'' I am pleased to be joined by my colleague from Ohio, Senator DEWINE, in this effort. Vision disorders are the fourth most common disability in the United States and the most prevalent handicapping condition among children. This is a startling fact when one considers that eighty percent of what children learn is acquired through vision processing information and the quality of children's eye health has a direct impact on their learning and achievement.

It is estimated that almost ten percent of children have clinically significant vision impairment, which are associated with developmental delays and the need for special education, vocational, and social services. Specifically, studies have found that among the twenty percent of school age children who have a learning disability in reading, seventy percent have some form of visual impairment, such as ocular motor, perceptual or binocular dysfunction, that could interfere with their reading skills. The ''Children's Vision Improvement and Learning Readiness Act'' recognizes the importance of diagnosing vision disorders in children at an early age so as to allow intervention at a time when these disorders are highly responsive to treatment.

Unfortunately, too many children in school today live with an undiagnosed vision impairment and too many times these same children have not had a comprehensive eye examination prior to entering school. In fact, only one-third of all children have had an eye examination or vision screening prior to entering school despite evidence that the earlier a vision problem is diagnosed and corrected, the less the potential negative impact it may have on a child's development.

In addition, undiagnosed visual problems impose economic costs on our Nation. In 1995, the economic impact of visual disorders and disabilities was approximately $38.4 billion. Yet, early, comprehensive eye exams in children can help reduce the economic and social costs associated with undiagnosed eye disorders. Providing comprehensive eye examinations to children before they enter school helps to decrease long-term medical expenditures, prevent inappropriate placement of children in special education programs, and avoid social welfare spending by improving children's ability to learn and achieve a greater degree of educational and economic attainment.

The ''Children's Vision Improvement and Learning Readiness Act'' gives the Secretary of Health and Human Services the authority to provide grants to States for a variety of educational and outreach activities related to improving and safeguarding the eye health and academic success of our nation's children. Grants may be used for the development of a voluntary statewide school-based comprehensive eye examination program for elementary school age children; the development of State-based education programs to increase public awareness of the benefits of comprehensive eye examinations; and the flexibility of providing comprehensive eye examinations through other related federal programs, such as Head Start, the Individuals with Disabilities Education Act, the Child Care Block Grant, and the Consolidated Health Centers programs.

This important measure will help ensure that our nation's children have access to comprehensive eye examinations from qualified health professionals so they can start school prepared for a lifetime of learning and achievement. I urge my colleagues to join me and Senator DEWINE in supporting this legislation that will help to boost the well-being and academic achievement of our nation's school children.

By Mr. FEINGOLD (for himself, Mr. KENNEDY, and Mr. JEFFORDS):

S. 3161. A bill to provide a definition of a prevailing party for Federal fee-shifting statutes; to the Committee on the Judiciary.

Mr. FEINGOLD. Madam President, I am pleased today to introduce the Settlement Encouragement and Fairness Act of 2002. This bill provides that when plaintiffs bring a lawsuit that acts as a catalyst for a change in position by the opposing party, they will be considered the ''prevailing party'' for purposes of recovering attorneys' fees under Federal law. The bill will help ensure that people who are the victims of civil rights, environmental, and worker rights' abuses can obtain legal representation to enforce their rights.

Over the course of our history, Congress has often enacted laws encouraging private litigants to implement public policy through our court system. An integral part of many such laws are provisions that help individuals obtain adequate legal representation by providing that the defendants will pay the plaintiffs' attorneys' fees in cases where the plaintiff prevails. In laws involving public accommodations, housing, labor, disabilities, age discrimination, violence against women, voting rights, pollution, and other areas, Congress has acted over and over again to empower private litigants in their pursuit of justice. Currently, there are over two hundred statutory fee-shifting provisions that allow for some sort of payment of attorneys' fees to a prevailing plaintiff.

Until last year, in interpreting these fee-shifting statutes in cases where a settlement was reached before trial, nine circuit courts of appeals embraced the ''catalyst theory'' to determine whether attorneys' fees could be obtained. The catalyst theory required the payment of fees where the lawsuit caused a change in the position or conduct of the defendant. Only one circuit court, the Fourth Circuit, applied a more narrow definition of prevailing party, requiring a judgment or a court approved settlement in order for a plaintiff to obtain attorneys' fees.

In Buckhannon Board of Care & Home Inc. v. West Virginia Department of Health and Human Services, 2001, a case arising out of the Fourth Circuit, the U.S. Supreme Court ruled, in a 5–4 decision, that plaintiffs may recover attorneys' fees from defendants only if they have been awarded relief by a court, not if they prevailed through a voluntary change in the defendant's behavior or a private settlement. The Buckhannon ruling eliminated the catalyst theory for all fee shifting statutes in federal law.

The bill I introduce today restores the catalyst theory that the vast majority of courts had approved prior to the Buckhannon decision as a basis for seeking attorneys fees under Federal fee shifting statutes. It provides a new definition of ''prevailing party'' for all such statutes to encompass the common situation where defendants alter their conduct after a lawsuit has commenced but without waiting for a court order requiring them to do so. This critical change in the definition of ''prevailing party'' will allow attorneys representing clients who cannot otherwise afford to hire a lawyer to recover their costs and to be paid a reasonable rate for their work.

The Buckhannon case itself illustrates the need for this legislation. Buckhannon Board and Care Home in West Virginia, an operator of assisted living residences, failed a state inspection because some residents were incapable of ''self-preservation'' as defined by State law. After receiving orders to close its facilities, Buckhannon sued the State seeking declaratory and injunctive relief that the ''self-preservation'' requirement violated the Fair Housing Amendments Act and the Americans with Disabilities Act. While the lawsuit was pending but before the court ruled, the state legislature eliminated the ''self-preservation'' requirement.

Imagine how the plaintiffs felt when they learned that their lawsuit had forced a change in the law not only for their own case but also for all of the other individuals who had been subject to the improper self-preservation doctrine. If ever there was a complete and total victory caused by litigation, this was it. But, as Casey Stengel once said, ''It ain't over 'till it's over.'' Once the State legislature changed the law, the District Court granted defendant's motion to dismiss the case as moot and denied Buckhannon's request for attorneys' fees. The court ruled that the legislative action did not amount to a judicially required change in position that would permit Buckhannon to be considered a ''prevailing party'' in the case. On appeal, the Court of Appeals for the Fourth Circuit and then the U.S. Supreme Court denied attorneys' fees for the plaintiffs, ruling that because the change in the defendants' conduct was voluntary rather than ordered by the court, Buckhannon was not a prevailing party.

I believe the narrow definition of 'prevailing party' endorsed by the Buckhannon decision will result in many injustices going unchallenged. Indeed, in calculating whether to take a case, an attorney for a plaintiff will have to consider not only the chances of losing, but the chances of winning too easily. If businesses or individuals are able to engage in egregious conduct, refuse to change their behavior without a lawsuit being filed against them, and then avoid paying attorneys' fees by changing their conduct on the eve of trial, the effect will be that some lawyers will decide that they cannot afford to take a case even if the claims are very strong.

Imagine a case involving a legitimate claim of housing discrimination where, after many months, perhaps even years of work, as the attorney for the plaintiff prepares into the evening for opening statements, the attorney learns that the defendant has admitted its wrongful conduct and offered substantial compensation and a promise to change its practices. This offer came about only because of the spotlight the lawsuit put on the defendant and the possibility of a large jury verdict. This would be a complete victory for the plaintiff, but under Buckhannon, the attorney who labored for years to bring about this result may not be paid. Later, if the same defendant returns to discriminatory practices, the next plaintiff might very well not be able to find competent counsel who will take the case.

Ironically, the failure to correct the Buckhannon decision could lead to plaintiffs' attorneys dragging out law suits out far beyond a point in time where the parties could reach a fair settlement, in order to insure that they meet the Buckhannon definition of ''prevailing party.'' This will increase the costs of litigation and discourage settlement. Simply put, Buckhannon creates unnatural tensions between attorneys and clients and may even push attorneys to not act in the best interest of their clients.

Certainly we can do better. Congress has passed important laws to protect the public in the work place and in our communities; we must ensure that these laws can be enforced, when necessary, in court. The Settlement Encouragement and Fairness Act of 2002 will help insure that all our citizens have the ability to meaningfully challenge injustice.

By Mr. DURBIN (for himself, Mr. NELSON of Florida, Mr. CLELAND, and Mr. EDWARDS):

S. 3162. A bill to amend title 49, United States Code, to enhance the security of transporting high-level nuclear waste and spend nuclear fuel, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. DURBIN. Mr. President, I rise today to introduce legislation to improve the safety of nuclear waste transportation across our Nation. This bill, the Nuclear Waste Transportation Security Act of 2002, seeks to address the concerns raised by the Congress' decision earlier this year to transport spent nuclear fuel to Yucca Mountain, NV, for underground storage. Joining me in its introduction are Senators CLELAND, EDWARDS, and NELSON.

I voted in favor of moving nuclear waste to Yucca Mountain. My decision was not a simple one; rather its ramifications required serious consideration. At that time, I predicated my 'yes' vote on the waste being transported safely and securely through my home State of Illinois and across our Nation, and I indicated that I would introduce legislation to improve that safety and security. This is that legislation.

The Nuclear Waste Transportation Security Act directs the Secretary of

Transportation to establish a comprehensive transportation safety program that considers terrorist threats and other potential dangers to the safe transportation of this spent fuel. The Department of Transportation, the regulator of these shipments, will consult with numerous cabinet and sub-cabinet offices, including the soon to be created Department of Homeland Security, to develop this program. After one year, the Secretary will deliver a progress report to Congress on the program's development and implementation.

To better assist State, local, and tribal governments in implementing this program, our bill establishes a grant program at DOT related to the transportation of nuclear spent fuel. First responders will be eligible for these grants, which will emphasize frequently used routes. The grants will be used for infrastructure improvements, drills and training, and other activities as determined by the Secretary. DOE and the Federal Radiological Preparedness Coordinating Committee, FRPCC, of FEMA will consult on the grant program. For this purpose, the bill authorizes $3,000,000 for fiscal year 2003 and additional funds as necessary for fiscal years 2004 through 2012.

A key component of spent nuclear fuel transportation is ensuring the safety and security of routes nationwide. Much of this fuel is likely to be transported through my own State of Illinois, right through the center of Chicago and Springfield, our State capitol. I want to be certain that its transport does not endanger my constituents in any way. The Department of Energy ranks Illinois seventh in truck shipments under what is called the ''mostly truck scenario,'' and sixth in rail shipments in the ''mostly rail scenario.'' Nearly half of Illinois' electricity is generated from nuclear power. With seven nuclear power plants and two nuclear research reactors Illinois produces more nuclear waste than any other State and is home to some of the busiest transportation corridors in the Nation. The safety of Illinoisans is at stake. These stakes are too high for us to gamble. Safety must be a top priority.

To ensure this safety, my bill requires that the DOT consult with State governments in establishing routes and provide 14-days' notice to governors of shipments through their States. The bill requires dedicated trains for the waste with trained guards stationed at the front and rear ends of each train. The bill provides the Secretary of Transportation and the Director of Homeland Security with waiver authority for national or homeland security. Under my legislation, trains must be equipped with communication systems providing continuous access to first responders and must be equipped with the best available technology, including appropriate health monitoring systems. Finally, to ensure the safe transportation of passengers and shippers on our nation's waterways, nuclear waste shipments may not be made via the inland waterways or on the Great Lakes unless waived for national or homeland security purposes. This is critical to adequately protect these important natural resources.

Once the infrastructure is established and the routing determined, employees must be certified to handle any such emergencies that may result from this transportation and to mitigate their impact on local populations. My bill amends certification requirements for hazmat employees, requiring that certification be renewed every three years. Currently, this certification, without renewals, is required by regulation but not codified in statute.

The bill directs hazmat employers to submit training programs to DOT for review and approval and expands the definition of covered employees to include those who may be among the first responders to an accident but who do not receive training under current regulations. To provide funding for this additional training, the bill reauthorizes the training grant program for hazmat instructors who train hazmat employees, and enables it to cover hazmat employee training as well. Appropriations are authorized at $3,000,000 for fiscal year 2003 and for such sums as necessary for fiscal years 2004–2012.

The maximum civil penalties for violating hazmat laws regarding radioactive materials are increased from $25,000 to $100,000.

As a means of involving the public in these decisions affecting safety and security, the bill establishes a public outreach program to protect public health and safety. The program will be developed by FEMA in coordination with other agencies. In addition, the bill requires the EPA and the Centers for Disease Control and Prevention to conduct a study and report to Congress regarding the effects on public health of routine transportation of nuclear waste and accidents involving its transportation. The report is due one year after the date of enactment.

Especially important to my legislation is the establishment of requirements for casks. Also known as packages, these casks contain the spent nuclear fuel that is being shipped. The bill requires the Nuclear Regulatory Commission, which has authority over the casks, to execute a comprehensive testing program in conjunction with DOT and DHS, and requires them to conduct a survey of potential terrorist and other threats that may be posed to casks. The NRC and DOT must jointly certify the safety of the casks, which must be designed to handle head-on collisions at any speed at which they will be transported, attempted puncture by armor-piercing ammunition, falls of the maximum distance to which the package could fall on likely routes, submersion in water to the maximum depth to which the package could be submerged, continuous exposure to the maximum temperature to which the package is likely to be subjected in an event involving fire, and other threats that may be identified. The agencies involved in this effort must report to Congress every two years on these activities.

Finally, the bill amends current statute to exclude DOT and NRC contractors from participating on the Nuclear Waste Technical Review Board and enables the Board to review the activities of the DOT and NRC and to obtain documents from them as part of its existing investigative powers. This provision will prevent any conflicts of interest between the reviewers and implementers of this law. The Board's termination date is extended from one year after nuclear waste begins to be deposited at a national repository to 10 years after such waste begins to be deposited.

I believe that our legislation alleviates many of the concerns of shippers, hazmat employees, the federal government, and affected citizens regarding the transportation of nuclear spent fuel across our Nation. In the course of its development, we consulted with shippers, railroads, labor unions, the nuclear industry, federal regulators, the environmental community, and our colleagues in the Senate. The bill seeks to address the real threats we face and to take economic and safety concerns into account, with the primary goal of increasing the safety and security of these materials during their transportation to Yucca Mountain. I appreciate the assistance that these groups have provided. I remain open to their further input and look forward to working with them to enact this critical legislation.

Mr. NELSON. Mr. President, I am pleased to join my colleagues, Senator DURBIN, Senator EDWARDS and Senator CLELAND in introducing the Nuclear Waste Transportation Security Act.

Ensuring the safe and secure transportation of our high-level nuclear waste across this country is of paramount importance. The greatest concern I had voting for the Yucca Mountain Resolution was the safe transportation of our waste to Yucca.

This piece of legislation is the first step in what I see as Congress' ongoing duty to oversee and evaluate our Nation's transport of nuclear waste.

Specifically, this bill directs the Department of Transportation to develop and carry out a comprehensive safety program that considers, among other things, terrorist threats.

State and Federal cooperation is required. States must be consulted by DOT in making routing decisions and notified when shipments are traveling through their State.

Dedicated trains, armed escorts and state of the art communication systems must be employed.

Full-scale testing of casks to withstand the maximum temperature, water depth and piercing likely to be encountered must also be carried out.

The EPA and CDC must conduct a study and report to Congress on the effects, if any, on public health of routine transportation of nuclear waste and accidents involving the transportation of nuclear waste.

And, the Federal Emergency Management Agency must administer a public outreach program on nuclear waste to educate the public on appropriate means of responding to an accident or attack involving high-level nuclear waste.

Employing the expertise of the DOT, NRC, FEMA, EPA and CDC to protect the American people from any potential danger posed by nuclear waste transport is the aim and goal of this legislation and I hope my colleagues will support it.

The first shipments of nuclear waste to Yucca Mountain will not take place until 2010. We need to use the time between now and then to ensure that the transportation system that will carry this waste is a safe as it can possibly be.

By Mr. DEWINE:

S. 3163. A bill to establish a grant program to enable institutions of higher education to improve schools of education; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DEWINE:

S. 3164. A bill to amend the Higher Education Act of 1965 to improve the loan forgiveness program for child care providers, including preschool teachers, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DEWINE (for himself and Mr. ROCKEFELLER):

S. 3165. A bill to provide loan forgiveness to social workers who work for child protective agencies; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DEWINE (for himself and Mr. ROCKEFELLER):

S. 3166. A bill to amend the Higher Education Act of 1965 to provide loan forgiveness for attorneys who represent low-income families or individuals involved in the family or domestic relations court systems; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DEWINE (for himself and Mr. LIEBERMAN):

S. 3167. A bill to provide grants to States and outlying areas to encourage the States and outlying areas to enhance existing or establish new statewide coalitions among institutions of higher education, communities around the institutions, and other relevant organization or groups, including anti-drug or anti-alcohol coalitions, to reduce underage drinking and illicit drug-use by students, both on and off campus; to the Committee on Health, Education, Labor, and Pensions.

Mr. DEWINE. Mr. President, I join several of my colleagues today to introduce a series of bills related to the reauthorization of the Higher Education Act, HEA. These five bills emphasize a number of issues that are vital to higher education, including teacher quality; loan forgiveness for social workers, family lawyers, and early childhood teachers; and the reduction of drug use and underage drinking at our colleges and universities.

The quality of a student's education is the direct result of the quality of that student's teachers. If we don't have well trained teachers, then future generations of our children will not be well educated. That is why I am introducing a bill that would provide $200 million in grants to our schools of education to partner with local schools to ensure that our teachers are receiving the best, most, extensive training available before they enter the classroom.

The Secretary of Education's annual report on teacher quality reported that a majority of graduates of schools of education believe that the traditional teacher preparation program left them ill prepared for the challenges and rigors of the classroom. Part of the responsibility for this lies in the hands of our schools of education. However, Congress also has a responsibility to give our schools of education the tools they need to make necessary improvements. This new bill would create a competitive grant program for schools of education, which partner with low income schools to create clinical programs to train teachers. Additionally, it would require schools of education to make internal changes by working with other departments at the university to ensure that teachers are receiving the highest quality education in core academic subjects. Finally, it would require the college or university to demonstrate a commitment to improving their schools of education by providing matching funds.

Another complex issue affecting the teaching force is the high percentage of disillusioned beginning teachers who leave the field. Our bill would help combat this issue, as well. Schools of education receiving these grants would be responsible for following their graduates and continuing to provide assistance after they enter the classroom. The more we invest in the education of teachcers especially once they have entered the profession the more likely they will remain in the classroom.

Today, I also would like to reintroduce the Early Care and Education Loan Forgiveness Act that Senator Wellstone and I had included in the last higher education reauthorization bill. We had been working on this legislation together before Paul's tragic death. I know he cared deeply about this issue and about making sure that all children receive a quality education. He was passionate about that. And, in his memory, I would like to rename our bill the ''Paul Wellstone Early Educator Loan Forgiveness Act.''

This bill would expand the loan forgiveness program so that it benefits not just childcare workers, but also early childhood educators. This loan forgiveness program would serve as an incentive to keep those educators in the field for longer periods of time.

Paul Wellstone knew how important early learning programs are in preparing our children for kindergarten and beyond. Research shows that children who attend quality early childcare programs when they were three or four years old scored better on math, language arts, and social skills in early elementary school than children who attended poor quality childcare programs. In short, children in early learning programs with high quality teachers, teachers with a bachelor's degree or an associate's degree or higher, do substantially better.

When we examine the number and recent growth of pre-primary education programs, it becomes difficult to differentiate between early education and childcare settings because they are so often intertwined, especially considering that 11.9 million children younger than age five spend part of their time with a care provider other than a parent and demand for quality childcare and education is growing as more mothers enter the workforce.

Because the bill targets loan forgiveness to those educators working in low-income schools or childcare settings, we can make significant strides toward providing high quality education for all of our young children, regardless of socioeconomic status. The bill would serve a two-fold function. First, it would reward professionals for their training. Second, it would encourage professionals to remain in the profession over longer periods of time, since more time in the profession leads to higher percentages of loans forgiveness. The bill would result in more educated individuals with more teaching experience and lower turnover rates, each of which enhances student performance.

I encourage my colleagues to join me in this effort to ensure that truly no children, especially our youngest children, are left behind.

I also am working on two bills with my friend and colleagues from West Virginia, Senator JAY ROCKEFELLER. These bills would provide loan forgiveness to students who dedicate their careers to working in the realm of child welfare, including social workers, who work for child protective services, and family law experts.

Currently, there aren't enough social workers to fill available jobs in child welfare today. Furthermore, the number of social work job openings is expected to increase faster than the average for all occupations through 2010. The need for highly qualified social workers in the child protective services is reaching crisis level.

We also need more qualified individuals focusing on family law. The wonderful thing about family law is its

focus on rehabilitation, that is the rehabilitation of families by helping them through life's transitions, whether it is a family going through a divorce, a family dealing with their troubled teenager in the juvenile system, or a child getting adopted and becoming a member of a new family.

Across the United States, family, juvenile, and domestic relations courts are experiencing a shortage of qualified attorneys. As many of my colleagues and I know, law school is an expensive investment. In the last 20 years, tuition has increased more than 200 percent. Currently, the average rate of law school debt is about $80,000 per graduate. To be sure, few law school graduates can afford to work in the public sector because debts prevent even the most dedicated public service lawyer from being able to take these low-paying jobs. This results in a shortage of family lawyers.

The shortage of family law attorneys also disproportionately impacts juveniles. The lack of available representation causes children to spend more time in foster care because cases are adjourned or postponed when they simply cannot find an attorney to represent their rights or those of the parent or guardian. Furthermore, the number of children involved in the court system is sharply increasing. We need to make sure the interests of these children are taken care of by making sure they have an advocate, someone working solely on their behalf.

By offering loan forgiveness to those willing to purpose careers in the child welfare field, we can increase the number of highly qualified and dedicate individuals who work in the realm of child welfare and family law.

Finally, I am introducing a bill today with my friend and colleague from Connecticut, Senator LIEBERMAN, that would help address an epidemic, the epidemic of underage drinking, binge drinking, and drug-related problems on college and university campuses across the United States. Our bill would provide grants to states to establish statewide partnerships among colleges and universities and the surrounding communities to work together to reduce underage and binge drinking and illicit drug use by students.

According to a study by Boston University, over 1,400 students aged 18–24 died in 1998 from alcohol-related injuries, more than 600,000 students were assaulted by another student, and another 500,000 were unintentionally injured while under the influence of alcohol. According to a 1999 Harvard University study, 40 percent of college students are binge drinkers and according to the Department of Health and Human Services, nearly 10.5 million current drinkers were under the legal age of 21, and of these, over 5 million were binge drinkers.

Currently, 28 States, including my home State of Ohio, have coalitions that deal specifically with the culture of alcohol and drug abuse on our Nation's college campuses. They work with the surrounding communities, including local residents, bar, restaurant and shop owners, and law enforcement officials, toward a goal of changing the pervasive culture of drug and alcohol abuse. They provide alternative alcohol-free events, as well as support groups for those who choose not to drink. They also educate students about the dangers of alcohol and drug-use.

Furthermore, the coalitions recognize that while it is important to promote an alcohol aware and drug-free campus community, if the community surrounding the campus does not promote these initiatives, there will be no long-term solutions. Therefore, these coalitions also have worked to establish regulations both on and off campus, which will help our nation's youth to stay healthy, alive, and get the most out of their time at college. Some of these regulations include the registration of kegs. This provides accountability for both the store and the student. This is just an example of one step that colleges, local communities, and organizations can take.

To help start the expansion of these coalitions, our bill would provide $50 million dollars in grants. This is an important demonstration project that would help lead to positive effects for our young people. It is up to us to change the culture, which has been perpetuated by years of complacency and a dismissal tone of ''that's just the way it is in college.'' We must protect the health and education of our young people by changing this culture of abuse—and that is exactly what this bill would do.

Next year when we consider the reauthorization of the Higher Education Act, I encourage my colleagues to join in support of these initiatives.

By Mr. DODD:

S. 3168. A bill to improve funeral home, cemetery, and crematory inspections systems to establish consumer protections relating to funeral service contracts, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. DODD. Mr. President, I rise today to introduce the Federal Death Care Inspection and Disclosure Act of 2002, a bill which I believe will go a long way in restoring the trust that Americans place in the funeral and death care industries.

None of us like to think about death and dying. It is a painful and uncomfortable subject, and most Americans, understandably, choose not to confront matters related to the death of a loved one until the death actually occurs. And when a loved one does pass on, we turn to our friends and family to grieve. Certainly, the last thing anyone wants to do at such a painful time is to spend hours or days negotiating or shopping for a funeral, casket, or other goods and services. Instead, we leave most of these arrangements in the hands of funeral service providers, turning to them to ensure that our loved ones are cared for and treated with respect and dignity after their passing.

We place a great deal of trust in funeral service providers. A funeral, after all, represents one of the largest purchases many consumers will ever make, just behind a home, college education, and a car. However, unlike these transactions, the purchase of funeral services is most often done under intense emotional duress, with very little time to spare, and without the benefit of the type of consumer information generally available when making such a large purchase. As a result, we trust funeral service providers to give us fair prices, to represent goods and services accurately, and to not take advantage of us during our moments of greatest grief and vulnerability.

For the most part, this trust is well deserved. I have no doubt, that the majority of individuals working in the funeral industry are good men and women who practice their profession with the honor and gravity it demands. However, recent revelations of abuses in the industry have shown us that not all members of the death care industry are honest and upstanding. We all remember hearing, earlier this year of the discovery of over 200 bodies strewn in the woods near a crematorium in Noble, GA. There is also recent evidence of desecration of graves and remains at cemeteries in Florida, California, Hawaii, and my own State of Connecticut. These incidents, as well as developments in the funeral industry as a whole, compel us to reexamine the regulatory structure we currently have in place for this industry.

Currently, the death care industry is regulated by a patchwork of State and local laws. These regulations may have been sufficient years ago, but the character of the industry has changed substantially since many of these laws were passed. The industry has become surprisingly large and diverse. Today, the death care industry generates annual revenues of over $15 billion and employ over 104,000 Americans. The 1990s saw the rise of multi-state ''consolidators'' who purchased local funeral homes across the country. Even for small local firms, the business has become increasingly complex. As more and more Americans travel and live in places far from where they were born, the industry has become one that frequently does business across State and county lines.

There have also been changes in Americans' cultural expectations of funeral services. For example, the percentage of cremations has risen from 5 percent in the 1970s to 25 percent today. However, only 12 States have substantive laws which cover cremation. In fact, in the case in Georgia I mentioned earlier, the crematorium in question was statutorily exempt from inspection, allowing the abuses to continue undiscovered.

The only significant Federal regulation of the industry exists in the Federal Trade Commission's Funeral Rule, promulgated nearly 20 years ago. Again, this rule has not kept up with the nature of the industry. Perhaps most importantly, the rule does not cover numerous sectors of the industry such as cemeteries, crematories, and casket makers. It also does not effectively regulate prepaid funeral contracts, which have become an increasingly popular option in recent years.

Earlier this year, I chaired a hearing of the Subcommittee on Children and Families in which we examined developments in the industry and how they have impacted American families. Since that hearing, I have worked with both consumer and industry groups to craft legislation to protect Americans from potential abuse by funeral service providers. The Federal Death Care Inspection and Disclosure Act of 2002 would provide Federal funding to allow States to hire and train inspectors and give consumers the right to legal action against those who violate regulatory standards. In order to be eligible for funding, states would have to adhere to standards which are outlined in the legislation. The act would also codify and strengthen the existing FTC regulations governing licensing and registration, recordkeeping, inspection, resolution of consumer complaints, and enforcement of State laws in the industry. It would clarify regulations to prevent deceptive trade practices in the industry and ensure that consumers can make informed decisions as they make funeral arrangements. Finally, the FTC rules would be expanded to cover all segments of the death care industry.

I am aware that as we are in the closing days of this Congress, the Senate will not have the opportunity to consider this legislation this year. However, I would like to take this opportunity to raise this issue with colleagues today in the hope that we will be able to move on this issue when we reconvene for the 108th Congress. This legislation is bipartisan. A House companion bill is being sponsored by Representative FOLEY of Florida. He has been a leader in the effort to ensure that dignity and respect prevail in all aspects of death care services. I look forward to working with him and all of our colleagues in the 108th Congress to advance this same worthy objective.

By Ms. LANDRIEU:

S. 3169. A bill to provide for military charters between military installations and local school districts, to provide credit enhancement initiatives to promote military charter school facility acquisition, construction, and renovation, and for other purposed; to the committee on Health, Education, Labor, and Pensions.

Ms. LANDRIEU. Mr. President, I rise to offer a bill which addresses a growing population who seek a distinct supportive voice: our military dependent children.

Education is an issue which many Senators on both sides of the aisle have worked very hard to improve in every State in our union. This bill, however, is unique in that it strives to increase the quality of education for hundreds of thousands of our children of members of the Armed Services by catering to their specific needs and frequent moves.

Let me begin by expressing my thanks to most members of this body for always working diligently to introduce and pass great initiatives for education. I firmly believe that we, at this juncture in our Nation's great history, have continued to bring family issues, such as education and the economy to the forefront of our discussion. Further, amid our continued discussion of the possibility of sending our military men and women into harm's way in Iraq, there is no better time to concentrate on their children, children who have the added burden of worrying about a deployed parent, or who must move to a new school many times as their parent or parents move to new assignments around the country.

This bill, I am proposing, will provide Stable Transitions I Education for our Active Duty Youth. It is called the STEADY Act and is the first step to a smoother educational career for military dependent children.

When I last spoke of this bill, I said that we in ''Congress are becoming wiser and wiser on the issue of education'' by recognizing that our future and our economy depend on the education of our children.

It truly is an issue of strengthening our Nation. We cannot have an economically strong and militarily secure Nation moving in a progressive way without an excellent school system. No matter where a child is born, rural or urban, on the east coast or west coast, if we do not do a better job as a Nation of giving our children a quality education, the future of our Nation will not be as bright, and it could put us in jeopardy.

I also make the argument that for our military, the same holds true. it is not just about providing our military with the most extraordinary weapons. it is not just about training our military men and women tot he highest levels. It is not just providing them the basics.

We have an obligation to recognize that when our men and women sign up to be in our military, they have willingly made sacrifices, but their families' quality of life should not be one of those sacrifices. We need to provide them, between the Department of Defense and the Department of Education, a quality education for their children.

When we send our soldiers into battle, we want them focused on the battle and mission at hand. We do not want them worried, as they naturally would be, about spouses and dependents at home, about their happiness, about their comfort, about their security. It makes our military stronger when we provide good, quality-of-life initiatives for their families at home. One of the ways we can do that is by improving the schools for military dependents. There are over 800,000 children who are military dependents out of an overall force strength of 1.4 million adults connected to the military. Many of them are school-age children. Because of the specific demands of our military, which are very unlike the civilian sector, many move every 2 years. Some military members move from the east coast to the west coast, moving families with them. it is very difficult providing an excellent education generally, and yet the military has even more challenges.

What is the solution? I offer this bill to strengthen our military schools in the United States in a creative way. This bill will set up the a pilot program to help create military charter schools around the Nation in partnership with local public school systems to provide an opportunity not only for our military dependents, but this framework will also help communities who have a large military presence. The benefit overall is that the community gets a better school, a school that has the opportunity to provide an excellent education, while being extremely flexible to accommodate the unique needs of a military dependent student.

The second benefit is that it gives children whose families might not have any connection to the military, an introduction into who military people and what military life can be like.

This is a partnership. It is a pilot program that will help establish charter schools, will give important consideration to military children as they move from community to community, and will create for the first time what we call an academic passport.

An academic passport will help to stabilize and standardize the curriculum without micromanaging, without dictating what the curriculum should be. It sets up a new approach or a new framework for our local elementary and secondary schools throughout the country to set up a standardized curriculum to address the vast peaks and valleys encountered by military dependent students as they move from one district to another. To illustrate: one school district might require 3 years of a foreign language or 2 years of algebra or 1 year of algebra, or a whole different curriculum. That is part of this bill. It is something about which military families feel very strongly. I hope that with this new pilot program to help create charter schools with a new academic passport, we can begin to focus some of our resources, again, not all within the Department of Defense; some of this is within the jurisdiction of the Department of Education, to create something exciting and wonderful for these 800,000 children.

Madam President, 600,000 of these children are in public schools today, at

great stress to those public districts; 100,000 of these children are either in private schools or are home schooled; and only 32,000 of the 800,000 are in Department of Defense schools. These schools are concentrated in a few States. There are only 32,000 children, as I said, of 800,000 dependents in DDESS schools in New York, Kentucky, Virginia, North Carolina, South Carolina, Georgia, and Alabama.

As my colleagues can see, dependent children of military personnel are in public schools throughout the country. Sometimes they are good public schools; sometimes they are not so good. We are working hard to make every public school excellent, but I think we have a special obligation to our military families to make sure that those children, with the added burdens they face, are getting an excellent education.

If you look at the general population, non-officers in our military, 91.5 percent have a high school degree or GED, 91 percent. In our general population, it is about 80 percent. This is a very upwardly mobile group of Americans. Theses are men and women with great discipline, great patriotism, great commitment to the Nation. Obviously, they are serving their country, but they are committed to their families, their communities, and their education.

As one can see, the officers exceed the general population at large. Almost 40 percent have advanced degrees; 99 percent or more have bachelor degrees. This is also a very upwardly mobile population. If we can provide excellent schools and opportunities for the children of this 91 percent, I think we will be doing a very good job in helping to strengthen our military but also helping our country be a better place. It is truly something on which we should focus more.

In conclusion, let me tell you of a school of which I am very proud. It might be one of the first military charters, if not the first, in the Nation. This is a school which opened in September and is an even larger success than we anticipated. This is a state-of-the-art, brand new charter school in Plaquemines Parish, which serves the military and civilian community there. It has alleviated a huge burden on the local school district, and is ready for its first expansion.

I think we can work all day long on pay raises, on building more ships, on buying more tanks, and on building a stronger Air Force, but truly I think focusing on educational opportunities for military dependent children, will help us build morale, help us improve retention, will help us strengthen our military in the intermediate and the long term, and it is something that, with a little creativity, a little bit of thinking outside of the box, I am convinced we could finance the construction of these schools through means laid out in the bill, and end up coming out with some excellent facilities around this Nation to serve both our military and our nonmilitary families and do a great job for our Defense Department and a great job for our country. That is what this bill would accomplish: again, it sets up a pilot program to establish military charter schools in the neediest areas of the Nation. I would hope that it would be met with enthusiasm from my colleagues who consistently support good education initiatives, and from all of us who know the value of military service to our great Nation.

''Every few years you make new friends, Then you're gone. You do it all the time. I keep in touch. My best friend and I email, and write back and forth.''—Military dependent student.

By Mr. DASCHLE (for himself and Mr. LOTT):

S.J. Res. 53. A joint resolution relative to the convening of the first session of the One Hundred Eighth Congress; considered and passed.

S.J. RES. 53

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the first regular session of the One Hundred Eighth Congress shall begin at noon on Tuesday, January 7, 2003.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 357—COMMENDING AND CONGRATULATING THE ANAHEIM ANGELS FOR THEIR REMARKABLE SPIRIT, RESILIENCE, AND ATHLETIC DISCIPLINE IN WINNING THE 2002 WORLD SERIES

Mrs. FEINSTEIN (for herself and Mrs. BOXER) submitted the following resolution; which was considered and agreed to:

S. RES. 357

Whereas the Anaheim Angels have won the first World Championship in the 42 year history of the franchise;

Whereas the Anaheim Angels completed their best season in franchise history with 99 wins, staging one of the most significant team improvements in Major League Baseball since the 2001 season;

Whereas the 2002 World Series was the Anaheim Angels' first appearance in the Fall Classic;

Whereas the Anaheim Angels have fielded such superstars as Nolan Ryan, Rod Carew, Bobby Grich, Reggie Jackson, Jim Abbott, Wally Joyner, Brian Downing, Jim Edmonds, Gary DiSarcina, and now Troy Percival, Jarrod Washburn, Garret Anderson, Troy Glaus, and Tim Salmon;

Whereas third baseman Troy Glaus received the World Series Most Valuable Player Award for his stellar defensive plays, .385 batting average, and 3 home runs during the series;

Whereas pitcher Francisco Rodriguez became the youngest pitcher to win a World Series game and tied the postseason record for games won with 5 outstanding wins;

Whereas Manager Mike Scioscia won his first World Series title as a manager;

Whereas Tim Salmon made his first playoff appearance in 10 seasons as a major league baseball player, the only current player to have played that long without having reached the postseason;

Whereas the spirit of Gene Autry, the ''Singing Cowboy'' and former owner of the Angels, was undoubtedly ever-present with the Anaheim players throughout the series as he was an inspirational force to all who played for him and knew of his legacy;

Whereas the Anaheim Angels battled another California team deserving of acknowledgement: the San Francisco Giants;

Whereas the San Francisco Giants were a worthy rival for the Anaheim Angels and set the stage for an exciting and suspenseful World Series that was watched with great interest by many Californians;

Whereas the Anaheim Angels epitomize California pride with their incredible focus, dedication to winning, team cohesiveness, and devotion to playing America's pastime with class, athleticism, and enthusiasm; and

Whereas the Anaheim Angels demonstrate the rewards of perseverance, discipline, teamwork, and championship as they prepare to defend their title of World Champions: Now, therefore, be it

Resolved, That the Senate congratulates the Anaheim Angels on winning the 2002 Major League Baseball World Series title.

SENATE RESOLUTION 356—PAYING A GRATUITY TO TRUDY LAPIC

Mr. DAYTON submitted the following resolution; which was considered and agreed to:

S. RES. 356

Resolved, That the Secretary of the Senate is authorized and directed to pay, from appropriations under the subheading ''MISCELLANEOUS ITEMS'' under the heading ''CONTINGENT EXPENSES OF THE SENATE'', to Trudy Lapic, widow of Thomas Lapic, a loyal employee of the Senate for 9 years, a sum equal to 8 months of compensation at the rate Thomas Lapic was receiving by law during the last month of his Senate service, that sum to be considered inclusive of funeral expenses and all other allowances.

AMENDMENTS SUBMITTED & PROPOSED

SA 4906. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 4902 proposed by Mr. LIEBERMAN (for himself, Mr. MCCAIN, and Mr. NELSON of Nebraska) to the amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes.

SA 4907. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4908. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4909. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4910. Mr. LIEBERMAN submitted an amendment intended to be proposed to

amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4911. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4912. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4913. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4914. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4915. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4916. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4917. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4918. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4919. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4920. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4921. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4922. Mr. JEFFORDS (for himself and Mr. LEAHY) submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4923. Mr. JEFFORDS submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. THOMPSON, Mr. BARKLEY, AND MR. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4924. Mr. JEFFORDS submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4925. Mr. JEFFORDS submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4926. Mr. CORZINE (for himself and Mr. JEFFORDS) submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4927. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4928. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4929. Mr. REID submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4930. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4931. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4932. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4933. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4934. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4935. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4936. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4937. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4938. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4939. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4940. Mr. DODD submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4941. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4942. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4943. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4944. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4945. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4946. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4947. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4948. Mr. KENNEDY submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4949. Mr. KENNEDY submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4950. Mr. INOUYE submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4951. Mr. DODD proposed an amendment to amendment SA 4902 proposed by Mr. LIEBERMAN (for himself, Mr. MCCAIN, and Mr. NELSON of Nebraska) to the amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra.

SA 4952. Mr. INOUYE 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 4953. Mr. LIEBERMAN 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 4954. Mr. REID (for Ms. CANTWELL (for herself, Mr. GRASSLEY, Mr. ENZI, and Mr. KOHL)) proposed an amendment to the bill S. 1742, to prevent the crime of identity theft, mitigate the harm to individuals victimized by identity theft, and for other purposes.

SA 4955. Mr. REID (for Mr. HELMS (for himself and Mr. LEAHY)) proposed an amendment to the bill H.R. 5469, To amend title 17, United States Code, with respect to the statutory license for webcasting.

SA 4956. Mr. REID (for Mr. HAGEL (for himself, Mr. BIDEN, and Mr. HELMS)) proposed an amendment to the bill S. 2712, to authorize economic and democratic development assistance for Afghanistan and to authorize military assistance for Afghanistan and certain other foreign countries.

SA 4957. Mr. REID (for Mr. KERRY (for himself, Mr. BROWNBACK, and Mr. HOLLINGS)) proposed an amendment to the bill S. 2869, to facilitate the ability of certain spectrum auction winners to pursue alternative measures required in the public interest to meet the needs of wireless telecommunications consumers.

SA 4958. Mr. REID (for Mr. KENNEDY (for himself, Mr. GREGG, Mr. HOLLINGS, and Mr. FRIST)) proposed an amendment to the bill H.R. 4664, An act to authorize appropriations for fiscal years 2003, 2004, 2005, 2006, and 2007 for the National Science Foundation, and for other purposes.

SA 4959. Mr. REID (for Mr. KENNEDY (for himself, Mr. GREGG, and Mr. HOLLINGS)) proposed an amendment to the bill H.R. 4664, supra.

SA 4960. Mrs. CLINTON (for herself, Mr. FITZGERALD, Ms. CANTWELL, and Mr. SPECTER) proposed an amendment to the bill H.R. 3529, to provide tax incentives for economic recovery and assistance to displaced workers.

SA 4961. Mr. REID (for Mr. BAUCUS) proposed an amendment to the bill H.R. 5557, to amend the Internal Revenue Code of 1986 to provide a special rule for members of the uniformed services and Foreign Service in determining the exclusion of gain from the sale of a principal residence and to restore the tax exempt status of death gratuity payments to members of the uniformed services, and for other purposes.

TEXT OF AMENDMENTS

SA 4906. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 4902 proposed by Mr. LIEBERMAN (for himself, Mr. MCCAIN, and Mr. NELSON of Nebraska) to the amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ___. INTEROPERABILITY OF INFORMATION SYSTEMS.

(a) DEFINITION.—In this section, the term ''enterprise architecture''—

(1) means—

(A) a strategic information asset base, which defines the mission;

(B) the information necessary to perform the mission;

(C) the technologies necessary to perform the mission; and

(D) the transitional processes for implementing new technologies in response to changing mission needs; and

(2) includes—

(A) a baseline architecture;

(B) a target architecture; and

(C) a sequencing plan.

(b) RESPONSIBILITIES OF THE SECRETARY.—The Secretary shall—

(1) endeavor to make the information technology systems of the Department, including communications systems, effective, efficient, secure, and appropriately interoperable;

(2) in furtherance of paragraph (1), oversee and ensure the development and implementation of an enterprise architecture for Department-wide information technology, with timetables for implementation;

(3) as the Secretary considers necessary, to oversee and ensure the development and implementation of updated versions of the enterprise architecture under paragraph (2); and

(4) report to Congress on the development and implementation of the enterprise architecture under paragraph (2) in—

(A) each implementation progress report required under this Act; and

(B) each biennial report required under this Act.

(c) RESPONSIBILITIES OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.—

(1) IN GENERAL.—The Director of the Office of Management and Budget, in consultation with the Secretary and affected entities, shall develop—

(A) 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

(B) 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.

(2) 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 under paragraph (1).

(3) 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—

(A) ensure the implementation of the enterprise architecture developed under paragraph (1)(A); and

(B) 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 (1)(A).

(4) 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 paragraph (1), as necessary.

(5) 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 under paragraph (1).

(6) 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 under paragraph (1).

(7) 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 subsection.

(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 (c).

(e) CONTENT.—The enterprise architecture developed under subsection (c), 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.

SA 4907. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) 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 28, line 13, insert ''and in accordance with an information systems interoperability architecture or other requirements developed by the Office of Management and Budget,'' after ''Department,''.

SA 4908. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) 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:

At the appropriate place, insert the following:

SEC. . REQUIREMENT TO BUY CERTAIN ARTICLES FROM AMERICAN SOURCES.

(a) REQUIREMENT.—Except as provided in subsections (c) through (g), funds appropriated or otherwise available to the Department of Homeland Security may not be used for the procurement of an item described in subsection (b) if the item is not grown, reprocessed, reused, or produced in the United States.

(b) COVERED ITEMS.—An item referred to in subsection (a) is any of the following:

(1) An article or item of—

(A) food;

(B) clothing;

(C) tents, tarpaulins, or covers;

(D) cotton and other natural fiber products, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric (including all textile fibers and yarns that are for use in such fabrics), canvas products, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles); or

(E) any item of individual equipment manufactured from or containing such fibers, yarns, fabrics, or materials.

(2) Specialty metals, including stainless steel flatware.

(3) Hand or measuring tools.

(c) AVAILABILITY EXCEPTION.—Subsection (a) does not apply to the extent that the Secretary of Homeland Security determines that satisfactory quality and sufficient quantity of any such article or item described in subsection (b)(1) or specialty metals (including stainless steel flatware) grown, reprocessed, reused, or produced in the United States cannot be procured as and when needed at United States market prices.

(d) EXCEPTION FOR CERTAIN PROCUREMENTS OUTSIDE THE UNITED STATES.—Subsection (a) does not apply to the following:

(1) Procurements outside the United States in support of combat operations.

(2) Procurements by vessels in foreign waters.

(3) Emergency procurements or procurements of perishable foods by an establishment located outside the United States for the personnel attached to such establishment.

(e) EXCEPTION FOR SPECIALTY METALS AND CHEMICAL WARFARE PROTECTIVE CLOTHING.—Subsection (a) does not preclude the procurement of specialty metals or chemical warfare protective clothing produced outside the United States if—

(1) such procurement is necessary—

(A) to comply with agreements with foreign governments requiring the United States to purchase supplies from foreign sources for the purposes of offsetting sales made by the United States Government or United States firms under approved programs serving defense requirements; or

(B) in furtherance of agreements with foreign governments in which both such governments agree to remove barriers to purchases of supplies produced in the other country or services performed by sources of the other country; and

(2) any such agreement with a foreign government complies, where applicable, with the requirements of section 36 of the Arms Export Control Act (22 U.S.C. 2776) and with section 2457 of title 10, United States Code.

(f) EXCEPTION FOR CERTAIN FOODS.—Subsection (a) does not preclude the procurement of foods manufactured or processed in the United States.

(g) EXCEPTION FOR SMALL PURCHASES.—Subsection (a) does not apply to purchases for amounts not greater than the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).

(h) APPLICABILITY TO CONTRACTS AND SUBCONTRACTS FOR PROCUREMENT OF COMMERCIAL ITEMS.—This section is applicable to contracts and subcontracts for the procurement of commercial items notwithstanding section 34 of the Office of Federal Procurement Policy Act (41 U.S.C. 430).

(i) GEOGRAPHIC COVERAGE.—In this section, the term ''United States'' includes the possessions of the United States.

SA 4909. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) 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 260, line 1, strike all through line 23 and insert the following:

(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.

SA 4910. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. Barkley, and Mr. VOINOVICH)) 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 90, line 5, strike all through page 91, line 10.

SA 4911. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) 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:

At the end, add the following:

TITLE XVIII—NONEFFECTIVE PROVISIONS

SEC. 1801. NONEFFECTIVE PROVISIONS.

(a) IN GENERAL.—Notwithstanding any other provision of this Act, (including any effective date provision of this Act) the following provisions of this Act shall not take effect:

(1) Section 308(b)(2)(B) (i) through (xiv).

(2) Section 311(i).

(3) Subtitle G of title VIII.

(4) Section 871.

(5) Section 890.

(6) Section 1707.

(7) Sections 1714, 1715, 1716, and 1717.

(b) APPLICATION OF FEDERAL ADVISORY COMMITTEE ACT.—Notwithstanding paragraph (2) of subsection (b) of section 232, any advisory group described under that paragraph shall not be exempt from the provisions of the Federal Advisory Committee Act (5 U.S.C. App.).

(c) WAIVER.—Notwithstanding section 835(d), the Secretary shall waive subsection (a) of that section, only if the Secretary determines that the waiver is required in the interest of homeland security.

SA 4912. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) 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 244, line 14, beginning with the comma strike all through ''occur'' on line 16.

SA 4913. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) 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; and follows:

On page 302, line 21, strike all through page 303, line 19.

SA 4914. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4901 proosed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was orderd to lie on the table; as follows:

On page 280, line 8, strike all through page 281, line 8.

SA 4915. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) 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 268, line 19, strike all through page 280, line 5.

SA 4916. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) 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 477, line 11, strike all through line 16.

SA 4917. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) 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 103, line 12, strike all through line 14.

SA 4918. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) 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 482, line 22, strike all through page 484, line 12.

SA 4919. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM) for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) 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 60, line 8, strike all through ''(5 U.S.C. App.))'' on line 9.

SA 4920. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) 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 29, strike line 13 and insert the following:

(19) On behalf of the Secretary, subject to disapproval by the President, to direct the agencies described under subsection (f)(2) to provide intelligence information, analyses of intelligence information, and such other intelligence-related information as the Assistant Secretary for Information Analysis determines necessary.

(20) To perform such other duties relating to

SA 4921. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) 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:

SEC. 841. 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 by the Secretary.
''9702. Establishment of human resources management system by the President.

''§ 9701. Establishment of human resources management system by the Secretary

''(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, 72, 73, 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 title 5, United States Code; 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 such title 5;

''(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 such title 5 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.

''(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 fully 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 801 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 and section 9702) shall cease to be available.

''§ 9702. Establishment of human resources management system by the President

The authority under section 9701 to establish a human resources management system shall be exercised only when the President issues an order determining that—

''(1) the affected agency or subdivision has, as a primary function, intelligence, counterintelligence, investigative, or national security work;

''(2) the provisions of chapter 43, 51, 53, 71, 75, or 77 cannot be applied to that agency or subdivision in a manner consistent with national security requirements and considerations;

''(3) the mission and responsibilities of the affected agency or subdivision have materially changed; and

''(4) a majority of the employees within that agency or subdivision have, as their primary duty, intelligence, counterintelligence, or investigative work directly related to terrorism investigation.''.

(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. 842. LABOR-MANAGEMENT RELATIONS.

(a) EXCLUSIONARY AUTHORITY.—

(1) IN GENERAL.—Subject to paragraph (2), the President may issue an order excluding any executive agency, or subdivision thereof, from coverage under chapter 71 of title 5, United States Code, if the President determines that—

(A) the agency or subdivision has, as a primary function, intelligence, counterintelligence, investigative, or national security work; and

(B) the provisions of such chapter 71 cannot be applied to that agency or subdivision in a matter consistent with national security requirements and considerations.

(2) ADDITIONAL DETERMINATION.—In addition to the requirements under paragraph (1), the President may issue an order excluding any executive agency, or subdivision thereof, transferred to the Department under this Act, from coverage under chapter 71 of title 5, United States Code, only if the President determines that—

(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.

(3) EXCLUSIONS ALLOWABLE.—Nothing in paragraph (1) or (2) 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.—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 under this Act, continue to be so recognized for such purposes, unless—

(1) the mission and responsibilities of the personnel in such unit (or subdivision), or the threats of domestic terrorism being addressed by the personnel in such unit (or subdivision), materially change; and

(2) a substantial number of the employees within such unit (or subdivision) have as their primary duty intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

(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.

SA 4922. Mr. JEFFORDS (for himself and Mr. LEAHY) submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM, (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) 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:

Beginning on page 36, strike line 5 and all that follows through page 48, line 16, and insert the following:

Subtitle B—Protection of Voluntarily Furnished Confidential Information

SEC. 211. 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.

SA 4923. Mr. JEFFORDS submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) 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:

Beginning on page 145, strike line 16 and all that follows through page 148, line 5.

SA 4924. Mr. JEFFORDS submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) 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:

Beginning on page 200, strike line 3 and all that follows through page 208, line 7, and insert the following:

SEC. 501. CONDUCT OF CERTAIN PUBLIC HEALTH-RELATED ACTIVITIES.

(a) IN GENERAL.—With respect to all public health-related activities to improve State, local, and hospital preparedness and response to chemical, biological, radiological, and nuclear and other emerging terrorist threats carried out by the Department of Health and Human Services (including the Public Health Service), the Secretary of Health and Human Services shall set priorities and preparedness goals and further develop a coordinated strategy for such activities in collaboration with the Secretary.

(b) EVALUATION OF PROGRESS.—In carrying out subsection (a), the Secretary of Health and Human Services shall collaborate with the Secretary in developing specific benchmarks and outcome measurements for evaluating progress toward achieving the priorities and goals described in such subsection.

SEC. 502. ROLE OF FEDERAL EMERGENCY MANAGEMENT AGENCY.

(a) IN GENERAL.—The functions of the Federal Emergency Management Agency include the following:

(1) All functions and authorities prescribed by the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(2) Carrying out its mission to reduce the loss of life and property and protect the Nation from all hazards by leading and supporting the Nation in a comprehensive, risk-based emergency management program—

(A) of mitigation, by taking sustained actions to reduce or eliminate long-term risk to people and property from hazards and their effects;

(B) of planning for building the emergency management profession to prepare effectively for, mitigate against, respond to, and recover from any hazard;

(C) of response, by conducting emergency operations to save lives and property through positioning emergency equipment and supplies, through evacuating potential victims, through providing food, water, shelter, and medical care to those in need, and through restoring critical public services;

(D) of recovery, by rebuilding communities so individuals, businesses, and governments can function on their own, return to normal life, and protect against future hazards; and

(E) of increased efficiencies, by coordinating efforts relating to mitigation, planning, response, and recovery.

(b) FEDERAL RESPONSE PLAN.—

(1) ROLE OF FEMA.—Notwithstanding any other provision of this Act, the Federal Emergency Management Agency shall remain the lead agency for the Federal Response Plan established under Executive Order 12148 (44 Fed. Reg. 43239) and Executive Order 12656 (53 Fed. Reg. 47491).

(2) REVISION OF RESPONSE PLAN.—Not later than 60 days after the date of enactment of this Act, the Director of the Federal Emergency Management Agency shall revise the Federal Response Plan to reflect the establishment of and incorporate the Department.

SEC. 503. USE OF COMMERCIALLY AVAILABLE TECHNOLOGY, GOODS, AND SERVICES.

It is the sense of Congress that—

(1) the Secretary should, to the maximum extent possible, use off-the-shelf commercially developed technologies to ensure that the Department's information technology systems allow the Department to collect, manage, share, analyze, and disseminate information securely over multiple channels of communication; and

(2) in order to further the policy of the United States to avoid competing commercially with the private sector, the Secretary should rely on commercial sources to supply the goods and services needed by the Department.

SA 4925. Mr. JEFFORDS submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) 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 208, between lines 7 and 8, insert the following:

Subtitle B—First Responder Terrorism Preparedness

SEC. 5___1. SHORT TITLE.

This subtitle may be cited as the ''First Responder Terrorism Preparedness Act of 2002''.

SEC. 5___2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the Federal Government must enhance the ability of first responders to respond to incidents of terrorism, including incidents involving weapons of mass destruction; and

(2) as a result of the events of September 11, 2001, it is necessary to clarify and consolidate the authority of the Federal Emergency Management Agency to support first responders.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to establish within the Federal Emergency Management Agency the Office of National Preparedness;

(2) 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

(3) to address issues relating to urban search and rescue task forces.

SEC. 5___3. DEFINITIONS.

(a) MAJOR DISASTER.—Section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)) is amended by inserting ''incident of terrorism,'' after ''drought),''.

(b) WEAPON OF MASS DESTRUCTION.—Section 602(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196(a)) is amended by adding at the end the following:

''(11) WEAPON OF MASS DESTRUCTION.—The term 'weapon of mass destruction' has the meaning given the term in section 2302 of title 50, United States Code.''.

SEC. 5___4. ESTABLISHMENT OF OFFICE OF NATIONAL PREPAREDNESS.

Subtitle A of title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196 et seq.) is amended by adding at the end the following:

''SEC. 616. OFFICE OF NATIONAL PREPAREDNESS.

''(a) IN GENERAL.—There is established in the Federal Emergency Management Agency an office to be known as the 'Office of National Preparedness' (referred to in this section as the 'Office').

''(b) APPOINTMENT OF ASSOCIATE DIRECTOR.—

''(1) IN GENERAL.—The Office shall be headed by an Associate Director, who shall be appointed by the President, by and with the advice and consent of the Senate.

''(2) COMPENSATION.—The Associate Director shall be compensated at the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

''(c) DUTIES.—The Office shall—

''(1) lead a coordinated and integrated overall effort to build, exercise, and ensure viable terrorism preparedness and response capability at all levels of government;

''(2) establish clearly defined standards and guidelines for Federal, State, tribal, and local government terrorism preparedness and response;

''(3) establish and coordinate an integrated capability for Federal, State, tribal, and

local governments and emergency responders to plan for and address potential consequences of terrorism;

''(4) coordinate provision of Federal terrorism preparedness assistance to State, tribal, and local governments;

''(5) establish standards for a national, interoperable emergency communications and warning system;

''(6) establish standards for training of first responders (as defined in section 630(a)), and for equipment to be used by first responders, to respond to incidents of terrorism, including incidents involving weapons of mass destruction; and

''(7) carry out such other related activities as are approved by the Director.

''(d) DESIGNATION OF REGIONAL CONTACTS.—The Associate Director shall designate an officer or employee of the Federal Emergency Management Agency in each of the 10 regions of the Agency to serve as the Office contact for the States in that region.

''(e) USE OF EXISTING RESOURCES.—In carrying out this section, the Associate Director shall—

''(1) to the maximum extent practicable, use existing resources, including planning documents, equipment lists, and program inventories; and

''(2) consult with and use—

''(A) existing Federal interagency boards and committees;

''(B) existing government agencies; and

''(C) nongovernmental organizations.''.

SEC. 5___5. PREPAREDNESS ASSISTANCE FOR FIRST RESPONDERS.

(a) IN GENERAL.—Subtitle B of title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5197 et seq.) is amended by adding at the end the following:

''SEC. 630. PREPAREDNESS ASSISTANCE FOR FIRST RESPONDERS.

''(a) DEFINITIONS.—In this section:

''(1) FIRST RESPONDER.—The term 'first responder' means—

''(A) fire, emergency medical service, and law enforcement personnel; and

''(B) such other personnel as are identified by the Director.

''(2) LOCAL ENTITY.—The term 'local entity' has the meaning given the term by regulation promulgated by the Director.

''(3) PROGRAM.—The term 'program' means the program established under subsection (b).

''(b) PROGRAM TO PROVIDE ASSISTANCE.—

''(1) IN GENERAL.—The Director shall establish a program to provide assistance to States to enhance the ability of State and local first responders to respond to incidents of terrorism, including incidents involving weapons of mass destruction.

''(2) FEDERAL SHARE.—The Federal share of the costs eligible to be paid using assistance provided under the program shall be not less than 75 percent, as determined by the Director.

''(3) FORMS OF ASSISTANCE.—Assistance provided under paragraph (1) may consist of—

''(A) grants; and

''(B) such other forms of assistance as the Director determines to be appropriate.

''(c) USES OF ASSISTANCE.—Assistance provided under subsection (b)—

''(1) shall be used—

''(A) to purchase, to the maximum extent practicable, interoperable equipment that is necessary to respond to incidents of terrorism, including incidents involving weapons of mass destruction;

''(B) to train first responders, consistent with guidelines and standards developed by the Director;

''(C) in consultation with the Director, to develop, construct, or upgrade terrorism preparedness training facilities;

''(D) to develop, construct, or upgrade emergency operating centers;

''(E) to develop preparedness and response plans consistent with Federal, State, and local strategies, as determined by the Director;

''(F) to provide systems and equipment to meet communication needs, such as emergency notification systems, interoperable equipment, and secure communication equipment;

''(G) to conduct exercises; and

''(H) to carry out such other related activities as are approved by the Director; and

''(2) shall not be used to provide compensation to first responders (including payment for overtime).

''(d) ALLOCATION OF FUNDS.—For each fiscal year, in providing assistance under subsection (b), the Director shall make available—

''(1) to each of the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, $3,000,000; and

''(2) to each State (other than a State specified in paragraph (1))—

''(A) a base amount of $15,000,000; and

''(B) a percentage of the total remaining funds made available for the fiscal year based on criteria established by the Director, such as—

''(i) population;

''(ii) location of vital infrastructure, including—

''(I) military installations;

''(II) public buildings (as defined in section 13 of the Public Buildings Act of 1959 (40 U.S.C. 612));

''(III) nuclear power plants;

''(IV) chemical plants; and

''(V) national landmarks; and

''(iii) proximity to international borders.

''(e) PROVISION OF FUNDS TO LOCAL GOVERNMENTS AND LOCAL ENTITIES.—

''(1) IN GENERAL.—For each fiscal year, not less than 75 percent of the assistance provided to each State under this section shall be provided to local governments and local entities within the State.

''(2) ALLOCATION OF FUNDS.—Under paragraph (1), a State shall allocate assistance to local governments and local entities within the State in accordance with criteria established by the Director, such as the criteria specified in subsection (d)(2)(B).

''(3) DEADLINE FOR PROVISION OF FUNDS.—Under paragraph (1), a State shall provide all assistance to local government and local entities not later than 45 days after the date on which the State receives the assistance.

''(4) COORDINATION.—Each State shall coordinate with local governments and local entities concerning the use of assistance provided to local governments and local entities under paragraph (1).

''(f) ADMINISTRATIVE EXPENSES.—

''(1) DIRECTOR.—For each fiscal year, the Director may use to pay salaries and other administrative expenses incurred in administering the program not more than the lesser of—

''(A) 5 percent of the funds made available to carry out this section for the fiscal year; or

''(B)(i) for fiscal year 2003, $75,000,000; and

''(ii) for each of fiscal years 2004 through 2006, $50,000,000.

''(2) RECIPIENTS OF ASSISTANCE.—For each fiscal year, not more than 10 percent of the funds retained by a State after application of subsection (e) may be used to pay salaries and other administrative expenses incurred in administering the program.

''(g) MAINTENANCE OF EXPENDITURES.—The Director may provide assistance to a State under this section only if the State agrees to maintain, and to ensure that each local government that receives funds from the State in accordance with subsection (e) maintains, for the fiscal year for which the assistance is provided, the aggregate expenditures by the State or the local government, respectively, for the uses described in subsection (c)(1) at a level that is at or above the average annual level of those expenditures by the State or local government, respectively, for the 2 fiscal years preceding the fiscal year for which the assistance is provided.

''(h) REPORTS.—

''(1) ANNUAL REPORT TO THE DIRECTOR.—As a condition of receipt of assistance under this section for a fiscal year, a State shall submit to the Director, not later than 60 days after the end of the fiscal year, a report on the use of the assistance in the fiscal year.

''(2) EXERCISE AND REPORT TO CONGRESS.—As a condition of receipt of assistance under this section, not later than 3 years after the date of enactment of this section, a State shall—

''(A) conduct an exercise, or participate in a regional exercise, approved by the Director, to measure the progress of the State in enhancing the ability of State and local first responders to respond to incidents of terrorism, including incidents involving weapons of mass destruction; and

''(B) submit a report on the results of the exercise to—

''(i) the Committee on Environment and Public Works and the Committee on Appropriations of the Senate; and

''(ii) the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives.

''(i) COORDINATION.—

''(1) WITH FEDERAL AGENCIES.—The Director shall, as necessary, coordinate the provision of assistance under this section with activities carried out by—

''(A) the Administrator of the United States Fire Administration in connection with the implementation by the Administrator of the assistance to firefighters grant program established under section 33 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229) (as added by section 1701(a) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (114 Stat. 1654, 1654A–360));

''(B) the Attorney General, in connection with the implementation of the Community Oriented Policing Services (COPS) Program established under section 1701(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(a)); and

''(C) other appropriate Federal agencies.

''(2) WITH INDIAN TRIBES.—In providing and using assistance under this section, the Director and the States shall, as appropriate, coordinate with—

''(A) Indian tribes (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)) and other tribal organizations; and

''(B) Native villages (as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602)) and other Alaska Native organizations.''.

(b) COST SHARING FOR EMERGENCY OPERATING CENTERS.—Section 614 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196c) is amended—

(1) by inserting ''(other than section 630)'' after ''carry out this title''; and

(2) by inserting ''(other than section 630)'' after ''under this title''.

SEC. 5___6. PROTECTION OF HEALTH AND SAFETY OF FIRST RESPONDERS.

Subtitle B of title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5197 et seq.) (as amended by section 5___5(a)) is amended by adding at the end the following:

"SEC. 631. PROTECTION OF HEALTH AND SAFETY OF FIRST RESPONDERS.

''(a) DEFINITIONS.—In this section:

''(1) FIRST RESPONDER.—The term 'first responder' has the meaning given the term in section 630(a).

''(2) HARMFUL SUBSTANCE.—The term 'harmful substance' means a substance that the President determines may be harmful to human health.

''(3) PROGRAM.—The term 'program' means a program described in subsection (b)(1).

''(b) PROGRAM.—

''(1) IN GENERAL.—If the President determines that 1 or more harmful substances are being, or have been, released in an area that the President has declared to be a major disaster area under this Act, the President shall carry out a program with respect to the area for the protection, assessment, monitoring, and study of the health and safety of first responders.

''(2) ACTIVITIES.—A program shall include—

''(A) collection and analysis of environmental and exposure data;

''(B) development and dissemination of educational materials;

''(C) provision of information on releases of a harmful substance;

''(D) identification of, performance of baseline health assessments on, taking biological samples from, and establishment of an exposure registry of first responders exposed to a harmful substance;

''(E) study of the long-term health impacts of any exposures of first responders to a harmful substance through epidemiological studies; and

''(F) provision of assistance to participants in registries and studies under subparagraphs (D) and (E) in determining eligibility for health coverage and identifying appropriate health services.

''(3) PARTICIPATION IN REGISTRIES AND STUDIES.—

''(A) IN GENERAL.—Participation in any registry or study under subparagraph (D) or (E) of paragraph (2) shall be voluntary.

''(B) PROTECTION OF PRIVACY.—The President shall take appropriate measures to protect the privacy of any participant in a registry or study described in subparagraph (A).

''(4) COOPERATIVE AGREEMENTS.—The President may carry out a program through a cooperative agreement with a medical or academic institution, or a consortium of such institutions, that is—

''(A) located in close proximity to the major disaster area with respect to which the program is carried out; and

''(B) experienced in the area of environmental or occupational health and safety, including experience in—

''(i) conducting long-term epidemiological studies;

''(ii) conducting long-term mental health studies; and

''(iii) establishing and maintaining environmental exposure or disease registries.

''(c) REPORTS AND RESPONSES TO STUDIES.—

''(1) REPORTS.—Not later than 1 year after the date of completion of a study under subsection (b)(2)(E), the President, or the medical or academic institution or consortium of such institutions that entered into the cooperative agreement under subsection (b)(4), shall submit to the Director, the Secretary of Health and Human Services, the Secretary of Labor, and the Administrator of the Environmental Protection Agency a report on the study.

''(2) CHANGES IN PROCEDURES.—To protect the health and safety of first responders, the President shall make such changes in procedures as the President determines to be necessary based on the findings of a report submitted under paragraph (1).''.

SEC. 5___7. URBAN SEARCH AND RESCUE TASK FORCES.

Subtitle B of title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5197 et seq.) (as amended by section 5___6) is amended by adding at the end the following:

"SEC. 632. URBAN SEARCH AND RESCUE TASK FORCES.

''(a) DEFINITIONS.—In this section:

''(1) URBAN SEARCH AND RESCUE EQUIPMENT.—The term 'urban search and rescue equipment' means any equipment that the Director determines to be necessary to respond to a major disaster or emergency declared by the President under this Act.

''(2) URBAN SEARCH AND RESCUE TASK FORCE.—The term 'urban search and rescue task force' means any of the 28 urban search and rescue task forces designated by the Director as of the date of enactment of this section.

''(b) ASSISTANCE.—

''(1) MANDATORY GRANTS FOR COSTS OF OPERATIONS.—For each fiscal year, of the amounts made available to carry out this section, the Director shall provide to each urban search and rescue task force a grant of not less than $1,500,000 to pay the costs of operations of the urban search and rescue task force (including costs of basic urban search and rescue equipment).

''(2) DISCRETIONARY GRANTS.—The Director may provide to any urban search and rescue task force a grant, in such amount as the Director determines to be appropriate, to pay the costs of—

''(A) operations in excess of the funds provided under paragraph (1);

''(B) urban search and rescue equipment;

''(C) equipment necessary for an urban search and rescue task force to operate in an environment contaminated or otherwise affected by a weapon of mass destruction;

''(D) training, including training for operating in an environment described in subparagraph (C);

''(E) transportation;

''(F) expansion of the urban search and rescue task force; and

''(G) incident support teams, including costs of conducting appropriate evaluations of the readiness of the urban search and rescue task force.

''(3) PRIORITY FOR FUNDING.—The Director shall distribute funding under this subsection so as to ensure that each urban search and rescue task force has the capacity to deploy simultaneously at least 2 teams with all necessary equipment, training, and transportation.

''(c) GRANT REQUIREMENTS.—The Director shall establish such requirements as are necessary to provide grants under this section.

''(d) ESTABLISHMENT OF ADDITIONAL URBAN SEARCH AND RESCUE TASK FORCES.—

''(1) IN GENERAL.—Subject to paragraph (2), the Director may establish urban search and rescue task forces in addition to the 28 urban search and rescue task forces in existence on the date of enactment of this section.

''(2) REQUIREMENT OF FULL FUNDING OF EXISTING URBAN SEARCH AND RESCUE TASK FORCES.—Except in the case of an urban search and rescue task force designated to replace any urban search and rescue task force that withdraws or is otherwise no longer considered to be an urban search and rescue task force designated by the Director, no additional urban search and rescue task forces may be designated or funded until the 28 urban search and rescue task forces are able to deploy simultaneously at least 2 teams with all necessary equipment, training, and transportation.''.

SEC. 5___8. AUTHORIZATION OF APPROPRIATIONS.

Section 626 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5197e) is amended by striking subsection (a) and inserting the following:

''(a) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this title (other than sections 630 and 632).

''(2) PREPAREDNESS ASSISTANCE FOR FIRST RESPONDERS.—There are authorized to be appropriated to carry out section 630—

''(A) $3,340,000,000 for fiscal year 2003; and

''(B) $3,458,000,000 for each of fiscal years 2004 through 2006.

''(3) URBAN SEARCH AND RESCUE TASK FORCES.—

''(A) IN GENERAL.—There are authorized to be appropriated to carry out section 632—

''(i) $160,000,000 for fiscal year 2003; and

''(ii) $42,000,000 for each of fiscal years 2004 through 2006.

''(B) AVAILABILITY OF AMOUNTS.—Amounts made available under subparagraph (A) shall remain available until expended.''.

SA 4926. Mr. CORZINE (for himself and Mr. JEFFORDS) submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) 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:

At the end of title II, add the following:

Subtitle E—Chemical Security

SEC. 241. SHORT TITLE.

This subtitle may be cited as the ''Chemical Security Act of 2002''.

SEC. 242. FINDINGS.

Congress finds that—

(1) the chemical industry is a crucial part of the critical infrastructure of the United States—

(A) in its own right; and

(B) because that industry supplies resources essential to the functioning of other critical infrastructures;

(2) the possibility of terrorist and criminal attacks on chemical sources (such as industrial facilities) poses a serious threat to public health, safety, and welfare, critical infrastructure, national security, and the environment;

(3) the possibility of theft of dangerous chemicals from chemical sources for use in terrorist attacks poses a further threat to public health, safety, and welfare, critical infrastructure, national security, and the environment; and

(4) there are significant opportunities to prevent theft from, and criminal attack on, chemical sources and reduce the harm that such acts would produce by—

(A)(i) reducing usage and storage of chemicals by changing production methods and processes; and

(ii) employing inherently safer technologies in the manufacture, transport, and use of chemicals;

(B) enhancing secondary containment and other existing mitigation measures; and

(C) improving security.

SEC. 243. DEFINITIONS.

In this subtitle:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) CHEMICAL SOURCE.—The term ''chemical source'' means a stationary source (as defined in section 112(r)(2) of the Clean Air Act (42 U.S.C. 7412(r)(2))) that contains a substance of concern.

(3) COVERED SUBSTANCE OF CONCERN.—The term ''covered substance of concern'' means a substance of concern that, in combination with a chemical source and other factors, is designated as a high priority category by the Administrator under section 244(a)(1).

(4) EMPLOYEE.—The term ''employee'' means—

(A) a duly recognized collective bargaining representative at a chemical source; or

(B) in the absence of such a representative, other appropriate personnel.

(5) SAFER DESIGN AND MAINTENANCE.—The term ''safer design and maintenance'' includes, with respect to a chemical source that is within a high priority category designated under section 244(a)(1), implementation, to the extent practicable, of the practices of—

(A) preventing or reducing the vulnerability of the chemical source to an unauthorized release of a covered substance of concern through use of inherently safer technology;

(B) reducing the vulnerability of the chemical source to an unauthorized release of a covered substance of concern through use of well-maintained secondary containment, control, or mitigation equipment;

(C) reducing the vulnerability of the chemical source to an unauthorized release of a covered substance of concern by implementing security measures; and

(D) reducing the potential consequences of any vulnerability of the chemical source to an unauthorized release of a covered substance of concern through the use of buffer zones between the chemical source and surrounding populations (including buffer zones between the chemical source and residences, schools, hospitals, senior centers, shopping centers and malls, sports and entertainment arenas, public roads and transportation routes, and other population centers).

(6) SECURITY MEASURE.—

(A) IN GENERAL.—The term ''security measure'' means an action carried out to increase the security of a chemical source.

(B) INCLUSIONS.—The term ''security measure'', with respect to a chemical source, includes—

(i) employee training and background checks;

(ii) the limitation and prevention of access to controls of the chemical source;

(iii) protection of the perimeter of the chemical source;

(iv) the installation and operation of an intrusion detection sensor; and

(v) a measure to increase computer or computer network security.

(7) SUBSTANCE OF CONCERN.—

(A) IN GENERAL.—The term ''substance of concern'' means—

(i) any regulated substance (as defined in section 112(r) of the Clean Air Act (42 U.S.C. 7412(r))); and

(ii) any substance designated by the Administrator under section 244(a).

(B) EXCLUSION.—The term ''substance of concern'' does not include liquefied petroleum gas that is used as fuel or held for sale as fuel at a retail facility as described in section 112(r)(4)(B) of the Clean Air Act (42 U.S.C. 7412(r)(4)(B)).

(8) UNAUTHORIZED RELEASE.—The term ''unauthorized release'' means—

(A) a release from a chemical source into the environment of a covered substance of concern that is caused, in whole or in part, by a criminal act;

(B) a release into the environment of a covered substance of concern that has been removed from a chemical source, in whole or in part, by a criminal act; and

(C) a release or removal from a chemical source of a covered substance of concern that is unauthorized by the owner or operator of the chemical source.

(9) USE OF INHERENTLY SAFER TECHNOLOGY.—

(A) IN GENERAL.—The term ''use of inherently safer technology'', with respect to a chemical source, means use of a technology, product, raw material, or practice that, as compared with the technologies, products, raw materials, or practices currently in use—

(i) reduces or eliminates the possibility of a release of a substance of concern from the chemical source prior to secondary containment, control, or mitigation; and

(ii) reduces or eliminates the threats to public health and the environment associated with a release or potential release of a substance of concern from the chemical source.

(B) INCLUSIONS.—The term ''use of inherently safer technology'' includes input substitution, catalyst or carrier substitution, process redesign (including reuse or recycling of a substance of concern), product reformulation, procedure simplification, and technology modification so as to—

(i) use less hazardous substances or benign substances;

(ii) use a smaller quantity of covered substances of concern;

(iii) reduce hazardous pressures or temperatures;

(iv) reduce the possibility and potential consequences of equipment failure and human error;

(v) improve inventory control and chemical use efficiency; and

(vi) reduce or eliminate storage, transportation, handling, disposal, and discharge of substances of concern.

SEC. 244. DESIGNATION OF AND REQUIREMENTS FOR HIGH PRIORITY CATEGORIES.

(a) DESIGNATION AND REGULATION OF HIGH PRIORITY CATEGORIES BY THE ADMINISTRATOR.—

(1) IN GENERAL.—Not later than December 31, 2002, the Administrator, in consultation with the Secretary and State and local agencies responsible for planning for and responding to unauthorized releases and providing emergency health care, shall promulgate regulations to designate certain combinations of chemical sources and substances of concern as high priority categories based on the severity of the threat posed by an unauthorized release from the chemical sources.

(2) FACTORS TO BE CONSIDERED.—In designating high priority categories under paragraph (1), the Administrator, in consultation with the Secretary, shall consider—

(A) the severity of the harm that could be caused by an unauthorized release;

(B) the proximity to population centers;

(C) the threats to national security;

(D) the threats to critical infrastructure;

(E) threshold quantities of substances of concern that pose a serious threat; and

(F) such other safety or security factors as the Administrator, in consultation with the Secretary, determines to be appropriate.

(3) REQUIREMENTS FOR HIGH PRIORITY CATEGORIES.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator, in consultation with the Secretary, the United States Chemical Safety and Hazard Investigation Board, and State and local agencies described in paragraph (1), shall promulgate regulations to require each owner and each operator of a chemical source that is within a high priority category designated under paragraph (1), in consultation with local law enforcement, first responders, and employees, to—

(i) conduct an assessment of the vulnerability of the chemical source to a terrorist attack or other unauthorized release;

(ii) using appropriate hazard assessment techniques, identify hazards that may result from an unauthorized release of a covered substance of concern; and

(iii) prepare a prevention, preparedness, and response plan that incorporates the results of those vulnerability and hazard assessments.

(B) ACTIONS AND PROCEDURES.—A prevention, preparedness, and response plan required under subparagraph (A)(iii) shall include actions and procedures, including safer design and maintenance of the chemical source, to eliminate or significantly lessen the potential consequences of an unauthorized release of a covered substance of concern.

(C) THREAT INFORMATION.—To the maximum extent permitted by applicable authorities and the interests of national security, the Secretary, in consultation with the Administrator, shall provide owners and operators of chemical sources with threat information relevant to the assessments and plans required under subsection (b).

(4) REVIEW AND REVISIONS.—Not later than 5 years after the date of promulgation of regulations under each of paragraphs (1) and (3), the Administrator, in consultation with the Secretary, shall review the regulations and make any necessary revisions.

(5) ADDITION OF SUBSTANCES OF CONCERN.—For the purpose of designating high priority categories under paragraph (1) or any subsequent revision of the regulations promulgated under paragraph (1), the Administrator, in consultation with the Secretary, may designate additional substances that pose a serious threat as substances of concern.

(b) CERTIFICATION.—

(1) VULNERABILITY AND HAZARD ASSESSMENTS.—Not later than 1 year after the date of promulgation of regulations under subsection (a)(3), each owner and each operator of a chemical source that is within a high priority category designated under subsection (a)(1) shall—

(A) certify to the Administrator that the chemical source has conducted assessments in accordance with the regulations; and

(B) submit to the Administrator written copies of the assessments.

(2) PREVENTION, PREPAREDNESS, AND RESPONSE PLANS.—Not later than 18 months after the date of promulgation of regulations under subsection (a)(3), the owner or operator shall—

(A) certify to the Administrator that the chemical source has completed a prevention, preparedness, and response plan that incorporates the results of the assessments and complies with the regulations; and

(B) submit to the Administrator a written copy of the plan.

(3) 5-YEAR REVIEW.—Not later than 5 years after each of the date of submission of a copy of an assessment under paragraph (1) and a plan under paragraph (2), and not less often than every 3 years thereafter, the owner or operator of the chemical source covered by the assessment or plan, in coordination with local law enforcement and first responders, shall—

(A) review the adequacy of the assessment or plan, as the case may be; and

(B)(i) certify to the Administrator that the chemical source has completed the review; and

(ii) as appropriate, submit to the Administrator any changes to the assessment or plan.

(4) PROTECTION OF INFORMATION.—

(A) DISCLOSURE EXEMPTION.—Except with respect to certifications specified in paragraphs (1) through (3) of this subsection and section 245(a), all information provided to the Administrator under this subsection, and all information derived from that information, shall be exempt from disclosure under section 552 of title 5, United States Code.

(B) DEVELOPMENT OF PROTOCOLS.—

(i) IN GENERAL.—The Administrator, in consultation with the Secretary, shall develop such protocols as are necessary to protect the copies of the assessments and plans required to be submitted under this subsection (including the information contained in those assessments and plans) from unauthorized disclosure.

(ii) REQUIREMENTS.—The protocols developed under clause (i) shall ensure that—

(I) each copy of an assessment or plan, and all information contained in or derived from the assessment or plan, is maintained in a secure location;

(II) except as provided in subparagraph (C), only individuals designated by the Administrator may have access to the copies of the assessments and plans; and

(III) no copy of an assessment or plan or any portion of an assessment or plan, and no information contained in or derived from an assessment or plan, shall be available to any person other than an individual designated by the Administrator.

(iii) DEADLINE.—As soon as practicable, but not later than 1 year after the date of enactment of this Act, the Administrator shall complete the development of protocols under clause (i).

(C) FEDERAL OFFICERS AND EMPLOYEES.—An individual referred to in subparagraph (B)(ii) who is an officer or employee of the United States may discuss with a State or local official the contents of an assessment or plan described in that subparagraph.

SEC. 245. ENFORCEMENT.

(a) REVIEW OF PLANS.—

(1) IN GENERAL.—The Administrator, in consultation with the Secretary, shall review each assessment and plan submitted under section 244(b) to determine the compliance of the chemical source covered by the assessment or plan with regulations promulgated under paragraphs (1) and (3) of section 244(a).

(2) CERTIFICATION OF COMPLIANCE.—

(A) IN GENERAL.—The Administrator shall certify in writing each determination of the Administrator under paragraph (1).

(B) INCLUSIONS.—A certification of the Administrator shall include a checklist indicating consideration by a chemical source of the use of 4 elements of safer design and maintenance described in subparagraphs (A) through (D) of section 243(6).

(C) EARLY COMPLIANCE.—

(i) IN GENERAL.—The Administrator, in consultation with the head of the Office, shall—

(I) before the date of publication of proposed regulations under section 244(a)(3), review each assessment or plan submitted to the Administrator under section 244(b); and

(II) before the date of promulgation of final regulations under section 244(a)(3), determine whether each such assessment or plan meets the consultation, planning, and assessment requirements applicable to high priority categories under section 244(a)(3).

(ii) AFFIRMATIVE DETERMINATION.—If the Administrator, in consultation with the head of the Office, makes an affirmative determination under clause (i)(II), the Administrator shall certify compliance of an assessment or plan described in that clause without requiring any revision of the assessment or plan.

(D) SCHEDULE FOR REVIEW AND CERTIFICATION.—

(i) IN GENERAL.—The Administrator, after taking into consideration the factors described in section 244(a)(2), shall establish a schedule for the review and certification of assessments and plans submitted under section 244(b).

(ii) DEADLINE FOR COMPLETION.—Not later than 3 years after the deadlines for the submission of assessments and plans under paragraph (1) or (2), respectively, of section 244(b), the Administrator shall complete the review and certification of all assessments and plans submitted under those sections.

(b) COMPLIANCE ASSISTANCE.—

(1) DEFINITION OF DETERMINATION.—In this subsection, the term ''determination'' means a determination by the Administrator that, with respect to an assessment or plan described in section 244(b)—

(A) the assessment or plan does not comply with regulations promulgated under paragraphs (1) and (3) of section 244(a); or

(B)(i) a threat exists beyond the scope of the submitted plan; or

(ii) current implementation of the plan is insufficient to address—

(I) the results of an assessment of a source; or

(II) a threat described in clause (i).

(2) DETERMINATION BY ADMINISTRATOR.—If the Administrator, after consultation with the Secretary, makes a determination, the Administrator shall—

(A) notify the chemical source of the determination; and

(B) provide such advice and technical assistance, in coordination with the Secretary and the United States Chemical Safety and Hazard Investigation Board, as is appropriate—

(i) to bring the assessment or plan of a chemical source described in section 244(b) into compliance; or

(ii) to address any threat described in clause (i) or (ii) of paragraph (1)(B).

(c) COMPLIANCE ORDERS.—

(1) IN GENERAL.—If, after the date that is 30 days after the later of the date on which the Administrator first provides assistance, or a chemical source receives notice, under subsection (b)(2)(B), a chemical source has not brought an assessment or plan for which the assistance is provided into compliance with regulations promulgated under paragraphs (1) and (3) of section 244(a), or the chemical source has not complied with an entry or information request under section 246, the Administrator may issue an order directing compliance by the chemical source.

(2) NOTICE AND OPPORTUNITY FOR HEARING.—An order under paragraph (1) may be issued only after notice and opportunity for a hearing.

(d) ABATEMENT ACTION.—

(1) IN GENERAL.—Notwithstanding a certification under section 245(a)(2), if the Secretary, in consultation with local law enforcement officials and first responders, determines that a threat of a terrorist attack exists that is beyond the scope of a submitted prevention, preparedness, and response plan of 1 or more chemical sources, or current implementation of the plan is insufficient to address the results of an assessment of a source or a threat described in subsection (b)(1)(B)(i), the Secretary shall notify each chemical source of the elevated threat.

(2) INSUFFICIENT RESPONSE.—If the Secretary determines that a chemical source has not taken appropriate action in response to a notification under paragraph (1), the Secretary shall notify the chemical source, the Administrator, and the Attorney General that actions taken by the chemical source in response to the notification are insufficient.

(3) RELIEF.—

(A) IN GENERAL.—On receipt of a notification under paragraph (2), the Administrator or the Attorney General may secure such relief as is necessary to abate a threat described in paragraph (1), including such orders as are necessary to protect public health or welfare.

(B) JURISDICTION.—The district court of the United States for the district in which a threat described in paragraph (1) occurs shall have jurisdiction to grant such relief as the Administrator or Attorney General requests under subparagraph (A).

SEC. 246. RECORDKEEPING AND ENTRY.

(a) RECORDS MAINTENANCE.—A chemical source that is required to certify to the Administrator assessments and plans under section 244 shall maintain on the premises of the chemical source a current copy of those assessments and plans.

(b) RIGHT OF ENTRY.—In carrying out this subtitle, the Administrator (or an authorized representative of the Administrator), on presentation of credentials—

(1) shall have a right of entry to, on, or through any premises of an owner or operator of a chemical source described in subsection (a) or any premises in which any records required to be maintained under subsection (a) are located; and

(2) may at reasonable times have access to, and may copy, any records, reports, or other information described in subsection (a).

(c) INFORMATION REQUESTS.—In carrying out this subtitle, the Administrator may require any chemical source to provide such information as is necessary to—

(1) enforce this subtitle; and

(2) promulgate or enforce regulations under this subtitle.

SEC. 247. PENALTIES.

(a) CIVIL PENALTIES.—Any owner or operator of a chemical source that violates, or fails to comply with, any order issued may, in an action brought in United States district court, be subject to a civil penalty of not more than $25,000 for each day in which such violation occurs or such failure to comply continues.

(b) CRIMINAL PENALTIES.—Any owner or operator of a chemical source that knowingly violates, or fails to comply with, any order issued shall—

(1) in the case of a first violation or failure to comply, be fined not less than $2,500 nor more than $25,000 per day of violation, imprisoned not more than 1 year, or both; and

(2) in the case of a subsequent violation or failure to comply, be fined not more than $50,000 per day of violation, imprisoned not more than 2 years, or both.

(c) ADMINISTRATIVE PENALTIES.—

(1) PENALTY ORDERS.—If the amount of a civil penalty determined under subsection (a) does not exceed $125,000, the penalty may be assessed in an order issued by the Administrator.

(2) NOTICE AND HEARING.—Before issuing an order described in paragraph (1), the Administrator shall provide to the person against which the penalty is to be assessed—

(A) written notice of the proposed order; and

(B) the opportunity to request, not later than 30 days after the date on which the notice is received by the person, a hearing on the proposed order.

SEC. 248. NO EFFECT ON REQUIREMENTS UNDER OTHER LAW.

Nothing in this subtitle affects any duty or other requirement imposed under any other Federal or State law.

SEC. 249. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this subtitle.

SA 4927. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) 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 86, strike lines 18 through 23, and insert the following:

(B) advance the development, testing and evaluation, and deployment of critical homeland security technologies;

(C) accelerate the prototyping and deployment of technologies that would address homeland security vulnerabilities; and

(D) to support the development of—

(i) methods to increase the ability of the Customs Service to inspect, or target for inspection, merchandise carried on any vessel that will arrive or has arrived at any port or place in the United States;

(ii) equipment to accurately detect explosives, or chemical and biological agents that could be used to commit terrorist acts against the United States;

(iii) equipment to accurately detect nuclear materials, including scintillation-based detection equipment capable of attachment to spreaders to signal the presence of nuclear materials during the unloading of containers;

(iv) improved tags and seals designed for use on shipping containers to track the transportation of the merchandise in such containers, including ''smart sensors'' that are able to track a container throughout its entire supply chain, detect hazardous and radioactive materials within that container, and transmit such information to the appropriate authorities at a remote location;

(v) tools to mitigate the consequences of a terrorist act at a port of the United States, including a network of sensors to predict the dispersion of radiological, chemical, or biological agents that might be intentionally or accidentally released; and

(vi) applications to apply existing technologies from other industries to increase overall port security.

SA 4928. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) 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 246, line 21, strike ''and'' and insert ''or''.

On page 246, line 24, strike ''and'' and insert ''or''.

SA 4929. Mr. REID submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) 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 208, insert between lines 7 and 8 the following:

SEC. 510. JOINT SPONSORSHIP ARRANGEMENTS.

The Secretary may enter into joint sponsorship arrangements under section 309(b) for sites used for emergency preparedness and response training.

SA 4930. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) 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 248, line 1, between ''59,'' and ''72,'' add ''71,''.

SA 4931. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) 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 the amendment strike from page 248 through page 260 and insert the following:

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

''(2) chapters 41, 45, 47, 55, 57, 59, 72, 73, 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 title 5, United States Code; 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 such title 5;

''(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 such title 5 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 participation of employee representatives in the planning, development, and implementation of any human resources management system or adjustments to such system under this section, the Secretary of Homeland Security 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 30 calendar 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) PRE-IMPLEMENTATION CONGRESSIONAL NOTIFICATION, CONSULTATION, AND MEDIATION.—Following receipt of recommendations, if any, from employee representatives with respect to a proposal described in subparagraph (A), the Secretary and the Director shall accept such modifications to the proposal in response to the recommendations as they determine advisable and shall, with respect to any parts of the proposal as to which they have not accepted the recommendations—

''(i) notify Congress of those parts of the proposal, together with the recommendations of employee representatives;

''(ii) meet and confer for not less than 30 calendar days with any representatives who have made recommendations, in order to attempt to reach agreement on whether or how to proceed with those parts of the proposal; and

''(iii) at the Secretary's option, or if requested by a majority of the employee representatives who have made recommendations, use the services of the Federal Mediation and Conciliation Service during such meet and confer period to facilitate the process of attempting to reach agreement.

''(C) IMPLEMENTATION.—

''(i) Any part of the proposal as to which the representatives do not make a recommendation, or as to which their recommendations are accepted by the Secretary and the Director, may be implemented immediately.

''(ii) With respect to any parts of the proposal as to which recommendations have been made but not accepted by the Secretary and the Director, at any time after 30 calendar days have elapsed since the initiation of the congressional notification, consultation, and mediation procedures set forth in subparagraph (B), if the Secretary determines, in the Secretary's sole and unreviewable discretion, that further consultation and mediation is unlikely to produce agreement, the Secretary may implement any or all of such parts, including any modifications made in response to the recommendations as the Secretary determines advisable.

''(iii) The Secretary shall promptly notify Congress of the implementation of any part of the proposal and shall furnish with such notice an explanation of the proposal, any changes made to the proposal as a result of recommendations from employee representatives, and of the reasons why implementation is appropriate under this subparagraph.

''(D) 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 as internal rules of departmental procedure which shall not be subject to review. 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;

''(C) the fair and expeditious handling of the consultation and mediation process described in subparagraph (B) of paragraph (1), including procedures by which, if the number of employee representatives providing recommendations exceeds 5, such representatives select a committee or other unified representative with which the Secretary and Director may meet and confer; and

''(D) the selection of representatives in a manner consistent with the relative number of employees represented by the organizations or other representatives involved.

''(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) PROVISIONS RELATING TO LABOR-MANAGEMENT RELATIONS.—Nothing in this section shall be construed as conferring authority on the Secretary of Homeland Security to modify any of the provisions of section 842 of the Homeland Security Act of 2002.

''(h) SUNSET PROVISION.—Effective 5 years after the conclusion of the transition period defined under section 1501 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) TECHNICAL AND CONFORMING 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 under 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 1 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.

SA 4932. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) 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 268, strike line 19 and all that follows through page 280, line 5.

SA 4933. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) 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 302, strike line 21 and all that follows through page 303, line 19.

SA 4934. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) 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 60, line 8, strike all through ''(5 U.S.C. 2 App.))'' on line 9.

SA 4935. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) 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 280, beginning on line 11, strike ''An advisory committee established under this section'' and all that follows through line 24.

SA 4936. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) 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 244, strike line 19 and all that follows through page 260, line 23, and insert the following:

SEC. 841. 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 by the Secretary.
''9702. Establishment of human resources management system by the President.

''§ 9701. Establishment of human resources management system by the Secretary

''(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, 72, 73, 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 title 5, United States Code; 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 such title 5;

''(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 such title 5 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 fully 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 1501 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 and section 9702) shall cease to be available.

''§ 9702. Determination by the President

''The authority under section 9701 to establish or impose a human resources management system shall be exercised only when the President issues an order determining that—

''(1) the affected agency or subdivision has, as a primary function, intelligence, counterintelligence, investigative, or national security work;

''(2) the provisions of chapter 43, 51, 53, 71, 75, or 77 or of the imposed agreement cannot be applied to that agency or subdivision in a manner consistent with national security requirements and considerations;

''(3) the mission and responsibilities of the affected agency or subdivision have materially changed; and

''(4) a majority of the employees within that agency or subdivision have, as their primary duty, intelligence, counterintelligence, or investigative work directly related to terrorism investigation.''.

(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. 842. LABOR-MANAGEMENT RELATIONS.

(a) EXCLUSIONARY AUTHORITY.—

(1) IN GENERAL.—Subject to paragraph (2), the President may issue an order excluding any executive agency, or subdivision thereof, from coverage under chapter 71 of title 5, United States Code, if the President determines that—

(A) the agency or subdivision has, as a primary function, intelligence, counterintelligence, investigative, or national security work; and

(B) the provisions of such chapter 71 cannot be applied to that agency or subdivision in a matter consistent with national security requirements and considerations.

(2) ADDITIONAL DETERMINATION.—In addition to the requirements under paragraph (1), the President may issue an order excluding any executive agency, or subdivision thereof, transferred to the Department under this Act, from coverage under chapter 71 of title 5, United States Code, only if the President determines that—

(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.

(3) EXCLUSIONS ALLOWABLE.—Nothing in paragraph (1) or (2) 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.—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 under this Act, continue to be so recognized for such purposes, unless—

(1) the mission and responsibilities of the personnel in such unit (or subdivision), or the threats of domestic terrorism being addressed by the personnel in such unit (or subdivision), materially change; and

(2) a substantial number of the employees within such unit (or subdivision) have as their primary duty intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

(c) WAIVER.—If the President determines that the application of subsections (a) and (b), would have a substantial adverse impact on the ability of the Department to protect homeland security, the President may waive the application of such subsections 10 days after the President has submitted to Congress a written explanation of the reasons for such determination.

(d) 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.

SA 4937. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) 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 451, strike line 17 and all that follows through page 452, line 12, and insert the following:

(d) EFFECTIVE DATE AND PUBLICATION OF REORGANIZATION PLANS.—

(1) EFFECTIVE DATE.—Except as provided under paragraph (3), a reorganization plan shall be effective upon approval by the President of a resolution (as defined in subsection (g)) with respect to such plan, only if such resolution is passed by the House of Representatives and the Senate, within the first period of 90 calendar days of continuous session of Congress after the date on which the plan is transmitted to Congress.

(2) SESSION OF CONGRESS.—For the purpose of this section—

(A) continuity of session is broken only by an adjournment of Congress sine die; and

(B) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

(3) LATER EFFECTIVE DATE.—Under provisions contained in a reorganization plan, any provision thereof may be effective at a time later than the date on which the plan otherwise is effective.

(4) PUBLICATION OF PLAN.—A reorganization plan which is effective shall be printed—

(A) in the Statutes at Large in the same volume as the public laws; and

(B) in the Federal Register.

(e) EFFECT ON OTHER LAWS; PENDING LEGAL PROCEEDINGS.—

(1) EFFECT ON LAWS.—

(A) DEFINITION.—In this paragraph, the term ''regulation or other action'' means a regulation, rule, order, policy, determination, directive, authorization, permit, privilege, requirement, designation, or other action.

(B) EFFECT.—A statute enacted, and a regulation or other action made, prescribed, issued, granted, or performed in respect of or by an agency or function affected by a reorganization under this section, before the effective date of the reorganization, has, except to the extent rescinded, modified, superseded, or made inapplicable by or under authority of law or by the abolition of a function, the same effect as if the reorganization had not been made. However, if the statute, regulation, or other action has vested the functions in the agency from which it is removed under the reorganization plan, the function, insofar as it is to be exercised after the plan becomes effective, shall be deemed as vested in the agency under which the function is placed in the plan.

(2) PENDING LEGAL PROCEEDINGS.—A suit, action, or other proceeding lawfully commenced by or against the head of an agency or other officer of the United States, in the officer's official capacity or in relation to the discharge of the officer's official duties, does not abate by reason of the taking effect of a reorganization plan under this section. On motion or supplemental petition filed at any time within 12 months after the reorganization plan takes effect, showing a necessity for a survival of the suit, action, or other proceeding to obtain a settlement of the questions involved, the court may allow the suit, action, or other proceeding to be maintained by or against the successor of the head or officer under the reorganization effected by the plan or, if there is no successor, against such agency or officer as the President designates.

(f) RULES OF SENATE AND HOUSE OF REPRESENTATIVES ON REORGANIZATION PLANS.—Subsections (g) through (j) are enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions with respect to any reorganization plans transmitted to Congress (in accordance with subsection (a)); and they supersede other rules only to the extent that they are inconsistent therewith; and

(2) with the full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(g) TERMS OF RESOLUTION.—For the purposes of subsections (f) through (j), ''resolution'' means only a joint resolution of Congress, the matter after the resolving clause of which is as follows: ''That Congress approves the reorganization plan transmitted to Congress by the President on _____, 20____.'', and includes such modifications and revisions as are submitted by the President under subsection (c). The blank spaces therein are to be filled appropriately. The term does not include a resolution which specifies more than 1 reorganization plan.

(h) INTRODUCTION AND REFERENCE OF RESOLUTION.—

(1) INTRODUCTION.—No later than the first day of session following the day on which a reorganization plan is transmitted to the House of Representatives and the Senate under subsection (a), a resolution, as defined in subsection (g), shall be—

(A) introduced (by request) in the House by the chairman of the Government Reform Committee of the House, or by a Member or Members of the House designated by such chairman; and

(B) introduced (by request) in the Senate by the chairman of the Governmental Affairs Committee of the Senate, or by a Member or Members of the Senate designated by such chairman.

(2) REFERRAL.—A resolution with respect to a reorganization plan shall be referred to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House (and all resolutions with respect to the same plan shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be. The committee shall make its recommendations to the House of Representatives or the Senate, respectively, within 75 calendar days of continuous session of Congress following the date of such resolution's introduction.

(i) DISCHARGE OF COMMITTEE CONSIDERING RESOLUTION.—If the committee to which is referred a resolution introduced pursuant to subsection (h)(1) has not reported such a resolution or identical resolution at the end of 75 calendar days of continuous session of Congress after its introduction, such committee shall be deemed to be discharged from further consideration of such resolution and such resolution shall be placed on the appropriate calendar of the House involved.

(j) PROCEDURE AFTER REPORT OR DISCHARGE OF COMMITTEES; DEBATE; VOTE ON FINAL PASSAGE.—

(1) PROCEDURE.—When the committee has reported, or has been deemed to be discharged (under subsection (i)) from further consideration of, a resolution with respect to a reorganization plan, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. The motion shall not be subject to amendment, or to any motion to postpone, or a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

(2) DEBATE.—Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between individuals favoring and individuals opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is passed or rejected shall not be in order.

(3) VOTE ON FINAL PASSAGE.—Immediately following the conclusion of the debate on the resolution with respect to a reorganization plan, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

(4) APPEALS.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to a reorganization plan shall be decided without debate.

(5) PRIOR PASSAGE.—If, prior to the passage by 1 House of a resolution of that House, that House receives a resolution with respect to the same reorganization plan from the other House, then—

(A) the procedure in that House shall be the same as if no resolution had been received from the other House; but

(B) the vote on final passage shall be on the resolution of the other House.

SA 4938. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) 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 222, strike line 18 and all that follows through page 225, line 12, and insert the following:

SEC. 811. 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) ASSISTANT INSPECTOR GENERAL FOR CIVIL RIGHTS AND CIVIL LIBERTIES.—

(1) IN GENERAL.—There shall be in the Office of Inspector General an Assistant Inspector General for Civil Rights and Civil Liberties (in this section referred to as the ''Assistant Inspector General''), who shall be appointed without regard to political affiliation and solely on the basis of demonstrated ability in civil rights and civil liberties, law, management analysis, investigations, and public relations.

(2) RESPONSIBILITIES OF THE ASSISTANT INSPECTOR GENERAL.—The Assistant Inspector General shall—

(A) review information and receive complaints from any source alleging abuses of civil rights and civil liberties by—

(i) employees and officials of the Department;

(ii) independent contractors retained by the Department; or

(iii) grantees of the Department;

(B) conduct such investigations as the Assistant Inspector General considers necessary, either self-initiated or in response to complaints, to determine the policies and practices to protect civil rights and civil liberties of—

(i) the Department;

(ii) any unit of the Department;

(iii) independent contractors employed by the Department; or

(iv) grantees of the Department;

(C) conduct investigations of the programs and operations of the Department to determine whether the Department's civil rights and civil liberties policies are being effectively implemented, except that the Assistant Inspector General shall not have any responsibility for the enforcement of the Equal Employment Opportunities Act;

(D) inform the Secretary and Congress of weaknesses, problems, and deficiencies within the Department relating to civil rights and civil liberties;

(E) provide prompt notification to the Officer for Civil Rights and Civil Liberties of any complaints of violations of civil rights or civil liberties, and consult with the Officer for Civil Rights and Civil Liberties regarding the investigation of such complaints, upon request or as appropriate;

(F) publicize, in multiple languages, through the Internet, radio, television, and newspaper advertisements—

(i) information on the responsibilities and functions of the Assistant Inspector General; and

(ii) instructions on how to contact the Assistant Inspector General; and

(G) on a semi-annual basis, submit to Congress, for referral to the appropriate committee or committees, a report—

(i) describing the implementation of this subsection, including the number of complaints received and a general description of any complaints received and investigations undertaken either in response to a complaint or on the initiative of the Assistant Inspector General;

(ii) detailing any civil rights abuses under subparagraph (A); and

(iii) 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 vital national security interests; or

''(C) prevent significant impairment to the national interests of the United States.

''(3)(A) If the Secretary exercises any power under paragraph (1) or (2), the Secretary shall notify the Inspector General and the appropriate committees or subcommittees of Congress, or, with respect to investigations relating to civil rights or civil liberties, the Assistant Inspector General for Civil Rights and Civil Liberties (in this section referred to as the 'Assistant Inspector General'), in writing (appropriately classified, if necessary) within 7 calendar days stating the reasons for such exercise.

''(B) Within 30 days after receipt of any notice under subparagraph (A), the Inspector General or Assistant Inspector General, as appropriate, shall prepare a copy of such notice and a written response that states whether the Inspector General or Assistant Inspector General, as appropriate, agrees or disagrees with the Secretary's exercise of a power under paragraph (1) and describes the reasons for any disagreement, to—

''(i) the President of the Senate;

''(ii) the Speaker of the House of Representatives;

''(iii) the Committee on Governmental Affairs of the Senate;

''(iv) the Committee on Government Reform of the House of Representatives; and

''(v) 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. With respect to investigations relating to civil rights or civil liberties, the Inspector General's responsibilities under this section shall be exercised by the Assistant Inspector General.

''(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)(A) 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.

''(B) If the Inspector General initiates an audit or investigation under subparagraph (A) 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.

''(C) If the Inspector General issues a notice under subparagraph (B), 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.

''(d)(1) The Assistant Inspector General shall inform the complainant regarding what actions were taken in response to a complaint.

''(2) With respect to any complaints received or investigations undertaken by the Assistant Inspector General, any person employed by an independent contractor, or

grantee, of the Department shall be entitled to the same protections as are provided to employees of the Department under section 7.''.

(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 (d)(1)), by striking ''or 8H'' and inserting '', 8H, or 8I''.

(f) DEFINITION.—In this Act, the term ''civil rights and civil liberties'' means rights and liberties, which—

(1) are or may be protected by the Constitution or implementing legislation; or

(2) are analogous to the rights and liberties under paragraph (1), whether or not secured by treaty, statute, regulation or executive order.

SA 4939. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) 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 13, strike lines 8 and 9, and insert the following: This Act shall not take effect until the Congress provides for an effective date for this Act in subsequent legislation.

SA 4940. Mr. DODD submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINVICH)) 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 208, between lines 7 and 8, insert the following:

SEC. 510. GRANTS FOR FIREFIGHTING PERSONNEL.

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) DURATION.—In awarding grants for hiring firefighting personnel in accordance with subsection (b)(3)(A), the Director shall award grants extending over a 3-year period.

''(2) 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.

''(3) FEDERAL SHARE.—

''(A) IN GENERAL.—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.

''(4) 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.

''(5) 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) SUPPLEMENTAL APPROPRIATION.—In addition to the authorization provided in paragraph (1), there are authorized to be appropriated $1,000,000,000 for each of fiscal years 2003 and 2004 for the purpose of providing personnel grants described in subsection (c). Such sums may be provided solely for the purpose of hiring employees engaged in fire protection (as defined in section 3 of the Fair Labor Standards Act (29 U.S.C. 203)), and shall not be subject to the provisions of paragraphs (10) or (11) of subsection (b).''.

SA 4941. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) 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 255 after line 17, insert the following:

''(f) NONAPPLICATION OF CERTAIN AUTHORITIES TO CHAPTER 71.—No authority under this chapter to waive, modify, or otherwise affect law shall apply to chapter 71.

SA 4942. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) 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 303(1)(D).

SA 4943. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) 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 308(c)(2) through 308(c)(4).

SA 4944. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) 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 309(a)(1)(B).

SA 4945. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) 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 309(c).

SA 4946. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKELY, and Mr. VOINOVICH)) 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 309(f) and insert the following:

(f) LABORATORY DIRECTED RESEARCH AND DEVELOPMENT BY THE DEPARTMENT OF ENERGY.—Funds authorized to be appropriated or otherwise made available to the Department in any fiscal year may be obligated or expended for laboratory directed research and development activities carried out by the Department of Energy.

SA 4947. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKELY, and Mr. VOINOVICH)) 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 Section 303, paragraph 1, after the word ''thereto'', insert the following: ''That as directly related to homeland security''

SA 4948. Mr. KENNEDY submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) 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 title XI and insert the following:

TITLE XI—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) INDEPENDENT REGULATORY AGENCY.—The Agency shall be an independent regulatory agency with the Department of Justice.

(c) ABOLITION OF EOIR.—The Executive Office for Immigration Review of the Department of Justice is hereby abolished.

(d) STATUTORY CONSTRUCTION.—Nothing in title XI, or any amendment made by that 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 title XI.

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; and

(2) 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 Attorney General, in consultation with the Director and 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.

(h) REFERRAL OF CASE TO THE DIRECTOR OF THE AGENCY FOR IMMIGRATION HEARINGS AND APPEALS.—

(1) IN GENERAL.—The Board shall refer to the Director of the Agency for Immigration Hearings and Appeals for review of its decision all cases which—

(A) the Director, in consultation with the Attorney General, directs the Board to refer to him;

(B) the Chairman or a majority of the Board believes should be referred to the Director of the Agency for Immigration Hearings and Appeals for review; and

(C) the Under Secretary of Homeland Security for Immigration Affairs or the Attorney General requests be referred to the Director for review.

(2) DECISION OF THE DIRECTOR.—In any case in which the Director of the Agency for Immigration Hearings and Appeals reviews the decision of the Board, the decision of the Director of the Agency for Immigration Hearings and Appeals shall be stated in writing and shall be transmitted to the Board for transmittal and service as provided by regulations.

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 Attorney General, in consultation with the Director and 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.

SA 4949. Mr. KENNEDY submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) 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 Title IV, subtitles D, E, and F and insert the following:

—IMMIGRATION REFORM, ACCOUNTABILITY, AND SECURITY ENHANCEMENT ACT OF 2002

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.''.

SA 4950. Mr. INOUYE submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) 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 5, in the item relating to section 801, insert '', Tribal,'' after ''State''.

On page 9, line 21, insert ''tribal,'' after ''State,''.

On page 10, between lines 9 and 10, insert the following:

(9) 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 10, line 10, strike ''(9)'' and insert ''(10)''.

On page 10, strike lines 22 through 24 and insert the following:

(B) an Alaska Native village or organization; and

On page 11, line 3, strike ''(11)'' and insert ''(12)''.

On page 11, line 7, strike ''(12)'' and insert ''(13)''.

On page 11, line 9, strike ''(13)'' and insert ''(14)''.

On page 11, line 11, strike ''(14)'' and insert ''(15)''.

On page 11, line 17, strike ''(15)'' and insert ''(16)''.

On page 12, strike line 9 and insert the following:

(17) TRIBAL COLLEGE OR UNIVERSITY.—The term ''tribal college or university'' has the meaning given the term ''tribally controlled college or university'' in section 316(b) of the Higher Education Act of 1965 (20 U.S.C. 1059c(b)).

(18) TRIBAL GOVERNMENT.—The term ''tribal government'' means the governing body of an Indian tribe that is recognized by the Secretary of the Interior.

(19)(A) UNITED STATES.—The term ''United States, when used

On page 15, line 3, insert ''tribal,'' after ''States,''.

On page 16, line 9, insert '', Tribal,'' after ''State''.

On page 16, line 11, insert '', tribal,'' after ''State''.

On page 17, line 14, insert '', tribal,'' after ''State''.

On page 17, line 21, insert '', tribal,'' after ''State''.

On page 17, line 1, insert '', tribal,'' after ''State''.

On page 23, line 10, insert '', tribal,'' after ''State''.

On page 24, line 11, insert '', tribal,'' after ''State''.

On page 25, line 9, insert '', tribal,'' after ''State''.

On page 25, line 20, insert '', tribal,'' after ''State''.

On page 26, line 4, insert '', tribal,'' after ''State''.

On page 26, line 10, insert '', tribal,'' after ''State''.

On page 27, line 1, insert '', tribal,'' after ''State''.

On page 27, line 21, insert ''tribal,'' after ''State,''.

On page 28, line 24, insert '', tribal,'' after ''State''.

On page 29, line 7, insert ''tribal,'' after ''State,''.

On page 36, line 3, insert '', tribal,'' after ''State''.

On page 37, line 5, insert ''tribal,'' after ''State,''.

On page 38, line 22, insert ''tribal,'' after ''State,''.

On page 42, line 9, insert ''tribal,'' after ''State,''.

On page 42, line 11, strike ''or State'' and insert '', State, or tribal''.

On page 43, line 9, insert '', tribal,'' after ''State''.

On page 43, line 12, insert '', tribal,'' after ''State''.

On page 43, line 15, insert '', tribal,'' after ''State''.

On page 45, line 1, insert ''tribal,'' after ''State,''.

On page 46, line 17, insert '', tribal,'' after ''State''.

On page 50, line 13, insert '', tribal,'' after ''State''.

On page 54, line 22, insert ''tribal,'' after ''State,''.

On page 60, line 1, insert ''tribal,'' after ''State,''.

On page 60, line 11, insert ''tribal,'' after ''State,''.

On page 60, line 17, insert ''tribal,'' after ''State,''.

On page 61, line 12, insert ''tribal,'' after ''State,''.

On page 62, line 7, insert '', tribal,'' after ''State''.

On page 62, line 19, insert '', tribal,'' after ''State''.

On page 63, line 6, insert '', tribal,'' after ''State''.

On page 63, line 12, insert '', tribal,'' after ''State''.

On page 65, line 2, insert ''tribal,'' after ''State,''.

On page 71, line 10, strike ''state,'' and insert ''State, tribal,''.

On page 97, line 3, insert '', tribal,'' after ''State''.

On page 105, line 11, insert ''tribal colleges and universities,'' after ''education,''.

On page 106, line 16, insert ''tribal,'' after ''State,''.

On page 107, line 3, insert ''tribal,'' after ''State,''.

On page 107, line 17, insert '', tribal,'' after ''State''.

On page 147, line 1, insert '', tribal,'' after ''State''.

On page 154, line 7, insert '', tribal,'' after ''State''.

On page 201, line 22, insert ''tribal,'' after ''State,''.

On page 204, line 8, insert ''tribal,'' after ''State,''.

On page 214, line 7, insert ''tribal,'' after ''State,''.

On page 221, line 21, insert '', TRIBAL,'' after ''STATE''.

On page 221, line 24, insert '', Tribal,'' after ''State''.

On page 222, line 1, insert '', tribal,'' after ''State''.

On page 222, line 6, insert '', tribal,'' after ''State''.

On page 222, line 8, insert '', tribal,'' after ''State''.

On page 222, line 10, insert '', tribal,'' after ''State''.

On page 222, line 14, insert '', tribal,'' after ''State''.

On page 280, line 4, insert '', tribal,'' after ''State''.

On page 285, line 9, insert '', TRIBAL,'' after ''STATE''.

On page 285, line 11, insert ‘‘, tribal,’’ after ‘‘State’’.
On page 285, line 12, insert ‘‘, tribal,’’ after ‘‘State’’.
On page 289, line 10, insert ‘‘, Tribal,’’ after ‘‘State’’.
On page 289, line 13, insert ‘‘tribal,’’ after ‘‘State,’’.
On page 289, line 16, insert ‘‘tribal,’’ after ‘‘State,’’.
On page 289, line 19, insert ‘‘tribal,’’ after ‘‘State,’’.
On page 289, line 22, insert ‘‘tribal,’’ after ‘‘State,’’.
On page 290, line 6, insert ‘‘tribal,’’ after ‘‘State,’’.
On page 290, line 13, insert ‘‘tribal,’’ after ‘‘State,’’.
On page 291, line 6, insert ‘‘, tribal,’’ after ‘‘State’’.
On page 301, line 21, insert ‘‘, tribal,’’ after ‘‘State’’.
On page 304, line 4, insert ‘‘, tribal,’’ after ‘‘State’’.
On page 304, line 12, insert ‘‘, tribal,’’ after ‘‘State’’.
On page 304, line 14, insert ‘‘, tribal,’’ after ‘‘State’’.
On page 304, line 21, insert ‘‘, tribal,’’ after ‘‘State’’.
On page 304, line 23, insert ‘‘tribal,’’ after ‘‘State,’’.
On page 305, line 3, insert ‘‘, tribal,’’ after ‘‘State’’.
On page 305, line 5, insert ‘‘, tribal,’’ after ‘‘State’’.
On page 305, line 9, insert ‘‘, tribal,’’ after ‘‘State’’.
On page 305, line 12, insert ‘‘tribal,’’ after ‘‘State,’’.
On page 305, line 23, insert ‘‘tribal,’’ after ‘‘State,’’.
On page 306, line 5, insert ‘‘tribal,’’ after ‘‘State,’’.
On page 306, line 19, insert ‘‘, tribal,’’ after ‘‘State’’.
On page 307, line 19, insert ‘‘, tribal,’’ after ‘‘State’’.
On page 308, line 15, insert ‘‘, tribal,’’ after ‘‘State’’.
On page 309, line 23, insert ‘‘, tribal,’’ after ‘‘State’’.
On page 310, line 20, insert ‘‘, tribal,’’ after ‘‘State’’.
On page 311, line 2, insert ‘‘, tribal,’’ after ‘‘State’’.
On page 311, line 6, insert ‘‘, tribal,’’ after ‘‘State’’.
On page 311, line 9, insert ‘‘, tribal,’’ after ‘‘State’’.
On page 311, line 21, insert ‘‘, tribal,’’ after ‘‘State’’.
On page 311, line 23, insert ‘‘, tribal,’’ after ‘‘State’’.
On page 312, line 4, insert ‘‘tribal,’’ after ‘‘State,’’.
On page 312, line 3, insert ‘‘, tribal,’’ after ‘‘State’’.
On page 312, line 17, insert ‘‘, tribal,’’ after ‘‘State’’.
On page 312, line 20, insert ‘‘tribally or’’ after ‘‘other’’.
On page 312, line 22, insert ‘‘, tribal,’’ after ‘‘State’’.
On page 313, line 1, insert ‘‘tribal,’’ after ‘‘State,’’.
On page 313, line 18, insert ‘‘, tribal,’’ after ‘‘State’’.
On page 316, line 15, strike ‘‘federal, state,’’ and insert ‘‘Federal, State, tribal,’’.
On page 316, line 24, strike ‘‘state,’’ and insert ‘‘State, tribal,’’.
On page 318, line 4, insert ‘‘tribal,’’ after ‘‘State,’’.
On page 318, line 18, insert ‘‘tribal,’’ after ‘‘State,’’.
On page 319, line 17, insert ‘‘tribal,’’ after ‘‘State,’’.
On page 319, line 23, insert ‘‘tribal,’’ after ‘‘State,’’.
On page 320, line 19, insert ‘‘or Indian tribe’’ after ‘‘subdivision)’’.
On page 321, line 4, insert ‘‘or Indian tribe’’ after ‘‘subdivision)’’.
On page 376, line 22, insert ‘‘tribal,’’ after ‘‘State,’’.
On page 476, line 2, insert ‘‘tribal,’’ after ‘‘State,’’.
On page 476, line 8, insert ‘‘, tribal,’’ after ‘‘State’’.
On page 476, line 10, insert ‘‘, tribal,’’ after ‘‘State’’.
On page 476, line 12, insert ‘‘, tribal,’’ after ‘‘State’’.

SA 4951. Mr. DODD proposed an amendment to amendment SA 4902 proposed by Mr. LIEBERMAN (for himself, Mr. MCCAIN OF NEBRASKA) TO THE AMENDMENT SA 4901 PROPOSED BY MR. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; as follows:

At the end insert the following:

SEC. 510. GRANTS FOR FIREFIGHTING PERSONNEL.

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) DURATION.—In awarding grants for hiring firefighting personnel in accordance with subsection (b)(3)(A), the Director shall award grants extending over a 3-year period.

‘‘(2) 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.

‘‘(3) FEDERAL SHARE.—

‘‘(A) IN GENERAL.—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.

‘‘(4) 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.

‘‘(5) 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) SUPPLEMENTAL APPROPRIATION.—In addition to the authorization provided in paragraph (1), there are authorized to be appropriated $1,000,000,000 for each of fiscal years 2003 and 2004 for the purpose of providing personnel grants described in subsection (c). Such sums may be provided solely for the purpose of hiring employees engaged in fire protection (as defined in section 3 of the Fair Labor Standards Act (29 U.S.C. 203)), and shall not be subject to the provisions of paragraphs (10) or (11) of subsection (b).’’.

SA 4952. Mr. INOUYE 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:

On page 5, in the item relating to section 801, insert ‘‘, Tribal,’’ after ‘‘State’’.
On page 9, line 21, insert ‘‘tribal,’’ after ‘‘State,’’.
On page 10, between lines 9 and 10, insert the following:
(9) 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 10, line 10, strike ‘‘(9)’’ and insert ‘‘(10)’’.
On page 10, strike lines 22 through 24 and insert the following:
(B) an Alaska Native village or organization; and
On page 11, line 3, strike ‘‘(11)’’ and insert ‘‘(12)’’.
On page 11, line 7, strike ‘‘(12)’’ and insert ‘‘(13)’’.
On page 11, line 9, strike ‘‘(13)’’ and insert ‘‘(14)’’.
On page 11, line 11, strike ‘‘(14)’’ and insert ‘‘(15)’’.
On page 11, line 17, strike ‘‘(15)’’ and insert ‘‘(16)’’.
On page 12, strike line 9 and insert the following:
(17) TRIBAL COLLEGE OR UNIVERSITY.—The term ‘‘tribal college or university’’ has the meaning given the term ‘‘tribally controlled college or university’’ in section 316(b) of the Higher Education Act of 1965 (20 U.S.C. 1059c(b)).
(18) TRIBAL GOVERNMENT.—The term ‘‘tribal government’’ means the governing body of an Indian tribe that is recognized by the Secretary of the Interior.
(19)(A) UNITED STATES.—The term ‘‘United States, when used
On page 15, line 3, insert ‘‘tribal,’’ after ‘‘States,’’.
On page 16, line 9, insert ‘‘, Tribal,’’ after ‘‘State’’.
On page 16, line 11, insert ‘‘, tribal,’’ after ‘‘State’’.
On page 16, line 14, insert ‘‘, tribal,’’ after ‘‘State’’.
On page 16, line 21, insert ‘‘, tribal,’’ after ‘‘State’’.
On page 17, line 1, insert ‘‘, tribal,’’ after ‘‘State’’.
On page 23, line 10, insert ‘‘, tribal,’’ after ‘‘State’’.
On page 24, line 11, insert ‘‘, tribal,’’ after ‘‘State’’.
On page 25, line 9, insert ‘‘, tribal,’’ after ‘‘State’’.
On page 25, line 20, insert ‘‘, tribal,’’ after ‘‘State’’.
On page 26, line 4, insert ‘‘, tribal,’’ after ‘‘State’’.
On page 26, line 10, insert ‘‘, tribal,’’ after ‘‘State’’.
On page 27, line 1, insert ‘‘, tribal,’’ after ‘‘State’’.
On page 27, line 21, insert ‘‘tribal,’’ after ‘‘State,’’.
On page 28, line 24, insert ‘‘, tribal,’’ after ‘‘State’’.
On page 29, line 7, insert ‘‘tribal,’’ after ‘‘State,’’.
On page 36, line 3, insert ‘‘, tribal,’’ after ‘‘State’’.
On page 37, line 5, insert ‘‘tribal,’’ after ‘‘State,’’.
On page 38, line 22, insert ‘‘tribal,’’ after ‘‘State,’’.

On page 42, line 9, insert ''tribal,'' after ''State,''.
On page 42, line 11, strike ''or State'' and insert '', State, or tribal''.
On page 43, line 9, insert '', tribal,'' after ''State''.
On page 43, line 12, insert '', tribal,'' after ''State''.
On page 43, line 15, insert '', tribal,'' after ''State''.
On page 45, line 1, insert ''tribal,'' after ''State,''.
On page 46, line 17, insert '', tribal,'' after ''State''.
On page 50, line 13, insert '', tribal,'' after ''State''.
On page 54, line 22, insert ''tribal,'' after ''State,''.
On page 60, line 1, insert ''tribal,'' after ''State,''.
On page 60, line 11, insert ''tribal,'' after ''State,''.
On page 60, line 17, insert ''tribal,'' after ''State,''.
On page 61, line 12, insert ''tribal,'' after ''State,''.
On page 62, line 7, insert '', tribal,'' after ''State''.
On page 62, line 19, insert '', tribal,'' after ''State''.
On page 63, line 6, insert '', tribal,'' after ''State''.
On page 63, line 12, insert '', tribal,'' after ''State''.
On page 65, line 2, insert ''tribal,'' after ''State,''.
On page 71, line 10, strike ''state,'' and insert ''State, tribal,''.
On page 97, line 3, insert '', tribal,'' after ''State''.
On page 105, line 11, insert ''tribal colleges and universities,'' after ''education,''.
On page 106, line 16, insert ''tribal,'' after ''State,''.
On page 107, line 3, insert ''tribal,'' after ''State,''.
On page 107, line 17, insert '', tribal,'' after ''State''.
On page 147, line 1, insert '', tribal,'' after ''State''.
On page 154, line 7, insert '', tribal,'' after ''State''.
On page 201, line 22, insert ''tribal,'' after ''State,''.
On page 204, line 8, insert ''tribal,'' after ''State,''.
On page 204, line 12, insert ''and Indian Health Service'' after ''Health Service''.
On page 214, line 7, insert ''tribal,'' after ''State,''.
On page 221, line 21, insert ''**, tribal,**'' after ''**state**''.
On page 221, line 24, insert '', Tribal,'' after ''State''.
On page 222, line 1, insert '', tribal,'' after ''State''.
On page 222, line 6, insert '', tribal,'' after ''State''.
On page 222, line 8, insert '', tribal,'' after ''State''.
On page 222, line 10, insert '', tribal,'' after ''State''.
On page 222, line 14, insert '', tribal,'' after ''State''.
On page 280, line 4, insert '', tribal,'' after ''State''.
On page 285, line 9, insert '', TRIBAL,'' after ''STATE''.
On page 285, line 11, insert '', tribal,'' after ''State''.
On page 285, line 12, insert '', tribal,'' after ''State''.
On page 289, line 10, insert '', Tribal,'' after ''State''.
On page 289, line 13, insert ''tribal,'' after ''State,''.
On page 289, line 16, insert ''tribal,'' after ''State,''.
On page 289, line 19, insert ''tribal,'' after ''State,''.
On page 289, line 22, insert ''tribal,'' after ''State,''.
On page 290, line 6, insert ''tribal,'' after ''State,''.
On page 290, line 13, insert ''tribal,'' after ''State,''.
On page 291, line 6, insert '', tribal,'' after ''State''.
On page 301, line 21, insert '', tribal,'' after ''State''.
On page 304, line 4, insert '', tribal,'' after ''State''.
On page 304, line 12, insert '', tribal,'' after ''State''.
On page 304, line 14, insert '', tribal,'' after ''State''.
On page 304, line 21, insert '', tribal,'' after ''State''.
On page 304, line 23, insert ''tribal,'' after ''State,''.
On page 305, line 3, insert '', tribal,'' after ''State''.
On page 305, line 5, insert '', tribal,'' after ''State''.
On page 305, line 9, insert '', tribal,'' after ''State''.
On page 305, line 12, insert ''tribal,'' after ''State,''.
On page 305, line 23, insert ''tribal,'' after ''State,''.
On page 306, line 5, insert ''tribal,'' after ''State,''.
On page 306, line 19, insert '', tribal,'' after ''State''.
On page 307, line 19, insert '', tribal,'' after ''State''.
On page 308, line 15, insert '', tribal,'' after ''State''.
On page 309, line 23, insert '', tribal,'' after ''State''.
On page 310, line 20, insert '', tribal,'' after ''State''.
On page 311, line 2, insert '', tribal,'' after ''State''.
On page 311, line 6, insert '', tribal,'' after ''State''.
On page 311, line 9, insert '', tribal,'' after ''State''.
On page 311, line 21, insert '', tribal,'' after ''State''.
On page 311, line 23, insert '', tribal,'' after ''State''.
On page 312, line 4, insert ''tribal,'' after ''State,''.
On page 312, line 17, insert '', tribal,'' after ''State''.
On page 312, line 20, insert ''tribally or'' after ''other''.
On page 312, line 22, insert '', tribal,'' after ''State''.
On page 313, line 1, insert ''tribal,'' after ''State,''.
On page 313, line 18, insert '', tribal,'' after ''State''.
On page 316, line 15, strike ''federal, state,'' and insert ''Federal, State, tribal,''.
On page 316, line 24, strike ''state,'' and insert ''State, tribal,''.
On page 318, line 4, insert ''tribal,'' after ''State,''.
On page 318, line 18, insert ''tribal,'' after ''State,''.
On page 319, line 17, insert ''tribal,'' after ''State,''.
On page 319, line 23, insert ''tribal,'' after ''State,''.
On page 320, line 19, insert ''or Indian tribe'' after ''subdivision)''.
On page 321, line 4, insert ''or Indian tribe'' after ''subdivision)''.
On page 376, line 22, insert ''tribal,'' after ''State,''.
On page 476, line 2, insert ''tribal,'' after ''State,''.
On page 476, line 8, insert '', tribal,'' after ''State''.
On page 476, line 10, insert '', tribal,'' after ''State''.
On page 476, line 12, insert '', tribal,'' after ''State''.

SA 4953. Mr. LIBERMAN 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 all after the first word and insert the following:

TITLE XVIII—NONEFFECTIVE PROVISIONS

SEC. 1801. NONEFFECTIVE PROVISIONS.

(a) IN GENERAL.—Notwithstanding any other provision of this Act, (including any effective date provision of this Act) the following provisions of this Act shall not take effect:

(1) Section 308(b)(2)(B) (i) through (xiv).
(2) Section 311(i).
(3) Subtitle G of title VIII.
(4) Section 871.
(5) Section 890.
(6) Section 1707.
(7) Sections 1714, 1715, 1716, and 1717.

(b) APPLICATION OF FEDERAL ADVISORY COMMITTEE ACT.—Notwithstanding paragraph (2) of subsection (b) of section 232, any advisory group described under that paragraph shall not be exempt from the provisions of the Federal Advisory Committee Act (5 U.S.C. App.).

(c) WAIVER.—Notwithstanding section 835(d), the Secretary shall waive subsection (a) of that section, only if the Secretary determines that the waiver is required in the interest of homeland security.

(d) The amendment made by subsection (a)(1) of this section shall be effective one day after enactment.

SA 4954. Mr. REID (for Ms. CANTWELL (for herself, Mr. GRASSLEY, Mr. ENZI, and Mr. KOHL)) proposed an amendment to the bill S. 1742, to prevent the crime of identity theft, mitigate the harm to individuals victimized by identity theft, and for other purposes; as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Identity Theft Victims Assistance Act of 2002''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the crime of identity theft is the fastest growing crime in the United States;

(2) victims of identity theft often have extraordinary difficulty restoring their credit and regaining control of their identity because of the viral nature of identity theft;

(3) identity theft may be ruinous to the good name and credit of consumers whose identities are misappropriated, and victims of identity theft may be denied otherwise well-deserved credit, may have to spend enormous time, effort, and sums of money to remedy their circumstances, and may suffer extreme emotional distress including deep depression founded in profound frustration as they address the array of problems that may arise as a result of identity theft;

(4) victims are often required to contact numerous Federal, State, and local law enforcement agencies, consumer credit reporting agencies, and creditors over many years, as each event of fraud arises;

(5) the Government, business entities, and credit reporting agencies have a shared responsibility to assist identity theft victims, to mitigate the harm that results from fraud perpetrated in the victim's name;

(6) victims of identity theft need a nationally standardized means of—

(A) reporting identity theft to consumer credit reporting agencies and business entities; and

(B) evidencing their true identity and claim of identity theft to consumer credit reporting agencies and business entities;

(7) one of the greatest law enforcement challenges posed by identity theft is that stolen identities are often used to perpetrate crimes in many different localities in different States, and although identity theft is a Federal crime, most often, State and local law enforcement agencies are responsible for investigating and prosecuting the crimes; and

(8) the Federal Government should assist State and local law enforcement agencies to effectively combat identity theft and the associated fraud.

SEC. 3. TREATMENT OF IDENTITY THEFT MITIGATION.

(a) IN GENERAL.—Chapter 47 title 18, United States Code, is amended by adding after section 1028 the following:

"§ 1028A. Treatment of identity theft mitigation

''(a) DEFINITIONS.—As used in this section—

''(1) the term 'business entity' means any corporation, trust, partnership, sole proprietorship, or unincorporated association, including any financial service provider, financial information repository, creditor (as that term is defined in section 103 of the Truth in Lending Act (15 U.S.C. 1602)), telecommunications, utilities, or other service provider;

''(2) the term 'consumer' means an individual;

''(3) the term 'financial information' means information identifiable as relating to an individual consumer that concerns the amount and conditions of the assets, liabilities, or credit of the consumer, including—

''(A) account numbers and balances;

''(B) nonpublic personal information, as that term is defined in section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809); and

''(C) codes, passwords, social security numbers, tax identification numbers, State identifier numbers issued by a State department of licensing, and other information used for the purpose of account access or transaction initiation;

''(4) the term 'financial information repository' means a person engaged in the business of providing services to consumers who have a credit, deposit, trust, stock, or other financial services account or relationship with that person;

''(5) the term 'identity theft' means an actual or potential violation of section 1028 or any other similar provision of Federal or State law;

''(6) the term 'means of identification' has the same meaning given the term in section 1028; and

''(7) the term 'victim' means a consumer whose means of identification or financial information has been used or transferred (or has been alleged to have been used or transferred) without the authority of that consumer with the intent to commit, or to aid or abet, identity theft or any other violation of law.

''(b) INFORMATION AVAILABLE TO VICTIMS.—

''(1) IN GENERAL.—A business entity that possesses information relating to an alleged identity theft, or that has entered into a transaction, provided credit, products, goods, or services, accepted payment, or otherwise done business with a person that has made unauthorized use of the means of identification of the victim, shall, not later than 20 days after the receipt of a written request by the victim, meeting the requirements of subsection (c), provide, without charge, a copy of all application and transaction information related to the transaction being alleged as an identity theft to—

''(A) the victim;

''(B) any Federal, State, or local governing law enforcement agency or officer specified by the victim; or

''(C) any law enforcement agency investigating the identity theft and authorized by the victim to take receipt of records provided under this section.

''(2) RULE OF CONSTRUCTION.—

''(A) IN GENERAL.—No provision of Federal or State law prohibiting the disclosure of financial information by a business entity to third parties shall be used to deny disclosure of information to the victim under this section.

''(B) LIMITATION.—Except as provided in subparagraph (A), nothing in this section requires a business entity to disclose information that the business entity is otherwise prohibited from disclosing under any other provision of Federal or State law.

''(c) VERIFICATION OF IDENTITY AND CLAIM.—Unless a business entity, at its discretion, is otherwise able to verify the identity of a victim making a request under subsection (b)(1), the victim shall provide to the business entity—

''(1) as proof of positive identification—

''(A) the presentation of a government-issued identification card;

''(B) if providing proof by mail, a copy of a government-issued identification card; or

''(C) upon the request of the person seeking business records, the business entity may inform the requesting person of the categories of identifying information that the unauthorized person provided the business entity as personally identifying information, and may require the requesting person to provide identifying information in those categories; and

''(2) as proof of a claim of identity theft, at the election of the business entity—

''(A) a copy of a police report evidencing the claim of the victim of identity theft;

''(B) a copy of a standardized affidavit of identity theft developed and made available by the Federal Trade Commission; or

''(C) any affidavit of fact that is acceptable to the business entity for that purpose.

''(d) LIMITATION ON LIABILITY.—No business entity may be held liable for a disclosure, made in good faith and reasonable judgment, to provide information under this section with respect to an individual in connection with an identity theft to other business entities, law enforcement authorities, victims, or any person alleging to be a victim, if—

''(1) the business entity complies with subsection (c); and

''(2) such disclosure was made—

''(A) for the purpose of detection, investigation, or prosecution of identity theft; or

''(B) to assist a victim in recovery of fines, restitution, rehabilitation of the credit of the victim, or such other relief as may be appropriate.

''(e) AUTHORITY TO DECLINE TO PROVIDE INFORMATION.—A business entity may decline to provide information under subsection (b) if, in the exercise of good faith and reasonable judgment, the business entity believes that—

''(1) this section does not require disclosure of the information; or

''(2) the request for the information is based on a misrepresentation of fact by the victim relevant to the request for information.

''(f) NO NEW RECORDKEEPING OBLIGATION.—Nothing in this section creates an obligation on the part of a business entity to obtain, retain, or maintain information or records that are not otherwise required to be obtained, retained, or maintained in the ordinary course of its business or under other applicable law.

''(g) AFFIRMATIVE DEFENSE.—In any civil action brought to enforce this section, it is an affirmative defense (which the defendant must establish by a preponderance of the evidence) for a business entity to file an affidavit or answer stating that—

''(1) the business entity has made a reasonably diligent search of its available business records; and

''(2) the records requested under this section do not exist or are not available.

''(h) NO PRIVATE RIGHT OF ACTION.—Nothing in this section shall be construed to provide a private right of action or claim for relief.

''(i) ENFORCEMENT.—

''(1) CIVIL ACTIONS.—

''(A) IN GENERAL.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been, or is threatened to be, adversely affected by a violation of this section by any business entity, the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

''(i) enjoin that practice;

''(ii) enforce compliance of this section;

''(iii) obtain damages—

''(I) in the sum of actual damages, restitution, and other compensation on behalf of the residents of the State; and

''(II) punitive damages, if the violation is willful or intentional; and

''(iv) obtain such other equitable relief as the court may consider to be appropriate.

''(B) NOTICE.—Before bringing an action under subparagraph (A), the attorney general of the State involved shall provide to the Attorney General of the United States—

''(i) written notice of the action; and

''(ii) a copy of the complaint for the action.

''(2) INTERVENTION.—

''(A) IN GENERAL.—On receiving notice of an action under paragraph (1)(B), the Attorney General of the United States shall have the right to intervene in that action.

''(B) EFFECT OF INTERVENTION.—If the Attorney General of the United States intervenes in an action under this subsection, the Attorney General shall have the right to be heard with respect to any matter that arises in that action.

''(C) SERVICE OF PROCESS.—Upon request of the Attorney General of the United States, the attorney general of a State that has filed an action under this subsection shall, pursuant to Rule 4(d)(4) of the Federal Rules of Civil Procedure, serve the Government with—

''(i) a copy of the complaint; and

''(ii) written disclosure of substantially all material evidence and information in the possession of the attorney general of the State.

''(3) CONSTRUCTION.—For purposes of bringing any civil action under this subsection, nothing in this section shall be construed to prevent an attorney general of a State from exercising the powers conferred on such attorney general by the laws of that State—

''(A) to conduct investigations;

''(B) to administer oaths or affirmations; or

''(C) to compel the attendance of witnesses or the production of documentary and other evidence.

''(4) ACTIONS BY THE ATTORNEY GENERAL OF THE UNITED STATES.—In any case in which an action is instituted by or on behalf of the Attorney General of the United States for a violation of this section, no State may, during the pendency of that action, institute an action under this subsection against any defendant named in the complaint in that action for violation of that practice.

''(5) VENUE; SERVICE OF PROCESS.—

''(A) VENUE.—Any action brought under this subsection may be brought in the district court of the United States—

''(i) where the defendant resides;

''(ii) where the defendant is doing business; or

''(iii) that meets applicable requirements relating to venue under section 1391 of title 28.

''(B) SERVICE OF PROCESS.—In an action brought under this subsection, process may be served in any district in which the defendant—

''(i) resides;

''(ii) is doing business; or

''(iii) may be found.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 47 of title 18, United States Code, is amended by inserting after the item relating to section 1028 the following new item:

''1028A. Treatment of identity theft mitigation.''.

SEC. 4. AMENDMENTS TO THE FAIR CREDIT REPORTING ACT.

(a) CONSUMER REPORTING AGENCY BLOCKING OF INFORMATION RESULTING FROM IDENTITY THEFT.—Section 611 of the Fair Credit Reporting Act (15 U.S.C. 1681*i*) is amended by adding at the end the following:

''(e) BLOCK OF INFORMATION RESULTING FROM IDENTITY THEFT.—

''(1) BLOCK.—Except as provided in paragraph (3) and not later than 30 days after the date of receipt of proof of the identity of a consumer and an official copy of a police report evidencing the claim of the consumer of identity theft, a consumer reporting agency shall block the reporting of any information identified by the consumer in the file of the consumer resulting from the identity theft, so that the information cannot be reported.

''(2) NOTIFICATION.—A consumer reporting agency shall promptly notify the furnisher of information identified by the consumer under paragraph (1)—

''(A) that the information may be a result of identity theft;

''(B) that a police report has been filed;

''(C) that a block has been requested under this subsection; and

''(D) of the effective date of the block.

''(3) AUTHORITY TO DECLINE OR RESCIND.—

''(A) IN GENERAL.—A consumer reporting agency may decline to block, or may rescind any block, of consumer information under this subsection if—

''(i) in the exercise of good faith and reasonable judgment, the consumer reporting agency finds that—

''(I) the information was blocked due to a misrepresentation of fact by the consumer relevant to the request to block; or

''(II) the consumer knowingly obtained possession of goods, services, or moneys as a result of the blocked transaction or transactions, or the consumer should have known that the consumer obtained possession of goods, services, or moneys as a result of the blocked transaction or transactions; or

''(ii) the consumer agrees that the blocked information or portions of the blocked information were blocked in error.

''(B) NOTIFICATION TO CONSUMER.—If the block of information is declined or rescinded under this paragraph, the affected consumer shall be notified promptly, in the same manner as consumers are notified of the reinsertion of information under subsection (a)(5)(B).

''(C) SIGNIFICANCE OF BLOCK.—For purposes of this paragraph, if a consumer reporting agency rescinds a block, the presence of information in the file of a consumer prior to the blocking of such information is not evidence of whether the consumer knew or should have known that the consumer obtained possession of any goods, services, or monies as a result of the block.

''(4) EXCEPTIONS.—

''(A) NEGATIVE INFORMATION DATA.—A consumer reporting agency shall not be required to comply with this subsection when such agency is issuing information for authorizations, for the purpose of approving or processing negotiable instruments, electronic funds transfers, or similar methods of payment, based solely on negative information, including—

''(i) dishonored checks;

''(ii) accounts closed for cause;

''(iii) substantial overdrafts;

''(iv) abuse of automated teller machines; or

''(v) other information which indicates a risk of fraud occurring.

''(B) RESELLERS.—

''(i) NO RESELLER FILE.—The provisions of this subsection do not apply to a consumer reporting agency if the consumer reporting agency—

''(I) does not maintain a file on the consumer from which consumer reports are produced;

''(II) is not, at the time of the request of the consumer under paragraph (1), otherwise furnishing or reselling a consumer report concerning the information identified by the consumer; and

''(III) informs the consumer, by any means, that the consumer may report the identity theft to the Federal Trade Commission to obtain consumer information regarding identity theft.

''(ii) RESELLER WITH FILE.—The sole obligation of the consumer reporting agency under this subsection, with regard to any request of a consumer under this subsection, shall be to block the consumer report maintained by the consumer reporting agency from any subsequent use if—

''(I) the consumer, in accordance with the provisions of paragraph (1), identifies, to a consumer reporting agency, information in the file of the consumer that resulted from identity theft;

''(II) the consumer reporting agency is acting as a reseller of the identified information by assembling or merging information about that consumer which is contained in the database of not less than 1 other consumer reporting agency; and

''(III) the consumer reporting agency does not store or maintain a database of information obtained for resale from which new consumer reports are produced.

''(iii) NOTICE.—In carrying out its obligation under clause (ii), the consumer reporting agency shall provide a notice to the consumer of the decision to block the file. Such notice shall contain the name, address, and telephone number of each consumer reporting agency from which the consumer information was obtained for resale.''.

(b) FALSE CLAIMS.—Section 1028 of title 18, United States Code, is amended by adding at the end the following:

''(j) Any person who knowingly falsely claims to be a victim of identity theft for the purpose of obtaining the blocking of information by a consumer reporting agency under section 611(e)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681*i*(e)(1)) shall be fined under this title, imprisoned not more than 3 years, or both.''.

(c) STATUTE OF LIMITATIONS.—Section 618 of the Fair Credit Reporting Act (15 U.S.C. 1681p) is amended to read as follows:

''SEC. 618. JURISDICTION OF COURTS; LIMITATION ON ACTIONS.

''(a) IN GENERAL.—Except as provided in subsections (b) and (c), an action to enforce any liability created under this title may be brought in any appropriate United States district court without regard to the amount in controversy, or in any other court of competent jurisdiction, not later than 2 years from the date of the defendant's violation of any requirement under this title.

''(b) WILLFUL MISREPRESENTATION.—In any case in which the defendant has materially and willfully misrepresented any information required to be disclosed to an individual under this title, and the information misrepresented is material to the establishment of the liability of the defendant to that individual under this title, an action to enforce a liability created under this title may be brought at any time within 2 years after the date of discovery by the individual of the misrepresentation.

''(c) IDENTITY THEFT.—An action to enforce a liability created under this title may be brought not later than 4 years from the date of the defendant's violation if—

''(1) the plaintiff is the victim of an identity theft; or

''(2) the plaintiff—

''(A) has reasonable grounds to believe that the plaintiff is the victim of an identity theft; and

''(B) has not materially and willfully misrepresented such a claim.''.

SEC. 5. COORDINATING COMMITTEE STUDY OF COORDINATION BETWEEN FEDERAL, STATE, AND LOCAL AUTHORITIES IN ENFORCING IDENTITY THEFT LAWS.

(a) MEMBERSHIP; TERM.—Section 2 of the Internet False Identification Prevention Act of 2000 (18 U.S.C. 1028 note) is amended—

(1) in subsection (b), by striking ''and the Commissioner of Immigration and Naturalization'' and inserting ''the Commissioner of Immigration and Naturalization, the Chairman of the Federal Trade Commission, the Postmaster General, and the Commissioner of the United States Customs Service,''; and

(2) in subsection (c), by striking ''2 years after the effective date of this Act.'' and inserting ''on December 28, 2004.''.

(b) CONSULTATION.—Section 2 of the Internet False Identification Prevention Act of 2000 (18 U.S.C. 1028 note) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

''(d) CONSULTATION.—In discharging its duties, the coordinating committee shall consult with interested parties, including State and local law enforcement agencies, State attorneys general, representatives of business entities (as that term is defined in section 4 of the Identity Theft Victims Assistance Act of 2002), including telecommunications and utility companies, and organizations representing consumers.''.

(c) REPORT DISTRIBUTION AND CONTENTS.—Section 2(e) of the Internet False Identification Prevention Act of 2000 (18 U.S.C. 1028 note) (as redesignated by subsection (b)) is amended—

(1) by striking paragraph (1) and inserting the following:

''(1) IN GENERAL.—The Attorney General and the Secretary of the Treasury, at the end of each year of the existence of the coordinating committee, shall report on the activities of the coordinating committee to—

''(A) the Committee on the Judiciary of the Senate;

''(B) the Committee on the Judiciary of the House of Representatives;

''(C) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

''(D) the Committee on Financial Services of the House of Representatives.'';

(2) in subparagraph (E), by striking ''and'' at the end; and

(3) by striking subparagraph (F) and inserting the following:

''(F) a comprehensive description of Federal assistance provided to State and local law enforcement agencies to address identity theft;

''(G) a comprehensive description of coordination activities between Federal, State, and local law enforcement agencies that address identity theft; and

''(H) recommendations in the discretion of the President, if any, for legislative or administrative changes that would—

''(i) facilitate more effective investigation and prosecution of cases involving—

''(I) identity theft; and

''(II) the creation and distribution of false identification documents;

''(ii) improve the effectiveness of Federal assistance to State and local law enforcement agencies and coordination between Federal, State, and local law enforcement agencies; and

''(iii) simplify efforts by a person necessary to rectify the harm that results from the theft of the identity of such person.''.

SA 4955. Mr. REID (for Mr. HELMS (for himself and Mr. LEAHY)) proposed an amendment to the bill H.R. 5469, To amend title 17, United States Code, with respect to the statutory license for webcasting; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Small Webcaster Settlement Act of 2002''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Some small webcasters who did not participate in the copyright arbitration royalty panel proceeding leading to the July 8, 2002 order of the Librarian of Congress establishing rates and terms for certain digital performances and ephemeral reproductions of sound recordings, as provided in part 261 of the Code of Federal Regulations (published in the Federal Register on July 8, 2002) (referred to in this section as ''small webcasters''), have expressed reservations about the fee structure set forth in such order, and have expressed their desire for a fee based on a percentage of revenue.

(2) Congress has strongly encouraged representatives of copyright owners of sound recordings and representatives of the small webcasters to engage in negotiations to arrive at an agreement that would include a fee based on a percentage of revenue.

(3) The representatives have arrived at an agreement that they can accept in the extraordinary and unique circumstances here presented, specifically as to the small webcasters, their belief in their inability to pay the fees due pursuant to the July 8 order, and as to the copyright owners of sound recordings and performers, the strong encouragement of Congress to reach an accommodation with the small webcasters on an expedited basis.

(4) The representatives have indicated that they do not believe the agreement provides for or in any way approximates fair or reasonable royalty rates and terms, or rates and terms that would have been negotiated in the marketplace between a willing buyer and a willing seller.

(5) Congress has made no determination as to whether the agreement provides for or in any way approximates fair or reasonable fees and terms, or rates and terms that would have been negotiated in the marketplace between a willing buyer and a willing seller.

(6) Congress likewise has made no determination as to whether the July 8 order is reasonable or arbitrary, and nothing in this Act shall be taken into account by the United States Court of Appeals for the District of Columbia Circuit in its review of such order.

(7) It is, nevertheless, in the public interest for the parties to be able to enter into such an agreement without fear of liability for deviating from the fees and terms of the July 8 order, if it is clear that the agreement will not be admissible as evidence or otherwise taken into account in any government proceeding involving the setting or adjustment of the royalties payable to copyright owners of sound recordings for the public performance or reproduction in ephemeral phonorecords or copies of such works, the determination of terms or conditions related thereto, or the establishment of notice or recordkeeping requirements.

SEC. 3. SUSPENSION OF CERTAIN PAYMENTS.

(a) NONCOMMERCIAL WEBCASTERS.—

(1) IN GENERAL.—The payments to be made by noncommercial webcasters for the digital performance of sound recordings under section 114 of title 17, United States Code, and the making of ephemeral phonorecords under section 112 of title 17, United States Code, during the period beginning on October 28, 1998, and ending on May 31, 2003, which have not already been paid, shall not be due until June 20, 2003.

(2) DEFINITION.—In this subsection, the term ''noncommercial webcaster'' has the meaning given that term in section 114(f)(5)(E)(i) of title 17, United States Code, as added by section 4 of this Act.

(b) SMALL COMMERCIAL WEBCASTERS.—

(1) IN GENERAL.—The receiving agent may, in a writing signed by an authorized representative thereof, delay the obligation of any 1 or more small commercial webcasters to make payments pursuant to sections 112 and 114 of title 17, United States Code, for a period determined by such entity to allow negotiations as permitted in section 4 of this Act, except that any such period shall end no later than December 15, 2002. The duration and terms of any such delay shall be as set forth in such writing.

(2) DEFINITIONS.—In this subsection—

(A) the term ''webcaster'' has the meaning given that term in section 114(f)(5)(E)(iii) of title 17, United States Code, as added by section 4 of this Act; and

(B) the term ''receiving agent'' shall have the meaning given that term in section 261.2 of title 37, Code of Federal Regulations, as published in the Federal Register on July 8, 2002.

SEC. 4. AUTHORIZATION FOR SETTLEMENTS.

Section 114(f) of title 17, United States Code, is amended by adding after paragraph (4) the following:

''(5)(A) Notwithstanding section 112(e) and the other provisions of this subsection, the receiving agent may enter into agreements for the reproduction and performance of sound recordings under section 112(e) and this section by any 1 or more small commercial webcasters or noncommercial webcasters during the period beginning on October 28, 1998, and ending on December 31, 2004, that, once published in the Federal Register pursuant to subparagraph (B), shall be binding on all copyright owners of sound recordings and other persons entitled to payment under this section, in lieu of any determination by a copyright arbitration royalty panel or decision by the Librarian of Congress. Any such agreement for small commercial webcasters shall include provisions for payment of royalties on the basis of a percentage of revenue or expenses, or both, and include a minimum fee. Any such agreement may include other terms and conditions, including requirements by which copyright owners may receive notice of the use of their sound recordings and under which records of such use shall be kept and made available by small commercial webcasters or noncommercial webcasters. The receiving agent shall be under no obligation to negotiate any such agreement. The receiving agent shall have no obligation to any copyright owner of sound recordings or any other person entitled to payment under this section in negotiating any such agreement, and no liability to any copyright owner of sound recordings or any other person entitled to payment under this section for having entered into such agreement.

''(B) The Copyright Office shall cause to be published in the Federal Register any agreement entered into pursuant to subparagraph (A). Such publication shall include a statement containing the substance of subparagraph (C). Such agreements shall not be included in the Code of Federal Regulations. Thereafter, the terms of such agreement shall be available, as an option, to any small commercial webcaster or noncommercial webcaster meeting the eligibility conditions of such agreement.

''(C) Neither subparagraph (A) nor any provisions of any agreement entered into pursuant to subparagraph (A), including any rate structure, fees, terms, conditions, or notice and recordkeeping requirements set forth therein, shall be admissible as evidence or otherwise taken into account in any administrative, judicial, or other government proceeding involving the setting or adjustment of the royalties payable for the public performance or reproduction in ephemeral phonorecords or copies of sound recordings, the determination of terms or conditions related thereto, or the establishment of notice or recordkeeping requirements by the Librarian of Congress under paragraph (4) or section 112(e)(4). It is the intent of Congress that any royalty rates, rate structure, definitions, terms, conditions, or notice and recordkeeping requirements, included in such agreements shall be considered as a compromise motivated by the unique business, economic and political circumstances of small webcasters, copyright owners, and performers rather than as matters that would have been negotiated in the marketplace between a willing buyer and a willing seller, or otherwise meet the objectives set forth in section 801(b).

''(D) Nothing in the Small Webcaster Settlement Act of 2002 or any agreement entered into pursuant to subparagraph (A) shall be taken into account by the United States Court of Appeals for the District of Columbia Circuit in its review of the determination by the Librarian of Congress of July 8, 2002, of rates and terms for the digital performance of sound recordings and ephemeral recordings, pursuant to sections 112 and 114.

''(E) As used in this paragraph—

''(i) the term 'noncommercial webcaster' means a webcaster that—

''(I) is exempt from taxation under section 501 of the Internal Revenue Code of 1986 (26 U.S.C. 501);

''(II) has applied in good faith to the Internal Revenue Service for exemption from taxation under section 501 of the Internal Revenue Code and has a commercially reasonable expectation that such exemption shall be granted; or

''(III) is operated by a State or possession or any governmental entity or subordinate thereof, or by the United States or District of Columbia, for exclusively public purposes;

''(ii) the term 'receiving agent' shall have the meaning given that term in section 261.2 of title 37, Code of Federal Regulations, as published in the Federal Register on July 8, 2002; and

''(iii) the term 'webcaster' means a person or entity that has obtained a compulsory license under section 112 or 114 and the implementing regulations therefor to make eligible nonsubscription transmissions and ephemeral recordings.

''(F) The authority to make settlements pursuant to subparagraph (A) shall expire December 15, 2002, except with respect to noncommercial webcasters for whom the authority shall expire May 31, 2003.''.

SEC. 5. DEDUCTIBILITY OF COSTS AND EXPENSES OF AGENTS AND DIRECT PAYMENT TO ARTISTS OF ROYALTIES FOR DIGITAL PERFORMANCES OF SOUND RECORDINGS.

(a) FINDINGS.—Congress finds that—

(1) in the case of royalty payments from the licensing of digital transmissions of sound recordings under subsection (f) of section 114 of title 17, United States Code, the parties have voluntarily negotiated arrangements under which payments shall be made directly to featured recording artists and the administrators of the accounts provided in subsection (g)(2) of that section;

(2) such voluntarily negotiated payment arrangements have been codified in regulations issued by the Librarian of Congress, currently found in section 261.4 of title 37, Code of Federal Regulations, as published in the Federal Register on July 8, 2002;

(3) other regulations issued by the Librarian of Congress were inconsistent with the voluntarily negotiated arrangements by such parties concerning the deductibility of certain costs incurred for licensing and arbitration, and Congress is therefore restoring those terms as originally negotiated among the parties; and

(4) in light of the special circumstances described in this subsection, the uncertainty created by the regulations issued by the Librarian of Congress, and the fact that all of the interested parties have reached agreement, the voluntarily negotiated arrangements agreed to among the parties are being codified.

(b) DEDUCTIBILITY.—Section 114(g) of title 17, United States Code, is amended by adding after paragraph (2) the following:

''(3) A nonprofit agent designated to distribute receipts from the licensing of transmissions in accordance with subsection (f) may deduct from any of its receipts, prior to the distribution of such receipts to any person or entity entitled thereto other than copyright owners and performers who have elected to receive royalties from another designated agent and have notified such nonprofit agent in writing of such election, the reasonable costs of such agent incurred after November 1, 1995, in—

''(A) the administration of the collection, distribution, and calculation of the royalties;

''(B) the settlement of disputes relating to the collection and calculation of the royalties; and

''(C) the licensing and enforcement of rights with respect to the making of ephemeral recordings and performances subject to licensing under section 112 and this section, including those incurred in participating in negotiations or arbitration proceedings under section 112 and this section, except that all costs incurred relating to the section 112 ephemeral recordings right may only be deducted from the royalties received pursuant to section 112.

''(4) Notwithstanding paragraph (3), any designated agent designated to distribute receipts from the licensing of transmissions in accordance with subsection (f) may deduct from any of its receipts, prior to the distribution of such receipts, the reasonable costs identified in paragraph (3) of such agent incurred after November 1, 1995, with respect to such copyright owners and performers who have entered with such agent a contractual relationship that specifies that such costs may be deducted from such royalty receipts.''.

(c) DIRECT PAYMENT TO ARTISTS.—Section 114(g)(2) of title 17, United States Code, is amended to read as follows:

''(2) An agent designated to distribute receipts from the licensing of transmissions in accordance with subsection (f) shall distribute such receipts as follows:

''(A) 50 percent of the receipts shall be paid to the copyright owner of the exclusive right under section 106(6) of this title to publicly perform a sound recording by means of a digital audio transmission.

''(B) 2½ percent of the receipts shall be deposited in an escrow account managed by an independent administrator jointly appointed by copyright owners of sound recordings and the American Federation of Musicians (or any successor entity) to be distributed to nonfeatured musicians (whether or not members of the American Federation of Musicians) who have performed on sound recordings.

''(C) 2½ percent of the receipts shall be deposited in an escrow account managed by an independent administrator jointly appointed by copyright owners of sound recordings and the American Federation of Television and Radio Artists (or any successor entity) to be distributed to nonfeatured vocalists (whether or not members of the American Federation of Television and Radio Artists) who have performed on sound recordings.

''(D) 45 percent of the receipts shall be paid, on a per sound recording basis, to the recording artist or artists featured on such sound recording (or the persons conveying rights in the artists' performance in the sound recordings).''.

SEC. 6. REPORT TO CONGRESS.

By not later than June 1, 2004, the Comptroller General of the United States, in consultation with the Register of Copyrights, shall conduct and submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a study concerning the economic arrangements among small commercial webcasters covered by agreements entered into pursuant to section 114(f)(5)(A) of title 17, United States Code, as added by section 4 of this Act, and third parties, and the effect of those arrangements on royalty fees payable on a percentage of revenue or expense basis.

SA 4956. Mr. REID (for Mr. HAGEL (for himself, Mr. BIDEN, and Mr. HELMS)) proposed an amendment to the bill S. 2712, to authorize economic and democratic development assistance for Afghanistan and to authorize military assistance for Afghanistan and certain other foreign countries; as follows:

On page 39, line 20, strike ''and''.

On page 39, line 24, strike the period and insert ''; and''.

On page 39, after line 24, insert the following:

(9) Foster the growth of a pluralistic society that promotes and respects religious freedom.

Beginning on page 40, strike line 1 and all that follows through line 15 on page 41.

On page 41, line 16, strike ''sec. 104.'' and insert ''sec. 1035.''. Starting on line 17, strike ''any other provision of law,'' and insert ''section 512 of P.L. 107–115 or any other similar provision of law.''

On page 42, line 7, insert ''and other unexploded ordinance'' after ''landmines''.

On page 44, lines 24 and 25, strike ''2002 through 2005'' and insert ''2003 through 2006''.

Beginning on page 44, line 25, strike ''of the amount'' and all that follows through ''authorized'' on line 1 of page 45 and insert ''is authorized to be appropriated to the President''.

On page 47, line 6, insert ''(including repairing homes damaged during military operations)'' after ''housing''.

On page 48, line 11, insert ''including religious freedom,'' after ''awareness,''.

On page 48, line 16, insert '', including the recognition of religious freedom in the constitution and other legal frameworks,'' after ''Afghanistan''.

On page 49, line 4, insert '', including religious freedom, freedom of expression, and freedom of association,'' after ''rights''.

On page 49, between lines 5 and 6, insert:

(x) support for Afghan and international efforts to investigate human rights atrocities committed in Afghanistan by the Taliban regime, opponents of such regime, and terrorist groups operating in Afghanistan, including the collection of forensic evidence relating to such atrocities;

On page 49, line 6, strike ''(x)'' and insert ''(xi)''.

On page 49, line 8, strike ''(xi)'' and insert ''(xii)''.

On page 49, line 12, strike ''(xii)'' and insert ''(xiii)''.

On page 49, line 14, strike ''(xiii)'' and insert ''(xiv)''.

On page 49, line 21, strike ''not less than''.

On page 49, beginning on line 21, strike ''of the'' and all that follows through ''should'' on line 22 and insert ''is authorized to be appropriated to the President to''.

On page 50, line 23, strike ''and''.

On page 50, after line 23, insert the following:

(E) develop handicraft and other small-scale industries; and

On page 51, line 1, strike ''(E)'' and insert ''(F)''.

On page 53, line 2, insert '', including the rights of religious freedom, freedom of expression, and freedom of association,'' after ''rights''.

On page 53, line 8, insert '', including the rights of religious freedom, freedom of expression, and freedom of association,'' after ''human rights''.

On page 53, line 12, strike ''2002 through 2005'' and insert ''2003 through 2006''.

On page 53, beginning on line 13, strike ''of'' and all that follows through ''authorized'' on line 15 and insert ''is authorized to be appropriated to the President''.

On page 53, beginning on line 18, strike ''of'' and all that follows through ''authorized'' on line 20 and insert ''is authorized to be appropriated to the President''.

On page 54, line 12, insert ''that respects human rights'' after ''Afghanistan''.

On page 55, beginning on line 5, strike ''for fiscal year'' and all that follows through ''2005'' on lines 7.

On page 55, line 17, strike ''sec. 105.'' and insert ''sec. 104.''.

On page 56, between lines 14 and 15, insert the following:

SEC. 105. SENSE OF CONGRESS REGARDING PROMOTING COOPERATION IN OPIUM PRODUCING AREAS.

It is the sense of Congress that the President should—

(1) to the extent practicable, under such procedures as the President may prescribe, withhold United States bilateral assistance from, and oppose multilateral assistance to, opium-producing areas of Afghanistan if, within such areas, appropriate cooperation is not provided to the United States, the Government of Afghanistan, and international organizations with respect to the suppression of narcotics cultivation and trafficking, and if withholding such assistance would promote such cooperation;

(2) redistribute any United States bilateral assistance (and to promote the redistribution of any multilateral assistance) withheld

from an opium-producing area to other areas with respect to which assistance has not been withheld as a consequence of this section; and

(3) define or redefine the boundaries of opium producing areas of Afghanistan for the purposes of this section.

On page 57, line 14, strike ''LAND GRANT''.

On page 57, line 22, strike ''land grant''.

On page 58, beginning with line 1, strike ''Amounts'' and all that follows through the period on line 5 and insert the following: ''Of the funds made available to carry out the purposes of assistance authorized by this title in any fiscal year, up to 7 percent may be used for administrative expenses of Federal departments and agencies in connection with the provision of such assistance.''.

On page 58, line 11, strike ''(A) IN GENERAL.—''.

On page 58, strike lines 17 through 20.

On page 59, line 8, strike ''$500,000,000'' and insert ''$425,000,000''.

On page 59, line 9, strike ''2002 through 2005'' and insert ''2003 through 2006''.

On page 61, line 20, insert ''and shall not count toward any limitation contained in section 506 of the Foreign Assistance Act of 1961 (22 U.S.C. 2318)'' after section 204(b)(1)''.

On page 61, strike line 23.

On page 61, line 24, strike ''(1) IN GENERAL.—'' and insert ''(a) IN GENERAL.—''.

On page 61, lines 24 and 25, strike ''paragraph (2)'' and insert ''subsection (b)''.

On page 62, line 3, strike ''(A)'' and insert ''(1)''.

On page 62, line 8, strike ''(B)'' and insert ''(2)''.

On page 62, line 10, strike ''(2)'' and insert ''(b)''.

On page 62, line 12, after ''repeatedly,'' insert ''engaged in gross violations of human rights, or''

On page 62, strike lines 19 through 22.

On page 63, lines 15 and 16, strike ''are authorized to remain available until expended, and''.

Beginning on page 64, strike line 9 and all that follows through line 22 on page 68 and insert the following:

SEC. 206. PROMOTING SECURE DELIVERY OF HUMANITARIAN AND OTHER ASSISTANCE IN AFGHANISTAN AND EXPANSION OF THE INTERNATIONAL SECURITY ASSISTANCE FORCE.

(a) FINDINGS.—Congress finds the following:

(1) The President has declared his view that the United States should provide significant assistance to Afghanistan so that it is no longer a haven for terrorism.

(2) The delivery of humanitarian and reconstruction assistance from the international community is necessary for the safe return of refugees and is critical to the future stability of Afghanistan.

(3) Enhanced stability in Afghanistan through an improved security environment is critical to the functioning of the Government of Afghanistan and the traditional Afghan assembly or ''Loya Jirga'' process, which is intended to lead to a permanent national government in Afghanistan, and also is essential for the participation of women in Afghan society.

(4) Incidents of violence between armed factions and local and regional commanders, and serious abuses of human rights, including attacks on women and ethnic minorities throughout Afghanistan, create an insecure, volatile, and unsafe environment in parts of Afghanistan, displacing thousands of Afghan civilians from their local communities.

(5)(A) On July 6, Vice President Haji Abdul Qadir was assassinated in Kabul by unknown assailants.

(B) On September 5, 2002, a car bomb exploded in Kabul killing 32 and injuring 150 and on the same day a member of Kandahar Governor Sherzai's security team attempted to assassinate President Karzai.

(6) The violence and lawlessness may jeopardize the ''Loya Jirga'' process, undermine efforts to build a strong central government, severely impede reconstruction and the delivery of humanitarian assistance, and increase the likelihood that parts of Afghanistan will once again become safe havens for al-Qaida, Taliban forces, and drug traffickers.

(7) The lack of security and lawlessness may also perpetuate the need for United States Armed Forces in Afghanistan and threaten the ability of the United States to meet its military objectives.

(8) The International Security Assistance Force in Afghanistan, currently led by Turkey, and composed of forces from other willing countries without the participation of United States Armed Forces, is deployed only in Kabul and currently does not have the mandate or the capacity to provide security to other parts of Afghanistan.

(9) Due to the ongoing military campaign in Afghanistan, the United States does not contribute troops to the International Security Assistance Force but has provided support to other countries that are doing so.

(10) The United States is providing political, financial, training, and other assistance to the Afghan Interim Authority as it begins to build a national army and police force to help provide security throughout Afghanistan, but this effort is not meeting the immediate security needs of Afghanistan.

(11) Because of these immediate security needs, the Government of Afghanistan, its President, Hamid Karzai, and many Afghan regional leaders have called for the International Security Assistance Force, which has successfully brought stability to Kabul, to be expanded and deployed throughout the country, and this request has been strongly supported by a wide range of international humanitarian organizations, including the International Committee of the Red Cross, Catholic Relief Services, and Refugees International.

(b) STATEMENT OF POLICY.—It should be the policy of the United States to support measures to help meet the immediate security needs of Afghanistan in order to promote safe and effective delivery of humanitarian and other assistance throughout Afghanistan, further the rule of law and civil order, and support the formation of a functioning, representative Afghan national government.

(c) IMPLEMENTATION OF STRATEGY.—

(1) INITIAL REPORT.—Not later than 60 days after the date of the enactment of this Act, the President shall provide the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate with—

(A) a strategy for meeting the immediate and long-term security needs of Afghanistan in order to promote safe and effective delivery of humanitarian and other assistance throughout Afghanistan, further the rule of law and civil order, and support the formation of a functioning, representative Afghan national government, including an update to the strategies submitted pursuant to Public Law 107–206; and

(B) a description of the progress of the Government of Afghanistan toward the eradication of poppy cultivation, the disruption of heroin production, and the reduction of the overall supply and demand for illicit narcotics in Afghanistan in accordance with the provisions of this Act.

(2) IMPLEMENTATION OF STRATEGY.—Every 6 months after the enactment of this Act through January 1, 2007, the President shall submit to the congressional committees specified in paragraph (1) a report on the implementation of the strategies for meeting the immediate and long-term security needs of Afghanistan, which shall include the following elements—

(A) since the previous report, the progress in recruiting, training, and deploying an Afghan National Army and police force, including the numbers and ethnic composition of recruits; the number of graduates from military and police training; the numbers of graduates retained by the Afghan National Army and police forces since the previous report; the numbers of graduates operationally deployed and to which areas of the country; the degree to which these graduates are assuming security responsibilities; whether Afghan army and police units are establishing effective central governmental authority over areas of the country, and which areas; and the numbers of instances of armed attacks against Afghan central governmental officials, United States or international officials, troops or aid workers, or between the armed forces of regional leaders;

(B) the degree to which armed regional leaders are cooperating and integrating with the central government, providing security and order within their regions of influence, engaging in armed conflict or other forms of competition that are deleterious to peace, security, and the integration of a unified Afghanistan under the central government;

(C) the amount of humanitarian relief provided since the previous report to returnees, isolated populations and other vulnerable groups, as well as demining assistance and landmine survivors rehabilitation; and the numbers of such persons not assisted since the previous report;

(D) the steps taken since the previous report toward national reconstruction, including establishment of the ministries and other institutions of the Government of Afghanistan;

(E) the numbers of Civil Affairs Teams working with regional leaders, as well as the quick impact infrastructure projects undertaken by such teams since the previous report;

(F) efforts undertaken since the previous report to rebuild the justice sector, including the establishment of a functioning judiciary, a competent bar, reintegration of women legal professionals and a reliable penal system, and the respect for human rights; and

(G) a description of the progress of the Government of Afghanistan with respect to the matters described in paragraph (1)(B).

(d) EXPANSION OF THE INTERNATIONAL SECURITY ASSISTANCE FORCE.—

(1) SENSE OF CONGRESS.—Congress urges the President, in order to fulfill the objective of establishing security in Afghanistan, to take all appropriate measures to assist Afghanistan establish a secure environment throughout the country, including by—

(A) sponsoring in the United Nations Security Council a resolution authorizing an expansion of the International Security Assistance Force, or the establishment of a similar security force; and

(B) enlisting the European and other allies of the United States to provide forces for an expansion of the International Security Assistance Force in Afghanistan, or the establishment of a similar security force.

(2) AUTHORIZATION OF APPROPRIATIONS.—(A) There is authorized to be appropriated to the President $500,000,000 for each of fiscal years 2003 and 2004 to support the International Security Assistance Force or the establishment of a similar security force.

(B) Amounts made available under subparagraph (A) may be appropriated pursuant

to chapter 4 of part II of the Foreign Assistance Act of 1961, section 551 of such Act, or section 23 of the Arms Export Control Act.

(C) Funds appropriated pursuant to subparagraph (A) shall be subject to the notification requirements under section 634A of the Foreign Assistance Act of 1961.

On page 63, line 24, insert ''and the Committee on Appropriations'' after ''Relations''.

On page 63, line 25, insert ''and the Committee on Appropriations'' after ''Relations''.

On page 69, line 5, strike ''any other provision of law'' and insert ''section 512 of Public Law 107–115 or any similar provision of law''.

Beginning on page 69, strike line 6 and all that follows through line 4 on page 70.

On page 70, line 5, strike ''sec. 209.'' and insert '' sec. 208.''

On page 70, line 7, strike ''2005'' and insert ''2006''.

On page 70, after line 7, add the following:

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. REQUIREMENT TO COMPLY WITH PROCEDURES RELATING TO THE PROHIBITION ON ASSISTANCE TO DRUG TRAFFICKERS.

Assistance provided under this Act shall be subject to the same provisions as are applicable to assistance under the Foreign Assistance Act of 1961 and the Arms Export Control Act under section 487 of the Foreign Assistance Act of 1961 (relating to the prohibition on assistance to drug traffickers; 22 U.S.C. 2291f), and the applicable regulations issued under that section.

SEC. 302. SENSE OF CONGRESS REGARDING PROTECTING AFGHANISTAN'S PRESIDENT.

It is the sense of Congress that—

(1) any United States physical protection force provided for the personal security of the President of Afghanistan should be composed of United States diplomatic security, law-enforcement, or military personnel, and should not utilize private contracted personnel to provide actual physical protection services;

(2) United States allies should be invited to volunteer active-duty military or law enforcement personnel to participate in such a protection forces; and

(3) such a protection force should be limited in duration and should be succeeded by qualified Afghan security forces as soon as practicable.

SEC. 303. DONOR CONTRIBUTIONS TO AFGHANISTAN AND REPORTS.

(a) FINDINGS.—The Congress finds that inadequate amounts of international assistance promised by donor states at the Tokyo donors conference and elsewhere have been delivered to Afghanistan, imperiling the rebuilding and development of civil society and infrastructure, and endangering peace and security in that war-torn country.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the United States should use all appropriate diplomatic means to encourage all states that have pledged assistance to Afghanistan to deliver as soon as possible the total amount of assistance pledged.

(c) REPORTS.—

(1) IN GENERAL.—The Secretary of State shall submit reports to the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on International Relations and the Committee on Appropriations of the House of Representatives, in accordance with this paragraph, on the status of contributions of assistance from donor states to Afghanistan. The first report shall be submitted not later than 60 days after the date of enactment of this Act, the second report shall be submitted 90 days thereafter, and subsequent reports shall be submitted every 180 days thereafter through December 31, 2004.

(2) FURTHER REQUIREMENTS.—Each report, which shall be unclassified and posted upon the Department of State's Internet website, shall include, by donor country, the total amount pledged, the amount delivered within the previous 60 days, the total amount of assistance delivered, the type of assistance and type of projects supported by the assistance.

SA 4957. Mr. REID (for Mr. KERRY (for himself, Mr. BROWNBACK, and Mr. HOLLINGS)) proposed an amendment to the bill S. 2869, to facilitate the ability of certain spectrum auction winners to pursue alternative measures required in the public interest to meet the needs of wireless telecommunications consumers; as follows:

SECTION 1. RELIEF FROM CONTINUING OBLIGATIONS.

A winner bidder to which the Commission has not granted an Auction 35 license may irrevocably elect to relinquish any right, title, or interest in that license and the associated license application by formal written notice to the Commission. Such an election may only be made within 30 days after the date of enactment of this Act. A winning bidder that makes such an election shall be free of any obligation the winning bidder would otherwise have with respect to that license, the associated license application, and the associated winning bid, including the obligation to pay the amount of its winning bid that would be otherwise due for such license.

SEC. 2. RETURN OF DEPOSITS AND DOWNPAYMENTS.

Within 37 days after receiving an election that meets the requirements of section 3 from an Auction 35 winning bidder that has made the election described in section 1, the Commission shall refund any deposit or down-payment made with respect to a winning bidder for the license that is the subject of the election.

SEC. 3. COMMISSION TO ISSUE PUBLIC NOTICE.

(a) PUBLIC NOTICE.—Within 5 days after the date of enactment of this Act, the Commission shall issue a public notice specifying the form and the process for the return of deposits and downpayments under section 2.

(b) TIME FOR ELECTION.—An election under this section is not valid unless it is made within 30 days after the date of enactment of this Act.

SEC. 4. WAIVER OF PAPERWORK REDUCTION ACT REQUIREMENTS.

Section 3507 of title 44, United States Code, shall not apply to the Commission's implementation of this Act.

SEC. 5. NO INFERENCE WITH RESPECT TO NEXTWAVE CASE.

It is the sense of the Congress that no inference with respect to any issue of law or fact in Federal Communications Commission v. NextWAVE Personal Communications, Inc., et al. (Supreme Court Docket No. 01–653) should be drawn from the introduction, amendment, defeat, or enactment of this Act.

SEC. 6. DEFINITIONS.

In this Act:

(1) AUCTION 35.—The term ''Auction 35'' means the C and F block broadband personal communications service spectrum auction of the Commission that began on December 1, 2000, and ended on January 6, 2001, insofar as that auction related to spectrum previously licensed to NextWave Personal Communications, Inc., NextWave Power Partners, Inc., or Urban Comm North Carolina, Inc.

(2) COMMISSION.—The term ''Commission'' means the Federal Communications Commission or a bureau or division thereof acting on delegated authority.

(3) WINNING BIDDER.—The term ''winning bidder'' means any person who is entitled under Commission order FCC 02–99 (released March 27, 2002), to a refund of a substantial portion of monies on deposit for spectrum formerly licensed to NextWave and Urban Comm as defined in that order.

SA 4958. Mr. REID (for Mr. KENNEDY (for himself, Mr. GREGG, Mr. HOLLINGS, and Mr. FRIST)) proposed an amendment to the bill H.R. 4664, An act to authorize appropriations for fiscal years 2003, 2004, 2005, 2006, and 2007 for the National Science Foundation, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Science Foundation Authorization Act of 2002''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The National Science Foundation has made major contributions for more than 50 years to strengthen and sustain the Nation's academic research enterprise that is the envy of the world.

(2) The economic strength and national security of the United States and the quality of life of all Americans are grounded in the Nation's scientific and technological capabilities.

(3) The National Science Foundation carries out important functions in supporting basic research in all science and engineering disciplines and in supporting science, mathematics, engineering, and technology education at all levels.

(4) The research and education activities of the National Science Foundation promote the discovery, integration, dissemination, and application of new knowledge in service to society and prepare future generations of scientists, mathematicians, and engineers who will be necessary to ensure America's leadership in the global marketplace.

(5) The National Science Foundation must be provided with sufficient resources to enable it to carry out its responsibilities to develop intellectual capital, strengthen the scientific infrastructure, integrate research and education, enhance the delivery of mathematics and science education in the United States, and improve the technological literacy of all people in the United States.

(6) The emerging global economic, scientific, and technical environment challenges long-standing assumptions about domestic and international policy, requiring the National Science Foundation to play a more proactive role in sustaining the competitive advantage of the United States through superior research capabilities.

(7) Commercial application of the results of Federal investment in basic and computing science is consistent with long-standing United States technology transfer policy and is a critical national priority, particularly with regard to cybersecurity and other homeland security applications, because of the urgent needs of commercial, academic, and individual users as well as the Federal and State Governments.

SEC. 3. POLICY OBJECTIVES.

In allocating resources made available under section 5, the Foundation shall have the following policy objectives:

(1) To strengthen the Nation's lead in science and technology by—

(A) increasing the national investment in general scientific research and increasing investment in strategic areas;

(B) balancing the Nation's research portfolio among the life sciences, mathematics, the physical sciences, computer and information science, geoscience, engineering, and social, behavioral, and economic sciences, all of which are important for the continued development of enabling technologies necessary for sustained international competitiveness;

(C) expanding the pool of scientists and engineers in the United States;

(D) modernizing the Nation's research infrastructure; and

(E) establishing and maintaining cooperative international relationships with premier research institutions, with the goal of such relationships being the exchange of personnel, data, and information in an effort to alleviate problems common to the global community.

(2) To increase overall workforce skills by—

(A) improving the quality of mathematics and science education, particularly in kindergarten through grade 12;

(B) promoting access to information technology for all students;

(C) raising postsecondary enrollment rates in science, mathematics, engineering, and technology disciplines for individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b);

(D) increasing access to higher education in science, mathematics, engineering, and technology fields for students from low-income households; and

(E) expanding science, mathematics, engineering, and technology training opportunities at institutions of higher education.

(3) To strengthen innovation by expanding the focus of competitiveness and innovation policy at the regional and local level.

SEC. 4. DEFINITIONS.

In this Act:

(1) ACADEMIC UNIT.—The term ''academic unit'' means a department, division, institute, school, college, or other subcomponent of an institution of higher education.

(2) BOARD.—The term ''Board'' means the National Science Board established under section 2 of the National Science Foundation Act of 1950 (42 U.S.C. 1861).

(3) COMMUNITY COLLEGE.—The term ''community college'' has the meaning given such term in section 3301(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7011(3)).

(4) DIRECTOR.—The term ''Director'' means the Director of the National Science Foundation established under section 2 of the National Science Foundation Act of 1950 (42 U.S.C. 1861).

(5) ELEMENTARY SCHOOL.—The term ''elementary school'' has the meaning given that term by section 9101(18) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801(18)).

(6) ELIGIBLE NONPROFIT ORGANIZATION.—The term ''eligible nonprofit organization'' means a nonprofit research institute, or a nonprofit professional association, with demonstrated experience and effectiveness in mathematics or science education as determined by the Director.

(7) FOUNDATION.—The term ''Foundation'' means the National Science Foundation established under section 2 of the National Science Foundation Act of 1950 (42 U.S.C. 1861).

(8) HIGH-NEED LOCAL EDUCATIONAL AGENCY.—The term ''high-need local educational agency'' means a local educational agency that meets one or more of the following criteria:

(A) It has at least one school in which 50 percent or more of the enrolled students are eligible for participation in the free and reduced price lunch program established by the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

(B) It has at least one school in which—

(i) more than 34 percent of the academic classroom teachers at the secondary level (across all academic subjects) do not have an undergraduate degree with a major or minor in, or a graduate degree in, the academic field in which they teach the largest percentage of their classes; or

(ii) more than 34 percent of the teachers in two of the academic departments do not have an undergraduate degree with a major or minor in, or a graduate degree in, the academic field in which they teach the largest percentage of their classes.

(C) It has at least one school whose teacher attrition rate has been 15 percent or more over the last three school years.

(9) INSTITUTION OF HIGHER EDUCATION.—The term ''institution of higher education'' has the meaning given such term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(10) LOCAL EDUCATIONAL AGENCY.—The term ''local educational agency'' has the meaning given such term by section 9101(26) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801(26)).

(11) MASTER TEACHER.—The term ''master teacher'' means a mathematics or science teacher who works to improve the instruction of mathematics or science in kindergarten through grade 12 through—

(A) participating in the development or revision of science, mathematics, engineering, or technology curricula;

(B) serving as a mentor to mathematics or science teachers;

(C) coordinating and assisting teachers in the use of hands-on inquiry materials, equipment, and supplies, and when appropriate, supervising acquisition and repair of such materials;

(D) providing in-classroom teaching assistance to mathematics or science teachers; and

(E) providing professional development, including for the purposes of training other master teachers, to mathematics and science teachers.

(12) NATIONAL RESEARCH FACILITY.—The term ''national research facility'' means a research facility funded by the Foundation which is available, subject to appropriate policies allocating access, for use by all scientists and engineers affiliated with research institutions located in the United States.

(13) SECONDARY SCHOOL.—The term ''secondary school'' has the meaning given that term by section 9101(38) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801(38)).

(14) STATE.—Except with respect to the Experimental Program to Stimulate Competitive Research, the term ''State'' means one of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or any other territory or possession of the United States.

(15) STATE EDUCATIONAL AGENCY.—The term ''State educational agency'' has the meaning given such term by section 9101(41) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801(41)).

(16) UNITED STATES.—The term ''United States'' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

(a) FISCAL YEAR 2003.—

(1) IN GENERAL.—There are authorized to be appropriated to the Foundation $5,536,390,000 for fiscal year 2003.

(2) SPECIFIC ALLOCATIONS.—Of the amount authorized under paragraph (1)—

(A) $4,155,690,000 shall be made available to carry out research and related activities, of which $704,000,000 shall be for information technology research described in paragraph (1) of section 8 and $301,000,000 shall be for nanoscale science and engineering described in paragraph (2) of section 8;

(B) $1,006,250,000 shall be made available for education and human resources, of which—

(i) $200,000,000 shall be for mathematics and science education partnerships described in section 9;

(ii) $20,000,000 shall be for the Robert Noyce Scholarship Program described in section 10; and

(iii) $25,000,000 shall be for the science, mathematics, engineering, and technology talent expansion program described in paragraph (7) of section 8;

(C) $172,050,000 shall be made available for major research equipment and facilities construction;

(D) $191,200,000 shall be made available for salaries and expenses;

(E) $3,500,000 shall be made available for the Office of the National Science Board, including salaries and compensation for members of the Board and staff appointed under section 4 of the National Science Foundation Act of 1950 (42 U.S.C. 1863), travel and training costs for members of the Board and such staff, general and Board operating expenses, representational expenses for the Board, honorary awards made by the Board, Board reports (other than the report entitled ''Science and Engineering Indicators''), and contracts; and

(F) $7,700,000 shall be made available for the Office of Inspector General.

(b) FISCAL YEAR 2004.—

(1) IN GENERAL.—There are authorized to be appropriated to the Foundation $6,390,832,000 for fiscal year 2004.

(2) SPECIFIC ALLOCATIONS.—Of the amount authorized under paragraph (1)—

(A) $4,799,822,000 shall be made available to carry out research and related activities, of which $774,000,000 shall be for information technology research described in paragraph (1) of section 8 and $350,000,000 shall be for nanoscale science and engineering described in paragraph (2) of section 8;

(B) $1,157,188,000 shall be made available for education and human resources, of which—

(i) $300,000,000 shall be for mathematics and science education partnerships described in section 9;

(ii) $20,000,000 shall be for the Robert Noyce Scholarship Program described in section 10; and

(iii) $30,000,000 shall be for the science, mathematics, engineering, and technology talent expansion program described in paragraph (7) of section 8;

(C) $211,182,000 shall be made available for major research equipment and facilities construction;

(D) $210,320,000 shall be made available for salaries and expenses;

(E) $3,850,000 shall be made available for the Office of the National Science Board for the purposes described in subsection (a)(2)(E); and

(F) $8,470,000 shall be made available for the Office of Inspector General.

(c) FISCAL YEAR 2005.—

(1) IN GENERAL.—There are authorized to be appropriated to the Foundation $7,378,343,000 for fiscal year 2005.

(2) SPECIFIC ALLOCATIONS.—Of the amount authorized under paragraph (1)—

(A) $5,543,794,000 shall be made available to carry out research and related activities;

(B) $1,330,766,000 shall be made available to carry out education and human resources, of which—

(i) $400,000,000 shall be for mathematics and science education partnerships described in section 9;

(ii) $20,000,000 shall be for the Robert Noyce Scholarship Program described in section 10; and

(iii) $35,000,000 shall be for the science, mathematics, engineering, and technology talent expansion program described in paragraph (7) of section 8;

(C) $258,879,000 shall be made available for major research equipment and facilities construction;

(D) $231,337,000 shall be made available for salaries and expenses;

(E) $4,250,000 shall be made available for the Office of the National Science Board for the purposes described in subsection (a)(2)(E); and

(F) $9,317,000 shall be made available for the Office of Inspector General.

(d) FISCAL YEAR 2006.—There are authorized to be appropriated to the Foundation $8,519,776,000 for fiscal year 2006.

(e) FISCAL YEAR 2007.—There are authorized to be appropriated to the Foundation $9,839,262,000 for fiscal year 2007.

(f) CONTINGENT AUTHORIZATION.—

(1) IN GENERAL.—Funds are authorized to be appropriated under subsections (d) and (e), contingent on a determination by Congress that the Foundation has made successful progress toward meeting management goals consisting of—

(A) strategic management of human capital;

(B) competitive sourcing;

(C) improved financial performance;

(D) expanded electronic government; and

(E) budget and performance integration.

(2) CONSIDERATION.—In making that determination, Congress shall take into consideration whether or not the Director of the Office of Management and Budget has certified that the Foundation has, overall, made successful progress toward meeting those goals.

SEC. 6. OBLIGATION OF MAJOR RESEARCH EQUIPMENT AND FACILITIES CONSTRUCTION FUNDS.

(a) FISCAL YEAR 2003.—None of the funds authorized under section 5(a)(2)(C) may be obligated until 30 days after the first report required under section 14(a)(2) is transmitted to the Congress.

(b) FISCAL YEAR 2004.—None of the funds authorized under section 5(b)(2)(C) may be obligated until 30 days after the report required by June 15, 2003, under section 14(a)(2) is transmitted to the Congress.

(c) FISCAL YEAR 2005.—None of the funds authorized under section 5(c)(2)(C) may be obligated until 30 days after the report required by June 15, 2004, under section 14(a)(2) is transmitted to the Congress.

(d) FISCAL YEAR 2006.—None of the funds authorized under section 5(d) may be obligated for major research equipment and facilities construction until 30 days after the report required by June 15, 2005, under section 14(a)(2) is transmitted to the Congress.

(e) FISCAL YEAR 2007.—None of the funds authorized under section 5(e) may be obligated for major research equipment and facilities construction until 30 days after the report required by June 15, 2006, under section 14(a)(2) is transmitted to the Congress.

SEC. 7. ANNUAL PLAN FOR ALLOCATION OF FUNDING.

Not later than 60 days after the date of enactment of legislation providing for the annual appropriation of funds for the Foundation, the Director shall submit to the Committee on Science and the Committee on Appropriations of the House of Representatives, and to the Committee on Commerce, Science, and Transportation, the Committee on Health, Education, Labor, and Pensions, and the Committee on Appropriations of the Senate, a plan for the allocation of funds authorized by this Act for the corresponding fiscal year. The portion of the plan pertaining to Research and Related Activities shall include a description of how the allocation of funding—

(1) will affect the average size and duration of research grants supported by the Foundation by field of science, mathematics, and engineering;

(2) will affect trends in research support for major fields and subfields of science, mathematics, and engineering, including for emerging multidisciplinary research areas; and

(3) is designed to achieve an appropriate balance among major fields and subfields of science, mathematics, and engineering.

SEC. 8. SPECIFIC PROGRAM AUTHORIZATIONS.

From amounts authorized to be appropriated under section 5, the Director shall carry out the Foundation's research and education programs, including the following initiatives in accordance with this section:

(1) INFORMATION TECHNOLOGY.—An information technology research program to support competitive, merit-reviewed proposals for research, education, and infrastructure support in areas related to cybersecurity, terascale computing systems, software, networking, scalability, communications, data management, and remote sensing and geospatial information technologies.

(2) NANOSCALE SCIENCE AND ENGINEERING.—A nanoscale science and engineering research and education program to support competitive, merit-reviewed proposals that emphasize—

(A) research aimed at discovering novel phenomena, processes, materials, and tools that address grand challenges in materials, electronics, optoelectronics and magnetics, manufacturing, the environment, and health care; and

(B) supporting new research and interdisciplinary centers and networks of excellence, including shared national user facilities, infrastructure, research, and education activities on the societal implications of advances in nanoscale science and engineering.

(3) PLANT GENOME RESEARCH.—(A) A plant genome research program to support competitive, merit-reviewed proposals—

(i) that advance the understanding of the structure, organization, and function of plant genomes; and

(ii) that accelerate the use of new knowledge and innovative technologies toward a more complete understanding of basic biological processes in plants, especially in economically important plants such as corn and soybeans.

(B) Regional plant genome and gene expression research centers to conduct research and dissemination activities that may include—

(i) basic plant genomics research and genomics applications, including those related to cultivation of crops in extreme environments and to cultivation of crops with reduced reliance on fertilizer, herbicides, and pesticides;

(ii) basic research that will contribute to the development or use of innovative plant-derived products;

(iii) basic research on alternative uses for plants and plant materials, including the use of plants as renewable feedstock for alternative energy production and nonpetroleum-based industrial chemicals and precursors; and

(iv) basic research and dissemination of information on the ecological and other consequences of genetically engineered plants.

Competitive, merit-based awards for centers under this subparagraph shall be to consortia of institutions of higher education or nonprofit organizations. The Director shall, to the extent practicable, ensure that research centers established under this subparagraph collectively examine as many different agricultural environments as possible, enhance the excellence of existing Foundation programs, and focus on plants of economic importance.

(C) Research partnerships to focus on—

(i) basic genomic research on crops grown in the developing world;

(ii) basic plant genome research that will advance and expedite the development of improved cultivars, including those that are pest-resistant, produce increased yield, reduce the need for fertilizers, herbicides, or pesticides, or have increased tolerance to stress;

(iii) basic research that could lead to the development of technologies to produce pharmaceutical compounds such as vaccines and medications in plants that can be grown in the developing world; and

(iv) research on the impact of plant biotechnology on the social, political, economic, health, and environmental conditions in countries in the developing world.

Competitive, merit-based awards for partnerships under this subparagraph shall be to institutions of higher education, nonprofit organizations, or consortia of such entities that enter into a partnership that shall include one or more research institutions in one or more developing nations, and that may also include for-profit companies involved in plant biotechnology. The Director, by means of outreach, shall encourage inclusion of historically Black colleges and universities, Hispanic-serving institutions, tribally controlled colleges and universities, Alaska Native-serving institutions, and Native Hawaiian-serving institutions in consortia that enter into such partnerships.

(4) INNOVATION PARTNERSHIPS.—An innovation partnerships program to support competitive, merit-reviewed proposals that seek to stimulate innovation at the regional level through new partnerships involving States, regional governmental entities, local governmental entities, industry, academic institutions, and other related organizations in strategically important fields of science and technology.

(5) MATHEMATICS AND SCIENCE EDUCATION PARTNERSHIPS.—The mathematics and science education partnerships program described in section 9.

(6) ROBERT NOYCE SCHOLARSHIP PROGRAM.—The Robert Noyce Scholarship Program described in section 10.

(7) SCIENCE, MATHEMATICS, ENGINEERING, AND TECHNOLOGY TALENT EXPANSION PROGRAM.—(A) A program of competitive, merit-based, multi-year grants for eligible applicants to increase the number of students studying toward and completing associate's or bachelor's degrees in science, mathematics, engineering, and technology, particularly in fields that have faced declining enrollment in recent years.

(B) In selecting projects under this paragraph, the Director shall strive to increase the number of students studying toward and completing baccalaureate degrees, concentrations, or certificates in science, mathematics, engineering, or technology who are individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b).

(C) The types of projects the Foundation may support under this paragraph include those that promote high quality—

(i) interdisciplinary teaching;

(ii) undergraduate-conducted research;

(iii) mentor relationships for students;

(iv) bridge programs that enable students at community colleges to matriculate directly into baccalaureate science, mathematics, engineering, or technology programs;

(v) internships carried out in partnership with industry; and

(vi) innovative uses of digital technologies, particularly at institutions of higher education that serve high numbers or percentages of economically disadvantaged students.

(D)(i) In order to receive a grant under this paragraph, an eligible applicant shall establish targets to increase the number of students studying toward and completing associate's or bachelor's degrees in science, mathematics, engineering, or technology.

(ii) A grant under this paragraph shall be awarded for a period of 5 years, with the final 2 years of funding contingent on the Director's determination that satisfactory progress has been made by the grantee toward meeting the targets established under clause (i).

(iii) In the case of community colleges, a student who transfers to a baccalaureate program, or receives a certificate under an established certificate program, in science, mathematics, engineering, or technology shall be counted toward meeting a target established under clause (i).

(E) For each grant awarded under this paragraph to an institution of higher education, at least 1 principal investigator shall be in a position of administrative leadership at the institution of higher education, and at least 1 principal investigator shall be a faculty member from an academic department included in the work of the project. For each grant awarded to a consortium or partnership, at each institution of higher education participating in the consortium or partnership, at least 1 of the individuals responsible for carrying out activities authorized under this paragraph at that institution shall be in a position of administrative leadership at the institution, and at least 1 shall be a faculty member from an academic department included in the work of the project at that institution.

(F) In this paragraph, the term ''eligible applicant'' means—

(i) an institution of higher education;

(ii) a consortium of institutions of higher education; or

(iii) a partnership between—

(I) an institution of higher education or a consortium of such institutions; and

(II) a nonprofit organization, a State or local government, or a private company, with demonstrated experience and effectiveness in science, mathematics, engineering, or technology education.

(8) SECONDARY SCHOOL SYSTEMIC INITIATIVE.—A program of competitive, merit-based grants for State educational agencies or local educational agencies that supports the planning and implementation of agency-wide secondary school reform initiatives designed to promote scientific and technological literacy, meet the mathematics and science education needs of students at risk of not achieving State student academic achievement standards, reduce the need for basic skill training by employers, and heighten college completion rates through activities, such as—

(A) systemic alignment of secondary school curricula and higher education freshman placement requirements;

(B) development of materials and curricula that support small, theme-oriented schools and learning communities;

(C) implementation of enriched mathematics and science curricula for all secondary school students;

(D) strengthened teacher training in mathematics, science, and reading as it relates to technical and specialized texts;

(E) laboratory improvement and provision of instrumentation as part of a comprehensive program to enhance the quality of mathematics, science, engineering, and technology instruction; or

(F) other secondary school systemic initiatives that enable grantees to leverage private sector funding for mathematics, science, engineering, and technology scholarships.

In awarding grants under this paragraph, the Director shall give priority to agencies that serve high poverty communities.

(9) EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE RESEARCH.—The Experimental Program to Stimulate Competitive Research, established under section 113 of the National Science Foundation Authorization Act of 1988 (42 U.S.C. 1862g), that is designed to enhance—

(A) research in mathematics, science, and engineering throughout the States eligible to participate in the program and the Commonwealth of Puerto Rico;

(B) research infrastructure in the States eligible to participate in the program and the Commonwealth of Puerto Rico; and

(C) the geographic distribution of Federal research and development support.

(10) THE SCIENCE AND ENGINEERING EQUAL OPPORTUNITIES ACT.—A comprehensive program designed to advance the goals of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885 et seq.), including programs to—

(A) provide support to minority-serving institutions; and

(B) ensure that reports required under sections 36 and 37 of such Act are submitted to the—

(i) Committee on Science of the House of Representatives;

(ii) Committee on Health, Education, Labor, and Pensions of the Senate; and

(iii) Committee on Commerce, Science, and Transportation of the Senate.

(11) ASTRONOMICAL RESEARCH AND INSTRUMENTATION.—An astronomical research program to support competitive, merit-reviewed proposals that—

(A) will advance understanding of—

(i) the origins and characteristics of planets, the Sun, other stars, the Milky Way Galaxy, and extragalactic objects (such as clusters of galaxies and quasars); and

(ii) the structure and origin of the universe; and

(B) support related activities such as developing advanced technologies and instrumentation, funding undergraduate and graduate students, and satisfying other instrumentation and research needs.

SEC. 9. MATHEMATICS AND SCIENCE EDUCATION PARTNERSHIPS.

(a) PROGRAM AUTHORIZED.—

(1) IN GENERAL.—(A) The Director shall carry out a program to award grants to institutions of higher education or eligible nonprofit organizations (or consortia of such institutions or organizations) to establish mathematics and science education partnership programs to improve elementary and secondary mathematics and science instruction.

(B) Grants shall be awarded under this subsection on a competitive, merit-reviewed basis.

(2) PARTNERSHIPS.—(A) In order to be eligible to receive a grant under this subsection, an institution of higher education or eligible nonprofit organization (or consortium of such institutions or organizations) shall enter into a partnership with one or more local educational agencies that may also include a State educational agency or one or more businesses.

(B) A participating institution of higher education shall include mathematics, science, or engineering departments in the programs carried out through a partnership under this paragraph.

(3) USES OF FUNDS.—Grants awarded under this subsection shall be used for activities that draw upon the expertise of the partners to improve elementary or secondary education in mathematics or science and that are consistent with State mathematics and science student academic achievement standards, including—

(A) recruiting and preparing students for careers in elementary or secondary mathematics or science education;

(B) offering professional development programs, including summer or academic year institutes or workshops, designed to strengthen the capabilities of mathematics and science teachers;

(C) offering innovative preservice and in-service programs that instruct teachers on using technology more effectively in teaching mathematics and science, including programs that recruit and train undergraduate and graduate students to provide technical support to teachers;

(D) developing distance learning programs for teachers or students, including developing courses, curricular materials, and other resources for the in-service professional development of teachers that are made available to teachers through the Internet;

(E) developing a cadre of master teachers who will promote reform and improvement in schools;

(F) offering teacher preparation and certification programs for professional mathematicians, scientists, and engineers who wish to begin a career in teaching;

(G) developing tools to evaluate activities conducted under this subsection;

(H) developing or adapting elementary school and secondary school mathematics and science curricular materials that incorporate contemporary research on the science of learning;

(I) developing initiatives to increase and sustain the number, quality, and diversity of prekindergarten through grade 12 teachers of mathematics and science, especially in underserved areas;

(J) using mathematicians, scientists, and engineers employed by private businesses to help recruit and train mathematics and science teachers;

(K) developing and offering mathematics or science enrichment programs for students, including after-school and summer programs;

(L) providing research opportunities in business or academia for students and teachers;

(M) bringing mathematicians, scientists, and engineers from business and academia into elementary school and secondary school classrooms; and

(N) any other activities the Director determines will accomplish the goals of this subsection.

(4) MASTER TEACHERS.—Activities carried out in accordance with paragraph (3)(E) shall—

(A) emphasize the training of master teachers who will improve the instruction of mathematics or science in kindergarten through grade 12;

(B) include training in both content and pedagogy; and

(C) provide training only to teachers who will be granted sufficient nonclassroom time to serve as master teachers, as demonstrated by assurances their employing school has

provided to the Director, in such time and such manner as the Director may require.

(5) SCIENCE ENRICHMENT PROGRAMS FOR GIRLS.—Activities carried out in accordance with paragraph (3)(K) and (L) shall include elementary school and secondary school programs to encourage the ongoing interest of girls in science, mathematics, engineering, and technology and to prepare girls to pursue undergraduate and graduate degrees and careers in science, mathematics, engineering, or technology. Funds made available through awards to partnerships for the purposes of this paragraph may support programs for—

(A) encouraging girls to pursue studies in science, mathematics, engineering, and technology and to major in such fields in postsecondary education;

(B) tutoring girls in science, mathematics, engineering, and technology;

(C) providing mentors for girls in person and through the Internet to support such girls in pursuing studies in science, mathematics, engineering, and technology;

(D) educating the parents of girls about the difficulties faced by girls to maintain an interest and desire to achieve in science, mathematics, engineering, and technology, and enlisting the help of parents in overcoming these difficulties; and

(E) acquainting girls with careers in science, mathematics, engineering, and technology and encouraging girls to plan for careers in such fields.

(6) RESEARCH IN SECONDARY SCHOOLS.—Activities carried out in accordance with paragraph (3)(K) may include support for research projects performed by students at secondary schools. Uses of funds made available through awards to partnerships for purposes of this paragraph may include—

(A) training secondary school mathematics and science teachers in the design of research projects for students;

(B) establishing a system for students and teachers involved in research projects funded under this subsection to exchange information about their projects and research results; and

(C) assessing the educational value of the student research projects by such means as tracking the academic performance and choice of academic majors of students conducting research.

(7) STIPENDS.—Grants awarded under this subsection may be used to provide stipends for teachers or students participating in training or research activities that would not be part of their typical classroom activities.

(b) SELECTION PROCESS.—

(1) APPLICATION.—An institution of higher education or an eligible nonprofit organization (or a consortium of such institutions or organizations) seeking funding under subsection (a) shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require. The application shall include, at a minimum—

(A) a description of the partnership and the role that each member will play in implementing the proposal;

(B) a description of each of the activities to be carried out, including—

(i) how such activities will be aligned with State mathematics and science student academic achievement standards and with other activities that promote student achievement in mathematics and science;

(ii) how such activities will be based on a review of relevant research;

(iii) why such activities are expected to improve student performance and strengthen the quality of mathematics and science instruction; and

(iv) any activities that will encourage the interest of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b) in mathematics, science, engineering, and technology and will help prepare such individuals to pursue postsecondary studies in these fields;

(C) a description of the number, size, and nature of any stipends that will be provided to students or teachers and the reasons such stipends are needed;

(D) a description of how the partnership will serve as a catalyst for reform of mathematics and science education programs;

(E) a description of how the partnership will assess its success;

(F) a description of how the partnership will collaborate with the State educational agency to ensure that successful partnership activities may be replicated throughout the State; and

(G) a description of the manner in which the partnership will be continued after assistance under this section ends.

(2) REVIEW OF APPLICATIONS.—In evaluating the applications submitted under paragraph (1), the Director shall consider, at a minimum—

(A) the ability of the partnership to carry out effectively the proposed programs;

(B) the extent to which the members of the partnership are committed to making the partnership a central organizational focus;

(C) the degree to which activities carried out by the partnership are based on relevant research and are likely to result in increased student achievement;

(D) the degree to which such activities are aligned with State mathematics and science student academic achievement standards;

(E) the likelihood that the partnership will demonstrate activities that can be widely implemented as part of larger scale reform efforts; and

(F) the extent to which the activities will encourage the interest of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b) in mathematics, science, engineering, and technology and will help prepare such individuals to pursue postsecondary studies in these fields.

(3) AWARDS.—In awarding grants under this section, the Director shall—

(A) give priority to applications in which the partnership includes a high-need local educational agency or a high-need local educational agency in which at least one school does not make adequate yearly progress, as determined pursuant to part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.); and

(B) ensure that, to the extent practicable, a substantial number of the partnerships funded under this section include businesses.

(c) ACCOUNTABILITY AND DISSEMINATION.—

(1) ASSESSMENT REQUIRED.—The Director shall evaluate the program established under subsection (a). At a minimum, such evaluation shall—

(A) use a common set of benchmarks and assessment tools to identify best practices and materials developed and demonstrated by the partnerships; and

(B) to the extent practicable, compare the effectiveness of practices and materials developed and demonstrated by the partnerships authorized under this section with those of partnerships funded by other State or Federal agencies.

(2) DISSEMINATION OF RESULTS.—(A) The results of the evaluation required under paragraph (1) shall be made available to the public and shall be provided to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate.

(B) Materials developed under the program established under subsection (a) that are demonstrated to be effective shall be made widely available to the public.

(3) ANNUAL MEETING.—The Director, in consultation with the Secretary of Education, shall convene an annual meeting of the partnerships participating under this section to foster greater national collaboration.

(4) REPORT ON COORDINATION.—The Director, in consultation with the Secretary of Education, shall provide an annual report to the Committee on Science of the House of Representatives, the Committee on Education and the Workforce of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate describing how the program authorized under this section has been and will be coordinated with the program authorized under part B of title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6601 et seq.). The report under this paragraph shall be submitted along with the President's annual budget request.

(5) TECHNICAL ASSISTANCE.—At the request of an eligible partnership or a State educational agency, the Director shall provide the partnership or agency with technical assistance in meeting any requirements of this section, including providing advice from experts on how to develop—

(A) a quality application for a grant; and

(B) quality activities from funds received from a grant under this section.

SEC. 10. ROBERT NOYCE SCHOLARSHIP PROGRAM.

(a) SCHOLARSHIP PROGRAM.—

(1) IN GENERAL.—The Director shall carry out a program to award grants to institutions of higher education (or consortia of such institutions) to provide scholarships, stipends, and programming designed to recruit and train mathematics and science teachers. Such program shall be known as the ''Robert Noyce Scholarship Program''.

(2) MERIT REVIEW.—Grants shall be provided under this subsection on a competitive, merit-reviewed basis.

(3) USE OF GRANTS.—Grants provided under this section shall be used by institutions of higher education or consortia—

(A) to develop and implement a program to encourage top college juniors and seniors majoring in mathematics, science, and engineering at the grantee's institution to become mathematics and science teachers, through—

(i) administering scholarships in accordance with subsection (c);

(ii) offering programs to help scholarship recipients to teach in elementary schools and secondary schools, including programs that will result in teacher certification or licensing; and

(iii) offering programs to scholarship recipients, both before and after they receive their baccalaureate degree, to enable the recipients to become better mathematics and science teachers, to fulfill the service requirements of this section, and to exchange ideas with others in their fields; or

(B) to develop and implement a program to encourage science, mathematics, or engineering professionals to become mathematics and science teachers, through—

(i) administering stipends in accordance with subsection (d);

(ii) offering programs to help stipend recipients obtain teacher certification or licensing; and

(iii) offering programs to stipend recipients, both during and after matriculation in

the program for which the stipend is received, to enable recipients to become better mathematics and science teachers, to fulfill the service requirements of this section, and to exchange ideas with others in their fields.

(b) SELECTION PROCESS.—

(1) APPLICATION.—An institution of higher education or consortium seeking funding under this section shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require. The application shall include, at a minimum—

(A) a description of the scholarship or stipend program that the applicant intends to operate, including the number of scholarships or the size and number of stipends the applicant intends to award, and the selection process that will be used in awarding the scholarships or stipends;

(B) evidence that the applicant has the capability to administer the scholarship or stipend program in accordance with the provisions of this section; and

(C) a description of the programming that will be offered to scholarship or stipend recipients during and after their matriculation in the program for which the scholarship or stipend is received.

(2) REVIEW OF APPLICATIONS.—In evaluating the applications submitted under paragraph (1), the Director shall consider, at a minimum—

(A) the ability of the applicant to effectively carry out the program;

(B) the extent to which the applicant is committed to making the program a central organizational focus;

(C) the degree to which the proposed programming will enable scholarship or stipend recipients to become successful mathematics and science teachers;

(D) the number and quality of the students that will be served by the program; and

(E) the ability of the applicant to recruit students who would otherwise not pursue a career in teaching.

(c) SCHOLARSHIP REQUIREMENTS.—

(1) IN GENERAL.—Scholarships under this section shall be available only to students who are—

(A) majoring in science, mathematics, or engineering; and

(B) in the last 2 years of a baccalaureate degree program.

(2) SELECTION.—Individuals shall be selected to receive scholarships primarily on the basis of academic merit, with consideration given to financial need and to the goal of promoting the participation of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b).

(3) AMOUNT.—The Director shall establish for each year the amount to be awarded for scholarships under this section for that year, which shall be not less than $7,500 per year, except that no individual shall receive for any year more than the cost of attendance at that individual's institution. Individuals may receive a maximum of 2 years of scholarship support.

(4) SERVICE OBLIGATION.—If an individual receives a scholarship, that individual shall be required to complete, within 6 years after graduation from the baccalaureate degree program for which the scholarship was awarded, 2 years of service as a mathematics or science teacher for each year a scholarship was received. Service required under this paragraph shall be performed in a high-need local educational agency.

(d) STIPENDS.—

(1) IN GENERAL.—Stipends under this section shall be available only to mathematics, science, and engineering professionals who, while receiving the stipend, are enrolled in a program to receive certification or licensing to teach.

(2) SELECTION.—Individuals shall be selected to receive stipends under this section primarily on the basis of academic merit, with consideration given to financial need and to the goal of promoting the participation of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b).

(3) DURATION.—Individuals may receive a maximum of 1 year of stipend support.

(4) SERVICE OBLIGATION.—If an individual receives a stipend under this section, that individual shall be required to complete, within 6 years after graduation from the program for which the stipend was awarded, 2 years of service as a mathematics or science teacher for each year a stipend was received. Service required under this paragraph shall be performed in a high-need local educational agency.

(e) CONDITIONS OF SUPPORT.—As a condition of acceptance of a scholarship or stipend under this section, a recipient shall enter into an agreement with the institution of higher education—

(1) accepting the terms of the scholarship or stipend pursuant to subsections (c) and (g), or subsection (d);

(2) agreeing to provide the awarding institution of higher education with annual certification of employment and up-to-date contact information and to participate in surveys provided by the institution of higher education as part of an ongoing assessment program; and

(3) establishing that any scholarship recipient shall be liable to the United States for any amount that is required to be repaid in accordance with the provisions of subsection (g).

(f) COLLECTION FOR NONCOMPLIANCE.—

(1) MONITORING COMPLIANCE.—An institution of higher education (or consortium thereof) receiving a grant under this section shall, as a condition of participating in the program, enter into an agreement with the Director to monitor the compliance of scholarship and stipend recipients with their respective service requirements.

(2) COLLECTION OF REPAYMENT.—(A) In the event that a scholarship recipient is required to repay the scholarship under subsection (g), the institution shall be responsible for collecting the repayment amounts.

(B) Except as provided in subparagraph (C), any such repayment shall be returned to the Treasury of the United States.

(C) A grantee may retain a percentage of any repayment it collects to defray administrative costs associated with the collection. The Director shall establish a single, fixed percentage that will apply to all grantees.

(g) FAILURE TO COMPLETE SERVICE OBLIGATION.—

(1) GENERAL RULE.—If an individual who has received a scholarship under this section—

(A) fails to maintain an acceptable level of academic standing in the educational institution in which the individual is enrolled, as determined by the Director;

(B) is dismissed from such educational institution for disciplinary reasons;

(C) withdraws from the baccalaureate degree program for which the award was made before the completion of such program;

(D) declares that the individual does not intend to fulfill the service obligation under this section; or

(E) fails to fulfill the service obligation of the individual under this section,

such individual shall be liable to the United States as provided in paragraph (2).

(2) AMOUNT OF REPAYMENT.—(A) If a circumstance described in paragraph (1) occurs before the completion of one year of a service obligation under this section, the United States shall be entitled to recover from the individual, within one year after the date of the occurrence of such circumstance, an amount equal to—

(i) the total amount of awards received by such individual under this section; plus

(ii) the interest on the amounts of such awards which would be payable if at the time the awards were received they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States,

multiplied by 2.

(B) If a circumstance described in paragraph (1)(D) or (E) occurs after the completion of one year of a service obligation under this section, the United States shall be entitled to recover from the individual, within one year after the date of the occurrence of such circumstance, an amount equal to the total amount of awards received by such individual under this section minus ½ of the amount of the award received per year for each full year of service completed, plus the interest on such amounts which would be payable if at the time the amounts were received they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States.

(3) EXCEPTIONS.—The Director may provide for the partial or total waiver or suspension of any service or payment obligation by an individual under this section whenever compliance by the individual with the obligation is impossible or would involve extreme hardship to the individual, or if enforcement of such obligation with respect to the individual would be unconscionable.

(h) DATA COLLECTION.—Institutions or consortia receiving grants under this section shall supply to the Director any relevant statistical and demographic data on scholarship recipients and stipend recipients the Director may request, including information on employment required by subsection (e).

(i) DEFINITIONS.—In this section—

(1) the term ''cost of attendance'' has the meaning given such term in section 472 of the Higher Education Act of 1965 (20 U.S.C. 1087ll);

(2) the term ''mathematics and science teacher'' means a mathematics, science, or technology teacher at the elementary school or secondary school level;

(3) the term ''mathematics, science, or engineering professional'' means a person who holds a baccalaureate, masters, or doctoral degree in science, mathematics, or engineering and is working in that field or a related area;

(4) the term ''scholarship'' means an award under subsection (c); and

(5) the term ''stipend'' means an award under subsection (d).

SEC. 11. ESTABLISHMENT OF CENTERS FOR RESEARCH ON MATHEMATICS AND SCIENCE LEARNING AND EDUCATION IMPROVEMENT.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—(A) The Director shall award grants to institutions of higher education (or consortia thereof) to establish multidisciplinary Centers for Research on Learning and Education Improvement.

(B) Grants shall be awarded under this paragraph on a competitive, merit-reviewed basis.

(2) PURPOSE.—The purpose of the Centers shall be to conduct and evaluate research in cognitive science, education, and related fields and to develop ways in which the results of such research can be applied in elementary school and secondary school classrooms to improve the teaching of mathematics and science.

(3) FOCUS.—(A) Each Center shall be focused on a different challenge faced by elementary school or secondary school teachers of mathematics and science. In determining the research focus of the Centers, the Director shall consult with the National Academy of Sciences and the Secretary of Education and take into account the extent to which other Federal programs support research on similar questions.

(B) The proposal solicitation issued by the Director shall state the focus of each Center and applicants shall apply for designation as a specific Center.

(C) At least one Center shall focus on developing ways in which the results of research described in paragraph (2) can be applied, duplicated, and scaled up for use in low-performing elementary schools and secondary schools to improve the teaching and student achievement levels in mathematics and science.

(D) To the extent practicable and relevant to its focus, every Center shall include, as part of its research, work designed to quantitatively assess and improve the ways that information technology is used in the teaching of mathematics and science.

(b) SELECTION PROCESS.—

(1) APPLICATION.—An institution of higher education (or a consortium of such institutions) seeking funding under this section shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require. The application shall include, at a minimum, a description of—

(A) the initial research projects that will be undertaken by the Center and the process by which new projects will be identified;

(B) how the Center will work with other research institutions and schools to broaden the national research agenda on learning and teaching;

(C) how the Center will promote active collaboration among physical, biological, and social science researchers;

(D) how the Center will promote active participation by elementary and secondary mathematics and science teachers and administrators; and

(E) how the results of the Center's research can be incorporated into educational practices, and how the Center will assess the success of those practices.

(2) REVIEW OF APPLICATIONS.—In evaluating the applications submitted under paragraph (1), the Director shall consider, at a minimum—

(A) the ability of the applicant to effectively carry out the research program, including the activities described in paragraph (1)(E);

(B) the experience of the applicant in conducting research on the science of teaching and learning and the capacity of the applicant to foster new multidisciplinary collaborations;

(C) the capacity of the applicant to attract elementary school and secondary school teachers from a diverse array of schools, and with diverse professional experiences, for participation in Center activities; and

(D) the capacity of the applicant to attract and provide adequate support for graduate students to pursue research at the intersection of educational practice and basic research on human cognition and learning.

(3) AWARDS.—The Director shall ensure, to the extent practicable, that the Centers funded under this section conduct research and develop educational practices designed to improve the educational performance of a broad range of students, including individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b).

(c) ANNUAL CONFERENCE.—The Director shall convene an annual meeting of the Centers to foster collaboration among the Centers and to further disseminate the results of the Centers' activities.

(d) COORDINATION.—The Director shall coordinate with the Secretary of Education in—

(1) disseminating the results of the research conducted pursuant to grants awarded under this section to elementary school teachers and secondary school teachers; and

(2) providing programming, guidance, and support to ensure that such teachers—

(A) understand the implications of the research disseminated under paragraph (1) for classroom practice; and

(B) can use the research to improve such teachers' performance in the classroom.

SEC. 12. DUPLICATION OF PROGRAMS.

(a) IN GENERAL.—The Director shall review the education programs of the Foundation that are in operation as of the date of enactment of this Act to determine whether any of such programs duplicate the programs authorized under this Act.

(b) IMPLEMENTATION.—As programs authorized under this Act are implemented, the Director shall—

(1) terminate any duplicative program being carried out by the Foundation or merge the duplicative program into a program authorized under this Act; and

(2) not establish any new program that duplicates a program that has been implemented pursuant to this Act.

(c) REPORT.—

(1) REVIEW.—The Director of the Office of Science and Technology Policy shall review the education programs of the Foundation to ensure compliance with the provisions of this section.

(2) SUBMISSION.—Not later than 1 year after the date of enactment of this Act, and annually thereafter as part of the annual Office of Science and Technology Policy's budget submission to Congress, the Director of the Office of Science and Technology Policy shall complete a report on the review carried out under this subsection and shall submit the report to the Committee on Science and the Committee on Appropriations of the House of Representatives, and to the Committee on Commerce, Science, and Transportation, the Committee on Health, Education, Labor, and Pensions, and the Committee on Appropriations of the Senate.

SEC. 13. MAJOR RESEARCH INSTRUMENTATION.

(a) REVIEW AND ASSESSMENT.—The Director shall conduct a review and assessment of the major research instrumentation program and, not later than 1 year after the date of enactment of this Act, submit a report of findings and recommendations to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate. The report shall include—

(1) estimates of the needs, by major field of science and engineering and by types of institutions of higher education, for the types of research instrumentation that are eligible for acquisition under the guidelines of the major research instrumentation program;

(2) a description of the distribution of awards and funding levels by year, by major field of science and engineering, and by type of institution of higher education for the program, since the inception of the major research instrumentation program; and

(3) an analysis of the impact of the major research instrumentation program on the research instrumentation needs that were documented in the Foundation's 1994 survey of academic research instrumentation needs.

(b) NATIONAL ACADEMY OF SCIENCES ASSESSMENT ON INTERDISCIPLINARY RESEARCH AND ADVANCED INSTRUMENTATION CENTERS.—

(1) ASSESSMENT.—Not later than 3 months after the date of enactment of this Act, the Director shall enter into an arrangement with the National Academy of Sciences to assess the need for an interagency program to establish and support fully equipped, state-of-the-art university-based centers for interdisciplinary research and advanced instrumentation development.

(2) TRANSMITTAL TO CONGRESS.—Not later than 15 months after the date of the enactment of this Act, the Director shall transmit to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate the assessment conducted by the National Academy of Sciences together with the Foundation's reaction to the assessment authorized under paragraph (1).

SEC. 14. MAJOR RESEARCH EQUIPMENT AND FACILITIES CONSTRUCTION PLAN.

(a) PRIORITIZATION OF PROPOSED MAJOR RESEARCH EQUIPMENT AND FACILITIES CONSTRUCTION.—

(1) DEVELOPMENT OF PRIORITIES.—(A) The Director shall—

(i) develop a list indicating by number the relative priority for funding under the major research equipment and facilities construction account that the Director assigns to each project the Board has approved for inclusion in a future budget request; and

(ii) submit the list described in clause (i) to the Board for approval.

(B) The Director shall update the list prepared under subparagraph (A) each time the Board approves a new project that would receive funding under the major research equipment and facilities construction account, as necessary to prepare reports under paragraph (2), and, from time to time, submit any updated list to the Board for approval.

(2) ANNUAL REPORT.—Not later than 90 days after the date of enactment of this Act, and not later than each June 15 thereafter, the Director shall transmit to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate a report containing—

(A) the most recent Board-approved priority list developed under paragraph (1)(A);

(B) a description of the criteria used to develop such list; and

(C) a description of the major factors for each project that determined the ranking of such project on the list, based on the application of the criteria described pursuant to subparagraph (B).

(3) CRITERIA.—The criteria described pursuant to paragraph (2)(B) shall include, at a minimum—

(A) scientific merit;

(B) broad societal need and probable impact;

(C) consideration of the results of formal prioritization efforts by the scientific community;

(D) readiness of plans for construction and operation;

(E) the applicant's management and administrative capacity of large research facilities;

(F) international and interagency commitments; and

(G) the order in which projects were approved by the Board for inclusion in a future budget request.

(b) FACILITIES PLAN.—

(1) IN GENERAL.—Section 201(a)(1) of the National Science Foundation Authorization

Act of 1998 (42 U.S.C. 1862*l*(a)(1)) is amended to read as follows:

''(1) IN GENERAL.—The Director shall prepare, and include as part of the Foundation's annual budget request to Congress, a plan for the proposed construction of, and repair and upgrades to, national research facilities, including full life-cycle cost information.''.

(2) CONTENTS OF PLAN.—Section 201(a)(2) of the National Science Foundation Authorization Act of 1998 (42 U.S.C. 1862*l*(a)(2)) is amended—

(A) in subparagraph (A), by striking ''(1);'' and inserting ''(1), including costs for instrumentation development;'';

(B) in subparagraph (B), by striking ''and'' after the semicolon;

(C) in subparagraph (C), by striking ''construction.'' and inserting ''construction;''; and

(D) by adding at the end the following:

''(D) for each project funded under the major research equipment and facilities construction account—

''(i) estimates of the total project cost (from planning to commissioning); and

''(ii) the source of funds, including Federal funding identified by appropriations category and non-Federal funding;

''(E) estimates of the full life-cycle cost of each national research facility;

''(F) information on any plans to retire national research facilities; and

''(G) estimates of funding levels for grants supporting research that will be conducted using each national research facility.''.

(3) DEFINITION.—Section 2 of the National Science Foundation Authorization Act of 1998 (42 U.S.C. 1862k note) is amended—

(A) by redesignating paragraphs (3) through (5) as paragraphs (4) through (6), respectively; and

(B) by inserting after paragraph (2) the following:

''(3) FULL LIFE-CYCLE COST.—The term 'full life-cycle cost' means all costs of planning, development, procurement, construction, operations and support, and shut-down costs, without regard to funding source and without regard to what entity manages the project or facility involved.''.

(c) PROJECT MANAGEMENT.—No national research facility project funded under the major research equipment and facilities construction account shall be managed by an individual whose appointment to the Foundation is temporary.

(d) BOARD APPROVAL OF MAJOR RESEARCH EQUIPMENT AND FACILITIES PROJECTS.—

(1) IN GENERAL.—The Board shall explicitly approve any project to be funded out of the major research equipment and facilities construction account before any funds may be obligated from such account for such project.

(2) REPORT.—Not later than September 15 of each fiscal year, the Board shall report to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Health, Education, Labor, and Pensions of the Senate, and the Committee on Science of the House of Representatives on the conditions of any delegation of authority under section 4 of the National Science Foundation Act of 1950 (42 U.S.C. 1863) that relates to funds appropriated for any project in the major research equipment and facilities construction account.

(e) NATIONAL ACADEMY OF SCIENCES STUDY ON MAJOR RESEARCH EQUIPMENT AND FACILITIES CONSTRUCTION.—

(1) STUDY.—Not later than 3 months after the date of enactment of this Act, the Director shall enter into an arrangement with the National Academy of Sciences to perform a study on setting priorities for a diverse array of disciplinary and interdisciplinary Foundation-sponsored large research facility projects.

(2) TRANSMITTAL TO CONGRESS.—Not later than 15 months after the date of the enactment of this Act, the Director shall transmit to the Committee on Science and the Committee on Appropriations of the House of Representatives, and to the Committee on Commerce, Science, and Transportation, the Committee on Health, Education, Labor, and Pensions, and the Committee on Appropriations of the Senate, the study conducted by the National Academy of Sciences together with the Foundation's reaction to the study authorized under paragraph (1).

SEC. 15. ADMINISTRATIVE AMENDMENTS.

(a) BOARD MEETINGS.—

(1) IN GENERAL.—Section 4(e) of the National Science Foundation Act of 1950 (42 U.S.C. 1863(e)) is amended by striking the second and third sentences and inserting ''The Board shall adopt procedures governing the conduct of its meetings, including delivery of notice and a definition of a quorum, which in no case shall be less than one-half plus one of the confirmed members of the Board.''.

(2) OPEN MEETINGS.—The Board and all of its committees, subcommittees, and task forces (and any other entity consisting of members of the Board and reporting to the Board) shall be subject to section 552b of title 5, United States Code.

(3) COMPLIANCE AUDIT.—The Inspector General of the Foundation shall conduct an annual audit of the compliance by the Board with the requirements described in paragraph (2). The audit shall examine the proposed and actual content of closed meetings and determine whether the closure of the meetings was consistent with section 552b of title 5, United States Code.

(4) REPORT.—Not later than February 15 of each year, the Inspector General of the Foundation shall transmit to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate the audit required under paragraph (3) along with recommendations for corrective actions that need to be taken to achieve fuller compliance with the requirements described in paragraph (2), and recommendations on how to ensure public access to the Board's deliberations.

(b) CONFIDENTIALITY OF CERTAIN INFORMATION.—Section 14(i) of the National Science Foundation Act of 1950 (42 U.S.C. 1873(i)) is amended to read as follows:

''(i)(1)(A) Information supplied to the Foundation or a contractor of the Foundation in survey forms, questionnaires, or similar instruments for purposes of section 3(a)(5) or (6) by an individual, an industrial or commercial organization, or an educational, academic, or other nonprofit institution when the institution has received a pledge of confidentiality from the Foundation, shall not be disclosed to the public unless the information has been transformed into statistical or abstract formats that do not allow for the identification of the supplier.

''(B) Information that has not been transformed into formats described in subparagraph (A) may be used only for statistical or research purposes.

''(C) The identities of individuals, organizations, and institutions supplying information described in subparagraph (A) may not be disclosed to the public.

''(2) In support of functions authorized by section 3(a)(5) or (6), the Foundation may designate, at its discretion, authorized persons, including employees of Federal, State, or local agencies or instrumentalities (including local educational agencies) and employees of private organizations, to have access, for statistical or research purposes only, to information collected pursuant to section 3(a)(5) or (6) that allows for the identification of the supplier. No such person may—

''(A) publish information collected pursuant to section 3(a)(5) or (6) in such a manner that either an individual, an industrial or commercial organization, or an educational, academic, or other nonprofit institution that has received a pledge of confidentiality from the Foundation can be specifically identified;

''(B) permit anyone other than individuals authorized by the Foundation to examine data that allows for such identification relating to an individual, an industrial or commercial organization, or an academic, educational, or other nonprofit institution that has received a pledge of confidentiality from the Foundation; or

''(C) knowingly and willfully request or obtain any nondisclosable information described in paragraph (1) from the Foundation under false pretenses.

''(3) Violation of this subsection is punishable by a fine of not more than $10,000, imprisonment for not more than 5 years, or both.''.

(c) APPOINTMENT.—Section 4(g) of the National Science Foundation Act of 1950 (42 U.S.C. 1863(g)) is amended by striking the second sentence and inserting ''Such staff shall be appointed by the Chairman and assigned at the direction of the Board.''.

(d) SCHOLARSHIP ELIGIBILITY.—The Director shall not exclude part-time students from eligibility for scholarships under the Computer Science, Engineering, and Mathematics Scholarship program.

SEC. 16. SCIENCE AND ENGINEERING EQUAL OPPORTUNITIES ACT AMENDMENTS.

Section 32 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885) is amended—

(1) in subsection (a), by striking ''backgrounds.'' and inserting ''backgrounds, including persons with disabilities.''; and

(2) in subsection (b)—

(A) by inserting '', including persons with disabilities,'' after ''backgrounds''; and

(B) by striking ''and minorities'' each place the term appears and inserting '', minorities, and persons with disabilities''.

SEC. 17. UNDERGRADUATE EDUCATION REFORM.

(a) IN GENERAL.—The Director shall award grants, on a competitive, merit-reviewed basis, to institutions of higher education to expand previously implemented reforms of undergraduate science, mathematics, engineering, or technology education that have been demonstrated to have been successful in increasing the number and quality of students studying toward and completing associate's or baccalaureate degrees in science, mathematics, engineering, or technology.

(b) USES OF FUNDS.—Activities supported by grants under this section may include—

(1) expansion of successful reform efforts beyond a single course or group of courses to achieve reform within an entire academic unit;

(2) expansion of successful reform efforts beyond a single academic unit to other science, mathematics, engineering, or technology academic units within an institution;

(3) creation of multidisciplinary courses or programs that formalize collaborations for the purpose of improved student instruction and research in science, mathematics, engineering, and technology;

(4) expansion of undergraduate research opportunities beyond a particular laboratory, course, or academic unit to engage multiple academic units in providing multidisciplinary research opportunities for undergraduate students;

(5) expansion of innovative tutoring or mentoring programs proven to enhance student recruitment or persistence to degree completion in science, mathematics, engineering, or technology;

(6) improvement of undergraduate science, mathematics, engineering, and technology education for nonmajors, including education majors; and

(7) implementation of technology-driven reform efforts, including the installation of technology to facilitate such reform, that directly impact undergraduate science, mathematics, engineering, or technology instruction or research experiences.

(c) SELECTION PROCESS.—

(1) APPLICATIONS.—An institution of higher education seeking a grant under this section shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require. The application shall include, at a minimum—

(A) a description of the proposed reform effort;

(B) a description of the previously implemented reform effort that will serve as the basis for the proposed reform effort and evidence of success of that previous effort, including data on student recruitment, persistence to degree completion, and academic achievement;

(C) evidence of active participation in the proposed project by individuals who were central to the success of the previously implemented reform effort; and

(D) evidence of institutional support for, and commitment to, the proposed reform effort, including a description of existing or planned institutional policies and practices regarding faculty hiring, promotion, tenure, and teaching assignment that reward faculty contributions to undergraduate education equal to, or greater than, scholarly scientific research.

(2) REVIEW OF APPLICATIONS.—In evaluating applications submitted under paragraph (1), the Director shall consider at a minimum—

(A) the evidence of past success in implementing undergraduate education reform and the likelihood of success in undertaking the proposed expanded effort;

(B) the extent to which the faculty, staff, and administrators of the institution are committed to making the proposed institutional reform a priority of the participating academic unit;

(C) the degree to which the proposed reform will contribute to change in institutional culture and policy such that a greater value is placed on faculty engagement in undergraduate education, as evidenced through promotion and tenure policies; and

(D) the likelihood that the institution will sustain or expand the reform beyond the period of the grant.

(3) GRANT DISTRIBUTION.—The Director shall ensure, to the extent practicable, that grants awarded under this section are made to a variety of types of institutions of higher education.

SEC. 18. REPORTS.

(a) GRANT SIZE AND DURATION.—Not later than 6 months after the date of enactment of this Act, the Director shall transmit to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate a report describing the impact that increasing the average grant size and duration would have on minority-serving institutions and on institutions located in States where the Foundation's Experimental Program to Stimulate Competitive Research (established under section 113 of the National Science Foundation Authorization Act of 1988 (42 U.S.C. 1862g)) is carrying out activities.

(b) FACULTY.—Not later than 3 months after the date of enactment of this Act, the Director shall enter into an arrangement with the National Academy of Sciences to assess gender differences in the careers of science and engineering faculty. This study shall build on the Academy's work on gender differences in the carriers of doctoral scientists and engineers and examine issues such as faculty hiring, promotion, tenure, and allocation of resources including laboratory space. Upon completion, the results of this study shall be transmitted to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate.

(c) GRANT FUNDING.—Not later than 3 months after the date of enactment of this Act, the Director shall enter into an agreement with an appropriate party to assess gender differences in the distribution of external Federal research and development funding. This study shall examine differences in amounts requested and awarded, by gender, in major Federal external grant programs. Upon completion, the results of this study shall be transmitted to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate.

(d) STUDY OF BROADBAND NETWORK ACCESS FOR SCHOOLS AND LIBRARIES.—

(1) REPORT TO CONGRESS.—The Director shall conduct a study of the issues described in paragraph (3), and not later than 1 year after the date of the enactment of this Act, transmit to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate a report including recommendations to address those issues. Such report shall be updated annually for 4 additional years.

(2) CONSULTATION.—In preparing the reports under paragraph (1), the Director shall consult with Federal agencies and educational entities as the Director considers appropriate.

(3) ISSUES TO BE ADDRESSED.—The reports shall—

(A) identify the availability of high-speed, large bandwidth capacity access to different demographic groups served by elementary schools, secondary schools, and libraries in the United States;

(B) identify how the provision of high-speed, large bandwidth capacity access to the Internet to such schools and libraries can be effectively utilized within each school and library;

(C) consider the effect that specific or regional circumstances may have on the ability of such institutions to acquire high-speed, large bandwidth capacity access to achieve universal connectivity as an effective tool in the education process; and

(D) include options and recommendations to address the challenges and issues identified in the reports.

(e) MINORITY-SERVING INSTITUTION FUNDING.—

(1) ANNUAL REPORTING REQUIRED.—The Director shall submit an annual report, along with the President's annual budget request, to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate on the amount of funding awarded by the Foundation to minority-serving institutions, including funding received as members of consortia. The report shall include information on such funding to minority-serving institutions—

(A) expressed as a percentage of funding to all institutions of higher education for each appropriations account within the Foundation's budget; and

(B) for the preceding 10 years.

(2) REPORT ON WAYS TO IMPROVE FUNDING.—Within one year after the date of enactment of this Act, the Director shall submit to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate a report on recommendations on how the Foundation can improve funding to minority-serving institutions.

SEC. 19. EVALUATIONS.

(a) EDUCATION.—

(1) IN GENERAL.—The Director, through the Research, Evaluation and Communication Division of the Education and Human Resources Directorate of the Foundation, shall evaluate the effectiveness of all undergraduate science, mathematics, engineering, or technology education activities supported by the Foundation in increasing the number and quality of students, including individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b) studying toward and completing associate's or baccalaureate degrees in science, mathematics, engineering, and technology. In conducting the evaluation, the Director shall consider information on—

(A) the number of students enrolled in undergraduate science, mathematics, engineering, and technology programs;

(B) student academic achievement, including quantifiable measurements of students' mastery of content and skills;

(C) persistence to degree completion, including students who transfer from science, mathematics, engineering, and technology programs to programs in other academic disciplines; and

(D) placement during the first year after degree completion in post-graduate education or career pathways.

(2) ASSESSMENT BENCHMARKS AND TOOLS.—The Director, through the Research, Evaluation and Communication Division of the Education and Human Resources Directorate of the Foundation, shall establish a common set of assessment benchmarks and tools, and shall enable every Foundation-sponsored project to incorporate the use of these benchmarks and tools in their project-based assessment activities.

(3) REPORTS TO CONGRESS.—Not later than 3 years after the date of the enactment of this Act, and once every 3 years thereafter, the Director shall transmit to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate a report containing the results of evaluations under paragraph (1).

(b) AWARDS.—Notwithstanding any other provision of this Act, the Director shall annually evaluate a random sample of grants, contracts, or other awards made pursuant to this Act.

(c) DISSEMINATION.—The Director shall—

(1) provide for the dissemination of the results of the evaluations conducted pursuant to this section to the public; and

(2) provide notice to the public that such evaluations are available.

SEC. 20. REPORT BY COMMITTEE ON EQUAL OPPORTUNITIES IN SCIENCE AND ENGINEERING.

As part of the first report required by section 36(e) of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885c(e)) transmitted to Congress after the date of enactment of this Act, the Committee on Equal Opportunities in Science and Engineering shall include—

(1) a summary of its findings over the previous 10 years;

(2) a description of past and present policies and activities of the Foundation to encourage full participation of women, minorities, and persons with disabilities in science, mathematics, and engineering fields, including activities in support of minority-serving institutions; and

(3) an assessment of the trends in participation in Foundation activities, and an assessment of the success of Foundation policies and activities, along with proposals for new strategies or the broadening of existing successful strategies toward facilitating the goals of that Act.

SEC. 21. ADVANCED TECHNOLOGICAL EDUCATION PROGRAM.

(a) CORE SCIENCE AND MATHEMATICS COURSES.—Section 3(a) of the Scientific and Advanced-Technology Act of 1992 (42 U.S.C. 1862i(a)) is amended—

(1) by inserting '', and to improve the quality of their core education courses in science and mathematics'' after ''education in advanced-technology fields'';

(2) in paragraph (1) by inserting ''and in core science and mathematics courses'' after ''advanced-technology fields''; and

(3) in paragraph (2) by striking ''in advanced-technology fields'' and inserting ''who provide instruction in science, mathematics, and advanced-technology fields''.

(b) ARTICULATION PARTNERSHIPS.—Section 3(c)(1)(B) of the Scientific and Advanced-Technology Act of 1992 (42 U.S.C. 1862i(c)(1)(B)) is amended—

(1) by striking ''and'' at the end of clause (i);

(2) by striking the period at the end of clause (ii) and inserting a semicolon; and

(3) by adding after clause (ii) the following new clauses:

''(iii) provide students with research experiences at bachelor's-degree-granting institutions participating in the partnership, including stipend support for students participating in summer programs; and

''(iv) provide faculty mentors for students participating in activities under clause (iii), including summer salary support for faculty mentors.''.

(c) NATIONAL SCIENCE FOUNDATION REPORT.—Within 6 months after the date of the enactment of this Act, the Director shall transmit a report to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate on—

(1) efforts by the Foundation and awardees under the program carried out under section 3 of the Scientific and Advanced-Technology Act of 1992 (42 U.S.C. 1862i) to disseminate information about the results of projects;

(2) the effectiveness of national centers of scientific and technical education established under section 3(b) of the Scientific and Advanced-Technology Act of 1992 (42 U.S.C. 1862i(b)) in serving as national and regional clearinghouses of information and models for best practices in undergraduate science, mathematics, and technology education; and

(3) efforts to satisfy the requirement of section 3(f)(4) of the Scientific and Advanced-Technology Act of 1992 (42 U.S.C. 1862i(f)(4)).

SEC. 22. REPORT ON FOUNDATION BUDGETARY AND PROGRAMMATIC EXPANSION.

The Board shall prepare a report to address and examine the Foundation's budgetary and programmatic growth provided for by this Act. The report shall be submitted to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate within one year after the date of the enactment of this Act and shall include—

(1) recommendations on how the increased funding should be utilized;

(2) an examination of the projected impact that the budgetary increases will have on the Nation's scientific and technological workforce;

(3) a description of new or expanded programs that will enable institutions of higher education to expand their participation in Foundation-funded activities;

(4) an estimate of the national scientific and technological research infrastructure needed to adequately support the Foundation's increased funding and additional programs; and

(5) a description of the impact the budgetary increases provided under this Act will have on the size and duration of grants awarded by the Foundation.

SEC. 23. ASTRONOMY AND ASTROPHYSICS ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—The Foundation and the National Aeronautics and Space Administration shall jointly establish an Astronomy and Astrophysics Advisory Committee (in this section referred to as the ''Advisory Committee'').

(b) DUTIES.—The Advisory Committee shall—

(1) assess, and make recommendations regarding, the coordination of astronomy and astrophysics programs of the Foundation and the National Aeronautics and Space Administration;

(2) assess, and make recommendations regarding, the status of the activities of the Foundation and the National Aeronautics and Space Administration as they relate to the recommendations contained in the National Research Council's 2001 report entitled ''Astronomy and Astrophysics in the New Millennium'', and the recommendations contained in subsequent National Research Council reports of a similar nature; and

(3) not later than March 15 of each year, transmit a report to the Director, the Administrator of the National Aeronautics and Space Administration, and the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate on the Advisory Committee's findings and recommendations under paragraphs (1) and (2).

(c) MEMBERSHIP.—The Advisory Committee shall consist of 13 members, none of whom shall be a Federal employee, including—

(1) 5 members selected by the Director;

(2) 5 members selected by the Administrator of the National Aeronautics and Space Administration; and

(3) 3 members selected by the Director of the Office of Science and Technology Policy.

(d) SELECTION PROCESS.—Initial selections under subsection (c) shall be made within 3 months after the date of the enactment of this Act. Vacancies shall be filled in the same manner as provided in subsection (c).

(e) CHAIRPERSON.—The Advisory Committee shall select a chairperson from among its members.

(f) COORDINATION.—The Advisory Committee shall coordinate with the advisory bodies of other Federal agencies, such as the Department of Energy, which may engage in related research activities.

(g) COMPENSATION.—The members of the Advisory Committee shall serve without compensation, but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(h) MEETINGS.—The Advisory Committee shall convene, in person or by electronic means, at least 4 times a year.

(i) QUORUM.—A majority of the members serving on the Advisory Committee shall constitute a quorum for purposes of conducting the business of the Advisory Committee.

(j) DURATION.—Section 14 of the Federal Advisory Committee Act shall not apply to the Advisory Committee.

SEC. 24. MINORITY-SERVING INSTITUTIONS UNDERGRADUATE PROGRAM.

(a) IN GENERAL.—The Director is authorized to establish a new program to award grants on a competitive, merit-reviewed basis to Hispanic-serving institutions, Alaska Native-serving institutions, Native Hawaiian-serving institutions, and other institutions of higher education serving a substantial number of minority students to enhance the quality of undergraduate science, mathematics, and engineering education at such institutions and to increase the retention and graduation rates of students pursuing associate's or baccalaureate degrees in science, mathematics, engineering, or technology.

(b) PROGRAM COMPONENTS.—Grants awarded under this section shall support—

(1) activities to improve courses and curriculum in science, mathematics, and engineering;

(2) faculty development;

(3) stipends for undergraduate students participating in research; and

(4) other activities consistent with subsection (a), as determined by the Director.

(c) PROGRAM COORDINATION.—This program shall be coordinated with and in addition to the ongoing Historically Black Colleges and Universities Undergraduate Program and the Tribal Colleges and Universities Program.

(d) INSTRUMENTATION.—Funding for instrumentation is an allowed use of grants awarded under this section and under the ongoing Historically Black Colleges and Universities Undergraduate Program and the Tribal Colleges and Universities Program.

SEC. 25. STUDY ON RESEARCH AND DEVELOPMENT FUNDING DATA DISCREPANCIES.

(a) STUDY.—The Director, in consultation with the Director of the Office of Management and Budget and the heads of other Federal agencies, shall enter into agreement with the National Academy of Sciences to conduct a comprehensive study to determine the source of discrepancies in Federal reports on obligations and actual expenditures of Federal research and development funding.

(b) CONTENTS.—The study shall—

(1) examine the relevance and accuracy of reporting classifications and definitions used in the reports described in subsection (a);

(2) examine whether the classifications and definitions are used consistently across Federal agencies for data gathering;

(3) examine whether and how Federal agencies use reports described in subsection (a), and describe any other sources of similar data used by those agencies;

(4) recommend alternatives for modifications to the current reporting process and system that would—

(A) accommodate emerging fields of science and changing practices in the conduct of research and development;

(B) minimize, to the extent possible, the burden imposed on the reporters of these data;

(C) increase the consistency of application of the system across the Federal agencies including the Office of Management and Budget and the Foundation;

(D) encourage the use of new technologies to increase accuracy, timeliness, and consistency of the reported data between the agencies and the research performers; and

(E) overcome systemic shortfalls; and

(5) recommend an implementation timeline for the modifications recommended under paragraph (4), and recommend specific responsibilities for the program and budget offices in the agencies, taking into consideration required changes to the current computer systems and processes used by the agencies.

(c) SUBMISSION.—The Director shall submit a report on the results of the study to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate within one year after the date of enactment of this Act.

(d) IMPLEMENTATION.—Within 6 months after the completion of the study required by subsection (a), the Director of the Office of Science and Technology Policy shall submit to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate a plan for implementation of the recommendations of the study.

SEC. 26. PLANNING GRANTS.

The Director is authorized to accept planning proposals from applicants who are within .075 percentage points of the current eligibility level for the Experimental Program to Stimulate Competitive Research. Such proposals shall be reviewed by the Foundation to determine their merit for support under the Experimental Program to Stimulate Competitive Research or any other appropriate program.

SA 4959. Mr. REID (for Mr. KENNEDY (for himself, Mr. GREGG, and Mr. HOLLINGS)) proposed an amendment to the bill H.R. 4664, An act to authorize appropriations for fiscal years 2003, 2004, 2005, 2006, and 2007 for the National Science Foundation, and for other purposes; as follows:

Amend the title so as to read: ''An Act to authorize appropriations for fiscal years 2003, 2004, 2005, 2006, and 2007 for the National Science Foundation and for other purposes.''.

SA 4960. Mrs. CLINTON (for herself, Mr. FITZGERALD, Ms. CANTWELL, and Mr. SPECTER) proposed an amendment to the bill H.R. 3529, to provide tax incentives for economic recovery and assistance to displaced workers; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. Section 114 of Public Law 107–229 is amended by striking ''the date specified in section 107(c) of this joint resolution'' and inserting ''March 31, 2003''.

Section. 2. EXTENSION OF THE TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION ACT OF 2002.

(a) In general.—Section 208 of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 30) is amended to read as follows:

''SEC. 208. APPLICABILITY.

''(a) IN GENERAL.—Except as provided in subsection (b), an agreement entered into under this title shall apply to weeks of unemployment—

''(1) beginning after the date on which such agreement is entered into; and

''(2) ending before April 1, 2003.

''(b) TRANSITION FOR AMOUNT REMAINING IN ACCOUNT.—

''(1) IN GENERAL.—Subject to paragraphs (2) and (3), in the case of an individual who has amounts remaining in an account established under section 203 as of March 29, 2003, temporary extended unemployment compensation shall continue to be payable to such individual from such amounts for any week beginning after such date for which the individual meets the eligibility requirements of this title.

''(2) NO AUGMENTATION AFTER MARCH 29, 2003.—If the account of an individual is exhausted after March 29, 2003, then section 203(c) shall not apply and such account shall not be augmented under such section, regardless of whether such individual's State is in an extended benefit period (as determined under paragraph (2) of such section).

''(3) LIMITATION.—No compensation shall be payable by reason of paragraph (1) for any week beginning after June 28, 2003.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the enactment of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 21).

SA 4961. Mr. REID (for Mr. BAUCUS) proposed an amendment to the bill H.R. 5557, to amend the Internal Revenue Code of 1986 to provide a special rule for members of the uniformed services and Foreign Service in determining the exclusion of gain from the sale of a principal residence and to restore the tax exempt status of death gratuity payments to members of the uniformed services, and for other purposes; as follows:

On page 10, strike line 10, and insert the following:

SEC. 8. CLARIFICATION RELATING TO EXCEPTION FROM ADDITIONAL TAX ON CERTAIN DISTRIBUTIONS FROM QUALIFIED TUITION PROGRAMS, ETC. ON ACCOUNT OF ATTENDANCE AT MILITARY ACADEMY.

(a) IN GENERAL.—Subparagraph (B) of section 530(d)(4) of the Internal Revenue Code of 1986 (relating to exceptions from additional tax for distributions not used for educational purposes) is amended by striking ''or'' at the end of clause (iii), by redesignating clause (iv) as clause (v), and by inserting after clause (iii) the following new clause:

''(iv) made on account of the attendance of the account holder at the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, the United States Coast Guard Academy, or the United States Merchant Marine Academy, to the extent that the amount of the payment or distribution does not exceed the costs of advanced education (as defined by section 2005(e)(3) of title 10, United States Code, as in effect on the date of the enactment of this section) attributable to such attendance, or''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect for taxable years beginning after December 31, 2002.

SEC. 9. SUSPENSION OF TAX-EXEMPT STATUS OF DESIGNATED TERRORIST ORGANIZATIONS.

(a) IN GENERAL.—Section 501 of the Internal Revenue Code of 1986 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

''(p) SUSPENSION OF TAX-EXEMPT STATUS OF DESIGNATED TERRORIST ORGANIZATIONS.—

''(1) IN GENERAL.—The exemption from tax under subsection (a) with respect to any organization shall be suspended during any period in which the organization is a designated terrorist organization.

''(2) DESIGNATED TERRORIST ORGANIZATION.—For purposes of this subsection, the term 'designated terrorist organization' means an organization which—

''(A) is designated as a terrorist organization in or pursuant to an Executive order, or otherwise designated, under the authority of—

''(i) section 212(a)(3) or 219 of the Immigration and Nationality Act,

''(ii) the International Emergency Economic Powers Act, or

''(iii) section 5 of the United Nations Participation Act, or

''(B) is designated in or pursuant to an Executive order as supporting terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act) or terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989).

''(3) DENIAL OF DEDUCTION.—No deduction shall be allowed under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 for any contribution to an organization during the period such organization is a designated terrorist organization.

''(4) DENIAL OF ADMINISTRATIVE OR JUDICIAL CHALLENGE OF SUSPENSION OR DENIAL OF DEDUCTION.—Notwithstanding section 7428 or any other provision of law, no organization or other person may challenge a suspension under paragraph (1), a designation described in paragraph (2), or a denial of a deduction under paragraph (3) in any administrative or judicial proceeding relating to the Federal tax liability of such organization or other person.

''(5) CREDIT OR REFUND IN CASE OF ERRONEOUS DESIGNATION.—

''(A) IN GENERAL.—If a designation of an organization pursuant to 1 or more of the provisions of law described in paragraph (2) is determined to be erroneous pursuant to such law and the erroneous designation results in an overpayment of income tax for any taxable year with respect to such organization, credit or refund (with interest) with respect to such overpayment shall be made.

''(B) WAIVER OF LIMITATIONS.—If credit or refund of any overpayment of tax described in subparagraph (A) is prevented at any time before the close of the 1-year period beginning on the date of the determination of such credit or refund by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.''.

(b) NOTICE OF SUSPENSIONS.—If the tax exemption of any organization is suspended under section 501(p) of the Internal Revenue Code of 1986 (as added by subsection (a)), the Internal Revenue Service shall update the listings of tax-exempt organizations and shall publish appropriate notice to taxpayers of such suspension and of the fact that contributions to such organization are not deductible during the period of such suspension.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 10. ABOVE-THE-LINE DEDUCTION FOR OVERNIGHT TRAVEL EXPENSES OF NATIONAL GUARD AND RESERVE MEMBERS.

(a) DEDUCTION ALLOWED.—Section 162 of the Internal Revenue Code of 1986 (relating to certain trade or business expenses) is amended by redesignating subsection (p) as subsection (q) and inserting after subsection (o) the following new subsection:

''(p) TREATMENT OF EXPENSES OF MEMBERS OF RESERVE COMPONENT OF ARMED FORCES OF THE UNITED STATES.—For purposes of subsection (a)(2), in the case of an individual who performs services as a member of a reserve component of the Armed Forces of the United States at any time during the taxable year, such individual shall be deemed to be away from home in the pursuit of a trade or business for any period during which such individual is away from home in connection with such services.''.

(b) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ELECTS TO ITEMIZE.—Section 62(a)(2) (relating to certain trade and business deductions of employees) is amended by adding at the end the following new subparagraph:

''(E) CERTAIN EXPENSES OF MEMBERS OF RESERVE COMPONENTS OF THE ARMED FORCES OF THE UNITED STATES.—The deductions allowed by section 162 which consist of expenses, not in excess of $1,500, paid or incurred by the taxpayer in connection with the performance of services by such taxpayer as a member of a reserve component of the Armed Forces of the United States for any period during which such individual is more than 100 miles away from home in connection with such services.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2002.

SEC. 11. EXTENSION OF INTERNAL REVENUE SERVICE USER FEES.

(a) IN GENERAL.—Chapter 77 of the Internal Revenue Code of 1986 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

''SEC. 7527. INTERNAL REVENUE SERVICE USER FEES.

''(a) GENERAL RULE.—The Secretary shall establish a program requiring the payment of user fees for—

''(1) requests to the Internal Revenue Service for ruling letters, opinion letters, and determination letters, and

''(2) other similar requests.

''(b) PROGRAM CRITERIA.—

''(1) IN GENERAL.—The fees charged under the program required by subsection (a)—

''(A) shall vary according to categories (or subcategories) established by the Secretary,

''(B) shall be determined after taking into account the average time for (and difficulty of) complying with requests in each category (and subcategory), and

''(C) shall be payable in advance.

''(2) EXEMPTIONS, ETC.—

''(A) IN GENERAL.—The Secretary shall provide for such exemptions (and reduced fees) under such program as the Secretary determines to be appropriate.

''(B) EXEMPTION FOR CERTAIN REQUESTS REGARDING PENSION PLANS.—The Secretary shall not require payment of user fees under such program for requests for determination letters with respect to the qualified status of a pension benefit plan maintained solely by 1 or more eligible employers or any trust which is part of the plan. The preceding sentence shall not apply to any request—

''(i) made after the later of—

''(I) the fifth plan year the pension benefit plan is in existence, or

''(II) the end of any remedial amendment period with respect to the plan beginning within the first 5 plan years, or

''(ii) made by the sponsor of any prototype or similar plan which the sponsor intends to market to participating employers.

''(C) DEFINITIONS AND SPECIAL RULES.—For purposes of subparagraph (B)—

''(i) PENSION BENEFIT PLAN.—The term 'pension benefit plan' means a pension, profit-sharing, stock bonus, annuity, or employee stock ownership plan.

''(ii) ELIGIBLE EMPLOYER.—The term 'eligible employer' means an eligible employer (as defined in section 408(p)(2)(C)(i)(I)) which has at least 1 employee who is not a highly compensated employee (as defined in section 414(q)) and is participating in the plan. The determination of whether an employer is an eligible employer under subparagraph (B) shall be made as of the date of the request described in such subparagraph.

''(iii) DETERMINATION OF AVERAGE FEES CHARGED.—For purposes of any determination of average fees charged, any request to which subparagraph (B) applies shall not be taken into account.

''(3) AVERAGE FEE REQUIREMENT.—The average fee charged under the program required by subsection (a) shall not be less than the amount determined under the following table:

''Category	Average Fee
Employee plan ruling and opinion ..	$250
Exempt organization ruling	$350
Employee plan determination	$300
Exempt organization determination.	$275
Chief counsel ruling	$200.

''(c) TERMINATION.—No fee shall be imposed under this section with respect to requests made after September 30, 2012.''.

(b) CONFORMING AMENDMENTS.—

(1) The table of sections for chapter 77 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''Sec. 7527. Internal Revenue Service user fees.''.

(2) Section 10511 of the Revenue Act of 1987 is repealed.

(3) Section 620 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is repealed.

(c) LIMITATIONS.—Notwithstanding any other provision of law, any fees collected pursuant to section 7527 of the Internal Revenue Code of 1986, as added by subsection (a), shall not be expended by the Internal Revenue Service unless provided by an appropriations Act.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to requests made after the date of the enactment of this Act.

SEC. 12. PARTIAL PAYMENT OF TAX LIABILITY IN INSTALLMENT AGREEMENTS.

(a) IN GENERAL.—

(1) Section 6159(a) of the Internal Revenue Code of 1986 (relating to authorization of agreements) is amended—

(A) by striking ''satisfy liability for payment of'' and inserting ''make payment on'', and

(B) by inserting ''full or partial'' after ''facilitate''.

(2) Section 6159(c) of such Code (relating to Secretary required to enter into installment agreements in certain cases) is amended in the matter preceding paragraph (1) by inserting ''full'' before ''payment''.

(b) REQUIREMENT TO REVIEW PARTIAL PAYMENT AGREEMENTS EVERY TWO YEARS.—Section 6159 of the Internal Revenue Code of 1986 is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and inserting after subsection (c) the following new subsection:

''(d) SECRETARY REQUIRED TO REVIEW INSTALLMENT AGREEMENTS FOR PARTIAL COLLECTION EVERY TWO YEARS.—In the case of an agreement entered into by the Secretary under subsection (a) for partial collection of a tax liability, the Secretary shall review the agreement at least once every 2 years.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements entered into on or after the date of the enactment of this Act.

SEC. 13. PROTECTION OF SOCIAL SECURITY.

AUTHORITY FOR COMMITTEES TO MEET

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 Thursday, November 14, 2002 at 1 p.m. to hold a Members' Briefing.

Agenda

Briefers:

The Honorable Christina Rocca, Assistant Secretary for South Asian Affairs, Department of State.

The Hon. John S. Wolf, Assistant Secretary for Nonproliferation, Department of State.

Representative from the Central Intelligence Agency to be announced.

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 Thursday, November 14, 2002 at 2:30 to hold a nomination hearing.

Agenda

Nominee:

Mrs. Mary Carlin Yates, of Oregon, to be Ambassador to the Republic of Ghana.

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 markup on Thursday, November 14, 2002 at 10:00 a.m. in Dirksen Room 226.

Tentative Agenda

I. Nomination:

Dennis Shedd to be a U.S. Circuit Court Judge for the Fourth Circuit.

Michael McConnell to be a U.S. Circuit Court Judge for the Tenth Circuit.

To be a U.S. Attorney: Kevin J. O'Connor for the District of Connecticut.

II. Bills:

S. 2480, Law Enforcement Officers Safety Act of 2002 [Leahy/Hatch/Thurmond/Grassley McConnell/Feinstein/DeWine/Kyl/Sessions/Brownback/Edwards/Cantwell].

S. 1655, Captive Exotic Animal Protection Act of 2001 [Biden/Kennedy/Kohl/Feinstein/Feingold/Schumer/Durbin/Cantwell].

S. 2934, To Amend the charter of the American Legion [Johnson].

H.R. 3988, To Amend the charter of the American Legion [Gekas].

S. 2541, Identity Theft Penalty Enhancement Act of 2002 [Feinstein/Kyl/Sessions/Grassley].

H.R. 3180, To consent to certain amendments to the New Hampshire-Vermont Interstate School Compact [Bass].

S. 2520, Prosecutorial Remedies and Tools Against the Exploitation of Children Today Act of 2002 [Hatch/Leahy/Sessions/Brownback/Edwards/DeWine/Grassley.

S. 3114, Hometown Heroes Survivors Benefits Act of 2002 [Leahy/Collins].

S. Con. Res. 94, A Sense of Congress that a National Importance of Health Coverage Month should be established [Wyden/Hatch/Grassley].

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

SUBCOMMITTEE ON TECHNOLOGY, TERRORISM AND GOVERNMENT INFORMATION

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on Technology, Terrorism and Government Information be authorized to meet to conduct a hearing on ''America Still Unprepared—America Still in Danger'' on Thursday, November 14, 2002, at 2 p.m. in room 226 of the Dirksen Senate Office Building.

Witness List

Senator Warren B. Rudman, Co-Chair, Independent Terrorism Task Force Washington, DC.

Stephen E. Flynn, Member, Independent Terrorism Task Force, Senior Fellow, National Security Studies, Council on Foreign Relations, New York, NY.

Philip A. Odeen, Member, Independent Terrorism Task Force, Chairman, TRW Inc., Arlington, VA.

Col. Randy Larsen, Ret., Director, ANSER Institute for Homeland Security, Arlington, VA.

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

PRIVILEGES OF THE FLOOR

Mr. McCAIN. Madam President, I ask unanimous consent that Joe Raymond, a Coast Guard fellow on the Senate Commerce Committee, be granted the privilege of the floor during consideration of the conference report to accompany S. 1214, the Port and Maritime Security Act.

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

Mrs. CLINTON. Madam President, I ask unanimous consent that a fellow in my office, Dr. Leo Tressande, be given floor privileges.

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

SMALL WEBCASTER AMENDMENTS ACT OF 2002

Mr. REID. Madam President, I ask unanimous consent the Senate proceed to the consideration of H.R. 5469.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 5469) to amend title 17, United States Code, with respect to the statutory license for webcasting.

There being no objection, the Senate proceeded to consider the bill.

Mr. LEAHY. Madam President, I am pleased that the Senate is taking the important step of passing H.R. 5469, the ''Small Webcaster Amendments Act of 2002.'' This legislation reflects hard choices made in hard negotiations under hard circumstances. I commend House Judiciary Chairman Sensenbrenner and Representative Conyers for bringing this legislation to a successful conclusion and passage in the House of Representatives in a timely fashion to make a difference in the prospects of many small webcasters.

The Internet is an American invention that has become the emblem of the Information Age and an engine for bringing American content into homes and businesses around the globe. I have long been an enthusiast and champion of the Internet and of the creative spirits who are the source of the music, films, books, news, and entertainment content that enrich our lives, energize our economy and influence our culture. As a citizen, I am impressed by the innovation of new online entrepreneurs, and as a Senator, I want to do everything possible to promote the full realization of the Internet's potential. A flourishing Internet with clear, fair and enforceable rules governing how content may be used will benefit *all* of us, including the entrepreneurs who want us to become new customers and the artists who create the content we value.

The advent of webcasting—streaming music online rather than broadcasting it over the air as traditional radio stations do—has marked one of the more exciting and quickly growing of the new industries that have sprung up on the Web. Many of the new webcasters, unconstrained by the technological limitations of traditional radio transmission, can and do serve listeners across the country and around the world. They provide music in specialized niches not available over the air. They feature new and fringe artists who do not enjoy the few spots in the Top 40. And they can bring music of all types to listeners who, for whatever reason, are not being catered to by traditional broadcasters.

We have been mindful on this Committee that as the Internet is a boon to consumers, we must not neglect the artists who create and the businesses which produce the digital works that make the online world so fascinating and worth visiting. With each legislative effort to provide clear, fair and enforceable intellectual property rules for the Internet, a fundamental principle to which we have adhered is that artists and producers of digital works merit compensation for the value derived from the use of their work.

In 1995, we enacted the Digital Performance Right in Sound Recordings Act, which created an intellectual property right in digital sound recordings, giving copyright owners the right to receive royalties when their copyrighted sound recordings were digitally transmitted by others. Therefore when their copyrighted sound recordings are digitally transmitted, royalties are due. In the 1998 Digital Millennium Copyright Act, DMCA, we made clear that this law applied to webcasters and that they would have to pay these royalties. At the same time, we created a compulsory license so that webcasters could be sure of the use of these digital works. We directed that the appropriate royalty rate could be negotiated by the parties or determined by a Copyright Arbitration Royalty Panel—or CARP—at the Library of Congress.

Despite some privately negotiated agreements, no industry-wide agreement on royalty rates was reached and therefore a CARP proceeding was instituted that concluded on February 20, 2002. The CARP decision set the royalty rate to be paid by commercial webcasters, no matter their size, at .14 cents per song per listener, with royalty payments retroactive to October 1998, when the DMCA was passed.

At a Judiciary Committee hearing I convened on this issue on May 15, 2002, nobody seemed happy with the outcome of the arbitration and, in fact, all the parties appealed. The recording industry and artist representatives feel that the royalty rate—which was based on the number of performances and listeners, rather than on a percentage-of-revenue model—was too low to adequately compensate the creative efforts of the artists and the financial investments of the labels. Many webcasters declared that the per-performance approach, and the rate attached to it, would bankrupt small operations and drain the large ones. I said then that such an outcome would be highly unfortunate not only for the webcasters but also for the artists, the labels and the consumers, who all would lose important legitimate channels to connect music and music lovers online.

On appeal, the Librarian in June, 2002, cut the rate in half, to .07 cents per song per listener for commercial webcasters. Nevertheless, many webcasters, who had been operating during the four-year period between 1998 and 2002, were taken by surprise at the amount of their royalty liability. The retroactive fees were to be paid in full by October 20th and would have resulted in many small webcasters in particular, going out of business.

In order to avoid many webcasting streams going silent on October 20, when retroactive royalty payments are due, I urged all sides to avoid more expense and time and reach a negotiated

outcome more satisfactory to all participants than the Librarian's decision. I also monitored closely the progress of negotiations between the RIAA and webcasters. On July 31, I sent a letter with Senator HATCH to Sound Exchange, which was created by the RIAA to act as the agent for copyright holders in negotiating the voluntary licenses with webcasters under the DMCA and to serve as the receiving agent for royalties under the CARP process. The letter posed questions on the status of the reported on-going negotiations between RIAA/Sound Exchange and the smaller webcasters, the terms being proposed and considered, and how likely the outcome of those negotiations would be to produce viable deals for smaller webcasters, while still satisfying the copyright community.

Reports on the progress of these negotiations were disappointing, which makes this legislation all the more important. As a general principle, marketplace negotiations are the appropriate mechanism for determining the allocation of compensation among interested parties under copyright law. Yet, we have made exceptions to this general principle, as reflected in this legislation and the very compulsory license provisions it amends.

The legislation reflects a compromise for all the parties directly affected by this legislation—small webcasters that could not survive with the rates set by the Librarian and copyright owners and performers who under this bill will give certain eligible webcasters an alternative royalty payment scheme. This legislation does not represent a complete victory for any of these stakeholders. Artists and music labels may believe that they are forgoing significant royalties under this legislation and I appreciate that they are those in the webcasting business, who are either not covered or not sufficiently helped by the bill, who believe that this legislation should do more. As one analyst at the Radio and Internet Newsletter stated, in the October 11, 2002 issue, ''Clearly, the 'Small Webcaster Amendments Act of 2002' (a/k/a H.R. 5469) is an imperfect bill that doesn't fix everything for everybody . . . Still, overall, does it do more good than harm for more people? My belief is that many are helped one way or the other and virtually no one is assured of being hurt. Thus, the answer, on the whole, would be yes.''

I know that most webcasters share my belief that artists and labels should be fairly compensated for use of their creative works. This legislation provides both compensation to the copyright owners and helps to support the webcasting industry by offering more variable payment options to small webcasters than the one-size-fits all per performance rate set out in the original CARP and Librarian decisions. The rates, terms and record-keeping provisions are applicable only to the parties that qualify for and elect to be governed by this alternative royalty structure and no broad principles should be extrapolated from the rates, terms and record-keeping provisions contained in the bill. The Copyright Office is presently engaged in a rule-making on record-keeping and this bill does not supplant that ongoing process.

This legislation does three things to help small webcasters pay royalties and stay in business. As one Vermont webcaster told me, ''Although the percentage of revenue is too high, at least we have the option. A percentage of revenue deal will enable [us] to stay in business moving forward, grow our audience, and compete.''

First, the Librarian royalty rate is based on a per performance formula, which has the unfortunate effect of requiring webcasters to pay high fees for their use of music, even before the audience of the webcaster has grown to a sufficient size to attract any appreciable advertising revenues. Without any percentage of revenue option (as provided by the legislation), the webcasting industry would be closed to all but those with the substantial resources necessary to subsidize the business until the advertising revenue caught up to the per performance royalty rate. The bill provides a percentage of revenue option for small businesses with less than $500,000 in gross revenue in 2003 and $1.25 million dollars in 2004. The bill also provides for minimum fees and a percentage of expenses floor on the royalties, to assure that copyright owners and artists receive some payment for performance of their music.

Second, for noncommercial webcasters, such as college webcasters, the bill corrects an anomaly in the Librarian's decision. Under that decision, nonprofit entities held FCC licenses were given a lower per performance rate than were commercial entities. However, the decision made no such provision for noncommercial entities that were not FCC licenses. The bill extends the lower rate to all nonprofit entities.

Finally, the bill reduces the retroactive burden on many of the small commercial webcasters by allowing them to make their payments based on a percentage of revenue or percentage of expense, but also allows both small commercial and noncommercial webcasters to pay these retroactive fees in three payments over the span of a year.

To accommodate the concerns of artists and the RIAA, the bill provides for the reporting of information about which songs were played by the small commercial webcasters. This information will be used to account properly for the distribution of the royalties to the copyright holders and the artists.

A number of concerns have been raised that the rate, terms and record-keeping provisions in the bill do not constitute evidence of any rates, rate structure fees, definitions, conditions or terms that would have been negotiated in the marketplace between a willing buyer and willing seller. This concern stems from the DMCA's statutory license fee standard directing the CARP to establish rates and terms ''that most clearly represent the rates and terms that would have been negotiated in the marketplace between a willing buyer and a willing seller,'' rather than a determination of ''reasonable copyright royalty rates'' according to a set of balancing factors. This new webcasting standard may be having the unfortunate and unintended result that webcasters and copyright owners are concerned that the rates and terms of any voluntary licensing agreements will be applied industry-wide. The new webcasting standard appears to be making all sides cautious and reluctant to enter into, rather than facilitating, voluntary licensing agreements.

Passage of this legislation does not mean that our work is done. As this webcasting issue has unfolded, I have heard complaints from all sides about the fairness and completeness of procedures employed in the arbitration. Indeed, the concerns of many small webcasters were never heard, since the cost of participating in the proceedings was prohibitively expensive and their ability to participate for free was barred by procedural rules. One thing is clear: Compulsory licenses are no panacea and their implementation may only invite more congressional intervention. To avoid repeated requests for the Congress or the courts to intercede, we must make sure the procedures and standards used to establish the royalty rates for the webcasting and other compulsory licenses produce fair, workable results. Next year, we should focus attention on reforming the CARP process.

Mr. REID. Madam President, I ask unanimous consent that the Helms amendment at the desk be agreed to; the bill, as amended, be read a third time, passed, and the motion to reconsider be laid on the table, with no intervening action or debate.

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

The amendment (No. 4955) was agreed to.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

The bill (H.R. 5469), as amended, was read the third time and passed.

MEASURE PLACED ON THE CALENDAR—H.J. RES. 124

Mr. REID. Madam President, I ask unanimous consent that H.J. Res. 124, the continuing resolution just received from the House, be placed on the calendar.

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

AFGHANISTAN FREEDOM SUPPORT ACT OF 2002

Mr. REID. Madam President, I ask unanimous consent that the Senate

proceed to the consideration of Calendar No. 597, S. 2712.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2712) to authorize economic and democratic development assistance for Afghanistan and to authorize military assistance for Afghanistan and certain other foreign countries.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Foreign Relations with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

[Strike the part shown in black brackets and insert the part printed in Italic.]

S. 2712

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

[SECTION 1. SHORT TITLE; TABLE OF CONTENTS; DEFINITION.

[(a) SHORT TITLE.—This Act may be cited as the ''Afghanistan Freedom Support Act of 2002''.

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

[Sec. 1. Short title; table of contents; definition.

[TITLE I—ECONOMIC AND DEMOCRATIC DEVELOPMENT ASSISTANCE FOR AFGHANISTAN

[Sec. 101. Declaration of policy.
[Sec. 102. Purposes of assistance.
[Sec. 103. Principles of assistance.
[Sec. 104. Authorization of assistance.
[Sec. 105. Coordination of assistance.
[Sec. 106. Administrative provisions.
[Sec. 107. Authorization of appropriations.

[TITLE II—MILITARY ASSISTANCE FOR AFGHANISTAN AND CERTAIN OTHER FOREIGN COUNTRIES AND INTERNATIONAL ORGANIZATIONS

[Sec. 201. Support for security during transition in Afghanistan.
[Sec. 202. Authorization of assistance.
[Sec. 203. Eligible foreign countries and eligible international organizations.
[Sec. 204. Reimbursement for assistance.
[Sec. 205. Authority to provide assistance.
[Sec. 206. Promoting secure delivery of humanitarian and other assistance in Afghanistan.
[Sec. 207. Sunset.

[TITLE III—ADDITIONAL REQUIREMENTS WITH RESPECT TO ASSISTANCE FOR AFGHANISTAN

[Sec. 301. Prohibition on United States involvement in poppy cultivation or illicit narcotics growth, production, or trafficking.
[Sec. 302. Requirement to report by certain United States officials.
[Sec. 303. Report by the President.

[(c) DEFINITION.—In this Act, the term ''Government of Afghanistan'' includes—

[(1) the government of any political subdivision of Afghanistan; and

[(2) any agency or instrumentality of the Government of Afghanistan.

[TITLE I—ECONOMIC AND DEMOCRATIC DEVELOPMENT ASSISTANCE FOR AFGHANISTAN

[SEC. 101. DECLARATION OF POLICY.

[Congress makes the following declarations:

[(1) The United States and the international community should support efforts that advance the development of democratic civil authorities and institutions in Afghanistan and the establishment of a new broad-based, multi-ethnic, gender-sensitive, and fully representative government in Afghanistan.

[(2) The United States, in particular, should provide its expertise to meet immediate humanitarian and refugee needs, fight the production and flow of illicit narcotics, and aid in the reconstruction of Afghanistan's agriculture, health care, civil service, financial, and educational systems.

[(3) By promoting peace and security in Afghanistan and preventing a return to conflict, the United States and the international community can help ensure that Afghanistan does not again become a source for international terrorism.

[(4) The United States should support the objectives agreed to on December 5, 2001, in Bonn, Germany, regarding the provisional arrangement for Afghanistan as it moves toward the establishment of permanent institutions and, in particular, should work intensively toward ensuring the future neutrality of Afghanistan, establishing the principle that neighboring countries and other countries in the region do not threaten or interfere in one another's sovereignty, territorial integrity, or political independence, including supporting diplomatic initiatives to support this goal.

[(5) The special emergency situation in Afghanistan, which from the perspective of the American people combines security, humanitarian, political, law enforcement, and development imperatives, requires that the President should receive maximum flexibility in designing, coordinating, and administering efforts with respect to assistance for Afghanistan and that a temporary special program of such assistance should be established for this purpose.

[(6) To foster stability and democratization and to effectively eliminate the causes of terrorism, the United States and the international community should also support efforts that advance the development of democratic civil authorities and institutions in the broader Central Asia region.

[SEC. 102. PURPOSES OF ASSISTANCE.

[The purposes of assistance authorized by this title are—

[(1) to help assure the security of the United States and the world by reducing or eliminating the likelihood of violence against United States or allied forces in Afghanistan and to reduce the chance that [Afghanistan will again be a source of international terrorism;

[(2) to support the continued efforts of the United States and the international community to address the humanitarian crisis in Afghanistan and among Afghan refugees in neighboring countries;

[(3) to fight the production and flow of illicit narcotics, to control the flow of precursor chemicals used in the production of heroin, and to enhance and bolster the capacities of Afghan governmental authorities to control poppy cultivation and related activities;

[(4) to help achieve a broad-based, multiethnic, gender-sensitive, and fully representative government in Afghanistan that is freely chosen by the people of Afghanistan and that respects the human rights of all Afghans, particularly women, including authorizing assistance for the rehabilitation and reconstruction of Afghanistan with a particular emphasis on meeting the educational, health, and sustenance needs of women and children to better enable their full participation in Afghan society;

[(5) to support the Government of Afghanistan in its development of the capacity to facilitate, organize, develop, and implement projects and activities that meet the needs of the Afghan people;

[(6) to foster the participation of civil society in the establishment of the new Afghan government in order to achieve a broad-based, multiethnic, gender-sensitive, fully representative government freely chosen by the Afghan people, without prejudice to any decisions which may be freely taken by the Afghan people about the precise form in which their government is to be organized in the future;

[(7) to support the reconstruction of Afghanistan through, among other things, programs that create jobs, facilitate clearance of landmines, and rebuild the agriculture sector, the health care system, and the educational system of Afghanistan; and

[(8) to include specific resources to the Ministry for Women's Affairs of Afghanistan to carry out its responsibilities for legal advocacy, education, vocational training, and women's health programs.

[SEC. 103. PRINCIPLES OF ASSISTANCE.

[The following principles should guide the provision of assistance authorized by this title:

[(1) TERRORISM AND NARCOTICS CONTROL.—Assistance should be designed to reduce the likelihood of harm to United States and other allied forces in Afghanistan and the region, the likelihood of additional acts of international terrorism emanating from Afghanistan, and the cultivation, production, trafficking, and use of illicit narcotics in Afghanistan.

[((2) ROLE OF WOMEN.—Assistance should increase the participation of women at the national, regional, and local levels in Afghanistan, wherever feasible, by enhancing the role of women in decisionmaking processes, as well as by providing support for programs that aim to expand economic and educational opportunities and health programs for women and educational and health programs for girls.

[(3) AFGHAN OWNERSHIP.—Assistance should build upon Afghan traditions and practices. The strong tradition of community responsibility and self-reliance in Afghanistan should be built upon to increase the capacity of the Afghan people and institutions to participate in the reconstruction of Afghanistan.

[(4) STABILITY.—Assistance should encourage the restoration of security in Afghanistan, including, among other things, the disarmament, demobilization, and reintegration of combatants, and the establishment of the rule of law, including the establishment of a police force and an effective, independent judiciary.

[(5) COORDINATION.—Assistance should be part of a larger donor effort for Afghanistan. The magnitude of the devastation—natural and man-made—to institutions and infrastructure make it imperative that there be close coordination and collaboration among donors. The United States should endeavor to assert its leadership to have the efforts of international donors help achieve the purposes established by this title.

[SEC. 104. AUTHORIZATION OF ASSISTANCE.

[(a) IN GENERAL.—The President is authorized to provide assistance for Afghanistan for the following activities:

[(1) URGENT HUMANITARIAN NEEDS.—To assist in meeting the urgent humanitarian needs of the people of Afghanistan, including assistance such as—

[(A) emergency food, shelter, and medical assistance;

[(B) clean drinking water and sanitation;

[(C) preventative health care, including childhood vaccination, therapeutic feeding, maternal child health services, and infectious diseases surveillance and treatment;

[(D) family tracing and reunification services; and

[(E) clearance of landmines.

[(2) REPATRIATION AND RESETTLEMENT OF REFUGEES AND INTERNALLY DISPLACED PERSONS.—To assist refugees and internally displaced persons as they return to their home communities in Afghanistan and to support their reintegration into those communities, including assistance such as—

[(A) assistance identified in paragraph (1);

[(B) assistance to communities, including those in neighboring countries, that have taken in large numbers of refugees in order to rehabilitate or expand social, health, and educational services that may have suffered as a result of the influx of large numbers of refugees;

[(C) assistance to international organizations and host governments in maintaining security by screening refugees to ensure the exclusion of armed combatants, members of foreign terrorist organizations, and other individuals not eligible for economic assistance from the United States; and

[(D) assistance for voluntary refugee repatriation and reintegration inside Afghanistan and continued assistance to those refugees who are unable or unwilling to return, and humanitarian assistance to internally displaced persons, including those persons who need assistance to return to their homes, through the United Nations High Commissioner for Refugees and other organizations charged with providing such assistance.

[(3) COUNTERNARCOTICS EFFORTS.—(A) To assist in the eradication of poppy cultivation, the disruption of heroin production, and the reduction of the overall supply and demand for illicit narcotics in Afghanistan and the region, with particular emphasis on assistance to—

[(i) eradicate opium poppy, establish crop substitution programs, purchase nonopium products from farmers in opium-growing areas, quick-impact public works programs to divert labor from narcotics production, develop projects directed specifically at narcotics production, processing, or trafficking areas to provide incentives to cooperation in narcotics suppression activities, and related programs;

[(ii) establish or provide assistance to one or more entities within the Government of Afghanistan, including the Afghan State High Commission for Drug Control, and to provide training and equipment for the entities, to help enforce counternarcotics laws in Afghanistan and limit illicit narcotics growth, production, and trafficking in Afghanistan;

[(iii) train and provide equipment for customs, police, and other border control entities in Afghanistan and the region relating to illicit narcotics interdiction and relating to precursor chemical controls and interdiction to help disrupt heroin production in Afghanistan and the region;

[(iv) continue the annual opium crop survey and strategic studies on opium crop planting and farming in Afghanistan; and

[(v) reduce demand for illicit narcotics among the people of Afghanistan, including refugees returning to Afghanistan.

[(B) For each of the fiscal years 2002 through 2005, $15,000,000 of the amount made available to carry out this title is authorized to be made available for a contribution to the United Nations Drug Control Program for the purpose of carrying out activities described in clauses (i) through (v) of subparagraph (A). Amounts made available under the preceding sentence are in addition to amounts otherwise available for such purposes.

[(4) REESTABLISHMENT OF FOOD SECURITY, REHABILITATION OF THE AGRICULTURE SECTOR, IMPROVEMENT IN HEALTH CONDITIONS, AND THE RECONSTRUCTION OF BASIC INFRASTRUCTURE.—To assist in expanding access to markets in Afghanistan, to increase the availability of food in markets in Afghanistan, to rehabilitate the agriculture sector in Afghanistan by creating jobs for former combatants, returning refugees, and internally displaced persons, to improve health conditions, and assist in the rebuilding of basic infrastructure in Afghanistan, including assistance such as—

[(A) rehabilitation of the agricultural infrastructure, including irrigation systems and rural roads;

[(B) extension of credit;

[(C) provision of critical agricultural inputs, such as seeds, tools, and fertilizer, and strengthening of seed multiplication, certification, and distribution systems;

[(D) improvement in the quantity and quality of water available through, among other things, rehabilitation of existing irrigation systems and the development of local capacity to manage irrigation systems;

[(E) livestock rehabilitation through market development and other mechanisms to distribute stocks to replace those stocks lost as a result of conflict or drought;

[(F) mine awareness and demining programs and programs to assist mine victims, war orphans, and widows;

[(G) programs relating to infant and young child feeding, immunizations, vitamin A supplementation, and prevention and treatment of diarrheal diseases and respiratory infections;

[(H) programs to improve maternal and child health and reduce maternal and child mortality;

[(I) programs to improve hygienic and sanitation practices and for the prevention and treatment of infectious diseases, such as tuberculosis and malaria;

[(J) programs to reconstitute the delivery of health care, including the reconstruction of health clinics or other basic health infrastructure, with particular emphasis on health care for children who are orphans;

[(K) programs for housing, rebuilding urban infrastructure, and supporting basic urban services; and

[(L) disarmament, demobilization, and reintegration of armed combatants into society, particularly child soldiers.

[(5) REESTABLISHMENT OF AFGHANISTAN AS A VIABLE NATION-STATE.—(A) To assist in the development of the capacity of the Government of Afghanistan to meet the needs of the people of Afghanistan through, among other things, support for the development and expansion of democratic and market-based institutions, including assistance such as—

[(i) support for international organizations that provide civil advisers to the Government of Afghanistan;

[(ii) support for an educated citizenry through improved access to basic education, with particular emphasis on basic education for children who are orphans, with particular emphasis on basic education for children;

[(iii) programs to enable the Government of Afghanistan to recruit and train teachers, with special focus on the recruitment and training of female teachers;

[(iv) programs to enable the Government of Afghanistan to develop school curriculum that incorporates relevant information such as landmine awareness, food security and agricultural education, human rights awareness, and civic education;

[(v) support for the activities of the Government of Afghanistan to draft a new constitution, other legal frameworks, and other initiatives to promote the rule of law in Afghanistan;

[(vi) support to increase the transparency, accountability, and participatory nature of governmental institutions, including programs designed to combat corruption and other programs for the promotion of good governance;

[(vii) support for an independent media;

[(viii) programs that support the expanded participation of women and members of all ethnic groups in government at national, regional, and local levels;

[(ix) programs to strengthen civil society organizations that promote human rights and support human rights monitoring;

[(x) support for national, regional, and local elections and political party development;

[(xi) support for the effective administration of justice at the national, regional, and local levels, including the establishment of a responsible and community-based police force; and

[(xii) support for establishment of a central bank and central budgeting authority.

[(B) For each of the fiscal years 2003 through 2005, not less than $10,000,000 of the amount made available to carry out this title should be made available for the purposes of carrying out a traditional Afghan assembly or ''Loya Jirga'' and for support for national, regional, and local elections and political party development under subparagraph (A)(x).

[(6) MARKET ECONOMY.—To support the establishment of a market economy, the establishment of private financial institutions, the adoption of policies to promote foreign direct investment, the development of a basic telecommunication infrastructure, and the development of trade and other commercial links with countries in the region and with the United States, including policies to—

[(A) encourage the return of Afghanistan citizens or nationals living abroad who have marketable and business-related skills;

[(B) establish financial institutions, including credit unions, cooperatives, and other entities providing microenterprise credits and other income-generation programs for the poor, with particular emphasis on women;

[(C) facilitate expanded trade with countries in the region;

[(D) promote and foster respect for basic workers' rights and protections against exploitation of child labor; and

[(E) provide financing programs for the reconstruction of Kabul and other major cities in Afghanistan.

[(b) LIMITATION.—

[(1) IN GENERAL.—Amounts made available to carry out this title (except amounts made available for assistance under paragraphs (1) through (3) and subparagraphs (F) through (I) of paragraph (4) of subsection (a)) may be provided only if the President first determines and certifies to Congress with respect to the fiscal year involved that substantial progress has been made toward adopting a constitution and establishing a democratically elected government for Afghanistan.

[(2) WAIVER.—

[(A) IN GENERAL.—The President may waive the application of paragraph (1) if the President first determines and certifies to Congress that it is important to the national interest of the United States to do so.

[(B) CONTENTS OF CERTIFICATION.—A certification transmitted to Congress under subparagraph (A) shall include a written explanation of the basis for the determination of the President to waive the application of paragraph (1).

[SEC. 105. COORDINATION OF ASSISTANCE.

[(a) IN GENERAL.—The President is strongly urged to designate, within the Department of State, a coordinator who shall be responsible for—

[(1) designing an overall strategy to advance United States interests in Afghanistan;

[(2) ensuring program and policy coordination among agencies of the United States Government in carrying out the policies set forth in this title;

[(3) pursuing coordination with other countries and international organizations with respect to assistance to Afghanistan;

[(4) ensuring that United States assistance programs for Afghanistan are consistent with this title;

[(5) ensuring proper management, implementation, and oversight by agencies responsible for assistance programs for Afghanistan; and

[(6) resolving policy and program disputes among United States Government agencies with respect to United States assistance for Afghanistan.

[(b) RANK AND STATUS OF THE COORDINATOR.—The coordinator designated under subsection (a) shall have the rank and status of ambassador.

[SEC. 106. ADMINISTRATIVE PROVISIONS.

[(a) APPLICABLE ADMINISTRATIVE AUTHORITIES.—Except to the extent inconsistent with the provisions of this title, the administrative authorities under chapters 1 and 2 of part III of the Foreign Assistance Act of 1961 shall apply to the provision of assistance under this title to the same extent and in the same manner as such authorities apply to the provision of economic assistance under part I of such Act.

[(b) USE OF THE EXPERTISE OF AFGHAN-AMERICANS.—In providing assistance authorized by this title, the President should—

[(1) maximize the use, to the extent feasible, of the services of Afghan-Americans who have expertise in the areas for which assistance is authorized by this title; and

[(2) in the awarding of contracts and grants to implement activities authorized under this title, encourage the participation of such Afghan-Americans (including organizations employing a significant number of such Afghan-Americans).

[(c) DONATIONS OF MANUFACTURING EQUIPMENT; USE OF LAND GRANT COLLEGES AND UNIVERSITIES.—In providing assistance authorized by this title, the President, to the maximum extent practicable, should—

[(1) encourage the donation of appropriate excess or obsolete manufacturing and related equipment by United States businesses (including small businesses) for the reconstruction of Afghanistan; and

[(2) utilize research conducted by United States land grant colleges and universities and the technical expertise of professionals within those institutions, particularly in the areas of agriculture and rural development.

[(d) ADMINISTRATIVE EXPENSES.—Not more than 5 percent of the amount made available to a Federal department or agency to carry out this title for a fiscal year may be used by the department or agency for administrative expenses in connection with such assistance.

[(e) MONITORING.—

[(1) COMPTROLLER GENERAL.—The Comptroller General shall monitor the provision of assistance under this title.

[(2) INSPECTOR GENERAL OF USAID.—

[(A) IN GENERAL.—The Inspector General of the United States Agency for International Development shall conduct audits, inspections, and other activities, as appropriate, associated with the expenditure of the funds to carry out this title.

[(B) FUNDING.—Not more than $1,500,000 of the amount made available to carry out this title for a fiscal year shall be made available to carry out subparagraph (A).

[(f) CONGRESSIONAL NOTIFICATION PROCEDURES.—Funds made available to carry out this title may not be obligated until 15 days after notification of the proposed obligation of the funds has been provided to the congressional committees specified in section 634A of the Foreign Assistance Act of 1961 in accordance with the procedures applicable to reprogramming notifications under that section.

[SEC. 107. AUTHORIZATION OF APPROPRIATIONS.

[(a) IN GENERAL.—There are authorized to be appropriated to the President to carry out this title $300,000,000 for each of the fiscal years 2002 through 2004, and $250,000,000 for fiscal year 2005. Amounts authorized to be appropriated pursuant to the preceding sentence for fiscal year 2002 are in addition to amounts otherwise available for assistance for Afghanistan.

[(b) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under subsection (a) are—

[(1) authorized to remain available until expended; and

[(2) in addition to funds otherwise available for such purposes, including, with respect to food assistance under section 104(a)(1), funds available under title II of the Agricultural Trade Development and Assistance Act of 1954, the Food for Progress Act of 1985, and section 416(b) of the Agricultural Act of 1949.

[TITLE II—MILITARY ASSISTANCE FOR AFGHANISTAN AND CERTAIN OTHER FOREIGN COUNTRIES AND INTERNATIONAL ORGANIZATIONS

[SEC. 201. SUPPORT FOR SECURITY DURING TRANSITION IN AFGHANISTAN.

[It is the sense of Congress that, during the transition to a broad-based, multi-ethnic, gender-sensitive, fully representative government in Afghanistan, the United States should support—

[(1) the development of a civilian-controlled and centrally-governed standing Afghanistan army that respects human rights and prohibits the use of children as soldiers or combatants;

[(2) the creation and training of a professional civilian police force that respects human rights; and

[(3) a multinational security force in Afghanistan.

[SEC. 202. AUTHORIZATION OF ASSISTANCE.

[(a) TYPES OF ASSISTANCE.—

[(1) IN GENERAL.—(A) To the extent that funds are appropriated in any fiscal year for the purposes of this Act, the President may provide, consistent with existing United States statutes, defense articles, defense services, counter-narcotics, crime control and police training services, and other support (including training) to the Government of Afghanistan.

[(B) To the extent that funds are appropriated in any fiscal year for these purposes, the President may provide, consistent with existing United States statutes, defense articles, defense services, and other support (including training) to eligible foreign countries and eligible international organizations.

[(C) The assistance authorized under subparagraph (B) shall be used for directly supporting the activities described in section 203.

[(2) DRAWDOWN AUTHORITY.—The President is authorized to direct the drawdown of defense articles, defense services, and military education and training for the Government of Afghanistan, eligible foreign countries, and eligible international organizations.

[(3) AUTHORITY TO ACQUIRE BY CONTRACT OR OTHERWISE.—The assistance authorized under paragraphs (1) and (2) and under Public Law 105–338 may include the supply of defense articles, defense services, counter-narcotics, crime control and police training services, other support, and military education and training that are acquired by contract or otherwise.

[(b) AMOUNT OF ASSISTANCE.—The aggregate value (as defined in section 644(m) of the Foreign Assistance Act of 1961) of assistance provided under subsection (a)(2) may not exceed $300,000,000, provided that such limitation shall be increased by any amounts appropriated pursuant to the authorization of appropriations in section 204(b)(1).

[SEC. 203. ELIGIBLE FOREIGN COUNTRIES AND ELIGIBLE INTERNATIONAL ORGANIZATIONS.

[(a) ELIGIBILITY FOR ASSISTANCE.—

[(1) IN GENERAL.—Except as provided in paragraph (2), a foreign country or international organization shall be eligible to receive assistance under section 202 if such foreign country or international organization is participating in or directly supporting United States military activities authorized under Public Law 107–40 or is participating in military, peacekeeping, or policing operations in Afghanistan aimed at restoring or maintaining peace and security in that country.

[(2) EXCEPTION.—No country the government of which has been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371), section 6(j)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)), or section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)) shall be eligible to receive assistance under section 202.

[(b) WAIVER.—The President may waive the application of subsection (a)(2) if the President determines that it is important to the national security interest of the United States to do so.

[SEC. 204. REIMBURSEMENT FOR ASSISTANCE.

[(a) IN GENERAL.—Defense articles, defense services, and military education and training provided under section 202(a)(2) shall be made available without reimbursement to the Department of Defense except to the extent that funds are appropriated pursuant to the authorization of appropriations in subsection (b)(1).

[(b) AUTHORIZATION OF APPROPRIATIONS.—

[(1) IN GENERAL.—There are authorized to be appropriated to the President such sums as may be necessary to reimburse the applicable appropriation, fund, or account for the value (as defined in section 644(m) of the Foreign Assistance Act of 1961) of defense articles, defense services, or military education and training provided under section 202(a)(2).

[(2) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended, and are in addition to amounts otherwise available for the purposes described in this title.

[SEC. 205. ELIGIBLE FOREIGN COUNTRIES AND ELIGIBLE INTERNATIONAL ORGANIZATIONS.

[(a) AUTHORITY.—The President may provide assistance under this title to any eligible foreign country or eligible international organization if the President determines that such assistance is important to the national security interest of the United States and notifies the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate of such determination at least 15 days in advance of providing such assistance.

[(b) NOTIFICATION.—The report described in subsection (a) shall be submitted in classified and unclassified form and shall include information relating to the type and amount of assistance proposed to be provided and the actions that the proposed recipient of such

assistance has taken or has committed to take.

[SEC. 206. PROMOTING SECURE DELIVERY OF HUMANITARIAN AND OTHER ASSISTANCE IN AFGHANISTAN.

[(a) FINDINGS.—Congress finds the following:

[(1) The President has declared his view that the United States should provide significant assistance to Afghanistan so that it never again becomes a haven for terrorism.

[(2) The delivery of humanitarian and reconstruction assistance from the international community is necessary for the safe return of refugees and is critical to the future stability of Afghanistan.

[(3) Enhanced stability in Afghanistan through an improved security environment is critical to the fostering of the Afghan Interim Authority and the traditional Afghan assembly or ''Loya Jirga'' process, which is intended to lead to a permanent national government in Afghanistan, and also is essential for the participation of women in Afghan society.

[(4) Incidents of violence between armed factions and local and regional commanders, and serious abuses of human rights, including attacks on women and ethnic minorities throughout Afghanistan, create an insecure, volatile, and unsafe environment in parts of Afghanistan, displacing thousands of Afghan civilians from their local communities.

[(5) The violence and lawlessness may jeopardize the ''Loya Jirga'' process, undermine efforts to build a strong central government, severely impede reconstruction and the delivery of humanitarian assistance, and increase the likelihood that parts of Afghanistan will once again become safe havens for al-Qaida, Taliban forces, and drug traffickers.

[(6) The lack of security and lawlessness may also perpetuate the need for United States Armed Forces in Afghanistan and threaten the ability of the United States to meet its military objectives.

[(7) The International Security Assistance Force in Afghanistan, currently led by Turkey, and composed of forces from other willing countries without the participation of United States Armed Forces, is deployed only in Kabul and currently does not have the mandate or the capacity to provide security to other parts of Afghanistan.

[(8) Due to the ongoing military campaign in Afghanistan, the United States does not contribute troops to the International Security Assistance Force but has provided support to other countries that are doing so.

[(9) The United States is providing political, financial, training, and other assistance to the Afghan Interim Authority as it begins to build a national army and police force to help provide security throughout Afghanistan, but this effort is not meeting the immediate security needs of Afghanistan.

[(10) Because of these immediate security needs, the Afghan Interim Authority, its Chairman, Hamid Karzai, and many Afghan regional leaders have called for the International Security Assistance Force, which has successfully brought stability to Kabul, to be expanded and deployed throughout the country, and this request has been strongly supported by a wide range of international humanitarian organizations, including the International Committee of the Red Cross, Catholic Relief Services, and Refugees International.

[(11)(A) On January 29, 2002, the President stated that ''[w]e will help the new Afghan government provide the security that is the foundation of peace''.

[(B) On March 25, 2002, the Secretary of Defense stated, with respect to the reconstruction of Afghanistan, that ''the first thing . . . you need for anything else to happen, for hospitals to happen, for roads to happen, for refugees to come back, for people to be fed and humanitarian workers to move on the country . . . [y]ou've got to have security''.

[(b) STATEMENT OF POLICY.—It should be the policy of the United States to support measures to help meet the immediate security needs of Afghanistan in order to promote safe and effective delivery of humanitarian and other assistance throughout Afghanistan, further the rule of law and civil order, and support the formation of a functioning, representative Afghan national government.

[(c) PREPARATION OF STRATEGY.—Not later than 45 days after the date of the enactment of this Act, and every six months thereafter, the President shall transmit to the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate a strategy for meeting the immediate and long-term security needs of Afghanistan in order to promote safe and effective delivery of humanitarian and other assistance throughout Afghanistan, further the rule of law and civil order, and support the formation of a functioning, representative Afghan national government.

[SEC. 207. SUNSET.

[The authority of this title shall expire after December 31, 2004.

[TITLE III—ADDITIONAL REQUIREMENTS WITH RESPECT TO ASSISTANCE FOR AFGHANISTAN

[SEC. 301. PROHIBITION ON UNITED STATES INVOLVEMENT IN POPPY CULTIVATION OR ILLICIT NARCOTICS GROWTH, PRODUCTION, OR TRAFFICKING.

[No officer or employee of any Federal department or agency who is involved in the provision of assistance under this Act may knowingly encourage or participate in poppy cultivation or illicit narcotics growth, production, or trafficking in Afghanistan. No United States military or civilian aircraft or other United States vehicle that is used with respect to the provision of assistance under this Act may be used to facilitate the distribution of poppies or illicit narcotics in Afghanistan.

[SEC. 302. REQUIREMENT TO REPORT BY CERTAIN UNITED STATES OFFICIALS.

[(a) REQUIREMENT.—An officer or employee of any Federal department or agency involved in the provision of assistance under this Act and having knowledge of facts or circumstances that reasonably indicate that any agency or instrumentality of the Government of Afghanistan, or any other individual (including an individual who exercises civil power by force over a limited region) or organization in Afghanistan, that receives assistance under this Act is involved in poppy cultivation or illicit narcotics growth, production, or trafficking shall, notwithstanding any memorandum of understanding or other agreement to the contrary, report such knowledge or facts to the appropriate official.

[(b) DEFINITION.—In this section, the term ''appropriate official'' means the Attorney General, the Inspector General of the Federal department or agency involved, or the head of such department or agency.

[SEC. 303. REPORT BY THE PRESIDENT.

[Not later than 6 months after the date of the enactment of this Act, and annually thereafter, the President shall transmit to Congress a written report on the progress of the Government of Afghanistan toward the eradication of poppy cultivation, the disruption of heroin production, and the reduction of the overall supply and demand for illicit narcotics in Afghanistan in accordance with the provisions of this Act.]

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; DEFINITION.

(a) SHORT TITLE.—This Act may be cited as the ''Afghanistan Freedom Support Act of 2002''.

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

Sec. 1. Short title; table of contents; definition.

TITLE I—ECONOMIC AND DEMOCRATIC DEVELOPMENT ASSISTANCE FOR AFGHANISTAN

Sec. 101. Declaration of policy.
Sec. 102. Purposes of assistance.
Sec. 103. Principles of assistance.
Sec. 104. Authorization of assistance.
Sec. 105. Coordination of assistance.
Sec. 106. Administrative provisions.
Sec. 107. Relationship to other authority.
Sec. 108. Authorization of appropriations.

TITLE II—MILITARY ASSISTANCE FOR AFGHANISTAN AND CERTAIN OTHER FOREIGN COUNTRIES AND INTERNATIONAL ORGANIZATIONS

Sec. 201. Support for security during transition in Afghanistan.
Sec. 202. Authorization of assistance.
Sec. 203. Eligible foreign countries and eligible international organizations.
Sec. 204. Reimbursement for assistance.
Sec. 205. Congressional notification requirements.
Sec. 206. Promoting secure delivery of humanitarian and other assistance in Afghanistan.
Sec. 207. Relationship to other authority.
Sec. 208. Sense of Congress regarding expansion of the International Security Assistance Force; authorization of appropriations.
Sec. 209. Sunset.

(c) DEFINITION.—In this Act, the term ''Government of Afghanistan'' includes—

(1) the government of any political subdivision of Afghanistan; and

(2) any agency or instrumentality of the Government of Afghanistan.

TITLE I—ECONOMIC AND DEMOCRATIC DEVELOPMENT ASSISTANCE FOR AFGHANISTAN

SEC. 101. DECLARATION OF POLICY.

Congress makes the following declarations:

(1) The United States and the international community should support efforts that advance the development of democratic civil authorities and institutions in Afghanistan and the establishment of a new broad-based, multi-ethnic, gender-sensitive, and fully representative government in Afghanistan.

(2) The United States, in particular, should provide its expertise to meet immediate humanitarian and refugee needs, fight the production and flow of illicit narcotics, and aid in the reconstruction of Afghanistan.

(3) By promoting peace and security in Afghanistan and preventing a return to conflict, the United States and the international community can help ensure that Afghanistan does not again become a source for international terrorism.

(4) The United States should support the objectives agreed to on December 5, 2001, in Bonn, Germany, regarding the provisional arrangement for Afghanistan as it moves toward the establishment of permanent institutions and, in particular, should work intensively toward ensuring the future neutrality of Afghanistan, establishing the principle that neighboring countries and other countries in the region do not threaten or interfere in one another's sovereignty, territorial integrity, or political independence, including supporting diplomatic initiatives to support this goal.

(5) The special emergency situation in Afghanistan, which from the perspective of the

American people combines security, humanitarian, political, law enforcement, and development imperatives, requires that the President should receive maximum flexibility in designing, coordinating, and administering efforts with respect to assistance for Afghanistan and that a temporary special program of such assistance should be established for this purpose.

(6) To foster stability and democratization and to effectively eliminate the causes of terrorism, the United States and the international community should also support efforts that advance the development of democratic civil authorities and institutions in the broader Central Asia region.

SEC. 102. PURPOSES OF ASSISTANCE.

The purposes of assistance authorized by this title are—

(1) to help assure the security of the United States and the world by reducing or eliminating the likelihood of violence against United States or allied forces in Afghanistan and to reduce the chance that Afghanistan will again be a source of international terrorism;

(2) to support the continued efforts of the United States and the international community to address the humanitarian crisis in Afghanistan and among Afghan refugees in neighboring countries;

(3) to fight the production and flow of illicit narcotics, to control the flow of precursor chemicals used in the production of heroin, and to enhance and bolster the capacities of Afghan governmental authorities to control poppy cultivation and related activities;

(4) to help achieve a broad-based, multi-ethnic, gender-sensitive, and fully representative government in Afghanistan that is freely chosen by the people of Afghanistan and that respects the human rights of all Afghans, particularly women, including authorizing assistance for the rehabilitation and reconstruction of Afghanistan with a particular emphasis on meeting the educational, health, and sustenance needs of women and children to better enable their full participation in Afghan society;

(5) to support the Government of Afghanistan in its development of the capacity to facilitate, organize, develop, and implement projects and activities that meet the needs of the Afghan people;

(6) to foster the participation of civil society in the establishment of the new Afghan government in order to achieve a broad-based, multi-ethnic, gender-sensitive, fully representative government freely chosen by the Afghan people, without prejudice to any decisions which may be freely taken by the Afghan people about the precise form in which their government is to be organized in the future;

(7) to support the reconstruction of Afghanistan through, among other things, programs that create jobs, facilitate clearance of landmines, and rebuild the agriculture sector, the health care system, and the educational system of Afghanistan; and

(8) to provide resources to the Ministry for Women's Affairs of Afghanistan to carry out its responsibilities for legal advocacy, education, vocational training, and women's health programs.

SEC. 103. PRINCIPLES OF ASSISTANCE.

The following principles should guide the provision of assistance authorized by this title:

(1) TERRORISM AND NARCOTICS CONTROL.—Assistance should be designed to reduce the likelihood of harm to United States and other allied forces in Afghanistan and the region, the likelihood of additional acts of international terrorism emanating from Afghanistan, and the cultivation, production, trafficking, and use of illicit narcotics in Afghanistan.

(2) ROLE OF WOMEN.—Assistance should increase the participation of women at the national, regional, and local levels in Afghanistan, wherever feasible, by enhancing the role of women in decisionmaking processes, as well as by providing support for programs that aim to expand economic and educational opportunities and health programs for women and educational and health programs for girls.

(3) AFGHAN OWNERSHIP.—Assistance should build upon Afghan traditions and practices. The strong tradition of community responsibility and self-reliance in Afghanistan should be built upon to increase the capacity of the Afghan people and institutions to participate in the reconstruction of Afghanistan.

(4) STABILITY.—Assistance should encourage the restoration of security in Afghanistan, including, among other things, the disarmament, demobilization, and reintegration of combatants, and the establishment of the rule of law, including the establishment of a police force and an effective, independent judiciary.

(5) COORDINATION.—Assistance should be part of a larger donor effort for Afghanistan. The magnitude of the devastation—natural and man-made—to institutions and infrastructure make it imperative that there be close coordination and collaboration among donors. The United States should endeavor to assert its leadership to have the efforts of international donors help achieve the purposes established by this title.

SEC. 104. AUTHORIZATION OF ASSISTANCE.

(a) IN GENERAL.—Notwithstanding any other provision of law, the President is authorized to provide assistance for Afghanistan for the following activities:

(1) URGENT HUMANITARIAN NEEDS.—To assist in meeting the urgent humanitarian needs of the people of Afghanistan, including assistance such as—

(A) emergency food, shelter, and medical assistance;

(B) clean drinking water and sanitation;

(C) preventative health care, including childhood vaccination, therapeutic feeding, maternal child health services, and infectious diseases surveillance and treatment;

(D) family tracing and reunification services; and

(E) clearance of landmines.

(2) REPATRIATION AND RESETTLEMENT OF REFUGEES AND INTERNALLY DISPLACED PERSONS.—To assist refugees and internally displaced persons as they return to their home communities in Afghanistan and to support their reintegration into those communities, including assistance such as—

(A) assistance identified in paragraph (1);

(B) assistance to communities, including those in neighboring countries, that have taken in large numbers of refugees in order to rehabilitate or expand social, health, and educational services that may have suffered as a result of the influx of large numbers of refugees;

(C) assistance to international organizations and host governments in maintaining security by screening refugees to ensure the exclusion of armed combatants, members of foreign terrorist organizations, and other individuals not eligible for economic assistance from the United States; and

(D) assistance for voluntary refugee repatriation and reintegration inside Afghanistan and continued assistance to those refugees who are unable or unwilling to return, and humanitarian assistance to internally displaced persons, including those persons who need assistance to return to their homes, through the United Nations High Commissioner for Refugees and other organizations charged with providing such assistance.

(3) COUNTERNARCOTICS EFFORTS.—(A) To assist in the eradication of poppy cultivation, the disruption of heroin production, and the reduction of the overall supply and demand for illicit narcotics in Afghanistan and the region, with particular emphasis on assistance to—

(i) eradicate opium poppy, establish crop substitution programs, purchase nonopium products from farmers in opium-growing areas, quick-impact public works programs to divert labor from narcotics production, develop projects directed specifically at narcotics production, processing, or trafficking areas to provide incentives to cooperation in narcotics suppression activities, and related programs;

(ii) establish or provide assistance to one or more entities within the Government of Afghanistan, including the Afghan State High Commission for Drug Control, and to provide training and equipment for the entities, to help enforce counternarcotics laws in Afghanistan and limit illicit narcotics growth, production, and trafficking in Afghanistan;

(iii) train and provide equipment for customs, police, and other border control entities in Afghanistan and the region relating to illicit narcotics interdiction and relating to precursor chemical controls and interdiction to help disrupt heroin production in Afghanistan and the region;

(iv) continue the annual opium crop survey and strategic studies on opium crop planting and farming in Afghanistan; and

(v) reduce demand for illicit narcotics among the people of Afghanistan, including refugees returning to Afghanistan.

(B) For each of the fiscal years 2002 through 2005, $15,000,000 of the amount made available to carry out this title is authorized to be made available for a contribution to the United Nations Drug Control Program for the purpose of carrying out activities described in clauses (i) through (v) of subparagraph (A). Amounts made available under the preceding sentence are in addition to amounts otherwise available for such purposes.

(4) REESTABLISHMENT OF FOOD SECURITY, REHABILITATION OF THE AGRICULTURE SECTOR, IMPROVEMENT IN HEALTH CONDITIONS, AND THE RECONSTRUCTION OF BASIC INFRASTRUCTURE.—To assist in expanding access to markets in Afghanistan, to increase the availability of food in markets in Afghanistan, to rehabilitate the agriculture sector in Afghanistan by creating jobs for former combatants, returning refugees, and internally displaced persons, to improve health conditions, and assist in the rebuilding of basic infrastructure in Afghanistan, including assistance such as—

(A) rehabilitation of the agricultural infrastructure, including irrigation systems and rural roads;

(B) extension of credit;

(C) provision of critical agricultural inputs, such as seeds, tools, and fertilizer, and strengthening of seed multiplication, certification, and distribution systems;

(D) improvement in the quantity and quality of water available through, among other things, rehabilitation of existing irrigation systems and the development of local capacity to manage irrigation systems;

(E) livestock rehabilitation through market development and other mechanisms to distribute stocks to replace those stocks lost as a result of conflict or drought;

(F) mine awareness and demining programs and programs to assist mine victims, war orphans, and widows;

(G) programs relating to infant and young child feeding, immunizations, vitamin A supplementation, and prevention and treatment of diarrheal diseases and respiratory infections;

(H) programs to improve maternal and child health and reduce maternal and child mortality;

(I) programs to improve hygienic and sanitation practices and for the prevention and treatment of infectious diseases, such as tuberculosis and malaria;

(J) programs to reconstitute the delivery of health care, including the reconstruction of health clinics or other basic health infrastructure, with particular emphasis on health care for children who are orphans;

(K) programs for housing, rebuilding urban infrastructure, and supporting basic urban services; and

(L) disarmament, demobilization, and reintegration of armed combatants into society, particularly child soldiers.

(5) REESTABLISHMENT OF AFGHANISTAN AS A VIABLE NATION-STATE.—(A) To assist in the development of the capacity of the Government of Afghanistan to meet the needs of the people of Afghanistan through, among other things, support for the development and expansion of democratic and market-based institutions, including assistance such as—

(i) support for international organizations that provide civil advisers to the Government of Afghanistan;

(ii) support for an educated citizenry through improved access to basic education, with particular emphasis on basic education for children who are orphans, with particular emphasis on basic education for children;

(iii) programs to enable the Government of Afghanistan to recruit and train teachers, with special focus on the recruitment and training of female teachers;

(iv) programs to enable the Government of Afghanistan to develop school curriculum that incorporates relevant information such as landmine awareness, food security and agricultural education, human rights awareness, and civic education;

(v) support for the activities of the Government of Afghanistan to draft a new constitution, other legal frameworks, and other initiatives to promote the rule of law in Afghanistan;

(vi) support to increase the transparency, accountability, and participatory nature of governmental institutions, including programs designed to combat corruption and other programs for the promotion of good governance;

(vii) support for an independent media;

(viii) programs that support the expanded participation of women and members of all ethnic groups in government at national, regional, and local levels;

(ix) programs to strengthen civil society organizations that promote human rights and support human rights monitoring;

(x) support for national, regional, and local elections and political party development;

(xi) support for the effective administration of justice at the national, regional, and local levels, including the establishment of a responsible and community-based police force;

(xii) support for establishment of a central bank and central budgeting authority; and

(xiii) assistance in identifying and surveying key road and rail routes essential for economic renewal in Afghanistan and the region, support in reconstructing those routes, and support for the establishment of a customs service and training for customs officers.

(B) For each of the fiscal years 2003 through 2005, not less than $10,000,000 of the amount made available to carry out this title should be made available for the purposes of carrying out a traditional Afghan assembly or ''Loya Jirga'' and for support for national, regional, and local elections and political party development under subparagraph (A)(x).

(6) MARKET ECONOMY.—To support the establishment of a market economy, the establishment of private financial institutions, the adoption of policies to promote foreign direct investment, the development of a basic telecommunication infrastructure, and the development of trade and other commercial links with countries in the region and with the United States, including policies to—

(A) encourage the return of Afghanistan citizens or nationals living abroad who have marketable and business-related skills;

(B) establish financial institutions, including credit unions, cooperatives, and other entities providing microenterprise credits and other income-generation programs for the poor, with particular emphasis on women;

(C) facilitate expanded trade with countries in the region;

(D) promote and foster respect for basic workers' rights and protections against exploitation of child labor; and

(E) provide financing programs for the reconstruction of Kabul and other major cities in Afghanistan.

(7) ASSISTANCE TO WOMEN AND GIRLS.—

(A) ASSISTANCE OBJECTIVES.—To assist women and girls in Afghanistan in the areas of political and human rights, health care, education, training, security, and shelter, with particular emphasis on assistance—

(i) to support construction of, provide equipment and medical supplies to, and otherwise facilitate the establishment and rehabilitation of, health care facilities in order to improve the health care of women, children, and infants;

(ii) to expand immunization programs for women and children;

(iii) to establish, maintain, and expand primary and secondary schools for girls that include mathematics, science, and languages in their primary curriculum;

(iv) to develop and expand technical and vocational training programs and income-generation projects for women;

(v) to provide special educational opportunities for girls whose schooling was ended by the Taliban, and to support the ability of women to have access to higher education;

(vi) to develop and implement programs to protect women and girls against sexual and physical abuse, abduction, trafficking, exploitation, and sex discrimination in the delivery of humanitarian supplies and services;

(vii) to provide emergency shelters for women and girls who face danger from violence;

(viii) to direct humanitarian assistance to widows, who make up a very large and needy population in war-torn Afghanistan;

(ix) to support the work of women-led and local nongovernmental organizations with demonstrated experience in delivering services to Afghan women and children;

(x) to disseminate information throughout Afghanistan on the rights of women and on international standards of human rights;

(xi) to provide women's rights and human rights training for military, police, and legal personnel; and

(xii) to support the National Human Rights Commission in programs to promote women's rights and human rights and in the investigation and monitoring of women's rights and human rights abuses.

(B) AVAILABILITY OF FUNDS.—For each of the fiscal years 2002 through 2005—

(i) $15,000,000 of the total amount made available for such fiscal year to carry out this title is authorized to be made available to the Afghan Ministry of Women's Affairs; and

(ii) $5,000,000 of the total amount made available for such fiscal year to carry out this title is authorized to be made available to the National Human Rights Commission of Afghanistan.

(C) RELATION TO OTHER AVAILABLE FUNDS.—Amounts made available under subparagraph (B) are in addition to amounts otherwise available for such purposes.

(b) LIMITATION.—

(1) IN GENERAL.—Amounts made available to carry out this title (except amounts made available for assistance under paragraphs (1) through (3) and subparagraphs (F) through (I) of paragraph (4) of subsection (a)) may be provided only if the President first determines and certifies to Congress with respect to the fiscal year involved that progress is being made toward adopting a constitution and establishing a democratically elected government for Afghanistan.

(2) WAIVER.—

(A) IN GENERAL.—The President may waive the application of paragraph (1) if the President first determines and certifies to Congress that it is important to the national interest of the United States to do so.

(B) CONTENTS OF CERTIFICATION.—A certification transmitted to Congress under subparagraph (A) shall include a written explanation of the basis for the determination of the President to waive the application of paragraph (1).

(c) ENTERPRISE FUND.—

(1) AUTHORIZATION OF APPROPRIATIONS.—In addition to funds otherwise available for such purpose, there are authorized to be appropriated to the President for an enterprise fund for Afghanistan $300,000,000 for fiscal year 2003, $100,000,000 for fiscal year 2004, and $100,000,000 for fiscal year 2005. The provisions contained in section 201 of the Support for East European Democracy (SEED) Act of 1989 (excluding the authorizations of appropriations provided in subsection (b) of that section) shall apply with respect to such enterprise fund and to funds made available to such enterprise fund under this subsection.

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

SEC. 105. COORDINATION OF ASSISTANCE.

(a) IN GENERAL.—The President is strongly urged to designate, within the Department of State, a coordinator who shall be responsible for—

(1) designing an overall strategy to advance United States interests in Afghanistan;

(2) ensuring program and policy coordination among agencies of the United States Government in carrying out the policies set forth in this title;

(3) pursuing coordination with other countries and international organizations with respect to assistance to Afghanistan;

(4) ensuring that United States assistance programs for Afghanistan are consistent with this title;

(5) ensuring proper management, implementation, and oversight by agencies responsible for assistance programs for Afghanistan; and

(6) resolving policy and program disputes among United States Government agencies with respect to United States assistance for Afghanistan.

(b) RANK AND STATUS OF THE COORDINATOR.—The coordinator designated under subsection (a) shall have the rank and status of ambassador.

SEC. 106. ADMINISTRATIVE PROVISIONS.

(a) APPLICABLE ADMINISTRATIVE AUTHORITIES.—Except to the extent inconsistent with the provisions of this title, the administrative authorities under chapters 1 and 2 of part III of the Foreign Assistance Act of 1961 shall apply to the provision of assistance under this title to the same extent and in the same manner as such authorities apply to the provision of economic assistance under part I of such Act.

(b) USE OF THE EXPERTISE OF AFGHAN-AMERICANS.—In providing assistance authorized by this title, the President should—

(1) maximize the use, to the extent feasible, of the services of Afghan-Americans who have expertise in the areas for which assistance is authorized by this title; and

(2) in the awarding of contracts and grants to implement activities authorized under this title, encourage the participation of such Afghan-Americans (including organizations employing a significant number of such Afghan-Americans).

(c) DONATIONS OF MANUFACTURING EQUIPMENT; USE OF LAND GRANT COLLEGES AND UNIVERSITIES.—In providing assistance authorized by this title, the President, to the maximum extent practicable, should—

(1) encourage the donation of appropriate excess or obsolete manufacturing and related equipment by United States businesses (including small businesses) for the reconstruction of Afghanistan; and

(2) utilize research conducted by United States land grant colleges and universities and the technical expertise of professionals within those institutions, particularly in the areas of agriculture and rural development.

(d) ADMINISTRATIVE EXPENSES.—Amounts made available to carry out this title may be made available to a Federal department or agency for administrative expenses incurred by the department or agency in connection with the providing of assistance under this title.

(e) MONITORING.—

(1) COMPTROLLER GENERAL.—The Comptroller General shall monitor the provision of assistance under this title.

(2) INSPECTOR GENERAL OF USAID.—

(A) IN GENERAL.—The Inspector General of the United States Agency for International Development shall conduct audits, inspections, and other activities, as appropriate, associated with the expenditure of the funds to carry out this title.

(B) FUNDING.—Not more than $1,500,000 of the amount made available to carry out this title for a fiscal year shall be made available to carry out subparagraph (A).

(f) PRIORITY FOR DIRECT ASSISTANCE TO THE GOVERNMENT OF AFGHANISTAN.—To the maximum extent practicable, assistance authorized under this title should be provided directly to the Government of Afghanistan (including any appropriate ministry thereof).

SEC. 107. RELATIONSHIP TO OTHER AUTHORITY.

The authority to provide assistance under this title is in addition to any other authority to provide assistance to the Government of Afghanistan.

SEC. 108. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to the President to carry out this title (other than section 104(c)) $500,000,000 for each of the fiscal years 2002 through 2005.

(b) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under subsection (a) are—

(1) authorized to remain available until expended; and

(2) in addition to funds otherwise available for such purposes, including, with respect to food assistance under section 104(a)(1), funds available under title II of the Agricultural Trade Development and Assistance Act of 1954, the Food for Progress Act of 1985, and section 416(b) of the Agricultural Act of 1949.

TITLE II—MILITARY ASSISTANCE FOR AFGHANISTAN AND CERTAIN OTHER FOREIGN COUNTRIES AND INTERNATIONAL ORGANIZATIONS

SEC. 201. SUPPORT FOR SECURITY DURING TRANSITION IN AFGHANISTAN.

It is the sense of Congress that, during the transition to a broad-based, multi-ethnic, gender-sensitive, fully representative government in Afghanistan, the United States should support—

(1) the development of a civilian-controlled and centrally-governed standing Afghanistan army that respects human rights and prohibits the use of children as soldiers or combatants;

(2) the creation and training of a professional civilian police force that respects human rights; and

(3) a multinational security force in Afghanistan.

SEC. 202. AUTHORIZATION OF ASSISTANCE.

(a) DRAWDOWN AUTHORITY.—

(1) IN GENERAL.—The President is authorized to exercise his authorities under section 506 of the Foreign Assistance Act of 1961 (22 U.S.C. 2318) to direct the drawdown of defense articles, defense services, and military education and training—

(A) for the Government of Afghanistan, in accordance with this section; and

(B) for eligible foreign countries, and eligible international organizations, in accordance with this section and sections 203 and 205.

(2) AUTHORITY TO ACQUIRE BY CONTRACT OR OTHERWISE.—The assistance authorized under paragraph (1) may include the supply of defense articles, defense services, counter-narcotics, crime control and police training services, other support, and military education and training that are acquired by contract or otherwise.

(b) AMOUNT OF ASSISTANCE.—The aggregate value (as defined in section 644(m) of the Foreign Assistance Act of 1961) of assistance provided under subsection (a) may not exceed $300,000,000, except that such limitation shall be increased by any amounts appropriated pursuant to the authorization of appropriations in section 204(b)(1).

SEC. 203. ELIGIBLE FOREIGN COUNTRIES AND ELIGIBLE INTERNATIONAL ORGANIZATIONS.

(a) ELIGIBILITY FOR ASSISTANCE.—

(1) IN GENERAL.—Except as provided in paragraph (2), a foreign country or international organization shall be eligible to receive assistance under section 202 if—

(A) such country or organization is participating in military, peacekeeping, or policing operations in Afghanistan aimed at restoring or maintaining peace and security in that country; and

(B) such assistance is provided specifically for such operations in Afghanistan.

(2) EXCEPTION.—No country the government of which has been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371), section 6(j)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)), or section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)) shall be eligible to receive assistance under section 202.

(b) WAIVER.—The President may waive the application of subsection (a)(2) if the President determines that it is important to the national security interest of the United States to do so.

SEC. 204. REIMBURSEMENT FOR ASSISTANCE.

(a) IN GENERAL.—Defense articles, defense services, and military education and training provided under section 202(a)(2) shall be made available without reimbursement to the Department of Defense except to the extent that funds are appropriated pursuant to the authorization of appropriations in subsection (b)(1).

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the President such sums as may be necessary to reimburse the applicable appropriation, fund, or account for the value (as defined in section 644(m) of the Foreign Assistance Act of 1961) of defense articles, defense services, or military education and training provided under section 202(a)(2).

(2) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended, and are in addition to amounts otherwise available for the purposes described in this title.

SEC. 205. CONGRESSIONAL NOTIFICATION REQUIREMENTS.

(a) AUTHORITY.—The President may provide assistance under this title to any eligible foreign country or eligible international organization if the President determines that such assistance is important to the national security interest of the United States and notifies the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate of such determination at least 15 days in advance of providing such assistance.

(b) NOTIFICATION.—The report described in subsection (a) shall be submitted in classified and unclassified form and shall include information relating to the type and amount of assistance proposed to be provided and the actions that the proposed recipient of such assistance has taken or has committed to take.

SEC. 206. PROMOTING SECURE DELIVERY OF HUMANITARIAN AND OTHER ASSISTANCE IN AFGHANISTAN.

(a) FINDINGS.—Congress finds the following:

(1) The President has declared his view that the United States should provide significant assistance to Afghanistan so that it never again becomes a haven for terrorism.

(2) The delivery of humanitarian and reconstruction assistance from the international community is necessary for the safe return of refugees and is critical to the future stability of Afghanistan.

(3) Enhanced stability in Afghanistan through an improved security environment is critical to the fostering of the Afghan Interim Authority and the traditional Afghan assembly or ''Loya Jirga'' process, which is intended to lead to a permanent national government in Afghanistan, and also is essential for the participation of women in Afghan society.

(4) Incidents of violence between armed factions and local and regional commanders, and serious abuses of human rights, including attacks on women and ethnic minorities throughout Afghanistan, create an insecure, volatile, and unsafe environment in parts of Afghanistan, displacing thousands of Afghan civilians from their local communities.

(5) The violence and lawlessness may jeopardize the ''Loya Jirga'' process, undermine efforts to build a strong central government, severely impede reconstruction and the delivery of humanitarian assistance, and increase the likelihood that parts of Afghanistan will once again become safe havens for al-Qaida, Taliban forces, and drug traffickers.

(6) The lack of security and lawlessness may also perpetuate the need for United States Armed Forces in Afghanistan and threaten the ability of the United States to meet its military objectives.

(7) The International Security Assistance Force in Afghanistan, currently led by Turkey, and composed of forces from other willing countries without the participation of United States Armed Forces, is deployed only in Kabul and currently does not have the mandate or the capacity to provide security to other parts of Afghanistan.

(8) Due to the ongoing military campaign in Afghanistan, the United States does not contribute troops to the International Security Assistance Force but has provided support to other countries that are doing so.

(9) The United States is providing political, financial, training, and other assistance to the Afghan Interim Authority as it begins to build a national army and police force to help provide security throughout Afghanistan, but this effort is not meeting the immediate security needs of Afghanistan.

(10) Because of these immediate security needs, the Afghan Interim Authority, its Chairman, Hamid Karzai, and many Afghan regional leaders have called for the International Security Assistance Force, which has successfully brought stability to Kabul, to be expanded and deployed throughout the country, and this request has been strongly supported by a wide range of international humanitarian organizations, including the International Committee of the Red Cross, Catholic Relief Services, and Refugees International.

(11)(A) On January 29, 2002, the President stated that ''[w]e will help the new Afghan government provide the security that is the foundation of peace''.

(B) On March 25, 2002, the Secretary of Defense stated, with respect to the reconstruction of Afghanistan, that ''the first thing . . . you need for anything else to happen, for hospitals to happen, for roads to happen, for refugees to come back, for people to be fed and humanitarian workers to move on the country . . . [y]ou've got to have security''.

(b) STATEMENT OF POLICY.—It should be the policy of the United States to support measures to help meet the immediate security needs of Afghanistan in order to promote safe and effective delivery of humanitarian and other assistance throughout Afghanistan, further the rule of law and civil order, and support the formation of a functioning, representative Afghan national government.

(c) PREPARATION OF STRATEGY.—

(1) IN GENERAL.—Not later than 45 days after the date of the enactment of this Act, and every

six months thereafter through January 1, 2006, the President shall provide the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate with—

(A) a strategy for meeting the immediate and long-term security needs of Afghanistan in order to promote safe and effective delivery of humanitarian and other assistance throughout Afghanistan, further the rule of law and civil order, and support the formation of a functioning, representative Afghan national government; and

(B) a description of the progress of the Government of Afghanistan toward the eradication of poppy cultivation, the disruption of heroin production, and the reduction of the overall supply and demand for illicit narcotics in Afghanistan in accordance with the provisions of this Act.

(2) FORM OF INFORMATION.—The initial provision of information under paragraph (1) shall be made by transmittal of a written report. Thereafter, the information required under paragraph (1) may be provided in a written report or in an oral briefing.

SEC. 207. RELATIONSHIP TO OTHER AUTHORITY.

(a) ADDITIONAL AUTHORITY.—The authority to provide assistance under this title is in addition to any other authority to provide assistance to the Government of Afghanistan.

(b) LAWS RESTRICTING AUTHORITY.—Assistance under this title to the Government of Afghanistan may be provided notwithstanding any other provision of law.

SEC. 208. SENSE OF CONGRESS REGARDING EXPANSION OF THE INTERNATIONAL SECURITY ASSISTANCE FORCE; AUTHORIZATION OF APPROPRIATIONS.

(a) SENSE OF CONGRESS.—Congress urges the President, in order to fulfill the objective of establishing security in Afghanistan, to use the full diplomatic influence of the United States to expand the International Security Assistance Force (ISAF) beyond Kabul, Afghanistan by—

(1) sponsoring in the United Nations Security Council a resolution authorizing such an expansion of that force;

(2) enlisting the European and other allies of the United States to provide forces for an expanded International Security Assistance Force in Afghanistan; and

(3) providing such financial and military assistance, including personnel, as the President considers necessary to achieve the expansion of the International Security Assistance Force.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the President $500,000,000 for each of fiscal years 2003 and 2004 to provide the assistance described in subsection (a)(3).

SEC. 209. SUNSET.

The authority of this title shall expire after September 30, 2005.

Mr. REID. I ask unanimous consent that the Hagel-Biden-Helms amendment at the desk be agreed to; the committee substitute amendment, as amended, be agreed to; the bill, as amended, be read a third time and passed; the motion to reconsider be laid on the table, with no intervening action or debate, and that any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 4956) was agreed to.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (S. 2712), as amended, was read the third time and passed, as follows:

(The bill will be printed in a future edition of the RECORD.)

NATIONAL DAY OF PRAYER AND FASTING

Mr. REID. Madam President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Con. Res. 155, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 155) affirming the importance of a national day of prayer and fasting, and expressing the sense of Congress that November 27, 2002, should be designated as a national day of prayer and fasting.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. Madam President, I ask unanimous consent that the concurrent resolution and the preamble be agreed to; the motion to reconsider be laid on the table; and any statements relating to the resolution be printed in the RECORD.

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

The concurrent resolution (S. Con. Res. 155) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 155

Whereas the President has sought the support of the international community in responding to the threat of terrorism, violent extremist organizations, and states that permit or host organizations that are opposed to democratic ideals;

Whereas a united stance against terrorism and terrorist regimes will likely lead to an increased threat to the armed forces and law enforcement personnel of those states that oppose these regimes of terror and that take an active role in rooting out these enemy forces;

Whereas Congress has aided and supported a united response to acts of terrorism and violence inflicted upon the United States, our allies, and peaceful individuals all over the world;

Whereas President Abraham Lincoln, at the outbreak of the Civil War, proclaimed that the last Thursday in September 1861 should be designated as a day of humility, prayer, and fasting for all people of the Nation;

Whereas it is appropriate and fitting to seek guidance, direction, and focus from God in times of conflict and in periods of turmoil;

Whereas it is through prayer, self-reflection, and fasting that we can better examine those elements of our lives that can benefit from God's wisdom and love;

Whereas prayer to God and the admission of human limitations and frailties begins the process of becoming both stronger and closer to God;

Whereas becoming closer to God helps provide direction, purpose, and conviction in those daily actions and decisions we must take;

Whereas our Nation, tested by civil war, military conflicts, and world wars, has always benefited from the grace and benevolence bestowed by God; and

Whereas dangers and threats to our Nation persist and in this time of peril, it is appropriate that the people of the United States, leaders and citizens alike, seek guidance, strength, and resolve through prayer and fasting: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) November 27, 2002, should be designated as a day for humility, prayer, and fasting for all people of the United States; and

(2) all people of the United States should—

(A) observe this day as a day of prayer and fasting;

(B) seek guidance from God to achieve greater understanding of our own failings;

(C) learn how we can do better in our everyday activities; and

(D) gain resolve in how to confront those challenges which we must confront.

CLARIFYING THE REQUIREMENTS FOR ELIGIBILITY IN THE AMERICAN LEGION

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the consideration of calendar No. 756, S. 2934.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (S. 2934) to amend title 36, United States Code, to clarify the requirements for the eligibility in the American Legion.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Madam President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements related thereto be printed in the RECORD as if read.

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

The bill (S. 2934) was read the third time and passed, as follows:

(The bill will be printed in a future edition of the RECORD.)

AMENDING TITLE 36 U.S. CODE TO CLARIFY THE REQUIREMENT FOR ELIGIBILITY IN THE AMERICAN LEGION

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 758, H.R. 3988.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (H.R. 3988) to amend title 36, United States Code, to clarify the requirement for eligibility in the American Legion.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Madam President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements related to the bill be printed in the RECORD.

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

The bill (H.R. 3988) was read the third time and passed.

AUTHORIZING PAYMENT OF A GRATUITY TO TRUDY LAPIC

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 356, submitted earlier today by Mr. DAYTON.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 356) to authorize the payment of a gratuity to Trudy Lapic, the widow of Thomas Lapic, who perished in the plane crash which took the life of Senator Wellstone and others.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Madam President, I ask unanimous consent that the resolution be agreed to, the motion to reconsider be laid upon the table en bloc, with no intervening action or debate.

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

The resolution (S. Res. 356) was agreed to, as follows:

S. RES. 356

Resolved, That the Secretary of the Senate is authorized and directed to pay, from appropriations under the subheading ''MISCELLANEOUS ITEMS'' under the heading ''CONTINGENT EXPENSES OF THE SENATE'', to Trudy Lapic, widow of Thomas Lapic, a loyal employee of the Senate for 9 years, a sum equal to 8 months of compensation at the rate Thomas Lapic was receiving by law during the last month of his Senate service, that sum to be considered inclusive of funeral expenses and all other allowances.

AMENDING TITLE 10, U.S. CODE, TO PROVIDE FOR ORDERS OF PROTECTION OF CIVILIANS ON MILITARY INSTALLATIONS

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 5590.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (H.R. 5590) to amend title 10, United States Code, to provide for the enforcement and effectiveness of civilian orders of protection on military installations.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Madam President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The bill (H.R. 5590) was read the third time and passed.

RELATIVE TO THE CONVENING OF THE FIRST SESSION OF THE 108TH CONGRESS

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the consideration of S. J. Res. 53, introduced earlier today by the Senator from South Dakota, Mr. DASCHLE, and the Senator from Mississippi, Mr. LOTT.

The PRESIDING OFFICER. The clerk will state the joint resolution by title.

A joint resolution (S. J. Res. 53) relative to the convening of the first session of the 108th Congress.

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. REID. Madam President, I ask unanimous consent that the joint resolution be read the third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate.

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

The joint resolution (S. J. Res. 53) was read the third time and passed, as follows:

S.J. RES. 53

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the first regular session of the One Hundred Eighth Congress shall begin at noon on Tuesday, January 7, 2003.

AUTHORIZING APPOINTMENTS

Mr. REID. Madam President, I ask unanimous consent that notwithstanding the sine die adjournment of the Senate, the President of the Senate, the President of the Senate pro tempore, and the majority and minority leaders be authorized to make appointments to commissions, committees, boards, conferences, or interparliamentary conferences authorized by law, by concurrent action of the two Houses, or by order of the Senate.

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

AUTHORIZING PRINTING OF HOUSE DOCUMENT

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the consideration of H. Con. Res. 487 received from the House and which is now at the desk.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 47) authorizing the printing as a House document of a volume consisting of the transcripts of the ceremonial meeting of the House of Representatives and Senate in New York City on September 6, 2002, and a collection of statements by Members of the House of Representatives and Senate from the CONGRESSIONAL RECORD on the terrorist attacks of September 11, 2001.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. Madam President, I ask unanimous consent that the concurrent resolution be agreed to; that the motion to reconsider be laid upon the table; and that any statements relating to the concurrent resolution be printed in the RECORD.

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

The concurrent resolution (H. Con. Res. 487) was agreed to.

COMMENDING AND CONGRATULATING THE ANAHEIM ANGELS

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 357, submitted earlier today by Senators FEINSTEIN and BOXER.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 357) commending and congratulating the Anaheim Angels for their remarkable spirit, resilience, and athletic discipline in winning the 2002 World Series.

There being no objection, the Senate proceeded to consider the resolution.

Mrs. FEINSTEIN. Madam President, I rise today with my friend and colleague from California, Senator BARBARA BOXER, to commend and congratulate the Anaheim Angels for winning the 2002 World Series 3 weeks ago.

The Angels are world champions for the first time in their 42-year history. After defeating the New York Yankees in the first round of the playoffs and then going on to beat the Minnesota Twins for the American League Championship, the Angels battled my hometown team, the San Francisco Giants, in an exciting all-California World Series. The Angels have proven to the world their outstanding ability to win and work as a team.

Led by manager Mike Scioscia and players Scott Spezio, Garret Anderson, and Darin Erstad the Angels offense destroyed even the mightiest pitchers through October. Most Valuable Player Troy Glaus batted an astounding .385 average with three homeruns in the seven-game series.

Another key player in the Angels' march to glory is Troy Percival. The veteran closing pitcher stifled the Giants' hitters in pivotal game 7 and throughout the playoffs. Furthermore, Troy Percival would not have been able to perform his masterful pitching had it not been for starting pitcher John Lackey who pitched five strong innings in game 7.

Manager Mike Scioscia's leadership proved to be invaluable to the team. His experience as a catcher with Southern California's other major league franchise, the Los Angeles Dodgers, helped the Angels through what started as Anaheim's worst season ever and turned it into a glorious year.

The Anaheim Angels truly epitomize the importance of teamwork, as nearly every member of the roster contributed to their phenomenal season. It should be noted that the championship could not have been won without the dedication of the entire team: David

Eckstein, Tim Salmon, Adam Kennedy, Bengie Molina, Brad Fullmer, Jarrod Washburn, Kevin Appier, Brendan Donnelly, Ben Weber, Ramon Ortiz, and Francisco Rodriguez.

I also would like to congratulate chairman and CEO of the Walt Disney Company Michael Eisner, General Manager Bill Stoneman and all of the Angels' staff on their hard work assembling Anaheim's first championship team. I should also congratulate Jackie Autry, widow of former Angels owner Gene Autry. One of her husband's greatest dreams was to see the Angels win a World Series.

And, most importantly, I would like to thank the Angels fans in Southern California who have earned national recognition for their enthusiasm and unbridled support of their team.

Finally, it is nearly impossible to congratulate the Angels or their fans without mentioning the ''Rally Monkey,'' the adorable mascot that has become Anaheim's symbol of resilience and refusal to give up hope in the most difficult situations.

The Angels have begun a new era of baseball in Southern California and will certainly defend their title with the same heart and determination that brought them to the World Series this year. The Anaheim Angels are a team with an unquenchable desire to win.

They have made the city of Anaheim, the county of Orange, and all of California proud.

Mr. REID. Madam President, I ask unanimous consent that the resolution and preamble be agreed to en bloc; that the motion to reconsider be laid upon the table, with no intervening action or debate; and that any statements relating to the resolution be printed in the RECORD.

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

The resolution (S. Res. 357) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 357

Whereas the Anaheim Angels have won the first World Championship in the 42 year history of the franchise;

Whereas the Anaheim Angels completed their best season in franchise history with 99 wins, staging one of the most significant team improvements in Major League Baseball since the 2001 season;

Whereas the 2002 World Series was the Anaheim Angels' first appearance in the Fall Classic;

Whereas the Anaheim Angels have fielded such superstars as Nolan Ryan, Rod Carew, Bobby Grich, Reggie Jackson, Jim Abbott, Wally Joyner, Brian Downing, Jim Edmonds, Gary DiSarcina, and now Troy Percival, Jarrod Washburn, Garret Anderson, Troy Glaus, and Tim Salmon;

Whereas third baseman Troy Glaus received the World Series Most Valuable Player Award for his stellar defensive plays, .385 batting average, and 3 home runs during the series;

Whereas pitcher Francisco Rodriguez became the youngest pitcher to win a World Series game and tied the postseason record for games won with 5 outstanding wins;

Whereas Manager Mike Scioscia won his first World Series title as a manager;

Whereas Tim Salmon made his first playoff appearance in 10 seasons as a major league baseball player, the only current player to have played that long without having reached the postseason;

Whereas the spirit of Gene Autry, the ''Singing Cowboy'' and former owner of the Angels, was undoubtedly ever-present with the Anaheim players throughout the series as he was an inspirational force to all who played for him and knew of his legacy;

Whereas the Anaheim Angels battled another California team deserving of acknowledgement: the San Francisco Giants;

Whereas the San Francisco Giants were a worthy rival for the Anaheim Angels and set the stage for an exciting and suspenseful World Series that was watched with great interest by many Californians;

Whereas the Anaheim Angels epitomize California pride with their incredible focus, dedication to winning, team cohesiveness, and devotion to playing America's pastime with class, athleticism, and enthusiasm; and

Whereas the Anaheim Angels demonstrate the rewards of perseverance, discipline, teamwork, and championship as they prepare to defend their title of World Champions: Now, therefore, be it

Resolved, That the Senate congratulates the Anaheim Angels on winning the 2002 Major League Baseball World Series title.

EXPRESSING SENSE OF CONGRESS ABOUT PUBLIC AWARENESS AND EDUCATION ABOUT IMPORTANCE OF HEALTH CARE COVERAGE

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 757, S. Con. Res. 94.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 94) 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.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. Madam President, I ask unanimous consent that the concurrent resolution be agreed to; that the preamble be agreed to; that the motion to reconsider be laid upon the table; and that any statements relating to the concurrent resolution be printed in the RECORD.

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

The concurrent resolution (S. Con. Res. 94) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 94

Whereas census estimates indicate that some 42,000,000 people in the United States are without health insurance coverage, many of whom are among the most vulnerable and can be financially devastated by serious illness, disease, or accident;

Whereas studies have shown that people with health insurance are healthier than those who are uninsured and receive care through emergency rooms or safety net health care services, because the insured are entitled to, and receive, more preventive care, follow-up care, and care for chronic conditions such as diabetes and high blood pressure;

Whereas over 17,300,000 of the uninsured are employed but are not offered health insurance through their employers;

Whereas such employers are small business owners who are often unaware of the benefits of offering health insurance, including that such benefits are tax deductible, reduce employee turnover, and reduce employee sick days;

Whereas over 16,000,000 people in the United States, more than ⅓ of the uninsured, are in families where at least 1 member of the family has been offered employer based health care coverage but has declined coverage;

Whereas many individuals are eligible for public assistance programs such as the State Children's Health Insurance Program, known as SCHIP, and the medicaid program, but are not currently enrolled due primarily to lack of outreach, education, and accessible enrollment processes;

Whereas studies have shown that many individuals and small businesses are unaware of the various options they have for obtaining affordable health care coverage;

Whereas surveys have shown that many individuals who cite expense as the reason for not purchasing insurance find insurance affordable once they are informed of the true cost of various options; and

Whereas education about health care coverage helps uninsured individuals and employers understand the critical value of health insurance as a preventive measure and the ways to keep their health insurance premiums manageable once they have health care coverage: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) a National Importance of Health Care Coverage Month be established to—

(A) promote a multifaceted educational effort about the importance of health care coverage;

(B) increase awareness of the many available health care coverage options; and

(C) inform those eligible for public insurance programs on ways to access those programs; and

(2) the President issue a proclamation calling on the Federal Government, States, localities, citizens, and businesses of the United States to conduct appropriate programs, fairs, ceremonies, and activities to promote this educational effort.

RELIEF OF SO HYUN JUN

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 3758 now at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 3758) for the relief of So Hyun Jun.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Madam President, I ask unanimous consent that the bill be read a third time and passed; that the motion to reconsider be laid upon the table, with no intervening action or debate; and that any statements relating to the bill be printed in the RECORD.

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

The bill (H.R. 3758) was read the third time and passed.

PROSECUTORIAL REMEDIES AND TOOLS AGAINST THE EXPLOITATION OF CHILDREN TODAY ACT OF 2002

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 759, S. 2520.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 2520) to amend title 18, United States Code, with respect to the sexual exploitation of children.

There being no objection, the Senate proceeded to consider the bill which was reported by the Committee on the Judiciary with an amendment to strike all after the enacting clause, and insert in lieu thereof the following:

[Strike the part shown in black brackets and insert the part printed in italic.]

S. 2520

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 ''Prosecutorial Remedies and Tools Against the Exploitation of Children Today Act of 2002''.

SEC. 2. CERTAIN ACTIVITIES RELATING TO MATERIAL CONSTITUTING OR CONTAINING CHILD PORNOGRAPHY.

Section 2252A of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking paragraph (3) and inserting the following:

''(3) knowingly—

''(A) reproduces any child pornography for distribution through the mails, or in interstate or foreign commerce by any means, including by computer; or

''(B) advertises, promotes, presents, describes, distributes, or solicits through the mails, or in interstate or foreign commerce by any means, including by computer, any material in a manner that conveys the impression that the material is, or contains, an obscene visual depiction of a minor engaging in sexually explicit conduct;'';

(B) in paragraph (4), by striking ''or'' at the end;

(C) in paragraph (5), by striking the period at the end and inserting ''; or''; and

(D) by adding at the end the following:

''(6) knowingly distributes, offers, sends, or provides to a minor any visual depiction, including any photograph, film, video, picture, or computer generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct where such visual depiction is, or appears to be, of a minor engaging in sexually explicit conduct—

''(A) that has been mailed, shipped, or transported in interstate or foreign commerce by any means, including by computer;

''(B) that was produced using materials that have been mailed, shipped, or transported in interstate or foreign commerce by any means, including by computer; or

''(C) which distribution, offer, sending, or provision is accomplished using the mails or by transmitting or causing to be transmitted any wire communication in interstate or foreign commerce, including by computer, for purposes of inducing or persuading such minor to participate in any activity that is illegal.'';

(2) in subsection (b)(1), by striking ''(1), (2), (3), or (4)'' and inserting ''(1), (2), (3), (4), or (6)''; and

(3) by striking subsection (c) and inserting the following:

''(c) It shall be an affirmative defense to a charge of violating paragraph (1), (2), (3), (4), or (5) of subsection (a) that—

''(1)(A) the alleged child pornography was produced using an actual person or persons engaging in sexually explicit conduct; and

''(B) each such person was an adult at the time the material was produced; or

''(2) the alleged child pornography was not produced using any actual minor or minors.

No affirmative defense shall be available in any prosecution that involves obscene child pornography or child pornography as described in section 2256(8)(D). A defendant may not assert an affirmative defense to a charge of violating paragraph (1), (2), (3), (4), or (5) of subsection (a) unless, within the time provided for filing pretrial motions or at such time prior to trial as the judge may direct, but in no event later than 10 days before the commencement of the trial, the defendant provides the court and the United States with notice of the intent to assert such defense and the substance of any expert or other specialized testimony or evidence upon which the defendant intends to rely. If the defendant fails to comply with this subsection, the court shall, absent a finding of extraordinary circumstances that prevented timely compliance, prohibit the defendant from asserting a defense to a charge of violating paragraph (1), (2), (3), (4), or (5) of subsection (a) or presenting any evidence for which the defendant has failed to provide proper and timely notice.''.

SEC. 3. ADMISSIBILITY OF EVIDENCE.

Section 2252A of title 18, United States Code, is amended by adding at the end the following:

''(e) ADMISSIBILITY OF EVIDENCE.—In any prosecution under this chapter, the name, address, or other identifying information, other than the age or approximate age, of any minor who is depicted in any child pornography shall not be admissible and the jury shall be instructed, upon request of the United States, that it can draw no inference from the absence of such evidence in deciding whether the child pornography depicts an actual minor .''.

SEC. 4. DEFINITIONS.

Section 2256 of title 18, United States Code, is amended—

(1) in paragraph (1), by inserting before the semicolon the following: ''and shall not be construed to require proof of the actual identity of the person'';

(2) in paragraph (8)—

(A) in subparagraph (B), by inserting ''is obscene and'' before ''is'';

(B) in subparagraph (C), by striking ''or'' at the end; and

(C) by striking subparagraph (D) and inserting the following:

''(D) such visual depiction—

''(i) is of a minor, or an individual who appears to be a minor, actually engaging in bestiality, sadistic or masochistic abuse, or sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex; and

''(ii) lacks serious literary, artistic, political, or scientific value; or

''(E) the production of such visual depiction involves the use of an identifiable minor engaging in sexually explicit conduct; and''; and

(3) in paragraph (9)(A)(ii)—

(A) by striking ''(ii) who is'' and inserting the following:

''(ii)(I) who is''; and

(B) by striking ''and'' at the end and inserting the following: ''or

''(II) who is virtually indistinguishable from an actual minor; and''.

SEC. 5. RECORDKEEPING REQUIREMENTS.

Section 2257 of title 18, United States Code, is amended—

(1) in subsection (d)(2), by striking ''of this section'' and inserting ''of this chapter or chapter 71,'';

(2) in subsection (h)(3), by inserting '', computer generated image or picture,'' after ''video tape''; and

(3) in subsection (i)—

(A) by striking ''not more than 2 years'' and inserting ''not more than 5 years''; and

(B) by striking ''5 years'' and inserting ''10 years''.

SEC. 6. FEDERAL VICTIMS' PROTECTIONS AND RIGHTS.

Section 227(f)(1)(D) of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13032(f)(1)(D)) is amended to read as follows:

''(D) where the report discloses a violation of State criminal law to an appropriate official of that State or subdivision of that State for the purpose of enforcing such State law.''.

SEC. 7. CONTENTS DISCLOSURE OF STORED COMMUNICATIONS.

Section 2702 of title 18, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (5), by striking ''or'' at the end;

(B) in paragraph (6)—

(i) in subparagraph (A)(ii), by inserting ''or'' at the end;

(ii) by striking subparagraph (B); and

(iii) by redesignating subparagraph (C) as subparagraph (B);

(C) by redesignating paragraph (6) as paragraph (7); and

(D) by inserting after paragraph (5) the following:

''(6) to the National Center for Missing and Exploited Children, in connection with a report submitted under section 227 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13032); or''; and

(2) in subsection (c)—

(A) in paragraph (4), by striking ''or'' at the end;

(B) by redesignating paragraph (5) as paragraph (6); and

(C) by inserting after paragraph (4) the following:

''(5) to the National Center for Missing and Exploited Children, in connection with a report submitted under section 227 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13032); or''.

SEC. 8. EXTRATERRITORIAL PRODUCTION OF CHILD PORNOGRAPHY FOR DISTRIBUTION IN THE UNITED STATES.

Section 2251 of title 18, United States Code, is amended—

(1) by striking ''subsection (d)'' each place that term appears and inserting ''subsection (e)'';

(2) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(3) by inserting after subsection (b) the following:

''(c)(1) Any person who, in a circumstance described in paragraph (2), employs, uses, persuades, induces, entices, or coerces any minor to engage in, or who has a minor assist any other person to engage in, any sexually explicit conduct outside of the United States, its territories or possessions, for the purpose of producing any visual depiction of such conduct, shall be punished as provided under subsection (e).

''(2) The circumstance referred to in paragraph (1) is that—

''(A) the person intends such visual depiction to be transported to the United States, its territories or possessions, by any means, including by computer or mail; or

''(B) the person transports such visual depiction to the United States, its territories or possessions, by any means, including by computer or mail.''.

SEC. 9. CIVIL REMEDIES.

Section 2252A of title 18, United States Code, as amended by this Act, is amended by adding at the end the following:

''(f) CIVIL REMEDIES.—

''(1) IN GENERAL.—Any person aggrieved by reason of the conduct prohibited under subsection (a) or (b) may commence a civil action for the relief set forth in paragraph (2).

''(2) RELIEF.—In any action commenced in accordance with paragraph (1), the court may award appropriate relief, including—

''(A) temporary, preliminary, or permanent injunctive relief;

''(B) compensatory and punitive damages; and

''(C) the costs of the civil action and reasonable fees for attorneys and expert witnesses.''.

SEC. 10. ENHANCED PENALTIES FOR RECIDIVISTS.

Sections 2251(d), 2252(b), and 2252A(b) of title 18, United States Code, are amended by inserting ''chapter 71,'' before ''chapter 109A,'' each place it appears.

SEC. 11. SENTENCING ENHANCEMENTS FOR INTERSTATE TRAVEL TO ENGAGE IN SEXUAL ACT WITH A JUVENILE.

Pursuant to its authority under section 994(p) of title 18, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, as appropriate, amend the Federal Sentencing Guidelines and policy statements to ensure that guideline penalties are adequate in cases that involve interstate travel with the intent to engage in a sexual act with a juvenile in violation of section 2423 of title 18, United States Code, to deter and punish such conduct.

SEC. 12. MISCELLANEOUS PROVISIONS.

(a) APPOINTMENT OF TRIAL ATTORNEYS.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall appoint 25 additional trial attorneys to the Child Exploitation and Obscenity Section of the Criminal Division of the Department of Justice or to appropriate U.S. Attorney's Offices, and those trial attorneys shall have as their primary focus, the investigation and prosecution of Federal child pornography laws.

(b) REPORT TO CONGRESSIONAL COMMITTEES.—

(1) IN GENERAL.—Not later than 9 months after the date of enactment of this Act, and every 2 years thereafter, the Attorney General shall report to the Chairpersons and Ranking Members of the Committees on the Judiciary of the Senate and the House of Representatives on the Federal enforcement actions under chapter 110 of title 18, United States Code.

(2) CONTENTS.—The report required under paragraph (1) shall include—

(A) an evaluation of the prosecutions brought under chapter 110 of title 18, United States Code;

(B) an outcome-based measurement of performance; and

(C) an analysis of the technology being used by the child pornography industry.

(c) SENTENCING GUIDELINES.—Pursuant to its authority under section 994(p) of title 18, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, as appropriate, amend the Federal Sentencing Guidelines and policy statements to ensure that the guidelines are adequate to deter and punish conduct that involves a violation of paragraph (3)(B) or (6) of section 2252A(a) of title 18, United States Code, as created by this Act. With respect to the guidelines for section 2252A(a)(3)(B), the Commission shall consider the relative culpability of promoting, presenting, describing, or distributing material in violation of that section as compared with solicitation of such material.

SEC. 13. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Prosecutorial Remedies and Tools Against the Exploitation of Children Today Act of 2002'' or ''PROTECT Act''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Obscenity and child pornography are not entitled to protection under the First Amendment under Miller v. California, 413 U.S. 15 (1973) (obscenity), or New York v. Ferber, 458 U.S. 747 (1982) (child pornography) and thus may be prohibited.

(2) The Government has a compelling state interest in protecting children from those who sexually exploit them, including both child molesters and child pornographers. ''The prevention of sexual exploitation and abuse of children constitutes a government objective of surpassing importance,'' New York v. Ferber, 458 U.S. 747, 757 (1982) (emphasis added), and this interest extends to stamping out the vice of child pornography at all levels in the distribution chain. Osborne v. Ohio, 495 U.S. 103, 110 (1990).

(3) The Government thus has a compelling interest in ensuring that the criminal prohibitions against child pornography remain enforceable and effective. ''[T]he most expeditious if not the only practical method of law enforcement may be to dry up the market for this material by imposing severe criminal penalties on persons selling, advertising, or otherwise promoting the product.'' Ferber, 458 U.S. at 760.

(4) In 1982, when the Supreme Court decided Ferber, the technology did not exist to: (A) create depictions of virtual children that are indistinguishable from depictions of real children; (B) create depictions of virtual children using compositions of real children to create an unidentifiable child; or (C) disguise pictures of real children being abused by making the image look computer generated.

(5) Evidence submitted to the Congress, including from the National Center for Missing and Exploited Children, demonstrates that technology already exists to disguise depictions of real children to make them unidentifiable and to make depictions of real children appear computer generated. The technology will soon exist, if it does not already, to make depictions of virtual children look real.

(6) The vast majority of child pornography prosecutions today involve images contained on computer hard drives, computer disks, and/or related media.

(7) There is no substantial evidence that any of the child pornography images being trafficked today were made other than by the abuse of real children. Nevertheless, technological advances since Ferber have led many criminal defendants to suggest that the images of child pornography they possess are not those of real children, insisting that the government prove beyond a reasonable doubt that the images are not computer-generated. Such challenges will likely increase after the Ashcroft v. Free Speech Coalition decision.

(8) Child pornography circulating on the Internet has, by definition, been digitally uploaded or scanned into computers and has been transferred over the Internet, often in different file formats, from trafficker to trafficker. An image seized from a collector of child pornography is rarely a first-generation product, and the retransmission of images can alter the image so as to make it difficult for even an expert conclusively to opine that a particular image depicts a real child. If the original image has been scanned from a paper version into a digital format, this task can be even harder since proper forensic delineation may depend on the quality of the image scanned and the tools used to scan it.

(9) The impact on the government's ability to prosecute child pornography offenders is already evident. The Ninth Circuit has seen a significant adverse effect on prosecutions since the 1999 Ninth Circuit Court of Appeals decision in Free Speech Coalition. After that decision, prosecutions generally have been brought in the Ninth Circuit only in the most clear-cut cases in which the government can specifically identify the child in the depiction or otherwise identify the origin of the image. This is a fraction of meritorious child pornography cases. The National Center for Missing and Exploited Children testified that, in light of the Supreme Court's affirmation of the Ninth Circuit decision, prosecutors in various parts of the country have expressed concern about the continued viability of previously indicted cases as well as declined potentially meritorious prosecutions.

(10) In the absence of congressional action, this problem will continue to grow increasingly worse. The mere prospect that the technology exists to create computer or computer-generated depictions that are indistinguishable from depictions of real children will allow defendants who possess images of real children to escape prosecution, for it threatens to create a reasonable doubt in every case of computer images even when a real child was abused. This threatens to render child pornography laws that protect real children unenforceable.

(11) To avoid this grave threat to the Government's unquestioned compelling interest in effective enforcement of the child pornography laws that protect real children, a statute must be adopted that prohibits a narrowly-defined subcategory of images.

(12) The Supreme Court's 1982 Ferber v. New York decision holding that child pornography was not protected drove child pornography off the shelves of adult bookstores. Congressional action is necessary to ensure that open and notorious trafficking in such materials does not reappear.

SEC. 3. CERTAIN ACTIVITIES RELATING TO MATERIAL CONSTITUTING OR CONTAINING CHILD PORNOGRAPHY.

Section 2252A of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking paragraph (3) and inserting the following:

''(3) knowingly—

''(A) reproduces any child pornography for distribution through the mails, or in interstate or foreign commerce by any means, including by computer; or

''(B) advertises, promotes, presents, distributes, or solicits through the mails, or in interstate or foreign commerce by any means, including by computer, any material or purported material in a manner that conveys the impression that the material or purported material is, or contains, an obscene visual depiction of a minor engaging in sexually explicit conduct;'';

(B) in paragraph (4), by striking ''or'' at the end;

(C) in paragraph (5), by striking the period at the end and inserting ''; or''; and

(D) by adding at the end the following:

''(6) knowingly distributes, offers, sends, or provides to a minor any visual depiction, including any photograph, film, video, picture, or computer generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct where such visual depiction is, or appears to be, of a minor engaging in sexually explicit conduct—

''(A) that has been mailed, shipped, or transported in interstate or foreign commerce by any means, including by computer;

''(B) that was produced using materials that have been mailed, shipped, or transported in interstate or foreign commerce by any means, including by computer; or

''(C) which distribution, offer, sending, or provision is accomplished using the mails or by transmitting or causing to be transmitted any wire communication in interstate or foreign commerce, including by computer,

for purposes of inducing or persuading a minor to participate in any activity that is illegal.'';

(2) in subsection (b)(1), by striking ''(1), (2), (3), or (4)'' and inserting ''(1), (2), (3), (4), or (6)''; and

(3) by striking subsection (c) and inserting the following:

''(c) It shall be an affirmative defense to a charge of violating paragraph (1), (2), (3), (4), or (5) of subsection (a) that—

''(1)(A) the alleged child pornography was produced using an actual person or persons engaging in sexually explicit conduct; and

''(B) each such person was an adult at the time the material was produced; or

''(2) the alleged child pornography was not produced using any actual minor or minors.

No affirmative defense shall be available in any prosecution that involves obscene child pornography or child pornography as described in section 2256(8)(D). A defendant may not assert an affirmative defense to a charge of violating paragraph (1), (2), (3), (4), or (5) of subsection (a) unless, within the time provided for filing pretrial motions or at such time prior to trial as the judge may direct, but in no event later than 10 days before the commencement of the trial, the defendant provides the court and the United States with notice of the intent to assert such defense and the substance of any expert or other specialized testimony or evidence upon which the defendant intends to rely. If the defendant fails to comply with this subsection, the court shall, absent a finding of extraordinary circumstances that prevented timely compliance, prohibit the defendant from asserting such defense to a charge of violating paragraph (1), (2), (3), (4), or (5) of subsection (a) or presenting any evidence for which the defendant has failed to provide proper and timely notice.''.

SEC. 4. ADMISSIBILITY OF EVIDENCE.

Section 2252A of title 18, United States Code, is amended by adding at the end the following:

''(e) ADMISSIBILITY OF EVIDENCE.—On motion of the government, in any prosecution under this chapter, except for good cause shown, the name, address, social security number, or other nonphysical identifying information, other than the age or approximate age, of any minor who is depicted in any child pornography shall not be admissible and may be redacted from any otherwise admissible evidence, and the jury shall be instructed, upon request of the United States, that it can draw no inference from the absence of such evidence in deciding whether the child pornography depicts an actual minor .''.

SEC. 5. DEFINITIONS.

Section 2256 of title 18, United States Code, is amended—

(1) in paragraph (1), by inserting before the semicolon the following: ''and shall not be construed to require proof of the actual identity of the person'';

(2) in paragraph (8)—

(A) in subparagraph (B), by inserting ''is obscene and'' before ''is'';

(B) in subparagraph (C), by striking ''or'' at the end; and

(C) by striking subparagraph (D) and inserting the following:

''(D) such visual depiction—

''(i) is, or appears to be, of a minor actually engaging in bestiality, sadistic or masochistic abuse, or sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex; and

''(ii) lacks serious literary, artistic, political, or scientific value; or

''(E) the production of such visual depiction involves the use of an identifiable minor engaging in sexually explicit conduct;''; and

(3) by striking paragraph (9), and inserting the following:

''(9) 'identifiable minor'—

''(A)(i) means a person—

''(I)(aa) who was a minor at the time the visual depiction was created, adapted, or modified; or

''(bb) whose image as a minor was used in creating, adapting, or modifying the visual depiction; and

''(II) who is recognizable as an actual person by the person's face, likeness, or other distinguishing characteristic, such as a unique birthmark or other recognizable feature; and

''(ii) shall not be construed to require proof of the actual identity of the identifiable minor; or

''(B) means a computer or computer generated image that is virtually indistinguishable from an actual minor; and

''(10) 'virtually indistinguishable' means that the depiction is such that an ordinary person viewing the depiction would conclude that the depiction is of an actual minor.''.

SEC. 6. RECORDKEEPING REQUIREMENTS.

Section 2257 of title 18, United States Code, is amended—

(1) in subsection (d)(2), by striking ''of this section'' and inserting ''of this chapter or chapter 71,'';

(2) in subsection (h)(3), by inserting '', computer generated image or picture,'' after ''video tape''; and

(3) in subsection (i)—

(A) by striking ''not more than 2 years'' and inserting ''not more than 5 years''; and

(B) by striking ''5 years'' and inserting ''10 years''.

SEC. 7. SERVICE PROVIDER REPORTING OF CHILD PORNOGRAPHY AND RELATED INFORMATION.

Section 227 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13032) is amended—

(1) in subsection (c), by inserting ''or pursuant to'' after ''to comply with'';

(2) by amending subsection (f)(1)(D) to read as follows:

''(D) where the report discloses a violation of State criminal law, to an appropriate official of a State or subdivision of a State for the purpose of enforcing such State law.'';

(3) by redesignating paragraph (3) of subsection (b) as paragraph (4); and

(4) by inserting after paragraph (2) of subsection (b) the following new paragraph:

''(3) In addition to forwarding such reports to those agencies designated in subsection (b)(2), the National Center for Missing and Exploited Children is authorized to forward any such report to an appropriate official of a state or subdivision of a state for the purpose of enforcing state criminal law.''.

SEC. 8. CONTENTS DISCLOSURE OF STORED COMMUNICATIONS.

Section 2702 of title 18, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (5), by striking ''or'' at the end;

(B) in paragraph (6)—

(i) in subparagraph (A)(ii), by inserting ''or'' at the end;

(ii) by striking subparagraph (B); and

(iii) by redesignating subparagraph (C) as subparagraph (B);

(C) by redesignating paragraph (6) as paragraph (7); and

(D) by inserting after paragraph (5) the following:

''(6) to the National Center for Missing and Exploited Children, in connection with a report submitted under section 227 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13032); or''; and

(2) in subsection (c)—

(A) in paragraph (4), by striking ''or'' at the end;

(B) by redesignating paragraph (5) as paragraph (6); and

(C) by inserting after paragraph (4) the following:

''(5) to the National Center for Missing and Exploited Children, in connection with a report submitted under section 227 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13032); or''.

SEC. 9. EXTRATERRITORIAL PRODUCTION OF CHILD PORNOGRAPHY FOR DISTRIBUTION IN THE UNITED STATES.

Section 2251 of title 18, United States Code, is amended—

(1) by striking ''subsection (d)'' each place that term appears and inserting ''subsection (e)'';

(2) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(3) by inserting after subsection (b) the following:

''(c)(1) Any person who, in a circumstance described in paragraph (2), employs, uses, persuades, induces, entices, or coerces any minor to engage in, or who has a minor assist any other person to engage in, any sexually explicit conduct outside of the United States, its territories or possessions, for the purpose of producing any visual depiction of such conduct, shall be punished as provided under subsection (e).

''(2) The circumstance referred to in paragraph (1) is that—

''(A) the person intends such visual depiction to be transported to the United States, its territories or possessions, by any means, including by computer or mail; or

''(B) the person transports such visual depiction to the United States, its territories or possessions, by any means, including by computer or mail.''.

SEC. 10. CIVIL REMEDIES.

Section 2252A of title 18, United States Code, as amended by this Act, is amended by adding at the end the following:

''(f) CIVIL REMEDIES.—

''(1) IN GENERAL.—Any person aggrieved by reason of the conduct prohibited under subsection (a) or (b) may commence a civil action for the relief set forth in paragraph (2).

''(2) RELIEF.—In any action commenced in accordance with paragraph (1), the court may award appropriate relief, including—

''(A) temporary, preliminary, or permanent injunctive relief;

''(B) compensatory and punitive damages; and

''(C) the costs of the civil action and reasonable fees for attorneys and expert witnesses.''.

SEC. 11. ENHANCED PENALTIES FOR RECIDIVISTS.

Sections 2251(d), 2252(b), and 2252A(b) of title 18, United States Code, are amended by inserting ''chapter 71,'' before ''chapter 109A,'' each place it appears.

SEC. 12. SENTENCING ENHANCEMENTS FOR INTERSTATE TRAVEL TO ENGAGE IN SEXUAL ACT WITH A JUVENILE.

Pursuant to its authority under section 994(p) of title 18, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, as appropriate, amend the Federal Sentencing Guidelines and policy statements to ensure that guideline

penalties are adequate in cases that involve interstate travel with the intent to engage in a sexual act with a juvenile in violation of section 2423 of title 18, United States Code, to deter and punish such conduct.

SEC. 13. MISCELLANEOUS PROVISIONS.

(a) APPOINTMENT OF TRIAL ATTORNEYS.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall appoint 25 additional trial attorneys to the Child Exploitation and Obscenity Section of the Criminal Division of the Department of Justice or to appropriate U.S. Attorney's Offices, and those trial attorneys shall have as their primary focus, the investigation and prosecution of Federal child pornography laws.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Justice such sums as may be necessary to carry out this subsection.

(b) REPORT TO CONGRESSIONAL COMMITTEES.—

(1) IN GENERAL.—Not later than 9 months after the date of enactment of this Act, and every 2 years thereafter, the Attorney General shall report to the Chairpersons and Ranking Members of the Committees on the Judiciary of the Senate and the House of Representatives on the Federal enforcement actions under chapter 110 of title 18, United States Code.

(2) CONTENTS.—The report required under paragraph (1) shall include—

(A) an evaluation of the prosecutions brought under chapter 110 of title 18, United States Code;

(B) an outcome-based measurement of performance; and

(C) an analysis of the technology being used by the child pornography industry.

(c) SENTENCING GUIDELINES.—Pursuant to its authority under section 994(p) of title 18, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, as appropriate, amend the Federal Sentencing Guidelines and policy statements to ensure that the guidelines are adequate to deter and punish conduct that involves a violation of paragraph (3)(B) or (6) of section 2252A(a) of title 18, United States Code, as created by this Act. With respect to the guidelines for section 2252A(a)(3)(B), the Commission shall consider the relative culpability of promoting, presenting, describing, or distributing material in violation of that section as compared with solicitation of such material.

SEC. 14. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

Mr. REID. I ask unanimous consent that the committee substitute be agreed to, the bill, as amended, be read a third time, passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating thereto be printed in the RECORD.

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

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 2520), as amended, was read the third time and passed.

COMMENDING SAIL BOSTON FOR ITS CONTINUING ADVANCEMENT OF THE MARITIME HERITAGE OF NATIONS

Mr. REID. Madam President, I ask unanimous consent that the Committee on Commerce be discharged from further consideration of S.J. Res. 42 and the Senate now proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the joint resolution by title.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 42) commending Sail Boston for its continuing advancement of the maritime heritage of nations, its commemoration of the nautical history of the United States, and its promotion, encouragement, and support of young cadets through training.

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. REID. I ask unanimous consent that the joint resolution be read three times, passed, the motion to reconsider laid upon the table, the preamble be agreed to, and that any statements relating thereto be printed in the RECORD, with no intervening action or debate.

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

The joint resolution (S.J. Res. 42) was read the third time and passed.

The preamble was agreed to.

The joint resolution, with its preamble, reads as follows:

S. J. RES. 42

Whereas Sail Boston is a nonprofit corporation dedicated to the promotion of sail training and sail training events in an effort to build goodwill among the nations of the world by encouraging international sailing competition and gathering of tall ships in the United States;

Whereas Sail Boston has successfully promoted the United States in the international tall ship community since 1992 with its organization of numerous tall ship events in Boston and in the Great Lakes;

Whereas Sail Boston has worked for more than a decade in partnership with the American Sail Training Association in organizing and implementing tall ship gatherings in the United States to emphasize and promote the values of learning and education at sea;

Whereas Sail Boston has successfully established a unique reputation in the celebration of major sailing events and milestones in the maritime history of the United States;

Whereas Sail Boston served as an organizer for the bicentennial celebration of our country's oldest commissioned warship, the U.S.S. Constitution, in 1997 and was selected by the International Sail Training Association of London as Port Organizer for the gathering of the world's tall ships in Boston in 1992 and again in 2000 as part of our country's millennium celebration;

Whereas Sail Boston promoted and implemented 1 of the world's largest tall ship events in the history of sail training in the year 2000, when over 7,500,000 people welcomed a gathering of 145 international and domestic tall ships, representing 34 countries, to the port of Boston; and

Whereas Sail Boston will continue its international goodwill promotions with a gathering of tall ships in Boston in 2004: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) Sail Boston is commended for—

(A) its excellence in the promotion of tall ships and maritime events in Boston and in ports throughout the United States; and

(B) for its work with the American Sail Training Association in the promotion and encouragement of young cadets through training programs, seamanship, and education at sea;

(2) all Americans and citizens of nations throughout the world are encouraged to join in the international friendship and support that Sail Boston and the American Sail Training Association will provide during Sail Boston 2004; and

(3) Sail Boston is encouraged to continue to represent and promote the ports of the United States in the international tall ship community, and to continue to organize and participate in tall ship events in the United States and around the world.

FACILITATING ABILITY OF CERTAIN SPECTRUM AUCTION WINNERS TO PURSUE ALTERNATIVE MEASURES

Mr. REID. I ask unanimous consent that the Commerce Committee be discharged from consideration of S. 2869 and the Senate now proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2869) to facilitate the ability of certain spectrum auction winners to pursue alternative measures required in the public interest to meet the needs of wireless telecommunications consumers.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. I understand that Senators KERRY, BROWNBACK, and HOLLINGS have an amendment at the desk. I ask unanimous consent that it be considered and agreed to; the motion to reconsider be laid upon the table; that the bill, as amended, be read three times, passed, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD, with no intervening action or debate.

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

The amendment (No. 4957) was agreed to as follows:

(Purpose: To authorize the Federal Communications Commission to refund deposits and downpayments made by Auction 35 winning bidders who elect to withdraw their bids)

Strike out all after the enacting clause and insert the following:

SECTION 1. RELIEF FROM CONTINUING OBLIGATIONS.

A winning bidder to which the Commission has not granted an Auction 35 license may irrevocably elect to relinquish any right, title, or interest in that license and the associated license application by formal written notice to the Commission. Such an election may only be made within 30 days after the date of enactment of this Act. A winning bidder that makes such an election shall be free of any obligation the winning bidder would otherwise have with respect to that license, the associated license application, and the associated winning bid, including the obligation to pay the amount of its winning bid that would be otherwise due for such license.

SEC. 2. RETURN OF DEPOSITS AND DOWNPAYMENTS.

Within 37 days after receiving an election that meets the requirements of section 3

from an Auction 35 winning bidder that has made the election described in section 1, the Commission shall refund deposit or downpayment made with respect to a winning bidder for the license that is the subject of the election.

SEC. 3. COMMISSION TO ISSUE PUBLIC NOTICE.

(a) PUBLIC NOTICE.—Within 5 days after the date of enactment of this Act, the Commission shall issue a public notice specifying the form and the process for the return of deposits and downpayments under section 2.

(b) TIME FOR ELECTION.—An election under this section is not valid unless it is made within 30 days after the date of enactment of this Act.

SEC. 4. WAIVER OF PAPERWORK REDUCTION ACT REQUIREMENTS.

Section 3507 of title 44, United States Code, shall not apply to the Commission's implementation of this Act.

SEC. 5. NO INFERENCE WITH RESPECT TO NEXTWAVE CASE.

It is the sense of the Congress that no inference with respect to any issue of law or fact in Federal Communications Commission v. NextWAVE Personal Communications, Inc., et al. (Supreme Court Docket No. 01–653) should be drawn from the introduction, amendment, defeat, or enactment of this Act.

SEC. 6. DEFINITIONS.

In this Act:

(1) AUCTION 35.—The term ''Auction 35'' means the C and F block broadband personal communications service spectrum auction of the Commission that began on December 1, 2000, and ended on January 6, 2001, insofar as that auction related to spectrum previously licensed to NextWave Personal Communications, Inc., NextWave Power Partners, Inc., or Urban Comm North Carolina, Inc.

(2) COMMISSION.—The term ''Commission'' means the Federal Communications Commission or a bureau or division thereof action on delegated authority.

(3) WINNING BIDDER.—The term ''winning bidder'' means any person who is entitled under Commission order FCC 02–99 (released March 27, 2002), to a refund of a substantial portion of monies on deposit for spectrum formerly licensed to Nextwave and Urban Comm as defined in that order.

The bill (S. 2869), as amended, was read the third time and passed.

DAM SAFETY AND SECURITY ACT OF 2002

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to Calendar No. 617, H.R. 4727.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4727) to reauthorize the national dam safety program, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. I ask unanimous consent that the bill be read three times, passed, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD, with no intervening action or debate.

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

The bill (H.R. 4727) was read the third time and passed.

NORTH AMERICAN WETLANDS CONSERVATION REAUTHORIZATION ACT

Mr. REID. Madam President, I ask unanimous consent the Senate proceed to Calendar No. 692, H.R. 3908.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 3908) to reauthorize the North American Wetlands Conservation Act, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Environment and Public Works with amendments, as follows:

[Strike the parts shown in boldface brackets and insert the parts shown in italic.]

H.R. 3908

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 ''North American Wetlands Conservation Reauthorization Act''.

SEC. 2. AMENDMENT OF NORTH AMERICAN WETLANDS CONSERVATION ACT.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the North American Wetlands Conservation Act (16 U.S.C. 4401 et seq.).

SEC. 3. FINDINGS AND STATEMENT OF PURPOSE.

(a) FINDING.—Section 2(a)(1) (16 U.S.C. 4401(a)(1)) is amended by striking ''and other habitats'' and inserting ''and associated habitats''.

(b) PURPOSES.—Section 2(b) (16 U.S.C. 4401(b)) is amended—

(1) in paragraph (1) by striking ''and other habitats for migratory birds'' and inserting ''**[**and associated habitats for wetland dependent migratory birds**]** *and habitats associated with wetland ecosystems*'';

(2) in paragraph (2) by inserting ''wetland **[**dependent *associated***]**'' before ''migratory bird''; and

(3) in paragraph (3)—

(A) by inserting ''wetland **[**dependent**]** *associated*'' before ''migratory birds''; and

(B) by inserting '', the United States Shorebird Conservation Plan, the North American Waterbird Conservation Plan, the Partners In Flight Conservation Plans,'' after ''North American Waterfowl Management Plan''.

SEC. 4. DEFINITION OF WETLANDS CONSERVATION PROJECT.

Section 3(9) (16 U.S.C. 4402(9)) is amended—

(1) in subparagraph (A) by inserting ''of a wetland ecosystem and associated habitat'' after ''including water rights,''; and

(2) in subparagraph (B) by striking ''and other habitat'' and inserting ''and associated habitat''.

SEC. 5. REAUTHORIZATION.

Section 7(c) (16 U.S.C. 4406(c)) is amended by striking ''not to exceed'' and all that follows and inserting ''not to exceed—

''(1) $55,000,000 for fiscal year 2003;

''(2) $60,000,000 for fiscal year 2004;

''(3) $65,000,000 for fiscal year 2005;

''(4) $70,000,000 for fiscal year 2006; and

''(5) $75,000,000 for fiscal year 2007.''.

SEC. 6. ALLOCATION.

Section 8(a) (16 U.S.C. 4407(a)) is amended—

(1) in paragraph (1)—

(A) by striking ''(but at least 50 per centum and not more than 70 per centum thereof)'' and inserting ''**[**(but at least 25 percent and not more than 50 percent thereof)**]** *(but at least 30 percent and not more than 60 percent)*''; and

(B) by striking ''4 per centum'' and inserting ''4 percent''; and

(2) in paragraph (2) by striking ''(but at least 30 per centum and not more than 50 per centum thereof)'' and inserting ''**[**(but at least 50 percent and not more than 75 percent thereof)**]** *(but at least 40 percent and not more than 70 percent)*''.

SEC. 7. CLARIFICATION OF NON-FEDERAL SHARE OF THE COST OF APPROVED WETLANDS CONSERVATION PROJECTS.

Section 8(b) (16 U.S.C. 4407(b)) is amended by striking so much as precedes the second sentence and inserting the following:

''(b) COST SHARING.—(1) Except as provided in paragraph (2), as a condition of providing assistance under this Act for any approved wetlands conservation project, the Secretary shall require that the portion of the costs of the project paid with amounts provided by non-Federal United States sources is equal to at least the amount allocated under subsection (a) that is used for the project.

''(2) Federal moneys allocated under subsection (a) may be used to pay 100 percent of the costs of such projects located on Federal lands and waters, including the acquisition of inholdings within such lands and waters.

''(3)''.

SEC. 8. TECHNICAL CORRECTIONS.

(a) The North American Wetlands Conservation Act is amended as follows:

(1) In section 2(a)(10) (16 U.S.C. 4401(a)(10)), by inserting ''of 1973'' after ''Species Act''.

(2) In section 2(a)(12) (16 U.S.C. 4401(a)(12)), by inserting ''and in 1994 by the Secretary of Sedesol for Mexico'' after ''United States''.

[(2)**]** *(3)* In section 3(2) (16 U.S.C. 4402(2)), by striking ''Committee on Merchant Marine and Fisheries of the United States House of Representatives'' and inserting ''Committee on Resources of the House of Representatives''.

[(3)**]** *(4)* In section 3(5) (16 U.S.C. 4402(5)), by inserting ''of 1973'' after ''Species Act''.

(5) In section 3(6) (16 U.S.C. 4402(6)), by inserting after ''1986'' the following: '', and by the Secretary of Sedesol for Mexico in 1994, and subsequent dates''.

[(4)**]** *(6)* In section 4(a)(1)(B) (16 U.S.C. 4403(a)(1)(B)), by striking ''section 3(2)(B)'' and inserting ''section 3(g)(2)(B)''.

[(5)**]** *(7)* In section 4(c) (16 U.S.C. 4403(c)), in the matter preceding paragraph (1), by striking ''Commission'' and inserting ''Council''.

[(6)**]** *(8)* In section 5(a)(5) (16 U.S.C. 4404(a)(5)), by inserting ''of 1973'' after ''Species Act''.

(9) In section 5(b) (16 U.S.C. 4404(b)), by striking ''by January 1 of each year,'' and inserting ''each year''.

(10) In section 5(d) (16 U.S.C. 4404(d)), by striking ''one Council member'' and inserting ''2 Council members''.

[(7)**]** *(11)* In section 5(f) (16 U.S.C. 4404(f)), by striking ''subsection (d)'' and inserting ''subsection (e)''.

[(8)**]** *(12)* In section 10(1)(C) (16 U.S.C. 4409(1)(C)), by striking ''western hemisphere pursuant to section 17 of this Act'' and inserting ''Western Hemisphere pursuant to section 16''.

[(9)**]** *(13)* In section 10(1)(D) (16 U.S.C. 4409(1)(D)), by striking the period and inserting ''; and''.

[(10)**]** *(14)* In section 16(a) (16 U.S.C. 4413), by striking ''western hemisphere'' and inserting ''Western Hemisphere''.

(b)(1) Section 112(1) of Public Law 101–593 (104 Stat. 2962) is amended by striking ''and before the period''.

(2) Paragraph (1) of this subsection shall be effective on and after the effective date of section 112(1) of Public Law 101–593 (104 Stat. 2962).

SEC. 9. CHESAPEAKE BAY INITIATIVE.

Section 502(c) of the Chesapeake Bay Initiative Act of 1998 (16 U.S.C. 461 note; Public Law 105–312) is amended by striking ''2003'' and inserting ''2008''.

Mr. REID. I ask unanimous consent that the committee reported amendments be agreed to; the bill, as amended, be read three times and passed; the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

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

The committee amendments were agreed to.

The bill (H.R. 3908), as amended, was read the third time and passed.

NATIONAL SCIENCE FOUNDATION AUTHORIZATION ACT OF 2002

Mr. REID. I ask unanimous consent the HELP Committee be discharged from further consideration of H.R. 4664 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4664) to authorize appropriations for fiscal years 2003, 2004, and 2005 for the National Science Foundation, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. KENNEDY. Madam President, I am pleased the Senate will consider and pass today, the National Science Foundation Doubling Act. This bill is the product of extensive bipaprtisan, bicameral negotiations among the House of Representatives Committee on Science, the Senate Committee on Health, Education, Labor, and Pensions, and the Senate Committee on Commerce, Science, and Transportation. It is based on S. 2817, which I introduced with Senator HOLLINGS, Senator MIKULSKI, and Senator BOND. I commend them, together with Senator GREGG, Senator MCCAIN, House Science Committee Chairman BOEHLERT, Congressman NICK SMITH, and Congressman RALPH HALL for their leadership in crafting this important legislation.

NSF performs two key functions for the federal governmnet and the broader research community. It supports basic research and development in math, science, engineering, and technology, and it promotes math and science learning at every level, from K–12 through post-graduate education.

Few people realize how influential NSF has been to their daily lives. NSF has funded basic research leading to the creation of doppler weather radar, retail bar codes, speech recognition software, magnetic resonance imaging machines, and even World Wide Web browsers, such as Netscape and Microsoft's Internet Explorer. NSF education initiatives of the late 1980s were the forerunners of the standards-based school reform movement embraced throughout the Nation today and most recently in the new No Child Left Behind Act governing nearly all federal elementary and secondary education programs.

We can and should build on NSF's record in improving the lives of millions of Americans. The 20th Century was the era of the industrial age, and the 21st Century will be the era of information technology and the life sciences.

The bill before us doubles NSF's budget authority over the next five years. It matches the growth of the National Institutes of Health over the last five years. We double budget authority for research and development in the physical sciences and theoretical mathematics, because they support advances in the health sciences and because they are valuable in their own right.

I am particularly proud that the legislation before us authorizes a new secondary school systemic initiative at NSF that will develop model school reforms to improve high school student math and science performance and better prepare all students for college-level and technical work. For too long, federal policy has paid scant attention to the needs of secondary school students. Senator JEFFORDS and I have been working extensively in this area. I commend him for his leadership and look forward to continued work with him on the needs of secondary students.

The bill before us supports model math and science partnerships between institutions of higher education and local school districts to improve the knowledge and teaching techniques of current and future math and science teachers. The math and science partnership provisions are based on proposals offered by the Administration, Senator FRIST, Senator ROBERTS, Senator ROCKEFELLER, and Senator BINGAMAN. They track a strong body of educational research that emphasizes the importance of training math and science teachers to improve student performance in those important subject areas.

This legislation supports institutions of higher education in increasing the number of students, particularly women and minorities, who study toward and obtain degrees in science, math, engineering, and technology. Senator LIEBERMAN, Senator MIKULSKI, and Senator BOND are leaders on this issue, and I commend them as well. We have an economic need and a national security imperative to increase the number and quality of students studying science, math, engineering, and technology at the post-secondary level.

Finally, the bill before us reforms NSF's program on major research and facilities equipment, to help prioritize projects and guard against cost overruns and approval of proposals that have not received adequate analysis. This is an area of concern for Senator CLINTON, Senator BOND, and Senator MIKULSKI, and I commend them for this initiative. Quality and merit should be the touchstones of our Nation's investment in the sciences.

The National Science Foundation Doubling Act is a thoughtful piece of bipartisan legislation that prepares us for the future. I urge my colleagues to support it.

Mr. HOLLINGS. Madam President, today, the Senate will pass legislation that authorizes the doubling of the National Science Foundation budget by fiscal year 2007. As you all know, NSF is the nation's premier federal science agency that invests in basic research across all disciplines. We rely on NSF research to open new frontiers of science, and I am proud that we can pass this important legislation today.

We have approached this legislation in concert with our friends on the Health, Labor, Education, and Pensions Committee, Senators KENNEDY and GREGG. Once again, it has been a pleasure to work with Chairman BOEHLERT and ranking member RALPH HALL of the House Science Committee. Obviously, we could not have produced this product without Senator MCCAIN, Senator ROCKEFELLER, and the other members of the Commerce Committee. We were also pleased to work with our friends, Senators BOND and MIKULSKI, who have been leaders on the NSF.

This doubling bill is vital. The Hart-Rudman Commission on National Security, and former speaker Newt Gingrich, warned that our failure to invest in science and to reform math and science education was the second biggest threat to our national security. NSF is well positioned to address this threat. After all, NSF invests in math and science education from kindergarten all the way through to the post-doctoral level and beyond. This bill allows the Foundation to increase that investment, while reaffirming our commitment to women, minorities, and people with disabilities. These under-represented groups, together, make up more than half of our nation's work force and are only increasing. Letting these groups fall by the wayside would not only threaten our economic competiveness, but also our national security.

It is often said that more than one-half of our nation's economic growth since World War I has stemmed from technology driven by science. Let me give just one example of how NSF's investments can spur our economy. NSF is the leading agency in the National Nanotechnology Initiative. Nanotechnology—which is the science of manipulating matter at the atomic and molecular level—will cut across every scientific discipline, including materials and manufacturing, healthcare and medicine, energy and the environment, agriculture, biotechnology, information technology, and national security. Worldwide, the market for nanotechnology is expected

to be $1 trillion annually within 10 to 15 years. NSF's cross-disciplinary approach, which includes groundbreaking research into the way society and this new technology will interact, will help this nation take advantage of Nanotechnology sooner, better, and with greater confidence.

Finally, I want to note that NSF is responsible for the overall health and well-being of the research enterprise in this country. Congress is now completing its 5-year commitment to double funding for the National Institutes of Health. We made that investment because we want to cure and prevent disease. But increasingly, it's not just the biomedical research that NIH supports that brings us breakthroughs. Recent advances in biomedical science have relied on advances in fields such as computer science, physics, and chemistry. For example, the sequencing of the human genome was enabled by powerful computers networked in innovative ways. The commitment that we are making today to science at NSF will build our base knowledge in non-medical fields to complement the research done at NIH.

NSF research is not just for large universities. The Foundation's continued support for the EPSCoR program supports the development of the science and technology resources of individual states like South Carolina, through partnerships that involve the state's universities, industry, government, and the Federal research and development enterprise. These partnerships put researchers in these states in a better position to compete and win NSF grants.

Mr. President, I think these arguments are solid, simple, and straightforward. We can talk about NSF's past outstanding contributions to science. We can talk about the future and the importance of science and technology to our economy. But, Mr. President, where the rubber meets the road, we have to stop talking and invest, with real money, in the science and engineering enterprise that will guaranty the health, economic viability, and security of our future. I, for one, appreciate the hard work that NSF has done over the past 52 years promoting the progress of science, and I thank my Senate colleagues for supporting me in providing this agency the resources needed to conquer tomorrow.

Mr. LIEBERMAN. Madam President, I am proud with my Senate colleagues, particularly Senators KENNEDY, GREGG, and HOLLINGS, in expressing support for this historic legislation, which will help ensure that our country continues to be a leader in scientific and technological innovation. I also want to extend my appreciation to Chairman BOEHLERT of the House Science Committee for his leadership in moving this strongly bipartisan legislation.

The reality is that technological and scientific innovation is now widely understood to be the major driver of economic growth, not to mention a critical factor in our military superiority. Education is essential to ensuring that the American workforce possesses the skills necessary to meet these innovation needs. The provisions included in this legislation will help give universities and colleges in Connecticut and nationwide the tools they need to boost our domestic pool of brainpower—the next generation of people who will incubate and implement the next generation of ideas to expand our economy.

I am extremely pleased that the bill passed today includes all of the key elements of the Technology Talent Act of 2001 S. 1549, legislation that I and my colleagues, most notably Senators MIKULSKI, BOND, FRIST and DOMENICI, first proposed a year ago today. The Technology Talent Act of 2001, ''Tech Talent Act'', sought to stimulate economic growth by boosting the number of math, science, technology and engineering graduates from U.S. institutions of higher learning. House Science Committee Chairman BOEHLERT introduced similar legislation in the House , H.R. 3130, on October 16, 2001.

In keeping with the Tech Talent Act, the National Science Foundation Act of 2002 ''NSF Authorization Act approved today establishes a framework for a multi-year competitive grant program that would award performance-based grants to institutions of higher learning to increase the number of math, science, technology and engineering graduates. The legislation will formally authorize an existing program at NSF that was inspired by and modeled after Tech Talent Act—the Science, Mathematics, Engineering,and Technology talent Expansion Program, STEP. STEP, has already received Federal appropriations for fiscal year 2002 and elicited more than 170 applications from interested colleges and universities, of which 16 were awarded grants. I am pleased that Naugatuck Valley Community College in my home state was selected to be one of the first grantees under the program and have every confidence that it will lead the Nation in developing creative and effective ways to build a 21st century workforce.

The provisions in the NSP Authorization Act before us today achieves the same goals as were proposed in my Tech Talent Act. The following analysis describes the growing talent gap that threatens America's leadership in science and technology and clarifies the goals, concepts, and themes underpinning both my original legislation and the STEP, or Tech Talent, provisions of the NSF Authorization Act.

America's technological prowess is unequaled in the world today—which is why, despite our economic slowdown and the financial burdens of prosecuting the war against terror and ensuring our collective defense, we still have the strongest, most vibrant economy on the planet. However, our long-term competitive standing and economic security could well be at risk if we do not address a troubling trend line in our workforce, the mismatch between the demand and supply of workers with science and engineering training.

Studies show that the number of jobs requiring significant technical skills is projected to grow by more than 50 percent in the United States over the next ten years. But outside of the life sciences, the number of degrees awarded in science and engineering has been flat or declining. This has helped fuel a well-chronicled shortage of qualified New Economy workers.

We have tried to temporarily plug this human capital hole with a stopgap of foreign workers. Unfortunately, there is a broad consensus among high-tech leaders and policymakers that it would be a serious mistake to prolong this dependence and essentially render our GDP contingent on the supply of H–1 B visa holders.

That may sound like a bit of an overstatement to some. But the reality is that technological innovation has been a key enabler of our economic and military dominance over the last half century. It is widely acknowledged, moreover, that we cannot continue to expand our economy in the future if we don't take steps now to expand our domestic pool of human intellectual capital.

Now, most answers to serious economic challenges flow from the private sector, which is where growth must occur. But there are things that the Federal Government can do to help, particularly when it comes to educating and training our workforce. We can provide leadership, focus, and not least of all resources, and that was the purpose of the Tech Talent Act as introduced, and STEP as is included in this NSF legislation.

Specifically, the Tech Talent program aims to fix a critical link in this ''tech talent'' gap—undergraduate education in science, math, engineering, and technology. As established in our bill, it would provide competitive grants to institutions of higher learning, from universities to community colleges, to encourage them to find creative methods for increasing the number of graduates in these disciplines.

This is not another scholarship program, but a targeted, results-driven initiative that goes straight to the gatekeepers. We're not asking them to change their admissions policies, but, in effect, to design new missions. Come up with effective ideas, and we will provide the dollars to make them work.

For example, institutions could propose to add or strengthen the interdisciplinary components of undergraduate science education. Or they could establish targeted support programs for women and minorities, who are 54 percent of our total workforce, but only 22 percent of scientists and engineers, to increase enrollment and graduation numbers in these fields. Or they could partner with local technology companies to provide summer industry internships for ongoing research experience.

This initiative was conceived with strong bipartisan, bicameral support. The Tech Talent Act, as noted, was introduced last year by Senators MIKULSKI, BOND, FRIST, DOMENICI, and myself; the House companion bill, H.R. 3130, was introduced by House Science Committee Chairman BOEHLERT and Representative LARSON. By the end of the year, Congress had agreed to appropriate $5 million for this fiscal year to jumpstart the program in the form of NSF's STEP, even though our authorizing legislation had not yet been passed. Most recently, the Senate VA–HUD Committee Appropriations bill for fiscal year 2003 included $20 million for the program.

The program also has extremely broad support outside the Congress. The Administration has supported Tech Talent as a priority, including funding for it in its budget request for FY 2003. In addition, the response from leaders in industry, academia, and educational communities, also has been tremendous, we have received letters of support from TechNet, Semiconductor Industry Association, National Alliance of Business, K–12 Science, Mathematics, Engineering & Technology Coalition, American Association of State Colleges and Universities, Texas Instruments, and the American Society for Engineering Education, to name but a few.

Even more encouraging are the preliminary data obtained from NSF's STEP. NSF received 177 applications requesting a total of $59.7 million in aid, clear evidence of the vast interest in, and need for, the Tech Talent program among undergraduate institutions seeking to implement reforms in science and math education. In its first year, the program has awarded 16 grants to colleges and universities.

The NSF Authorization Act passed today will do much to enhance the efforts already underway at NSF in this area and to permanently establish ''Tech Talent'' as a national priority. I want to make clear the intent of a few provisions in this legislation as their implementation will be critical to the success of the program.

The intent of H.R. 4664, expressed in section (8)(a)(7)(A), is to prioritize funding for programs in fields of science, mathematics, engineering, and technology that have witnessed a period of stagnant of declining enrollment and degree conferrals, especially where such declines have resulted, or are likely to result, in adverse social, economic, technological, or military costs. It deserves clarification that a declining trend can be indicated not only through an absolute decrease in the number of students enrolling or graduating in a particular field, but through a relative decrease in the proportion that students of a particular field constitute relative to the total number of students enrolled or graduating across all fields.

For example, statistics from the National Science Foundation, NSF, demonstrate that between 1985 and 2000, the number of bachelor's degrees awarded declined from 77,572 to 59,536 in engineering, and from 16,270 to 14,580 in the physical sciences. Furthermore, the NSF predicts that the number of jobs requiring skills and backgrounds in information technology will vastly outstrip the number of people capable of filling such positions over the next decade. The negative consequences of such trends with respect to economic growth, technological innovation, and gainful employment have been widely documented and should represent near to medium-term priorities for Tech talent funding.

In emphasizing the need to remediate stagnant or declining trends, we recognize and appreciate previous criticisms regarding the difficulty of accurately modeling future employment scenarios and of forecasting areas of societal need. Nevertheless, we believe that investments must bear a relationship to desired outcomes if limited funds are to be allocated intelligently. The NSF is therefore expected to undertake efforts to the best extent it can to identify and account for broader social considerations, including generally anticipated industry requirements or imbalances between the number of students graduating across different fields, in determining fields appropriate for prioritization. To this end, the NSF may require applicants to specify the specific societal needs being addressed by their proposals and to articulate how such proposals would further the remediation of targeted needs.

The fundamental goal of the Technology Talent Act as introduced was to increase the number of graduates with expertise in math, science, technology and engineering to meet the critical needs of our U.S. businesses, industries, research community and military. As such, the intention of sections (8)(a)(7)(B) and (8)(a)(7)(D)(i) of H.R. 4664 is to require applicants to clearly establish measurable targets to both increase the number of students studying toward degrees in science, mathematics, technology and engineering, and to increase the number of students who have completed degrees, concentrations, or certificates in these fields. Therefore, it is intended that applicants that fail to establish goals for both enrollment and completion shall be considered inadequate.

Likewise under section (8)(a)(7)(D)(ii), it is intended that the Director shall terminate funding in the case of a grantee that has failed to make substantial progress toward meeting the targets established in section (8)(a)(7)(D)(i) for increasing the number of students completing degrees, concentrations or certificates in science, mathematics, technology and engineering. However, I would encourage the Director to work with grantees and provide technical assistance to help ensure that grantees make substantial progress during the first three years of the grant toward meeting the targets established in (8)(a)(7)(D)(i) and to achieve such targets by the end of the grant period. I further believe that it is inherent in this legislation that grantees that successfully meet their targets established in (8)(a)(7)(D)(i) shall be eligible to compete for subsequent grants.

I believe that this NSF bill provides a real boost to efforts that are being undertaken in parts of the country to address our technical workforce challenge. As such, it is the intention that innovative consortias between institutions of higher education and non-profits, industry or state or local governments are eligible to compete for grants under the STEP program per section (8)(a)(7)(F). In particular, I believe that legislation under (8)(a)(7)(F)(iii) allows for non-profits established on behalf of such high-quality and proven consortias to apply directly for grants.

For example, the State of Texas passed legislation last year that created a consortium—the Texas Engineering and Technical Consortium, TETC, among private industry and 32 colleges and universities to increase the number of students graduating from Texas schools with degrees in electrical engineering and computer science. Grants are awarded to universities and colleges to support curriculum changes, bridge programs, and various forms of student and faculty support to help increase the retention rate of students pursuing degrees in these areas and to attract and retain more underrepresented groups. This collaborative effort has received funding from Advance Micro Devices, Texas Instruments, Hewlett Packard, Motorola, Intel, Applied Materials and Sabre, with in-kind support from AeA and TechNet. The state matches private and other contributions up to $5 million per year.

In April, grants worth $5.3 million were awarded to fund 33 projects as 23 institutions. The appeal of this program is that industry, academia and the state are working cooperatively and collaboratively to address a pressing workforce need, rather than on a school-by-school or company-by-company basis. While it is still too early to determine the success of these projects, which were funded at 64 percent of the potential grant amount, the institutions are projecting a 13 percent increase in total student numbers in these programs for fall 2003. If fully funded, that increase could go as high as 23 percent. This is just the type of innovation that the Tech Talent is meant to encourage.

Finally, the real success the version of the ''Tech Talent'' program encompassed in this legislation will be based on the successful replication and expansion of model programs supported through this grant program at all of our higher education institutions. Therefore, I believe it is critical that the Director follow the intent of the original language as introduced in S.

1549, section (5)(a), and H.R. 3130, section (4)(d), and select an independent evaluative organization to develop metrics for measuring the impact of the program, particularly on the number of students enrolled, academic performance of students, persistence to degree completion, and placement in post-graduate education or career pathways, and to identify the program approaches assisted under this program that are the most effective in increasing the number of students obtaining degrees in science, mathematics, technology and engineering.

In addition, both S. 1549 and H.R. 3130 intend for the Director to regularly disseminate information on the activities conducted by grantees and the results of programs assisted under this grant program, including best practices, to participating institutions of higher education and other interested institutions of higher education. Similarly, I believe it is imperative to share the findings of programs assisted under STEP grants with Congress through interim and final reports so that we may make better policy decisions to enhance our nation's standing as a scientific and technological leader.

We all realize that solving the undergraduate problem is not going to single handedly close our talent gap. At the same time, we should also realize that the talent gap cannot be closed without first solving the problem at the undergraduate level. Therefore, I am pleased by the Senate's unanimous support today for the NSF Authorization Act of 2002, and the STEP, or Tech Talent, provisions encompassed therein. In doing so, we will be helping to ensure that the young minds of today will be capable of mastering and fueling the high-tech economies of tomorrow.

Ms. MIKULSKI. Madam President, I rise today to join with Senator KENNEDY, Senator HOLLINGS, Senator GREGG, Senator MCCAIN, and Senator BOND to urge passage of the National Science Foundation Doubling Act.

On July 12, 2002, Senator KIT BOND and I joined together and called on our Senate colleagues to join us in an effort to double the budget of the National Science Foundation over five years. We said at that time, that just as we worked collectively to double the NIH budget, now was the time for a parallel effort on behalf of the fundamental research supported by the NSF.

NSF's impact over the past half century has been monumental—especially in the field of medical technologies and research. The investments have also spawned not only new products, but entire new industries, such as biotechnology, the internet, and e-commerce. Medical technologies such as biotechnology, the internet, and e-commerce. Medical technologies such as magnetic resonance imaging, ultrasound, digital mammography and genomic mapping could not have occurred, and cannot now improve to the next level of proficiency, without underlying knowledge from NSF-supported work in biology, physics, chemistry, mathematics, engineering, and computer sciences.

Today, with this bill, we take an important step to ensure the well-being of this Nation and its citizens with passage of this bill to double the funding for the basic research and science education activities of the National Science Foundation over the next five years.

Some might ask, ''Why should we do this now?'' Let me try and answer that question.

We have seen some dramatic increases in research and development investments during the past decade, largely from industry. These investments have contributed to this country's standing as a global economic powerhouse.

However, according to the National Science Board—in its latest report on science indicators—developments abroad could affect U.S. preeminence in the years to come. The Board says that the United States finances 44 percent of the total worldwide investment in R&D—equal to the combined total of Japan, the United Kingdom, Canada, France, Germany and Italy.

But other nations are increasing their R&D investments and focusing on areas such as physical sciences and engineering, which receive comparably less funding in the United States. Those changes could lead to the creation of new centers for research excellence abroad, which will encourage many of those who have come here from other countries and have become a part of our science enterprise to return home.

The fact is that this country's future competitiveness rests on our ability to develop a U.S. work force that has the skills necessary to meet the increased competition coming from abroad.

In this country, R&D investments by U.S. industry have contributed to a steady stream of innovations and economic growth. We are seeing new partnerships develop that connect firms and universities, nonprofit organizations and government.

Meanwhile, the balance of R&D investments continues to shift. As industry R&D grew to nearly 75 percent of the national total by 2000, Federal expenditures remained essentially flat over the past decade.

At the same time federal research expenditures in life sciences have grown, from 41 to 47 percent of the federal total between 1990 and 2000. However, the combined share of physical sciences and engineering in federal research total dropped from 37 to 29 percent in the same period.

Changes in the U.S. economy have spilled into the workforce. Information- and technology-based changes in the economy have created new opportunities for highly trained workers.

Science and engineering occupational fields are growing faster than the overall growth of the American work force. the Bureau of Labor Statistics predicts that during this decade, hi-tech occupations will grow by 47 percent, compared to 15 percent for the labor force as a whole.

Despite many state and national reforms initiated during the last decade, the quality of mathematics and science education at the precollege level is not where it should be. America's high school students continue to lag behind in international achievement measures in science and mathematics. U.S. high school students taking physics lag behind students in Norway, Sweden, the Russian Federation, Denmark, Germany, Australia and seven other countries.

A persistent issue in science and mathematics education remains the size and adequacy of the teaching force. According to the National Commission on Mathematics and Science Teaching for the 21st Century, the nation's schools will need to hire 2.2 million teachers, including 240,000 middle and high school mathematics and science teachers, in the next decade.

The need for teachers is most pronounced in urban and rural areas and within specific disciplines and grade levels of mathematics and science. A survey of urban school districts, by the Council of the Great City Schools and Recruiting New Teachers, Inc., in 1998–99, indicated that up to 95 percent of our urban school districts had an immediate demand for high school science and mathematics teachers.

A high percentage of science and mathematics teachers lack even a minor in their teaching field, with 56 percent of public secondary students receiving instruction in the physical sciences from teachers without a major or minor in the physical sciences. And as many as 50 percent of new teachers in urban school districts leave the teaching profession within their first three years, further exacerbating shortages.

Solving the problem of producing more high-quality, homegrown scientists and engineers—and a well educated workforce—depends upon solving the math and science education problems we have at the elementary and secondary levels of our school system.

The bill before us today authorizes substantial growth in all areas of basic research—including the physical, engineering, biological, and computer sciences—fields vital for progress in just about every other area of science including biomedical research. The bill also puts a high priority on cutting edge programs such as information technology, nanotechnology and plant genome research.

Under this bill, the NSF budget would grow from today's level of $5 billion to nearly $10 billion by fiscal year 2007 which should allow for substantial growth in both the size of the average award as well increase the number of awards NSF is able to make. Increasing the size of the grants will benefit those currently conducting research. Increasing the number of awards should help

those individuals who are just starting their careers in science as well as attract more women and minorities into our science and technology enterprise.

In the area of math and science education, the bill firmly establishes the President's Math and Science Partnership program at the National Science Foundation. This is a new effort designed to create strong connections between state and local school districts with our institutions of higher education.

This bill also includes a provision for a new undergraduate ''tech talent'' program. The ''tech talent'' program is designed to provide financial support to undergraduate students to pursue bachelor degrees in science and engineering—all in an effort to help meet today's and tomorrow's workforce needs.

The funding in this bill will also help increase the graduate student stipends in both the NSF fellowship programs as well as in the support graduate students receive as research assistants on the NSF research grants. Under this bill, NSF's entire education and human resources program would grow from $875 million in fiscal year 2002 to almost $1.8 billion by fiscal year 2007.

Finally, this bill includes two provisions that relate to the National Science Board. These are ''good government'' provisions that give the National Science Board, the policy making body of the Foundation, the authority and funding to hire its own staff. Our rationale is to ensure that the Board remains independent with respect to its policy making and oversight responsibilities. This is particularly important as Congress attempts to double the NSF over the next five years. Finally, it is equally important to know that these provisions do not preclude the Board and the NSF from continuing to work closely together as they have over the years such as in the staffing of NSB committees, subcommittees, and task forces and the development of the biennial Science and Engineering Indicators report.

As a Nation, we have a big challenge ahead of us as we enter the new millennium. Our world has changed and we must do what is necessary to meet the new challenges that will surely come our way. The sustained and effective investment in our Nation's research and education enterprise is one of the keys to meeting those challenges. I urge all my colleagues to join us in enacting this important investment in the future of our country.

NSF REAUTHORIZATION: NSF DOUBLING ACT

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

Mr. KENNEDY. I would be happy to yield to the Senator from Iowa.

Mr. HARKIN. I see that in this legislation, there is an authorization for the Plant Genome Project, a program that had previously been authorized only in appropriations acts.

Mr. KENNEDY. That is correct.

Mr. HARKIN. Is the intent of the mangers in including this provision merely to provide a permanent authorization for the Plant Genome Project, and not to state a preference by the Senate for plant genomics over other agricultural genomics programs when it comes to additional funding provided through appropriations?

Mr. KENNEDY. The Senator is correct. That plant genomics language included in the NSF doubling legislations is only to establish an authorization, it does not state a preference for plant genomics over other agricultural genomics programs that might be provided through later appropriations acts.

Mr. HARKIN. I thank the Senator. I think that is an important point because Senator LUGAR and I worked hard in the Agricultural Research, Extension, and Education Reform Act of 1998 to authorize an agricultural genomics program administered by the National Science Foundation because we felt a balanced genomics program was essential to keeping U.S. agriculture productive and competitive.

While I think the plant genomics program is an excellent one, I sincerely hope that any further increases provided for agricultural genomics be open to animal and microbiological research as will, not just plants. We need a balanced portfolio of agricultural research to best capitalize on the resources devoted to agriculture-related genomics research. I would not want anyone to think that the Senate was now backtracking on the progress we made with the passage of the 1998 agricultural research legislation.

Mr. KENNEDY. It is certainly not the manager's intent to limit the Agricultural, Research, Extension, and Education Reform Act of 1998.

Mr. HARKIN. I thank the Senator for that. I thank the Senator for yielding.

Mr. REID. I understand Senators KENNEDY, GREGG, and HOLLINGS have a substitute amendment at the desk; I ask that that amendment be considered and agreed to, the motion to reconsider be laid upon the table; the bill, as amended, be read three times and passed; the motion to reconsider be laid upon the table; the title amendment be agreed to; and any statements be printed in the RECORD with no intervening action or debate.

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

The amendment (No. 4958) was agreed to.

(The amendment is printed in today's RECORD under ''Text of the Amendments.'')

The bill (H.R. 4644), as amended, was read the third time and passed.

The amendment (No. 4959) was agreed to, as follows:

Amend the title so as to read: ''An Act to authorize appropriations for fiscal years 2003, 2004, 2005, 2006, and 2007 for the National Science Foundation, and for other purposes.''.

ORDERS FOR FRIDAY, NOVEMBER 15, 2002

Mr. REID. Madam President, I ask unanimous consent that when the Senate completes its business tonight, it stand in adjournment until tomorrow at 9:45 a.m. I further ask that on Friday, immediately following the prayer, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and there be a period of morning business until 10 a.m. with the time equally divided between the two leaders or their designee; and that at 10 a.m. the majority leader, Senator DASCHLE, or his designee be recognized.

Further, that the live quorum with respect to cloture motions filed with respect to the Homeland Security Act be waived.

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

ARMED FORCES TAX FAIRNESS ACT OF 2002

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 5557, which is now at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 5557) to amend the Internal Revenue Code of 1986 to provide a special rule for members of the uniformed services and Foreign Service in determining the exclusion of gain from the sale of a principal residence and to restore the tax exempt status of death gratuity payments to members of the uniformed services, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

TAX STATUS OF SERVICE PERSONNEL ON DIEGO GARCIA

Mr. BAUCUS. The distinguished Senator from Louisiana, Ms. LANDRIEU has raised an issue with respect to the legislation before us. That legislation, H.R. 5557, deals with tax benefits for military service personnel. Senator LANDRIEU would like clarification from the Administration on the status of service men and women on the Island of Diego Garcia. These service personnel have participated in military operations as part of Operation Enduring Freedom and will participate in future military operations from that location. There is a question whether these members of the armed forces are entitled to be treated in the same manner as if such services were in a combat zone.

Mr. GRASSLEY. Let me respond to the distinguished chairman on this point. At the request of the Senator from Louisiana, our staffs made inquiries of the administration on this question this evening. In discussion with Treasury officials, our staffs have been assured that the Treasury Department will look into this matter and work

with the Senator from Louisiana to address the questions raised by the Senator. We look forward to an expeditious response from the Administration.

Mr. BAUCUS. I thank my good friend from Iowa.

Mr. HARKIN. Madam President, I am pleased that we are passing the Armed Services Tax Fairness Act that will make a number of useful tax changes benefitting our military personnel including the National Guard and Reserve. It includes a provision that I introduced that broadens the allowable membership of veterans organizations so ancestors and descendants can be members. This will allow veterans organizations, particularly at the local chapter level to preserve as tax exempt a variety of their activities which otherwise would be subject to tax as the number of veterans who are members decline.

Unfortunately, because of opposition from the House, this measure does not include a provision passed by the Senate on an earlier version of the Armed Services Tax Fairness Act that I feel very strongly about. I introduced it earlier this year. It was companion to a measure introduced by Congressman RANGEL.

My bill blocks the ability of the very rich to reduce their taxes by renouncing their U.S. citizenship. The Joint Tax Committee has estimated that it will raise $656 million from a very few people who I call Benedict Arnolds. These are people who turn their back on their country which provided so well for them so they can avoid paying their fair share of U.S. taxes.

Under current law, there are special rules that apply to these former citizens that appear to recover funds lost to the Treasury. But, they are full of holes. Under the current regime, for 10 years after a U.S. citizen renounces his or her citizenship with a principal purpose of avoiding U.S. taxes, the person is taxed at the rates that would have applied had he or she remained a citizen. Actually the tax is nominally on a broader base of income and on more types of transactions. In addition, if the expatriate dies within 10 years of the expatriation, more types of assets are included in his or her estate. But, the reality is that taxes are very often not paid.

The reality is that once a person has expatriated and removed U.S. assets from U.S. jurisdiction, it is extremely difficult to enforce the current rules, particularly for an entire decade after the citizenship is renounced. The measure I introduced simply provides that the very act of renouncing ones citizenship triggers the recognition of tax. So, rather than collecting tax every time an asset is sold over the next decade, my bill treats all of the assets of an expatriate as having been sold the day prior to when the person renounces their citizenship. The taxes are due up front rather than over time. In regard to estate taxes, rather than attempting to collect the tax from the estate of an expatriate not in U.S. jurisdiction, my measure taxes the inheritance of an heir remaining in the U.S. in such a way as to remove any tax benefit from the renouncement of citizenship.

Madam President, $656 million in revenue from these very few former citizens is a lot of revenue that must be made up by loyal Americans or in higher debt that Americans will face. I intend to reintroduce my measure at the beginning of the next Congress and will be working hard for its passage at the earliest possible point.

Mr. REID. I ask unanimous consent that the Baucus amendment at the desk be agreed to, the bill be read three times and passed, the motion to reconsider be laid on the table, and any statements be printed in the RECORD, with no intervening action or debate.

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

The amendment (No. 4961) was agreed to.

(The amendment is printed in today's RECORD under ''Text of the Amendments.'')

The bill (H.R. 5557), as amended, was read the third time and passed.

PROGRAM

Mr. REID. Madam President, I announce that a motion to proceed to the terrorism insurance conference report is possible at about 10 a.m. tomorrow.

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

Daily Digest

HIGHLIGHTS

Senate agreed to the conference report on S. 1214, Port and Maritime Security Act.

The House passed H.R. 5708, to reduce preexisting PAGO balances.

The House agreed to Senate amendments with amendments to H.R. 5063, to extend Temporary Assistance for Needy Families (TANF) and Temporary Extended Unemployment Compensation.

The House agreed to the conference report to accompany H.R. 3210, Terrorism Risk Insurance Act.

The House agreed to the conference report to accompany S. 1214, Port and Maritime Security Act clearing the measure for the President.

The House agreed to the conference report to accompany H.R. 4628, Intellignece Authorization Act.

The House agreed to the Senate amendment to H.R. 333, Bankruptcy Reform Act, with an amendment.

Senate

Chamber Action

Routine Proceedings, pages S10973–S11160

Measures Introduced: Fourteen bills and three resolutions were introduced, as follows: S. 3156–3169, S.J. Res. 53, and S. Res. 356–357. **Page S11079**

Measures Reported:

H.R. 3180, to consent to certain amendments to the New Hampshire-Vermont Interstate School Compact.

H.R. 3988, to amend title 36, United States Code, to clarify the requirements for eligibility in the American Legion.

S. 1655, to amend title 18, United States Code, to prohibit certain interstate conduct relating to exotic animals, with an amendment in the nature of a substitute.

S. 2480, 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, with amendments.

S. 2520, to amend title 18, United States Code, with respect to the sexual exploitation of children, with an amendment in the nature of a substitute.

S. 2541, to amend title 18, Unites States Code, to establish penalties for aggravated identity theft.

S. 2934, to amend title 36, United States Code, to clarify the requirements for eligibility in the American Legion.

S. Con. Res. 94, 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. **Pages S11078–79**

Measures Passed:

Wellstone Community Center: Senate passed S. 3156, to provide a grant for the construction of a new community center in St. Paul, Minnesota, in honor of the late Senator Paul Wellstone and his beloved wife, Sheila. **Pages S11000–01**

Restore Your Identity Act: Senate passed S. 1742, to prevent the crime of identity theft, and mitigate the harm to individuals victimized by identity theft, after agreeing to a committee amendment in the nature of a substitute, and the following amendment proposed thereto: **Pages S11052–56**

Reid (for Cantwell) Amendment No. 4954, in the nature of a substitute. **Page S11056**

Unemployment Compensation Extension: Senate passed H.R. 3529, to provide tax incentives for economic recovery and assistance to displaced workers, after agreeing to the following amendment proposed thereto: **Pages S11060–61**

Clinton Amendment No. 4960, in the nature of a substitute. **Page S11060**

Webcasting Licensing: Senate passed H.R. 5469, to amend title 17, United States Code, with respect to the statutory license for webcasting, after agreeing to the following amendment proposed thereto: **Pages S11138–39**

Reid (for Helms) Amendment No. 4955, in the nature of a substitute. **Page S11139**

Afghanistan Freedom Support Act: Senate passed S. 2712, to authorize economic and democratic development assistance for Afghanistan and to authorize military assistance for Afghanistan and certain other foreign countries, after agreeing to a committee amendment in the nature of a substitute, and the following amendment proposed thereto: **Pages S11139–47**

Reid (for Hagel) Amendment No. 4956, to make managers' amendments. **Page S11147**

National Day of Prayer and Fasting: Senate agreed to S. Con. Res. 155, affirming the importance of a national day of prayer and fasting, and expressing the sense of Congress that November 27, 2002, should be designated as a national day of prayer and fasting. **Page S11147**

American Legion Eligibility: Senate passed S. 2934, to amend title 36, United States Code, to clarify the requirements for eligibility in the American Legion. **Page S11147**

American Legion Eligibility: Senate passed H.R. 3988, to amend title 36, United States Code, to clarify the requirements for eligibility in the American Legion. **Pages S11147–48**

Senate Compensation: Senate agreed to S. Res. 356, paying a gratuity to Trudy Lapie **Page S11148**

Armed Forces Domestic Security Act: Senate passed H.R. 5590, to amend title 10, United States Code, to provide for the enforcement and effectiveness of civilian orders of protection on military installations, clearing the measure for the President. **Page S11148**

Relative to 108th Congress: Senate agreed to S.J. Res. 53, relative to the convening of the first session of the One Hundred Eighth Congress. **Page S11148**

Printing Authorization: Senate passed H. Con. Res 487, authorizing the printing as a House document of a volume consisting of the transcripts of the ceremonial meeting of the House of Representatives and Senate in New York on September 6, 2002, and a collection of statements by Members of the House of Representatives and Senate from the Congressional Record on the terrorist attacks of September 11, 2001. **Page S11148**

Commending Anaheim Angels: Senate agreed to S. Res. 357, commending and congratulating the Anaheim Angels for their remarkable spirit, resilience, and athletic discipline in winning the 2002 World Series. **Pages S11148–49**

Health Care Coverage: Senate agreed to S. Con. Res. 94, 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. **Page S11149**

Private Relief: Senate passed H.R. 3758, for the relief of So Hyun Jun, clearing the measure for the President. **Pages S11149–50**

Prosecutorial Remedies and Tools Against the Exploitation of Children Today Act: Senate passed S. 2520, to amend title 18, United States Code, with respect to the sexual exploitation of children, after agreeing to a committee amendment in the nature of a substitute. **Pages S11150–53**

Commending Sail Boston/Maritime Heritage of Nations: Committee on Commerce, Science, and Transportation was discharged from further consideration of S.J. Res. 42, commending Sail Boston for its continuing advancement of the maritime heritage of nations, its commemoration of the nautical history of the United States, and its promotion, encouragement, and support of young cadets through training, and the resolution was then passed. **Page S11153**

Wireless Telecommunication Alternatives: Committee on Commerce, Science, and Transportation was discharged from further consideration of S. 2869, to facilitate the ability of certain spectrum auction winners to pursue alternative measures required in the public interest to meet the needs of wireless telecommunications consumers, and the bill was then passed, after agreeing to the following amendment proposed thereto: **Pages S11153–54**

Reid (for Kerry) Amendment No. 4957, in the nature of a substitute. **Pages S11153–54**

Dam Safety and Security Act: Senate passed H.R. 4727, to reauthorize the national dam safety program, clearing the measure for the President. **Page S11154**

North American Wetlands Conservation Reauthorization Act: Senate passed H.R. 3908, to reauthorize the North American Wetlands Conservation Act, after agreeing to committee amendments.

Pages S11154–55

NSF Authorization: Committee on Health, Education, Labor and Pensions was discharged from further consideration of H.R. 4664, to authorize appropriations for fiscal years, 2003, 2004, 2005, 2006, and 2007 for the National Science Foundation, and the bill was then passed, after agreeing to the following amendments proposed thereto:

Pages S11155–59

Reid (for Kennedy) Amendment No. 4958, in the nature of a substitute. **Page S11159**

Reid (for Kennedy) Amendment No. 4959, to amend the title. **Page S11159**

Armed Forces Tax Fairness Act: Senate passed H.R. 5557, to amend the Internal Revenue Code of 1986 to provide a special rule for members of uniformed services and Foreign Service in determining the exclusion of gain from the sale of a principal residence and to restore the tax exempt status of death gratuity payments to members of the uniformed services, after agreeing to the following amendment proposed thereto: **Pages S11159–60**

Reid (for Baucus) Amendment No. 4961, to provide additional tax equity for military personnel.

Pages S11159–60

Homeland Security Act: Senate continued consideration of H.R. 5005, to establish the Department of Homeland Security, taking action on the following amendments proposed thereto:

Pages S11002–30, S11033–45

Withdrawn:

Durbin Amendment No. 4906 (to Amendment No. 4902), to provide for the development of a comprehensive enterprise architecture for information systems to achieve interoperability within and between agencies with responsibility for homeland security. **Pages S11011–21**

Pending:

Thompson (for Gramm) Amendment No. 4901, in the nature of a substitute.

Pages S1102–30, S11033–45

Lieberman/McCain Amendment No. 4902 (to Amendment No. 4901), to establish within the legislative branch the National Commission on Terrorist Attacks Upon the United States.

Pages S1102–30, S11033–45

Dodd Amendment No. 4951 (to Amendment No. 4902), to provide for workforce enhancement grants to fire departments. **Page S11024, S11033–45**

Senate will continue consideration of the bill on Friday, November 15, 2002, with a vote to invoke cloture on Thompson (for Gramm) Amendment No. 4901, listed above.

Port and Maritime Security Act—Conference Report: By a unanimous vote of 95 yeas (Vote 243), Senate agreed to the conference report on S. 1214, to amend the Merchant Marine Act, 1936, to establish a program to ensure greater security for United States seaports. **Pages S10974–93**

Appointments to Commission—Agreement: A unanimous-consent was reached providing that notwithstanding the sine die adjournment of the Senate, the President of the Senate, the President of the Senate pro tempore, and the majority and minority leaders be authorized to make appointments to commissions, committees, boards, conferences, or interparliamentary conferences authorized by law, by concurrent action of the two Houses, or by order of the Senate. **Page S11148**

Removal of Injunction of Secrecy: The junction of secrecy was removed from the following treaties:

Convention with Great Britain and Northern Ireland regarding Double Taxation and Prevention of Fiscal Evasion (Treaty Doc. No. 107–19); and

Protocol Amending Convention with Australia regarding Double Taxation and Prevention of Fiscal Evasion (Treaty Doc. No. 107–20).

The treaties were transmitted to the Senate today, considered as having been read for the first time, and referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed. **Page S11057**

Treaties Approved: The following treaties having passed through their various parliamentary stages, up to and including the presentation of the resolution of ratification, upon division, two-thirds of the Senators present and having voted in the affirmative, the resolutions of ratification were agreed to:

Treaty with Honduras for Return of Stolen, Robbed, and Embezzled Vehicles and Aircraft, with Annexes and Exchange of Notes (Treaty Doc. 107–15);

Extradition Treaty with Peru (Treaty Doc. 107–6), with one understanding and one condition;

Extradition Treaty with Lithuania (Treaty Doc. 107–4), with one condition;

Second Protocol Amending Extradition Treaty with Canada (Treaty Doc. 107–11);

Treaty with Belize on Mutual Legal Assistance in Criminal Matters (Treaty Doc. 107–13), with one understanding and two conditions;

Treaty with India on Mutual Legal Assistance In Criminal Matters (Treaty Doc. 107–3), with one understanding and two conditions;

Treaty with Ireland on Mutual Legal Assistance in Criminal Matters (Treaty Doc. 107–9), with one understanding and two conditions; and

Treaty with Liechtenstein on Mutual Legal Assistance in Criminal Matters (Treaty Doc. 107–16), with one understanding and two conditions.

Pages S11057–59

Executive Session—Motion to Proceed: The motion to proceed to Executive Session to consider the nomination of Eugene Scalia, of Virginia, to be Solicitor for the Department of Labor, as not agreed to.

Page S11052

Nominations Confirmed: Senate confirmed the following nominations:

Dennis P. Walsh, of Maryland, to be a Member of the National Labor Relations Board for the term of five years expiring December 16, 2004.

Collister Johnson, Jr., of Virginia, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 2004. (Reappointment)

John M. Rogers, of Kentucky, to be United States Circuit Judge for the Sixth Circuit.

Stanely R. Chesler, of New Jersey, to be United States District Judge for the District of New Jersey.

William J. Martini, of New Jersey, to be United States District Judge for the District of New Jersey.

Ronald B. Leighton, of Washington, to be United States District Judge for the Western District of Washington.

David Gelernter, of Connecticut, to be a Member of the National Council on the Arts for a term expiring September 3, 2006.

Rene Acosta, of Virginia, to be a Member of the National Labor Relations Board for the remainder of the term expiring August 27, 2003.

Phyllis K. Fong, of Maryland, to be Inspector General, Department of Agriculture.

Juan R. Olivarez, of Michigan, to be a Member of the National Institute for Literacy Advisory Board for a term of one year. (New Position)

Carol C. Gambill, of Tennessee, to be a Member of the National Institute for Literacy Advisory Board for a term of three years. (New Position)

Kyle E. McSlarrow, of Virginia, to be Deputy Secretary of Energy.

David McQueen Laney, of Texas, to be a Member of the Reform Board (Amtrak) for a term of five years.

Peter Schaumber, of the District of Columbia, to be a Member of the National Labor Relations Board for the term of five years expiring August 27, 2005.

John Randle Hamilton, of North Carolina, to be Ambassador to the Republic of Guatemala.

Rebecca Dye, of North Carolina, to be a Federal Maritime Commissioner for the term expiring June 30, 2005.

Nancy C. Pellett, of Iowa, to be a Member of the Farm Credit Administration Board, Farm Credit Administration for a term expiring May 31, 2008.

Ellen R. Sauerbrey, of Maryland, for the rank of Ambassador during her tenure of service as the Representative of the United States of America on the Commission on the Status of Women of the Economic and Social Council of the United Nations.

Daniel L. Hovland, of North Dakota, to be United States District Judge for the District of North Dakota.

Thomas W. Phillips, of Tennessee, to be United States District Judge for the Eastern District of Tennessee.

Linda R. Reade, of Iowa, to be United States District Judge for the Northern District of Iowa.

Quanah Crossland Stamps, of Virginia, to be Commissioner of the Administration for Native Americans, Department of Health and Human Services.

Jonathan Steven Adelstein, of South Dakota, to be a Member of the Federal Communications Commission for the remainder of the term expiring June 30, 2003.

Alia M. Ludlum, of Texas, to be United States District Judge for the Western District of Texas.

Joel Kahn, of Ohio, to be a Member of the National Council on Disability for a term expiring September 17, 2004.

Patricia Pound, of Texas, to be a Member of the National Council on Disability for a term expiring September 17, 2005. (Reappointment)

Linda Wetters, of Ohio, to be a Member of the National Council on Disability for a term expiring September 17, 2003.

Roger P. Nober, of Maryland, to be a Member of the Surface Transportation Board for a term expiring December 31, 2005.

Robert G. Klausner, of California, to be United States District Judge for the Central District of California.

James E. Kinkeade, of Texas, to be United States District Judge for the Northern District of Texas

William E. Smith, of Rhode Island, to be United States District Judge for the District of Rhode Island.

Peggy Goldwater-Clay, of California, to be a Member of the Board of Trustees of the Barry Goldwater Scholarship and Excellence in Education Foundation for a term expiring June 5, 2006. (Reappointment)

Jeffrey S. White, of California, to be United States District Judge for the Northern District of California.

Kent A. Jordan, of Delaware, to be United States District Judge for the District of Delaware.

Otis Webb Brawley, Jr., of Georgia, to be a Member of the Board of Regents of the Uniformed Services University of the Health Sciences for a term expiring June 20, 2003.

Wayne Abernathy, of Virginia, to be an Assistant Secretary of the Treasury.

Mark E. Fuller, of Alabama, to be United States District Judge for the Middle District of Alabama.

Rosemary M. Collyer, of Maryland, to be United States District Judge for the District of Columbia.

Robert B. Kugler, of New Jersey, to be United States District Judge for the District of New Jersey.

Jose L. Linares, of New Jersey, to be United States District Judge for the District of New Jersey.

Freda L. Wolfson, of New Jersey, to be United States District Judge for the District of New Jersey.

John F. Keane, of Virginia, to be Ambassador to the Republic of Paraguay.

Kim R. Holmes, of Maryland, to be an Assistant Secretary of State (International Organizations).

Irene B. Brooks, of Pennsylvania, to be a Commissioner on the part of the United States on the International Joint Commission, United States and Canada.

Allen I. Olson, of Minnesota, to be a Commissioner on the part of the United States on the International Joint Commission, United States and Canada.

Philip N. Hogen, of South Dakota, to be Chairman of the National Indian Gaming Commission for the term of three years.

Judith Ann Rapanos, of Michigan, to be a Member of the National Museum Services Board for a term expiring December 6, 2002.

Judith Ann Rapanos, of Michigan, to be a Member of the National Museum Services Board for a term expiring December 6, 2007. (Reappointment)

Beth Walkup, of Arizona, to be a Member of the National Museum Services Board for a term expiring December 6, 2003.

Nancy S. Dwight, of New Hampshire, to be a Member of the National Services Board for a term expiring December 6, 2005.

A. Wilson Greene, of Virginia to be a Member of the National Museum Services Board for a term expiring December 6, 2004.

Maria Mercedes Guillemard, of Puerto Rico, to be a Member of the National Museum Services Board for a term expiring December 6, 2005.

Peter Hero, of California, to be a Member of the National Museum Services Board for a term expiring December 6, 2006.

Thomas E. Lorentzen, of California, to be a Member of the National Museum Services Board for a term expiring December 6, 2006.

David N. Greenlee, of Maryland, to be Ambassador to the Republic of Bolivia.

James M. Stephens, of Virginia, to be a Member of the Occupational Safety and Health Review Commission for a term expiring April 27, 2005.

Maura Ann Marty, of Florida, to be an Assistant Secretary of State (Consular Affairs).

Peter DeShazo, of Florida, Career Member of the Senior Foreign Service, Class of Minister-Counselor, for the rank of Ambassador during tenure of service as Deputy Permanent Representative of the United States of America to the Organization of American States.

John L. Morrison, of Minnesota, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 2004.

John Portman Higgins, of Virginia, to be Inspector General, Department of Education.

Philip Merrill, of Maryland, to be President of the Export-Import Bank of the United States for the remainder of the term expiring January 20, 2005.

Robert J. Battista, of Michigan, to be a Member of the National Labor Relations Board for the term of five years expiring December 16, 2007.

Wilma B. Liebman, of the District of Columbia, to be a Member of the National Labor Relations Board for the term of five years expiring August 27, 2006.

J. Cofer Black, of Virginia, to be Coordinator for Counterterrorism with the rank and status of Ambassador at Large.

Blanquita Walsh Cullum, of Virginia, to be a Member of the Broadcasting Board of Governors for term expiring August 13, 2005.

Routine lists in the Coast Guard, which were discharged from the Committee on Commerce, Science, and Transportation, and in the Foreign Service.

Pages S11031–32, S11045–52, S11056–57, S11079

Nominations Received: Senate received the following nominations:

Harlon Eugene Costner, of North Carolina, to be United States Marshal for the Middle District of North Carolina for the term of four years.

Richard Zenos Winget, of Nevada, to be United States Marshal for the District of Nevada.

Daniel Pearson, of Minnesota, to be a Member of the United States International Trade Commission for the term expiring June 16, 2011.

James M. Loy, of Virginia, to be Under Secretary of Transportation for Security for a term of five years.

1 Army nomination in the rank of general.

Routine lists in the Army, Navy. **Pages S11030–31**

Messages From the House: **Page S11076**

Measures Placed on Calendar: **Page S11076**

Executive Communications: **Pages S11076–78**

Executive Reports of Committees: **Page S11079**

Additional Cosponsors: **Pages S11079–80**

Statements on Introduced Bills/Resolutions: **Pages S11080–86**

Additional Statements: **Pages S11075–76**

Amendments Submitted: **Pages S11086–S11137**

Authority for Committees to Meet: **Pages S11137–38**

Privilege of the Floor: **Page S11138**

Record Votes: One record vote was taken today. (Total—243) **Pages S10992–93**

Adjournment: Senate met at 9:30 a.m., and adjourned at 10:46 p.m. until 9:45 a.m., on Friday, November 15, 2002. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S11160).

Committee Meetings

(Committees not listed did not meet)

NOMINATION

Committee on Foreign Relations: Committee concluded hearings on the nominations of Mary Carlin Yates, of Oregon, to be Ambassador to the Republic of Ghana, after the nominee testified and answered questions in her own behalf.

BUSINESS MEETING

Committee on the Judiciary: Committee ordered favorably reported the following business items: The nominations of Dennis W. Shedd, of South Carolina, to be United States Circuit Judge for the Fourth Circuit, Michael W. McConnell, of Utah, to be United States Circuit Judge for the Tenth Circuit, and Kevin J. O'Connor, to be United States Attorney for the District of Connecticut;

S. 2480, 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, with amendments;

S. 1655, to amend title 18, United States Code, to prohibit certain interstate conduct relating to exotic animals, with an amendment in the nature of a substitute;

S. 2934, to amend title 36, United States Code, to clarify the requirements for eligibility in the American Legion;

H.R. 3988, to amend title 36, United States Code, to clarify the requirements for eligibility in the American Legion;

S. 2541, to amend title 18, United States Code, to establish penalties for aggravated identify theft;

H.R. 3180, to consent to certain amendments to the New Hampshire-Vermont Interstate School Compact;

S. 2520, to amend title 18, United States Code, with respect to the sexual exploitation of children, with an amendment in the nature of a substitute; and

S. Con. Res. 94, 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.

TERRORISM REPORT

Committee on the Judiciary: Subcommittee on Technology, Terrorism, and Government Information held hearings to examine the current state of national preparedness against terrorism, focusing on the October 2002 Hart-Rudman Terrorism Task Force Report, after receiving testimony from former Senator Warren Rudman, Cmdr. Stephen E. Flynn, USCG (Ret.), Council on Foreign Relations, New York, New York, and Philip A. Odeen, TRW, Inc., Arlington, Virginia, all on behalf of the Council on Foreign Relations Independent Task Force on Homeland Security; and Colonel Randall J. Larsen, USAF (Ret.), ANSER Institute for Homeland Security, Arlington, Virginia.

House of Representatives

Chamber Action

Measures Introduced: 30 public bills, H.R. 5728–5757; and 8 resolutions, H.J. Res. 125; H. Con. Res. 518–520, and H. Res. 613–616, were introduced. **Pages H9023–24**

Reports Filed: Reports were filed today as follows:

H.R. 1452, to amend the Immigration and Nationality Act to permit certain long-term permanent resident aliens to seek cancellation of removal under such Act, amended (H. Rept. 107–785);

H.R. 5334, to ensure that a public safety officer who suffers a fatal heart attack or stroke while on duty shall be presumed to have died in the line of duty for purposes of public safety officer survivor benefits (H. Rept. 107–786);

H.R. 2458, to enhance the management and promotion of electronic Government services and processes by establishing a Federal Chief Information Officer within the Office of Management and Budget, and by establishing a broad framework of measures that require using Internet-based information technology to enhance citizen access to Government information and services, amended (H. Rept. 107–787, part 1);

Report of the Joint Economic Committee on the 2002 Economic Report of the President (H. Rept. 107–788); and

Conference report on H.R. 4628, a bill to authorize appropriations for fiscal year 2003 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System (H. Rept. 107–789). **Pages H8764–84, H9023**

Private Calendar: On the call of the Private Calendar the House passed over without prejudice H.R. 392, for the relief of Nancy B. Wilson. Subsequently the House passed H.R. 3758, for the relief of So Hyun Jun. **Pages H8736–37**

Recess: the House recessed at 1:58 p.m. and reconvened at 3:15 p.m. **Pages H8741–42**

Reduction of Preexisting PAGO Balances: The House passed H.R. 5708, to reduce preexisting PAGO balances by recorded vote by 366 ayes to 19 noes, Roll No. 482. **Pages H8785–94**

Rejected the Moore motion to recommit the bill to the Committee on the Budget with instructions to report it back to the House forthwith with an amendment that reduces balances in fiscal years 2002 and 2003 and further reduces all balances in succeeding fiscal years if the President submits a budget that projects an on-budget balance or an on-budget surplus by fiscal year 2008 by recorded vote of 187 ayes to 201 noes, Roll No. 481. **Pages H8791–93**

H. Res. 602, the rule that provided for consideration of the bill was agreed to on Nov. 13.

Technical Amendments to the Social Security Act—Extensions of Temporary Assistance for Needy Families (TANF) and Temporary Extended Unemployment Compensation: The House agreed to the motion to concur in the Senate amendments with amendments to H.R. 5063, to amend the Internal Revenue Code of 1986 to provide a special rule for members of the uniformed services in determining the exclusion of gain from the sale of a principal residence and to restore the tax exempt status of death gratuity payments to members of the uniformed services. The text amendment in the nature of a substitute was printed in H. Rept. 107–784, the report accompanying the rule. The title was amended so as to read: ''An Act to make technical amendments to the Social Security Act and related Acts.''. **Pages H8794–H8801**

Agreed to H. Res. 609, the rule that provided for consideration of the Senate amendments with amendments by recorded vote of 245 ayes to 137 noes, Roll No. 480. Earlier agreed to order the previous question by a yea-and-nay vote of 207 yeas to 198 nays, Roll No. 479. **Pages H8757–64**

Terrorism Risk Insurance Act: The House agreed to the conference report to accompany H.R. 3210, to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism. **Pages H8802–09**

Earlier, agreed to H. Res. 607, the rule that waived points of order against the conference report by voice vote. **Pages H8738–41**

Port and Maritime Security Conference Report: The House agreed to the conference report to accompany S. 1214, to amend the Merchant Marine Act, 1936, to establish a program to ensure greater security for United States seaports—clearing the measure for the President. **Pages H8809–14**

Earlier, agreed to H. Res. 605, the rule that waived points of order against the conference report by voice vote. **Pages H8737–38**

Recess: The House recessed at 10:08 p.m. and reconvened at 11:10 p.m. **Page H8814**

Intelligence Authorization Conference Report: The House agreed to the conference report to accompany H.R. 4628, a bill to authorize appropriations

for fiscal year 2003 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, by a yea-and-nay vote of 366 yeas to 3 nays, Roll No. 483. **Pages H8814–22**

The conference report was considered by unanimous consent. **Page H8814**

Point of Order Sustained Against Bankruptcy Conference Report: The Chair sustained the Blunt point of order under clause 9 of rule 22 that the conference report to accompany H.R. 333, to amend title 11, United States Code, included matter outside the scope of the differences between the two Houses that were committed to the conference committee for resolution. Representative Blunt specifically cited section 331 of the conference report, which was described in the joint explanatory statement of the managers as having no counterpart in either the House bill or Senate amendment. **Pages H8824–25**

Earlier, the House failed to agree to H. Res. 606, the rule that sought to waive points of order against the conference report to accompany H.R. 333, and against its consideration, by a yea-and-nay vote of 172 yeas to 243 nays, Roll No. 478. **Pages H8742–57**

Bankruptcy Reform: The House agreed to the Senate amendment to H.R. 333, to amend title 11, United States Code, with an amendment by a recorded vote of 244 yes to 116 noes, Roll No. 484. Earlier, Representative Gekas moved that the House recede from disagreement to the Senate amendment to the bill, and concur therein with an amendment that, in lieu of the matter proposed to be inserted by the Senate amendment, inserts the matter after the enacting clause in H.R. 5745, to amend title 11 of the United States Code, as introduced on November 14, 2002. **Pages H8825–77**

Committee on Rules Resolutions: H. Res. 586, 587, 601, 603, and 608 were laid on the table. **Page H8877**

National Park Service Design Commission: The House agreed to H. Res. 591, expressing the sense of the House of Representatives that the National Park Service should form a committee for the purpose of establishing guidelines to launch a national design competition. **Page H8879**

Commemorative Work to Honor President John Adams: The House passed H.J. Res. 117, approving the location of the commemorative work in the District of Columbia honoring former President John Adams. **Page H8879**

Bainbridge Island Study: The House passed H.R. 3747, to direct the Secretary of the Interior to conduct a study of the site commonly known as Eagledale Ferry Dock at Taylor Avenue in the State of Washington for potential inclusion in the National Park System. **Pages H8879–80**

Caribbean Forest Wilderness: The House passed H.R. 3955, amended, to designate certain National Forest System lands in the Commonwealth of Puerto Rico as components of the National Wilderness Preservation System. **Pages H8880–81**

Hydrographic Services et al.: The House passed H.R. 4883, to reauthorize the Hydrographic Services Improvement Act of 1998. **Pages H8881–89**

Salt River Bay Park Boundary: The House passed H.R. 5097, amended, to adjust the boundaries of the Salt River Bay National Historical Park and Ecological Preserve located in St. Croix, Virgin Islands. **Page H8889**

Mount Rainier Boundary Adjustment: The House passed H.R. 5512, amended, to provide for an adjustment of the boundaries of Mount Rainier National Park. **Pages H8889–90**

Yavapai Indians Land Exchange: The House passed H.R. 5513, amended, to authorize and direct the exchange of certain land in the State of Arizona between the Secretary of Agriculture and Yavapai Ranch Limited Partnership. Agreed to amend the title. **Pages H8890–98**

Pittman-Robertson Wildlife Conservation et al.: The House passed S. 990, amended, to amend the Pittman-Robertson Wildlife Restoration Act to improve the provisions relating to wildlife conservation and restoration programs. **Pages H8898–H8911**

POW/MIA Flag Display: The House passed S. 1226, 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—clearing the measure for the President. **Pages H8911–12**

Haines, Oregon Land Exchange: The House passed S. 1907, to direct the Secretary of the Interior to convey certain land to the city of Haines, Oregon—clearing the measure for the President. **Page H8912**

Old Spanish Trail: The House passed S. 1946, to amend the National Trails System Act to designate the Old Spanish Trail as a National Historic Trail—clearing the measure for the President. **Page H8912**

Indian Financing Act: The House passed S. 2017, amended, to amend the Indian Financing Act of 1974 to improve the effectiveness of the Indian loan guarantee and insurance program. **Pages H8912–23**

Big Sur Wilderness: The House passed H.R. 4750, amended, to designate certain lands in the State of

California as components of the National Wilderness Preservation System. **Pages H8923–24**

Consideration of Compound Request: The Chair announced that he would entertain the following compound request under the Speaker's Guidelines as recorded on page 712 of the House Rules and Manual with assurances that it has been cleared by the bipartisan floor and committee leadership. It was then agreed by unanimous consent that the House be considered to have:

1. Discharged from committee and passed H.R. 5334, H.R. 5436, H.R. 5738, S. 1010, H.R. 5716, H.R. 5499, S. 2239, H.R. 5280, H.R. 5586, H.R. 5609, H.R. 628, H.R. 629, H.R. 3775, H.R. 5495, H.R. 5604, H.R. 5611, H.R. 5728, and H.R. 5436;

2. Taken from the Speaker's table and passed S. 2712, S. 3044, and S. 3156 clearing the measures for the President;

3. Discharged from committee and agreed to H. Res. 604, H. Con. Res. 499, H. Res. 582, H. Res. 599, and H. Res. 612;

4. Discharged from committee, amended and passed S. 1843, in the form placed at the desk;

5. Passed H.R. 5504, amended;

6. Passed H.R. 3429, amended;

7. Discharged from committee, amended and agreed to H. Con. Res. 466 in the form placed at the desk;

8. Taken from the Speaker's table and concurred in the respective Senate amendments to H.R. 4664, H.R. 2621, H.R. 3609, H.R. 5469, and H.R. 3833—clearing the measures for the President;

9. Taken from the Speaker's table and amended S. 2237, in the form placed at the desk; and

10. That the committees being discharged be printed in the Record, the texts of each measure and any amendment thereto be considered as read and printed in the Record, and that motions to reconsider each of these actions be laid upon the table. Further the Clerk was authorized to make technical corrections and conforming changes in the engrossment of the bills. **Pages H8925–H9007**

Rules and Manual of the House of Representatives: The House agreed to H. Res. 614, providing for the printing of a revised edition of the Rules and Manual of the House of Representatives for the One Hundred Eighth Congress. **Page H9008**

Committee to Notify the President: The House agreed to H. Res. 615, providing for a committee of two members to be appointed by the House to inform the President. Subsequently the Chair appointed Representatives Armey and Gephardt to the Committee. **Page H9008**

Resignations—Appointments: Agreed that notwithstanding the adjournment of the Second Session of the One Hundred Seventh Congress, the Speaker, Majority Leader, and Minority Leader be authorized to accept resignations and to make appointments authorized by law or by the House. **Page H9008**

Extension of Remarks for Committee Leadership: Agreed that the chairman and ranking minority member of each standing committee and each subcommittee be permitted to extend their remarks in the record, up to and including the record's last publication, and to include a summary of the work of that committee or subcommittee. **Page H9008**

Extension of Remarks for House Members: Agreed that members have until publication of the last edition of the Congressional Record authorized for the Second Session of the One Hundred Seventh Congress by the Joint Committee on Printing to revise and extend their remarks and to include brief, related extraneous material on any matter occurring before the adjournment of the Second Session Sine Die. **Page H9008**

Convening of the First Session of the One Hundred Eighth Congress: The House passed S.J. Res. 53, relative to the convening of the first session of the One Hundred Eighth Congress at noon on Tuesday, January 7, 2003. **Page H9008**

Meeting Hour—Tuesday, Nov. 19: Agreed that when the House adjourns today, it adjourn to meet at noon on Tuesday, Nov. 19. **Page H9009**

Speaker Pro Tempore: Read a letter from the Speaker wherein he appointed Representative Gilchrest or Tom Davis of Virginia to sign enrolled bills and joint resolutions through the remainder of the One Hundred Seventh Congress. **Page H9009**

National Science Foundation Authorization: The House agreed to the Senate amendment to H.R. 4664, to authorize appropriations for fiscal years 2003, 2004, and 2005 for the National Science Foundation clearing the measure for the President. **Pages H9009–18**

North American Wetlands Conservation Act Reauthorization: The House agreed to the Senate amendments to H.R. 3908, to reauthorize the North American Wetlands Conservation Act clearing the measure for the President. **Page H9018**

Senate Message: Messages received from the Senate today appear on pages H8735–36, H8757, H8887, and H9008.

Referrals: S. 958, was referred to the Committee on Resources, S. 2845 was referred to the Committee on the Judiciary, S. 3067 was referred to the Committee on Government Reform. S. 1742 was referred to the Committees on the Judiciary and financial Services. S.J. Res. 42 was referred to the Committees on

Transportation and Infrastructure and International Relations. S. 3044, S. 3156, S. 2712, S. 2934, S. 2520, and S. Con. Res. 155 were held at the desk.

Pages H9018–19

Quorum Calls—Votes: Three yea-and-nay votes and four recorded vote developed during the proceedings of the House today and appear on pages H8756–57, H8763, H8763–64, H8792–93, H8793–94, H8822, and H8876–77. There were no quorum calls

Adjournment: The House met at 1 p.m. and adjourned at 3:05 a.m. on Friday, Nov. 15.

Committee Meetings

GILMORE COMMISSION

Committee on Armed Services: Subcommittee on Military Procurement, hearing on the Advisory Panel to Assess Domestic Response Capabilities for Terrorism Involving Weapons of Mass Destruction pending the release of its fourth report. Testimony was heard from James Gilmore, Chairman, Advisory Panel to Assess Domestic Response Capabilities for Terrorism Involving Weapons of Mass Destruction.

MERCURY—IN DENTAL AMALGAMS AND VACCINES

Committee on Government Reform: Held a hearing titled ''Mercury in Dental Amalgams and Vaccines: An Examination of the Science.'' Testimony was heard from the following officials of the Department of Health and Human Services: Lawrence A. Tabak, D.D.S., Director, National Institute of Dental and Craniofascial Research, NIH; and David W. Feigal, M.D., Director, Center for Devices and Radiological Health, FDA; and public witnesses.

AQUATIC INVASIVE SPECIES

Committee on Resources: Subcommittee on Fisheries Conservation, Wildlife and Oceans and the Subcommittee on Environment, Technology and Standards of the Committee on Science held a joint hearing on the following bills: H.R. 5395, Aquatic Invasive Species Research Act; and H.R. 5396, National Aquatic Invasive Species Act of 2002. Testimony was heard from Steve Williams, Director, U.S. Fish and Wildlife Service, Department of the Interior; Timothy R. E. Keeney, Deputy Assistant Secretary, Oceans and Atmosphere, NOAA, Department of Commerce; Capt. Michael W. Brown, USCG, Chief, Office of Operating and Environmental Standards, U.S. Coast Guard, Department of Transportation; Gregory M. Ruiz, Senior Scientist, Environmental Research Center, Smithsonian Institution; and public witnesses.

NEW PUBLIC LAWS

(For last listing of Public Laws, see DAILY DIGEST, *p. D1136)*

S. 1210, to reauthorize the Native American Housing Assistance and Self-Determination Act of 1996. Signed on November 13, 2002. (Public Law 107–292)

S. 2690, to reaffirm the reference to one Nation under God in the Pledge of Allegiance. Signed on November 13, 2002. (Public Law 107–293)

COMMITTEE MEETINGS FOR FRIDAY, NOVEMBER 15, 2002

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Governmental Affairs: to hold hearings to examine the nominations of Alejandro Modesto Sanchez, of Florida, and Andrew Saul and Gordon Whiting, both of New York, each to be a Member of the Federal Retirement Thrift Investment Board, 10 a.m., SD–342.

House

No Committee meetings are scheduled.

Next Meeting of the SENATE

9:45 a.m., Friday, November 15

Senate Chamber

Program for Friday: After the transaction of any morning business (not to extend beyond 10 a.m.), the Majority Leader or his designee will be recognized.

Also, at approximately 10 a.m., Senate may vote on the motion to proceed to the conference report on H.R. 3210, Terrorism Risk Protection Act; following which, Senate will continue consideration of H.R. 5005, Homeland Security Act, with a vote on the motion to invoke cloture on Thompson (for Gramm) Amendment No. 4901, in the nature of a substitute, to occur at 10:45 a.m.

Next Meting of the HOUSE OF REPRESENTATIVES

12 noon, Tuesday, November 19

House Chamber

Program for Monday: Pro forma session.

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