

Resolved by the Senate (the House of Representatives concurring), That—

(1) the Congress—

(A) acknowledges that there remain 605 prisoners of war unaccounted for in Iraq, although Kuwait was liberated from Iraq's brutal invasion and occupation on February 26, 1991;

(B) condemns and denounces the Iraqi Government's refusal to comply with international human rights instruments to which it is a party;

(C) urges Iraq immediately to disclose the names and whereabouts of those who are still alive among the Kuwaiti prisoners of war and other nations to bring relief to their families; and

(D) insists that Iraq immediately allow humanitarian organizations such as the International Committee of the Red Cross to visit the living prisoners and to recover the remains of those who have died while in captivity; and

(2) it is the sense of the Congress that the United States Government should—

(A) actively and urgently work with the international community and the Government of Kuwait, in accordance with United Nations Security Council Resolutions 686 and 687, to secure the release of Kuwaiti prisoners of war and other prisoners of war who are still missing nine years after the end of the Gulf War; and

(B) exert pressure, as a permanent member of the United Nations Security Council, on Iraq to bring this issue to a close, to release all remaining prisoners of the Iraqi occupation of Kuwait, and to rejoin the community of nations with a humane gesture of good will and decency.

AMENDMENTS SUBMITTED

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION AND RELATED AGENCIES APPROPRIATIONS ACT, 2001

LEVIN (AND OTHERS) AMENDMENT NO. 3457

(Ordered to lie on the table.)

Mr. LEVIN (for himself, Ms. COLLINS, Mr. SCHUMER, Mr. JEFFORDS, Mrs. MURRAY, Ms. SNOWE, Mr. MOYNIHAN, Mr. LEAHY, Mr. ROCKEFELLER, Mr. ROBB, and Mr. DURBIN) submitted an amendment intended to be proposed by them to the bill (S. 2536) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2001, and for other purposes; as follows:

On page 75, between lines 16 and 17, insert the following:

Sec. 7 . . . APPLE MARKET LOSS ASSISTANCE AND QUALITY LOSS PAYMENTS FOR APPLES AND POTATOES.—(a) APPLE MARKET LOSS ASSISTANCE.—

(1) IN GENERAL.—In order to provide relief for loss of markets for apples, the Secretary of Agriculture shall use \$100,000,000 of funds of the Commodity Credit Corporation to make payments to apple producers.

(2) PAYMENT QUANTITY.—

(A) IN GENERAL.—Subject to subparagraph (B), the payment quantity of apples for which the producers on a farm are eligible

for payments under this subsection shall be equal to the average quantity of the 1994 through 1999 crops of apples produced by the producers on the farm.

(B) MAXIMUM QUANTITY.—The payment quantity of apples for which the producers on a farm are eligible for payments under this subsection shall not exceed 1,600,000 pounds of apples produced on the farm.

(b) QUALITY LOSS PAYMENTS FOR APPLES AND POTATOES.—In addition to the assistance provided under subsection (a), the Secretary shall use \$15,000,000 of funds of the Commodity Credit Corporation to make payments to apple producers, and potato producers, that suffered quality losses to the 1999 crop of potatoes and apples, respectively, due to, or related to, a 1999 hurricane or other weather-related disaster.

(c) NONDUPLICATION OF PAYMENTS.—A producer shall be ineligible for payments under this section with respect to a market or quality loss for apples or potatoes to the extent that the producer is eligible for compensation or assistance for the loss under any other Federal program, other than the Federal crop insurance program established under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

(d) EMERGENCY REQUIREMENT.—

(1) IN GENERAL.—The entire amount necessary to carry out this section shall be available only to the extent that an official budget request for the entire amount, that includes designation of the entire amount of the request as an emergency requirement under the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900 et seq.) is transmitted by the President to Congress.

(2) DESIGNATION.—The entire amount necessary to carry out this section is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(A) of that Act (2 U.S.C. 901(b)(2)(A)).

• Mr. LEVIN. Mr. President, I rise today to introduce an amendment to the Senate Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Bill that seeks to provide much needed assistance to our nation's apple and potato farmers. In the past three years, due to weather related disasters, disease and the dumping of Chinese apply juice concentrate, our nation's apple producers have lost over three-quarters of a billion dollars in revenue. Likewise, potato producers in much of the country have struggled to overcome adverse weather conditions which have reduced the value of or, in some cases, destroyed their crops. This has left many growers on the brink of financial disaster.

In the past two years, Congress has assisted America's farmers by providing substantial assistance to agricultural producers. However, apple and potato producers received little, if any, of that assistance. The \$115 million in assistance we are proposing will help these producers, and ensure that apple and potato growers will be able to provide the United States and the world with a quality product that is second to none.

Mr. President I am proud to introduce this legislation that will directly assist our nation's apple and potato

growers, and I urge all Senators to support me in this matter.●

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2001

MCCAIN AMENDMENT NO. 3458

Mr. WARNER (for Mr. MCCAIN) proposed an amendment to the bill (S. 2549) to authorize appropriations for fiscal year 2001 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year of the Armed Forces, and for other purposes, as follows:

On page 239, following line 22, add the following:

SEC. 656. CLARIFICATION OF DEPARTMENT OF VETERANS AFFAIRS DUTY TO ASSIST.

(a) IN GENERAL.—Section 5107 of title 38, United States Code, is amended to read as follows:

“§5107 Assistance to claimants; benefit of the doubt; burden of proof

“(a) The Secretary shall assist a claimant in developing all facts pertinent to a claim for benefits under this title. Such assistance shall include requesting information as described in section 5106 of this title. The Secretary shall provide a medical examination when such examination may substantiate entitlement to the benefits sought. The Secretary may decide a claim without providing assistance under this subsection when no reasonable possibility exists that such assistance will aid in the establishment of entitlement.

“(b) The Secretary shall consider all evidence and material of record in a case before the Department with respect to benefits under laws administered by the Secretary and shall give the claimant the benefit of the doubt when there is an approximate balance of positive and negative evidence regarding any issue material to the determination of the matter.

“(c) Except when otherwise provided by this title or by the Secretary in accordance with the provisions of this title, a person who submits a claim for benefits under a law administered by the Secretary shall have the burden of proof.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 51 of that title is amended by striking the item relating to section 5017 and inserting the following new item:

“5107 Assistance to claimants; benefit of the doubt; burden of proof.”.

DODD AMENDMENT NO. 3459

Mr. LEVIN (for Mr. DODD) proposed an amendment to the bill, S. 2549, supra; as follows:

On page 415, between lines 2 and 3, insert the following:

SEC. 1061. AUTHORITY TO PROVIDE HEADSTONES OR MARKERS FOR MARKED GRAVES OR OTHERWISE COMMEMORATE CERTAIN INDIVIDUALS.

(a) IN GENERAL.—Section 2306 of title 38, United States Code, is amended—

(1) in subsections (a) and (e)(1), by striking “the unmarked graves of”; and

(2) by adding at the end the following:

“(f) A headstone or marker furnished under subsection (a) shall be furnished, upon request, for the marked grave or unmarked grave of the individual or at another area appropriate for the purpose of commemorating the individual.”

(b) APPLICABILITY.—(1) Except as provided in paragraph (2), the amendment to subsection (a) of section 2306 of title 38, United States Code, made by subsection (a) of this section, and subsection (f) of such section 2306, as added by subsection (a) of this section, shall apply with respect to burials occurring before, on, or after the date of the enactment of this Act.

(2) The amendments referred to in paragraph (1) shall not apply in the case of the grave for any individual who died before November 1, 1990, for which the Administrator of Veterans' Affairs provided reimbursement in lieu of furnishing a headstone or marker under subsection (d) of section 906 of title 38, United States Code, as such subsection was in effect after September 30, 1978, and before November 1, 1990.

WARNER AMENDMENT NO. 3460

Mr. WARNER proposed an amendment to the bill, S. 2549, supra; as follows:

On page 17, line 7, strike “\$1,479,950,000” and insert “\$1,509,950,000”.

On page 17, line 5, strike “\$8,745,958,000” and insert “\$8,715,958,000”.

CLELAND (AND COVERDELL) AMENDMENT NO. 3461

Mr. LEVIN (for Mr. CLELAND (for himself, and Mr. COVERDELL)) proposed an amendment to the bill, S. 2549, supra; as follows:

On page 48, between lines 20 and 21, insert the following:

SEC. 222. PRECISION LOCATION AND IDENTIFICATION PROGRAM (PLAID).

(a) INCREASE IN AMOUNT.—(1) The amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force is hereby increased by \$8,000,000.

(2) Of the amount authorized to be appropriated by section 201(3), as increased by paragraph (1), the amount available for Electronic Warfare Development (PE604270F) is hereby increased by \$8,000,000, with the amount of such increase available for the Precision Location and Identification Program (PLAID).

(b) OFFSET.—The amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army is hereby decreased by \$8,000,000, with the amount of the reduction applied to Electronic Warfare Development (PE604270A).

WARNER AMENDMENT NO. 3642

Mr. WARNER proposed an amendment to the bill, S. 2549, supra; as follows:

On page 17, line 7, strike “\$1,479,950,000” and insert “\$1,509,950,000”.

On page 17, line 5, strike “\$8,745,958,000” and insert “\$8,715,958,000”.

LANDRIEU AMENDMENT NO. 3463

Mr. LEVIN (for Ms. LANDRIEU) proposed an amendment to the bill, S. 2549, supra; as follows:

On page 378, between lines 19 and 20, insert the following:

SEC. 1027. REPORT ON SUBMARINE RESCUE SUPPORT VESSELS.

(a) REQUIREMENT.—The Secretary of the Navy shall submit to Congress, together with the submission of the budget of the President for fiscal year 2002 under section 1105 of title 31, United States Code, a report on the plan of the Navy for providing for submarine rescue support vessels through fiscal year 2007.

(b) CONTENT.—The report shall include a discussion of the following:

(1) The requirement for submarine rescue support vessels through fiscal year 2007, including experience in changing from the provision of such vessels from dedicated platforms to the provision of such vessels through vessel of opportunity services and charter vessels.

(2) The resources required, the risks to submariners, and the operational impacts of the following:

(A) Chartering submarine rescue support vessels for terms of up to five years, with options to extend the charters for two additional five-year periods.

(B) Providing submarine rescue support vessels using vessel of opportunity services.

(C) Providing submarine rescue support services through other means considered by the Navy.

WARNER AMENDMENT NO. 3464

Mr. WARNER proposed an amendment to the bill, S. 2549, supra; as follows:

On page 303, between lines 6 and 7, insert the following:

SEC. 814. STUDY OF OFFICE OF MANAGEMENT AND BUDGET CIRCULAR A-76 PROCESS.

(a) GAO-CONVENED PANEL.—The Comptroller General shall convene a panel of experts to study rules, and the administration of the rules, governing the selection of sources for the performance of commercial or industrial functions for the Federal Government from between public and private sector sources, including public-private competitions pursuant to the Office of Management and Budget Circular A-76. The Comptroller General shall be the chairman of the panel.

(b) COMPOSITION OF PANEL.—(1) The Comptroller General shall appoint highly qualified and knowledgeable persons to serve on the panel and shall ensure that the following groups receive fair representation on the panel:

(A) Officers and employees of the United States.

(B) Persons in private industry.

(C) Federal labor organizations.

(2) For the purposes of the requirement for fair representation under paragraph (1), persons serving on the panel under subparagraph (C) of that paragraph shall not be counted as persons serving on the panel under subparagraph (A) or (B) of that paragraph.

(c) PARTICIPATION BY OTHER INTERESTED PARTIES.—The Comptroller General shall ensure that the opportunity to submit information and views on the Office of Management and Budget Circular A-76 process to the panel for the purposes of the study is accorded to all interested parties, including officers and employees of the United States not serving on the panel and entities in private industry and representatives of federal labor organizations not represented on the panel.

(d) INFORMATION FROM AGENCIES.—The panel may secure directly from any department or agency of the United States any information that the panel considers necessary to carry out a meaningful study of administration of the rules described in subsection (a), including the Office of Management and Budget Circular A-76 process. Upon the request of the Chairman of the panel, the head of such department or agency shall furnish the requested information to the panel.

(e) REPORT.—The Comptroller General shall submit a report on the results of the study to Congress.

(f) DEFINITION.—In this section, the term “federal labor organization” has the meaning given the term “labor organization” in section 7103(a)(4) of title 5, United States Code.

FEINSTEIN AMENDMENT NO. 3465

Mr. LEVIN (for Mrs. FEINSTEIN) proposed an amendment to the bill, S. 2549, supra; as follows:

On page 543, strike line 20 and insert the following:

Part III—Air Force Conveyances

SEC. 2861. LAND CONVEYANCE, LOS ANGELES AIR FORCE BASE, CALIFORNIA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Air Force may convey, by sale or lease upon such terms as the Secretary considers appropriate, all or any portion of the following parcels of real property, including improvements thereon, at Los Angeles Air Force Base, California:

(1) Approximately 42 acres in El Segundo, California, commonly known as Area A.

(2) Approximately 52 acres in El Segundo, California, commonly known as Area B.

(3) Approximately 13 acres in Hawthorne, California, commonly known as the Lawndale Annex.

(4) Approximately 3.7 acres in Sun Valley, California, commonly known as the Armed Forces Radio and Television Service Broadcast Center.

(b) CONSIDERATION.—As consideration for the conveyance of real property under subsection (a), the recipient of the property shall provide for the design and construction on real property acceptable to the Secretary of one or more facilities to consolidate the mission and support functions at Los Angeles Air Force Base. Any such facility must comply with the seismic and safety design standards for Los Angeles County, California, in effect at the time the Secretary takes possession of the facility.

(c) LEASEBACK AUTHORITY.—If the fair market value of a facility to be provided as consideration for the conveyance of real property under subsection (a) exceeds the fair market value of the conveyed property, the Secretary may enter into a lease for the facility for a period not to exceed 10 years. Rental payments under the lease shall be established at the rate necessary to permit the lessor to recover, by the end of the lease term, the difference between the fair market value of a facility and the fair market value of the conveyed property. At the end of the lease, all right, title, and interest in the facility shall vest in the United States.

(d) APPRAISAL OF PROPERTY.—The Secretary shall obtain an appraisal of the fair market value of all property and facilities to be sold, leased, or acquired under this section. An appraisal shall be made by a qualified appraiser familiar with the type of property to be appraised. The Secretary shall consider the appraisals in determining

whether a proposed conveyance accomplishes the purpose of this section and is in the interest of the United States. Appraisal reports shall not be released outside of the Federal Government, other than the other party to a conveyance.

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of real property to be conveyed under subsection (a) or acquired under subsection (b) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the recipient of the property.

(f) EXEMPTION.—Section 2696 of title 10, United States Code, does not apply to the conveyance authorized by subsection (a).

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with a conveyance under subsection (a) or a lease under subsection (c) as the Secretary considers appropriate to protect the interests of the United States.

Part IV—Defense Agencies Conveyances

SANTORUM AMENDMENT NO. 3466

Mr. WARNER (for Mr. SANTORUM) proposed an amendment to the bill, S. 2549, supra; as follows:

On page 31, between lines 18 and 19, insert the following:

SEC. 126. REMANUFACTURED AV-8B AIRCRAFT.

Of the amount authorized to be appropriated by section 102(a)(1)—

(1) \$318,646,000 is available for the procurement of remanufactured AV-8B aircraft;

(2) \$15,200,000 is available for the procurement of UC-35 aircraft;

(3) \$3,300,000 is available for the procurement of automatic flight control systems for EA-6B aircraft; and

(4) \$46,000,000 is available for engineering change proposal 583 for FA-18 aircraft.

LANDRIEU AMENDMENT NO. 3467

Mr. LEVIN (for Ms. LANDRIEU) proposed an amendment to the bill, S. 2549, supra; as follows:

On page 48, between lines 20 and 21, insert the following:

SEC. 222. NAVY INFORMATION TECHNOLOGY CENTER AND HUMAN RESOURCE ENTERPRISE STRATEGY.

(a) AVAILABILITY OF INCREASED AMOUNT.—(1) Of the amount authorized to be appropriated by section 201(2), for research, development, test, and evaluation for the Navy, \$5,000,000 shall be available for the Navy Program Executive Office for Information Technology for purposes of the Information Technology Center and for the Human Resource Enterprise Strategy implemented under section 8147 of the Department of Defense Appropriations Act, 1999 (Public Law 105-262; 112 Stat. 2341; 10 U.S.C. 113 note).

(2) Amounts made available under paragraph (1) for the purposes specified in that paragraph are in addition to any other amounts made available under this Act for such purposes.

(b) OFFSET.—Of the amount authorized to be appropriated by section 201(2), the amount available for Marine Corps Assault Vehicles (PE603611M) is hereby reduced by \$5,000,000.

WARNER AMENDMENT NO. 3468

Mr. WARNER proposed an amendment to the bill, S. 2549, supra; as follows:

On page 17, line 13, strike “\$1,181,035,000” and insert “\$1,191,035,000”.

On page 16, line 22, strike “\$4,068,570,000” and insert “\$4,058,570,000”.

KENNEDY AMENDMENT NO. 3469

Mr. LEVIN (for Mr. KENNEDY) proposed an amendment to amendment No. 3383 previously proposed to the bill, S. 2549, supra; as follows:

On page 2, strike line 24 and all that follows through page 3, line 3, and insert the following:

(d) OFFSET.—The amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation, Defense-wide is hereby decreased by \$5,000,000, with the amount of such decrease applied to computing systems and communications technology (PE602301E).

WARNER (AND OTHERS) AMENDMENT NO. 3470

Mr. WARNER (for himself, Mr. HUTCHINSON, and Mr. CLELAND) proposed an amendment to the bill, S. 2549, supra; as follows:

On page 200, after line 23, insert the following:

SEC. 566. MANAGEMENT AND PER DIEM REQUIREMENTS FOR MEMBERS SUBJECT TO LENGTHY OR NUMEROUS DEPLOYMENTS.

(a) MANAGEMENT OF DEPLOYMENTS OF MEMBERS.—Section 586(a) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106-65; 113 Stat. 637) is amended in the text of section 991 of title 10, United States Code, set forth in such section 586(a)—

(1) in subsection (a), by striking “an officer in the grade of general or admiral” in the second sentence and inserting “the designated component commander for the member’s armed force”; and

(2) in subsection (b)—

(A) in paragraph (1), by inserting “or homeport, as the case may” before the period at the end;

(B) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(C) by inserting after paragraph (1) the following new paragraph (2):

“(2) In the case of a member of a reserve component performing active service, the member shall be considered deployed or in a deployment for the purposes of paragraph (1) on any day on which, pursuant to orders that do not establish a permanent change of station, the member is performing the active service at a location that—

“(A) is not the member’s permanent training site; and

“(B) is—

“(i) at least 100 miles from the member’s permanent residence; or

“(ii) a lesser distance from the member’s permanent residence that, under the circumstances applicable to the member’s travel, is a distance that requires at least three hours of travel to traverse.”; and

(D) in paragraph (3), as redesignated by subparagraph (B) of this paragraph—

(i) by striking “or” at the end of subparagraph (A);

(ii) by striking the period at the end of subparagraph (B) and inserting “; or”; and

(iii) by adding at the end the following:

“(C) unavailable solely because of—

“(i) a hospitalization of the member at the member’s permanent duty station or homeport or in the immediate vicinity of the member’s permanent residence; or

“(ii) a disciplinary action taken against the member.”.

(b) ASSOCIATED PER DIEM ALLOWANCE.—Section 586(b) of that Act (113 Stat. 638) is amended in the text of section 435 of title 37, United States Code, set forth in such section 586(b)—

(1) in subsection (a), by striking “251 days or more out of the preceding 365 days” and inserting “501 or more days out of the preceding 730 days”; and

(2) in subsection (b), by striking “prescribed under paragraph (3)” and inserting “prescribed under paragraph (4)”.

(c) REVIEW OF MANAGEMENT OF DEPLOYMENTS OF INDIVIDUAL MEMBERS.—Not later than March 31, 2002, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the administration of section 991 of title 10, United States Code (as added by section 586(a) of the National Defense Authorization Act for Fiscal Year 2000), during the first year that such section 991 is in effect. The report shall include—

(1) a discussion of the experience in tracking and recording the deployments of members of the Armed Forces; and

(2) any recommendations for revision of such section 991 that the Secretary considers appropriate.

SEC. 567. EXTENSION OF TRICARE MANAGED CARE SUPPORT CONTRACTS.

(a) AUTHORITY.—Notwithstanding any other provision of law, the TRICARE managed care support contracts in effect, or in final stages of acquisition as of September 30, 1999, may be extended for four years, subject to subsection (b).

(b) CONDITIONS.—Any extension of a contract under paragraph (1)—

(1) may be made only if the Secretary of Defense determines that it is in the best interest of the Government to do so; and

(2) shall be based on the price in the final best and final offer for the last year of the existing contract as adjusted for inflation and other factors mutually agreed to by the contractor and the Government.

SCHUMER AMENDMENT NO. 3471

Mr. LEVIN (for Mr. SCHUMER) proposed an amendment to the bill, S. 2549, supra; as follows:

On page 378, between lines 19 and 20, insert the following:

SEC. 1027. REPORTS ON FEDERAL GOVERNMENT PROGRESS IN DEVELOPING INFORMATION ASSURANCE STRATEGIES.

(a) FINDINGS.—Congress makes the following findings:

(1) The protection of our Nation’s critical infrastructure is of paramount importance to the security of the United States.

(2) The vulnerability of our Nation’s critical sectors—such as financial services, transportation, communications, and energy and water supply—has increased dramatically in recent years as our economy and society have become ever more dependent on interconnected computer systems.

(3) Threats to our Nation’s critical infrastructure will continue to grow as foreign governments, terrorist groups, and cybercriminals increasingly focus on information warfare as a method of achieving their aims.

(4) Addressing the computer-based risks to our Nation’s critical infrastructure requires extensive coordination and cooperation within and between Federal agencies and the private sector.

(5) Presidential Decision Directive No. 63 (PDD-63) identifies 12 areas critical to the

functioning of the United States and requires certain Federal agencies, and encourages private sector industries, to develop and comply with strategies intended to enhance the Nation's ability to protect its critical infrastructure.

(6) PDD-63 requires lead Federal agencies to work with their counterparts in the private sector to create early warning information sharing systems and other cyber-security strategies.

(7) PDD-63 further requires that key Federal agencies develop their own internal information assurance plans, and that these plans be fully operational not later than May 2003.

(b) REPORT REQUIREMENTS.—(1) Not later than July 1, 2001, the President shall submit to Congress a comprehensive report detailing the specific steps taken by the Federal Government as of the date of the report to develop infrastructure assurance strategies as outlined by Presidential Decision Directive No. 63 (PDD-63). The report shall include the following:

(A) A detailed summary of the progress of each Federal agency in developing an internal information assurance plan.

(B) The progress of Federal agencies in establishing partnerships with relevant private sector industries.

(2) Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a detailed report on the roles and responsibilities of the Department of Defense in defending against attacks on critical infrastructure and critical information-based systems. The report shall include the following:

(A) A description of the current role of the Department of Defense in implementing Presidential Decision Directive No. 63 (PDD-63).

(B) A description of the manner in which the Department is integrating its various capabilities and assets (including the Army Land Information Warfare Activity (LIWA), the Joint Task Force on Computer Network Defense (JTF-CND), and the National Communications System) into an indications and warning architecture.

(C) A description of Department work with the intelligence community to identify, detect, and counter the threat of information warfare programs by potentially hostile foreign national governments and sub-national groups.

(D) A definitions of the terms "nationally significant cyber event" and "cyber reconstitution".

(E) A description of the organization of Department to protect its foreign-based infrastructure and networks.

(F) An identification of the elements of a defense against an information warfare attack, including the integration of the Computer Network Attack Capability of the United States Space Command into the overall cyber-defense of the United States.

THOMPSON (AND OTHERS)
AMENDMENT NO. 3472

Mr. WARNER (for Mr. THOMPSON (for himself, Mr. LIEBERMAN, Mr. AKAKA, Mr. CLELAND, Mr. VOINOVICH, Mr. ABRAHAM, Mr. HELMS, and Ms. COLLINS)) proposed an amendment to the bill, S. 2549, supra; as follows:

On page 471, between lines 8 and 9, insert the following:

TITLE XIV—GOVERNMENT INFORMATION SECURITY REFORM

SEC. 1401. SHORT TITLE.

This title may be cited as the "Government Information Security Act".

SEC. 1402. COORDINATION OF FEDERAL INFORMATION POLICY.

Chapter 35 of title 44, United States Code, is amended by inserting at the end the following:

"SUBCHAPTER II—INFORMATION SECURITY

"§ 3531. Purposes

"The purposes of this subchapter are to—

"(1) provide a comprehensive framework for establishing and ensuring the effectiveness of controls over information resources that support Federal operations and assets;

"(2)(A) recognize the highly networked nature of the Federal computing environment including the need for Federal Government interoperability and, in the implementation of improved security management measures, assure that opportunities for interoperability are not adversely affected; and

"(B) 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; and

"(4) provide a mechanism for improved oversight of Federal agency information security programs.

"§ 3532. Definitions

"(a) Except as provided under subsection (b), the definitions under section 3502 shall apply to this subchapter.

"(b) As used in this subchapter the term—

"(1) 'information technology' has the meaning given that term in section 5002 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401); and

"(2) 'mission critical system' means any telecommunications or information system used or operated by an agency or by a contractor of an agency, or other organization on behalf of an agency, that—

"(A) is defined as a national security system under section 5142 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1452);

"(B) is protected at all times by procedures established for information which has been specifically authorized under criteria established by an Executive order or an Act of Congress to be classified in the interest of national defense or foreign policy; or

"(C) processes any information, the loss, misuse, disclosure, or unauthorized access to or modification of, would have a debilitating impact on the mission of an agency.

"§ 3533. Authority and functions of the Director

"(a)(1) The Director shall establish governmentwide policies for the management of programs that—

"(A) support the cost-effective security of Federal information systems by promoting security as an integral component of each agency's business operations; and

"(B) include information technology architectures as defined under section 5125 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1425).

"(2) Policies under this subsection shall—

"(A) be founded on a continuing risk management cycle that recognizes the need to—

"(i) identify, assess, and understand risk; and

"(ii) determine security needs commensurate with the level of risk;

"(B) implement controls that adequately address the risk;

"(C) promote continuing awareness of information security risk; and

"(D) continually monitor and evaluate policy and control effectiveness of information security practices.

"(b) The authority under subsection (a) includes the authority to—

"(1) oversee and develop policies, principles, standards, and guidelines for the handling of Federal information and information resources to improve the efficiency and effectiveness of governmental operations, including principles, policies, and guidelines for the implementation of agency responsibilities under applicable law for ensuring the privacy, confidentiality, and security of Federal information;

"(2) consistent with the standards and guidelines promulgated under section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441) and sections 5 and 6 of the Computer Security Act of 1987 (40 U.S.C. 1441 note; Public Law 100-235; 101 Stat. 1729), require Federal agencies to identify and afford security protections commensurate with the risk and magnitude of the harm resulting from the loss, misuse, or unauthorized access to or modification of information collected or maintained by or on behalf of an agency;

"(3) direct the heads of agencies to—

"(A) identify, use, and share best security practices;

"(B) develop an agency-wide information security plan;

"(C) incorporate information security principles and practices throughout the life cycles of the agency's information systems; and

"(D) ensure that the agency's information security plan is practiced throughout all life cycles of the agency's information systems;

"(4) oversee the development and implementation of standards and guidelines relating to security controls for Federal computer systems by the Secretary of Commerce through the National Institute of Standards and Technology under section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441) and section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3);

"(5) oversee and coordinate compliance with this section in a manner consistent with—

"(A) sections 552 and 552a of title 5;

"(B) sections 20 and 21 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3 and 278g-4);

"(C) section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441);

"(D) sections 5 and 6 of the Computer Security Act of 1987 (40 U.S.C. 1441 note; Public Law 100-235; 101 Stat. 1729); and

"(E) related information management laws; and

"(6) take any authorized action under section 5113(b)(5) of the Clinger-Cohen Act of 1996 (40 U.S.C. 1413(b)(5)) that the Director considers appropriate, including any action involving the budgetary process or appropriations management process, to enforce accountability of the head of an agency for information resources management, including the requirements of this subchapter, and for the investments made by the agency in information technology, including—

"(A) recommending a reduction or an increase in any amount for information resources that the head of the agency proposes for the budget submitted to Congress under section 1105(a) of title 31;

“(B) reducing or otherwise adjusting apportionments and reapportionments of appropriations for information resources; and
“(C) using other authorized administrative controls over appropriations to restrict the availability of funds for information resources.

“(c) The authorities of the Director under this section may be delegated—

“(1) to the Secretary of Defense, the Director of Central Intelligence, and other agency head as designated by the President in the case of systems described under subparagraphs (A) and (B) of section 3532(b)(2); and

“(2) in the case of all other Federal information systems, only the Deputy Director for Management of the Office of Management and Budget.

“§ 3534. Federal agency responsibilities

“(a) The head of each agency shall—

“(1) be responsible for—

“(A) adequately ensuring the integrity, confidentiality, authenticity, availability, and nonrepudiation of information and information systems supporting agency operations and assets;

“(B) developing and implementing information security policies, procedures, and control techniques sufficient to afford security protections commensurate with the risk and magnitude of the harm resulting from unauthorized disclosure, disruption, modification, or destruction of information collected or maintained by or for the agency; and

“(C) ensuring that the agency’s information security plan is practiced throughout the life cycle of each agency system;

“(2) ensure that appropriate senior agency officials are responsible for—

“(A) assessing the information security risks associated with the operations and assets for programs and systems over which such officials have control;

“(B) determining the levels of information security appropriate to protect such operations and assets; and

“(C) periodically testing and evaluating information security controls and techniques;

“(3) delegate to the agency Chief Information Officer established under section 3506, or a comparable official in an agency not covered by such section, the authority to administer all functions under this subchapter including—

“(A) designating a senior agency information security official who shall report to the Chief Information Officer or a comparable official;

“(B) developing and maintaining an agencywide information security program as required under subsection (b);

“(C) ensuring that the agency effectively implements and maintains information security policies, procedures, and control techniques;

“(D) training and overseeing personnel with significant responsibilities for information security with respect to such responsibilities; and

“(E) assisting senior agency officials concerning 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 senior agency officials, periodically—

“(A)(i) evaluates the effectiveness of the agency information security program, including testing control techniques; and

“(ii) implements appropriate remedial actions based on that evaluation; and

“(B) reports to the agency head on—

“(i) the results of such tests and evaluations; and

“(ii) the progress of remedial actions.

“(b)(1) Each agency shall develop and implement an agencywide information security program to provide information security for the operations and assets of the agency, including operations and assets provided or managed by another agency.

“(2) Each program under this subsection shall include—

“(A) periodic risk assessments that consider internal and external threats to—

“(i) the integrity, confidentiality, and availability of systems; and

“(ii) data supporting critical operations and assets;

“(B) policies and procedures that—

“(i) are based on the risk assessments required under subparagraph (A) that cost-effectively reduce information security risks to an acceptable level; and

“(ii) ensure compliance with—

“(I) the requirements of this subchapter;

“(II) policies and procedures as may be prescribed by the Director; and

“(III) any other applicable requirements;

“(C) security awareness training to inform personnel of—

“(i) information security risks associated with the activities of personnel; and

“(ii) responsibilities of personnel in complying with agency policies and procedures designed to reduce such risks;

“(D)(i) periodic management testing and evaluation of the effectiveness of information security policies and procedures; and

“(ii) a process for ensuring remedial action to address any significant deficiencies; and

“(E) procedures for detecting, reporting, and responding to security incidents, including—

“(i) mitigating risks associated with such incidents before substantial damage occurs;

“(ii) notifying and consulting with law enforcement officials and other offices and authorities;

“(iii) notifying and consulting with an office designated by the Administrator of General Services within the General Services Administration; and

“(iv) notifying and consulting with an office designated by the Secretary of Defense, the Director of Central Intelligence, and other agency head as designated by the President for incidents involving systems described under subparagraphs (A) and (B) of section 3532(b)(2).

“(3) Each program under this subsection is subject to the approval of the Director and is required to be reviewed at least annually by agency program officials in consultation with the Chief Information Officer. In the case of systems described under subparagraphs (A) and (B) of section 3532(b)(2), the Director shall delegate approval authority under this paragraph to the Secretary of Defense, the Director of Central Intelligence, and other agency head as designated by the President.

“(c)(1) Each agency shall examine 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 the Paperwork Reduction Act of 1995 (44 U.S.C. 101 note);

“(C) performance and results based management under the Clinger-Cohen Act of 1996 (40 U.S.C. 1401 et seq.);

“(D) program performance under sections 1105 and 1115 through 1119 of title 31, and sections 2801 through 2805 of title 39; and

“(E) financial management under—

“(i) chapter 9 of title 31, United States Code, 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);

“(ii) the Federal Financial Management Improvement Act of 1996 (31 U.S.C. 3512 note) (and the amendments made by that Act); and

“(iii) the internal controls conducted under section 3512 of title 31.

“(2) Any significant deficiency in a policy, procedure, or practice identified under paragraph (1) shall be reported as a material weakness in reporting required under the applicable provision of law under paragraph (1).

“(d)(1) In addition to the requirements of subsection (c), each agency, in consultation with the Chief Information Officer, 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, which are necessary to implement the program required under subsection (b)(1).

“(2) The description under paragraph (1) shall be based on the risk assessment required under subsection (b)(2)(A).

“§ 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.

“(2) Each evaluation under this section shall include—

“(A) an assessment of compliance with—

“(i) the requirements of this subchapter; and

“(ii) related information security policies, procedures, standards, and guidelines; and

“(B) tests of the effectiveness of information security control techniques.

“(3) The Inspector General or the independent evaluator performing an evaluation under this section including the Comptroller General may use any audit, evaluation, or report relating to programs or practices of the applicable agency.

“(b)(1)(A) Subject to subparagraph (B), for agencies with Inspectors General appointed under the Inspector General Act of 1978 (5 U.S.C. App.) or any other law, the annual evaluation required under this section or, in the case of systems described under subparagraphs (A) and (B) of section 3532(b)(2), an audit of the annual evaluation required under this section, shall be performed by the Inspector General or by an independent evaluator, as determined by the Inspector General of the agency.

“(B) For systems described under subparagraphs (A) and (B) of section 3532(b)(2), the evaluation required under this section shall be performed only by an entity designated by the Secretary of Defense, the Director of Central Intelligence, or other agency head as designated by the President.

“(2) For any agency to which paragraph (1) does not apply, the head of the agency shall contract with an independent evaluator to perform the evaluation.

“(3) An evaluation of agency information security programs and practices performed by the Comptroller General may be in lieu of the evaluation required under this section.

“(c) Not later than 1 year after the date of enactment of this subchapter, and on that date every year thereafter, the applicable agency head shall submit to the Director—

“(1) the results of each evaluation required under this section, other than an evaluation

of a system described under subparagraph (A) or (B) of section 3532(b)(2); and

“(2) the results of each audit of an evaluation required under this section of a system described under subparagraph (A) or (B) of section 3532(b)(2).

“(d)(1) Each year the Comptroller General shall review—

“(A) the evaluations required under this section (other than an evaluation of a system described under subparagraph (A) or (B) of section 3532(b)(2));

“(B) the results of each audit of an evaluation required under this section of a system described under subparagraph (A) or (B) of section 3532(b)(2); and

“(C) other information security evaluation results.

“(2) The Comptroller General shall report to Congress regarding the results of the review required under paragraph (1) and the adequacy of agency information programs and practices.

“(3) Evaluations and audits of evaluations of systems under the authority and control of the Director of Central Intelligence and evaluations and audits of evaluation of National Foreign Intelligence Programs systems under the authority and control of the Secretary of Defense—

“(A) shall not be provided to the Comptroller General under this subsection; and

“(B) shall be made available only to the appropriate oversight committees of Congress, in accordance with applicable laws.

“(e) Agencies and evaluators shall take appropriate actions to ensure the protection of information, the disclosure of which may adversely affect information security. Such protections shall be commensurate with the risk and comply with all applicable laws.”.

SEC. 1403. RESPONSIBILITIES OF CERTAIN AGENCIES.

(a) DEPARTMENT OF COMMERCE.—Notwithstanding section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3) and except as provided under subsection (b), the Secretary of Commerce, through the National Institute of Standards and Technology and with technical assistance from the National Security Agency, as required or when requested, shall—

(1) develop, issue, review, and update standards and guidance for the security of Federal information systems, including development of methods and techniques for security systems and validation programs;

(2) develop, issue, review, and update guidelines for training in computer security awareness and accepted computer security practices, with assistance from the Office of Personnel Management;

(3) provide agencies with guidance for security planning to assist in the development of applications and system security plans for such agencies;

(4) provide guidance and assistance to agencies concerning cost-effective controls when interconnecting with other systems; and

(5) evaluate information technologies to assess security vulnerabilities and alert Federal agencies of such vulnerabilities as soon as those vulnerabilities are known.

(b) DEPARTMENT OF DEFENSE AND THE INTELLIGENCE COMMUNITY.—

(1) IN GENERAL.—Notwithstanding section 3533 of title 44, United States Code (as added by section 1402 of this Act), the Secretary of Defense, the Director of Central Intelligence, and other agency head as designated by the President, shall, consistent with their respective authorities—

(A) develop and issue information security policies, standards, and guidelines for sys-

tems described under subparagraphs (A) and (B) of section 3532(b)(2) of title 44, United States Code (as added by section 1402 of this Act), that provide more stringent protection than the policies, principles, standards, and guidelines required under section 3533 of such title; and

(B) ensure the implementation of the information security policies, principles, standards, and guidelines described under subparagraph (A).

(2) MEASURES ADDRESSED.—The policies, principles, standards, and guidelines developed by the Secretary of Defense and the Director of Central Intelligence under paragraph (1) shall address the full range of information assurance measures needed to protect and defend Federal information and information systems by ensuring their integrity, confidentiality, authenticity, availability, and nonrepudiation.

(c) DEPARTMENT OF JUSTICE.—The Department of Justice shall review and update guidance to agencies on—

(1) legal remedies regarding security incidents and ways to report to and work with law enforcement agencies concerning such incidents; and

(2) lawful uses of security techniques and technologies.

(d) GENERAL SERVICES ADMINISTRATION.—The General Services Administration shall—

(1) review and update General Services Administration guidance to agencies on addressing security considerations when acquiring information technology; and

(2) assist agencies in—

(A) fulfilling agency responsibilities under section 3534(b)(2)(E) of title 44, United States Code (as added by section 1402 of this Act); and

(B) the acquisition of cost-effective security products, services, and incident response capabilities.

(e) OFFICE OF PERSONNEL MANAGEMENT.—The Office of Personnel Management shall—

(1) review and update Office of Personnel Management regulations concerning computer security training for Federal civilian employees;

(2) assist the Department of Commerce in updating and maintaining guidelines for training in computer security awareness and computer security best practices; and

(3) work with the National Science Foundation and other agencies on personnel and training initiatives (including scholarships and fellowships, as authorized by law) as necessary to ensure that the Federal Government—

(A) has adequate sources of continuing information security education and training available for employees; and

(B) has an adequate supply of qualified information security professionals to meet agency needs.

(f) INFORMATION SECURITY POLICIES, PRINCIPLES, STANDARDS, AND GUIDELINES.—

(1) IN GENERAL.—Notwithstanding any provision of this title (including any amendment made by this title)—

(A) the Secretary of Defense, the Director of Central Intelligence, and other agency head as designated by the President shall develop such policies, principles, standards, and guidelines for mission critical systems subject to their control;

(B) the policies, principles, standards, and guidelines developed by the Secretary of Defense, the Director of Central Intelligence, and other agency head as designated by the President may be adopted, to the extent that such policies are consistent with policies and guidance developed by the Director of the Of-

fice of Management and Budget and the Secretary of Commerce—

(i) by the Director of the Office of Management and Budget, as appropriate, to the mission critical systems of all agencies; or

(ii) by an agency head, as appropriate, to the mission critical systems of that agency; and

(C) to the extent that such policies are consistent with policies and guidance developed by the Director of the Office of Management and Budget and the Secretary of Commerce, an agency may develop and implement information security policies, principles, standards, and guidelines that provide more stringent protection than those required under section 3533 of title 44, United States Code (as added by section 1402 of this Act), or subsection (a) of this section.

(2) MEASURES ADDRESSED.—The policies, principles, standards, and guidelines developed by the Secretary of Defense and the Director of Central Intelligence under paragraph (1) shall address the full range of information assurance measures needed to protect and defend Federal information and information systems by ensuring their integrity, confidentiality, authenticity, availability, and nonrepudiation.

(g) ATOMIC ENERGY ACT OF 1954.—Nothing in this title (including any amendment made by this title) 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. 1404. TECHNICAL AND CONFORMING AMENDMENTS.

(a) IN GENERAL.—Chapter 35 of title 44, United States Code, is amended—

(1) in the table of sections—

(A) by inserting after the chapter heading the following:

“SUBCHAPTER I—FEDERAL INFORMATION POLICY”;

and

(B) by inserting after the item relating to section 3520 the following:

“SUBCHAPTER II—INFORMATION SECURITY

“Sec.

“3531. Purposes.

“3532. Definitions.

“3533. Authority and functions of the Director.

“3534. Federal agency responsibilities.

“3535. Annual independent evaluation.”;

and

(2) by inserting before section 3501 the following:

“SUBCHAPTER I—FEDERAL INFORMATION POLICY”.

(b) REFERENCES TO CHAPTER 35.—Chapter 35 of title 44, United States Code, is amended—

(1) in section 3501—

(A) in the matter preceding paragraph (1), by striking “chapter” and inserting “subchapter”; and

(B) in paragraph (11), by striking “chapter” and inserting “subchapter”;

(2) in section 3502, in the matter preceding paragraph (1), by striking “chapter” and inserting “subchapter”;

(3) in section 3503, in subsection (b), by striking “chapter” and inserting “subchapter”;

(4) in section 3504—

(A) in subsection (a)(2), by striking “chapter” and inserting “subchapter”;

(B) in subsection (d)(2), by striking “chapter” and inserting “subchapter”; and

(C) in subsection (f)(1), by striking “chapter” and inserting “subchapter”;

(5) in section 3505—

(A) in subsection (a), in the matter preceding paragraph (1), by striking “chapter” and inserting “subchapter”;

(B) in subsection (a)(2), by striking “chapter” and inserting “subchapter”;

(C) in subsection (a)(3)(B)(iii), by striking “chapter” and inserting “subchapter”;

(6) in section 3506—

(A) in subsection (a)(1)(B), by striking “chapter” and inserting “subchapter”;

(B) in subsection (a)(2)(A), by striking “chapter” and inserting “subchapter”;

(C) in subsection (a)(2)(B), by striking “chapter” and inserting “subchapter”;

(D) in subsection (a)(3)—

(i) in the first sentence, by striking “chapter” and inserting “subchapter”;

(ii) in the second sentence, by striking “chapter” and inserting “subchapter”;

(E) in subsection (b)(4), by striking “chapter” and inserting “subchapter”;

(F) in subsection (c)(1), by striking “chapter, to” and inserting “subchapter, to”;

(G) in subsection (c)(1)(A), by striking “chapter” and inserting “subchapter”;

(7) in section 3507—

(A) in subsection (e)(3)(B), by striking “chapter” and inserting “subchapter”;

(B) in subsection (h)(2)(B), by striking “chapter” and inserting “subchapter”;

(C) in subsection (h)(3), by striking “chapter” and inserting “subchapter”;

(D) in subsection (j)(1)(A)(i), by striking “chapter” and inserting “subchapter”;

(E) in subsection (j)(1)(B), by striking “chapter” and inserting “subchapter”;

(F) in subsection (j)(2), by striking “chapter” and inserting “subchapter”;

(8) in section 3509, by striking “chapter” and inserting “subchapter”;

(9) in section 3512—

(A) in subsection (a), by striking “chapter if” and inserting “subchapter if”;

(B) in subsection (a)(1), by striking “chapter” and inserting “subchapter”;

(10) in section 3514—

(A) in subsection (a)(1)(A), by striking “chapter” and inserting “subchapter”;

(B) in subsection (a)(2)(A)(ii), by striking “chapter” and inserting “subchapter” each place it appears;

(11) in section 3515, by striking “chapter” and inserting “subchapter”;

(12) in section 3516, by striking “chapter” and inserting “subchapter”;

(13) in section 3517(b), by striking “chapter” and inserting “subchapter”;

(14) in section 3518—

(A) in subsection (a), by striking “chapter” and inserting “subchapter” each place it appears;

(B) in subsection (b), by striking “chapter” and inserting “subchapter”;

(C) in subsection (c)(1), by striking “chapter” and inserting “subchapter”;

(D) in subsection (c)(2), by striking “chapter” and inserting “subchapter”;

(E) in subsection (d), by striking “chapter” and inserting “subchapter”;

(F) in subsection (e), by striking “chapter” and inserting “subchapter”;

(15) in section 3520, by striking “chapter” and inserting “subchapter”.

SEC. 1405. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect 30 days after the date of enactment of this Act.

KENNEDY (AND OTHERS) AMENDMENT NO. 3473

Mr. LEVIN (for Mr. KENNEDY (for himself, Mrs. BOXER, Mr. L. CHAFEE, Mr. DASCHLE, Mr. DODD, Mr. DURBIN, Mrs. FEINSTEIN, Mr. GRAHAM, Mr. HARKIN, Mr. JEFFORDS, Mr. LEAHY, Mr. LEVIN, Mr. SCHUMER, Mr. SMITH of Oregon, Mr. TORRICELLI, Mr. WELLSTONE, Mr. WYDEN, and Mr. REED)) proposed an amendment to the bill, S. 2549, *supra*; as follows:

At the appropriate place, insert the following:

TITLE —LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2000

SEC. 01. SHORT TITLE.

This title may be cited as the “Local Law Enforcement Enhancement Act of 2000”.

SEC. 02. FINDINGS.

Congress makes the following findings:

(1) The incidence of violence motivated by the actual or perceived race, color, religion, national origin, gender, sexual orientation, or disability of the victim poses a serious national problem.

(2) Such violence disrupts the tranquility and safety of communities and is deeply divisive.

(3) State and local authorities are now and will continue to be responsible for prosecuting the overwhelming majority of violent crimes in the United States, including violent crimes motivated by bias. These authorities can carry out their responsibilities more effectively with greater Federal assistance.

(4) Existing Federal law is inadequate to address this problem.

(5) The prominent characteristic of a violent crime motivated by bias is that it devastates not just the actual victim and the victim’s family and friends, but frequently savages the community sharing the traits that caused the victim to be selected.

(6) Such violence substantially affects interstate commerce in many ways, including—

(A) by impeding the movement of members of targeted groups and forcing such members to move across State lines to escape the incidence or risk of such violence; and

(B) by preventing members of targeted groups from purchasing goods and services, obtaining or sustaining employment or participating in other commercial activity.

(7) Perpetrators cross State lines to commit such violence.

(8) Channels, facilities, and instrumentalities of interstate commerce are used to facilitate the commission of such violence.

(9) Such violence is committed using articles that have traveled in interstate commerce.

(10) For generations, the institutions of slavery and involuntary servitude were defined by the race, color, and ancestry of those held in bondage. Slavery and involuntary servitude were enforced, both prior to and after the adoption of the 13th amendment to the Constitution of the United States, through widespread public and private violence directed at persons because of their race, color, or ancestry, or perceived race, color, or ancestry. Accordingly, eliminating racially motivated violence is an important means of eliminating, to the extent possible, the badges, incidents, and relics of slavery and involuntary servitude.

(11) Both at the time when the 13th, 14th, and 15th amendments to the Constitution of

the United States were adopted, and continuing to date, members of certain religious and national origin groups were and are perceived to be distinct “races”. Thus, in order to eliminate, to the extent possible, the badges, incidents, and relics of slavery, it is necessary to prohibit assaults on the basis of real or perceived religions or national origins, at least to the extent such religions or national origins were regarded as races at the time of the adoption of the 13th, 14th, and 15th amendments to the Constitution of the United States.

(12) Federal jurisdiction over certain violent crimes motivated by bias enables Federal, State, and local authorities to work together as partners in the investigation and prosecution of such crimes.

(13) The problem of crimes motivated by bias is sufficiently serious, widespread, and interstate in nature as to warrant Federal assistance to States and local jurisdictions.

SEC. 03. DEFINITION OF HATE CRIME.

In this title, the term “hate crime” has the same meaning as in section 280003(a) of the Violent Crime Control and Law Enforcement Act of 1994 (28 U.S.C. 994 note).

SEC. 04. SUPPORT FOR CRIMINAL INVESTIGATIONS AND PROSECUTIONS BY STATE AND LOCAL LAW ENFORCEMENT OFFICIALS.

(a) ASSISTANCE OTHER THAN FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—At the request of a law enforcement official of a State or Indian tribe, the Attorney General may provide technical, forensic, prosecutorial, or any other form of assistance in the criminal investigation or prosecution of any crime that—

(A) constitutes a crime of violence (as defined in section 16 of title 18, United States Code);

(B) constitutes a felony under the laws of the State or Indian tribe; and

(C) is motivated by prejudice based on the victim’s race, color, religion, national origin, gender, sexual orientation, or disability or is a violation of the hate crime laws of the State or Indian tribe.

(2) PRIORITY.—In providing assistance under paragraph (1), the Attorney General shall give priority to crimes committed by offenders who have committed crimes in more than 1 State and to rural jurisdictions that have difficulty covering the extraordinary expenses relating to the investigation or prosecution of the crime.

(b) GRANTS.—

(1) IN GENERAL.—The Attorney General may award grants to assist State, local, and Indian law enforcement officials with the extraordinary expenses associated with the investigation and prosecution of hate crimes. In implementing the grant program, the Office of Justice Programs shall work closely with the funded jurisdictions to ensure that the concerns and needs of all affected parties, including community groups and schools, colleges, and universities, are addressed through the local infrastructure developed under the grants.

(2) APPLICATION.—

(A) IN GENERAL.—Each State desiring a grant under this subsection shall submit an application to the Attorney General at such time, in such manner, and accompanied by or containing such information as the Attorney General shall reasonably require.

(B) DATE FOR SUBMISSION.—Applications submitted pursuant to subparagraph (A) shall be submitted during the 60-day period beginning on a date that the Attorney General shall prescribe.

(C) REQUIREMENTS.—A State or political subdivision of a State or tribal official applying for assistance under this subsection shall—

(i) describe the extraordinary purposes for which the grant is needed;

(ii) certify that the State, political subdivision, or Indian tribe lacks the resources necessary to investigate or prosecute the hate crime;

(iii) demonstrate that, in developing a plan to implement the grant, the State, political subdivision, or tribal official has consulted and coordinated with nonprofit, nongovernmental victim services programs that have experience in providing services to victims of hate crimes; and

(iv) certify that any Federal funds received under this subsection will be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this subsection.

(3) DEADLINE.—An application for a grant under this subsection shall be approved or disapproved by the Attorney General not later than 30 business days after the date on which the Attorney General receives the application.

(4) GRANT AMOUNT.—A grant under this subsection shall not exceed \$100,000 for any single jurisdiction within a 1 year period.

(5) REPORT.—Not later than December 31, 2001, the Attorney General shall submit to Congress a report describing the applications submitted for grants under this subsection, the award of such grants, and the purposes for which the grant amounts were expended.

(6) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection \$5,000,000 for each of fiscal years 2001 and 2002.

SEC. 05. GRANT PROGRAM.

(a) AUTHORITY TO MAKE GRANTS.—The Office of Justice Programs of the Department of Justice shall award grants, in accordance with such regulations as the Attorney General may prescribe, to State and local programs designed to combat hate crimes committed by juveniles, including programs to train local law enforcement officers in identifying, investigating, prosecuting, and preventing hate crimes.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 06. AUTHORIZATION FOR ADDITIONAL PERSONNEL TO ASSIST STATE AND LOCAL LAW ENFORCEMENT.

There are authorized to be appropriated to the Department of the Treasury and the Department of Justice, including the Community Relations Service, for fiscal years 2001, 2002, and 2003 such sums as are necessary to increase the number of personnel to prevent and respond to alleged violations of section 249 of title 18, United States Code (as added by this title).

SEC. 07. PROHIBITION OF CERTAIN HATE CRIME ACTS.

(a) IN GENERAL.—Chapter 13 of title 18, United States Code, is amended by adding at the end the following:

“§ 249. Hate crime acts

“(a) IN GENERAL.—

“(1) OFFENSES INVOLVING ACTUAL OR PERCEIVED RACE, COLOR, RELIGION, OR NATIONAL ORIGIN.—Whoever, whether or not acting under color of law, willfully causes bodily injury to any person or, through the use of fire, a firearm, or an explosive or incendiary device, attempts to cause bodily injury to any person, because of the actual or perceived race, color, religion, or national origin of any person—

“(A) shall be imprisoned not more than 10 years, fined in accordance with this title, or both; and

“(B) shall be imprisoned for any term of years or for life, fined in accordance with this title, or both, if—

“(i) death results from the offense; or

“(ii) the offense includes kidnaping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill.

“(2) OFFENSES INVOLVING ACTUAL OR PERCEIVED RELIGION, NATIONAL ORIGIN, GENDER, SEXUAL ORIENTATION, OR DISABILITY.—

“(A) IN GENERAL.—Whoever, whether or not acting under color of law, in any circumstance described in subparagraph (B), willfully causes bodily injury to any person or, through the use of fire, a firearm, or an explosive or incendiary device, attempts to cause bodily injury to any person, because of the actual or perceived religion, national origin, gender, sexual orientation, or disability of any person—

“(i) shall be imprisoned not more than 10 years, fined in accordance with this title, or both; and

“(ii) shall be imprisoned for any term of years or for life, fined in accordance with this title, or both, if—

“(I) death results from the offense; or

“(II) the offense includes kidnaping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill.

“(B) CIRCUMSTANCES DESCRIBED.—For purposes of subparagraph (A), the circumstances described in this subparagraph are that—

“(i) the conduct described in subparagraph (A) occurs during the course of, or as the result of, the travel of the defendant or the victim—

“(I) across a State line or national border; or

“(II) using a channel, facility, or instrumentality of interstate or foreign commerce;

“(ii) the defendant uses a channel, facility, or instrumentality of interstate or foreign commerce in connection with the conduct described in subparagraph (A);

“(iii) in connection with the conduct described in subparagraph (A): the defendant employs a firearm, explosive or incendiary device, or other weapon that has traveled in interstate or foreign commerce; or

“(iv) the conduct described in subparagraph (A)—

“(I) interferes with commercial or other economic activity in which the victim is engaged at the time of the conduct; or

“(II) otherwise affects interstate or foreign commerce.

“(b) CERTIFICATION REQUIREMENT.—No prosecution of any offense described in this subsection may be undertaken by the United States, except under the certification in writing of the Attorney General, the Deputy Attorney General, the Associate Attorney General, or any Assistant Attorney General specially designated by the Attorney General that—

“(1) he or she has reasonable cause to believe that the actual or perceived race, color, religion, national origin, gender, sexual orientation, or disability of any person was a motivating factor underlying the alleged conduct of the defendant; and

“(2) he or his designee or she or her designee has consulted with State or local law enforcement officials regarding the prosecution and determined that—

“(A) the State does not have jurisdiction or does not intend to exercise jurisdiction;

“(B) the State has requested that the Federal Government assume jurisdiction;

“(C) the State does not object to the Federal Government assuming jurisdiction; or

“(D) the verdict or sentence obtained pursuant to State charges left demonstratively unvindicated the Federal interest in eradicating bias-motivated violence.

“(c) DEFINITIONS.—In this section—

“(1) the term ‘explosive or incendiary device’ has the meaning given the term in section 232 of this title; and

“(2) the term ‘firearm’ has the meaning given the term in section 921(a) of this title.”

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 13 of title 18, United States Code, is amended by adding at the end the following:

“249. Hate crime acts.”

SEC. 08. DUTIES OF FEDERAL SENTENCING COMMISSION.

(a) AMENDMENT OF FEDERAL SENTENCING GUIDELINES.—Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall study the issue of adult recruitment of juveniles to commit hate crimes and shall, if appropriate, amend the Federal sentencing guidelines to provide sentencing enhancements (in addition to the sentencing enhancement provided for the use of a minor during the commission of an offense) for adult defendants who recruit juveniles to assist in the commission of hate crimes.

(b) CONSISTENCY WITH OTHER GUIDELINES.—In carrying out this section, the United States Sentencing Commission shall—

(1) ensure that there is reasonable consistency with other Federal sentencing guidelines; and

(2) avoid duplicative punishments for substantially the same offense.

SEC. 09. STATISTICS.

Subsection (b)(1) of the first section of the Hate Crimes Statistics Act (28 U.S.C. 534 note) is amended by inserting “gender,” after “race.”

SEC. 10. SEVERABILITY.

If any provision of this title, an amendment made by this title, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this title, the amendments made by this title, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

HATCH AMENDMENT NO. 3474

Mr. HATCH proposed an amendment to the bill, S. 2549, supra; as follows:

At the appropriate place, insert the following:

SEC. 01. COMPREHENSIVE STUDY AND SUPPORT FOR CRIMINAL INVESTIGATIONS AND PROSECUTIONS BY STATE AND LOCAL LAW ENFORCEMENT OFFICIALS.

(a) STUDIES.—

(1) COLLECTION OF DATA.—

(A) DEFINITION OF RELEVANT OFFENSE.—In this paragraph, the term “relevant offense” means a crime described in subsection (b)(1) of the first section of Public Law 101-275 (28 U.S.C. 534 note) and a crime that manifests evidence of prejudice based on gender or age.

(B) COLLECTION FROM CROSS-SECTION OF STATES.—Not later than 120 days after the date of enactment of this Act, the Comptroller General of the United States, in consultation with the National Governors’ Association, shall select 10 jurisdictions with laws classifying certain types of offenses as

relevant offenses and 10 jurisdictions without such laws from which to collect the data described in subparagraph (C) over a 12-month period.

(C) DATA TO BE COLLECTED.—The data described in this paragraph are—

(i) the number of relevant offenses that are reported and investigated in the jurisdiction; (ii) the percentage of relevant offenses that are prosecuted and the percentage that result in conviction;

(iii) the duration of the sentences imposed for crimes classified as relevant offenses in the jurisdiction, compared with the length of sentences imposed for similar crimes committed in jurisdictions with no laws relating to relevant offenses; and

(iv) references to and descriptions of the laws under which the offenders were punished.

(D) COSTS.—Participating jurisdictions shall be reimbursed for the reasonable and necessary costs of compiling data collected under this paragraph.

(2) STUDY OF RELEVANT OFFENSE ACTIVITY.—

(A) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Comptroller General of the United States shall complete a study and submit to Congress a report that analyzes the data collected under paragraph (1) and under section 534 of title 28, United States Code, to determine the extent of relevant offense activity throughout the United States and the success of State and local officials in combating that activity.

(B) IDENTIFICATION OF TRENDS.—In the study conducted under subparagraph (A), the Comptroller General of the United States shall identify any trends in the commission of relevant offenses specifically by—

(i) geographic region;

(ii) type of crime committed; and

(iii) the number and percentage of relevant offenses that are prosecuted and the number for which convictions are obtained.

(b) ASSISTANCE OTHER THAN FINANCIAL ASSISTANCE.—At the request of a law enforcement official of a State or a political subdivision of a State, the Attorney General, acting through the Director of the Federal Bureau of Investigation and in cases where the Attorney General determines special circumstances exist, may provide technical, forensic, prosecutorial, or any other assistance in the criminal investigation or prosecution of any crime that—

(1) constitutes a crime of violence (as defined in section 16 of title 18, United States Code);

(2) constitutes a felony under the laws of the State; and

(3) is motivated by animus against the victim by reason of the membership of the victim in a particular class or group.

(c) GRANTS.—

(1) IN GENERAL.—The Attorney General may, in cases where the Attorney General determines special circumstances exist, make grants to States and local subdivisions of States to assist those entities in the investigation and prosecution of crimes motivated by animus against the victim by reason of the membership of the victim in a particular class or group.

(2) ELIGIBILITY.—A State or political subdivision of a State applying for assistance under this subsection shall—

(A) describe the purposes for which the grant is needed; and

(B) certify that the State or political subdivision lacks the resources necessary to investigate or prosecute a crime motivated by animus against the victim by reason of the

membership of the victim in a particular class or group.

(3) DEADLINE.—An application for a grant under this subsection shall be approved or disapproved by the Attorney General not later than 10 days after the application is submitted.

(4) GRANT AMOUNT.—A grant under this subsection shall not exceed \$100,000 for any single case.

(5) REPORT AND AUDIT.—Not later than December 31, 2001, the Attorney General, in consultation with the National Governors' Association, shall—

(A) submit to Congress a report describing the applications made for grants under this subsection, the award of such grants, and the effectiveness of the grant funds awarded; and

(B) conduct an audit of the grants awarded under this subsection to ensure that such grants are used for the purposes provided in this subsection.

(6) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated \$5,000,000 for each of the fiscal years 2001 and 2002 to carry out this section.

NOTICES OF HEARINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Thursday, June 22, 2000 at 11 a.m. in room 485 of the Russell Senate Building to mark up the following: S. 2719, to provide for business development and trade promotion for Native Americans; S. 1658; to authorize the construction of a Reconciliation Place in Fort Pierre, South Dakota; and S. 1148, to provide for the Yankton Sioux Tribe and the Santee Sioux Tribe certain benefits of the Missouri River Pick-Sloan Project; to be followed by a hearing, on the Indian Trust Resolution Corporation.

Those wishing additional information may contact committee staff at 202/224-2251.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. MCCONNELL. Mr. President, I wish to announce that the Committee on Rules and Administration will meet at 9:30 a.m., Tuesday, June 27, 2000, in Room SR-301 Russell Senate Office Building, to receive testimony on the operations of the Library of Congress and the Smithsonian Institution.

For further information concerning this meeting, please contact Lani Gerst at the Rules Committee on 4-6352.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 2001

On June 15, 2000, the Senate amended and passed H.R. 4475, as follows:

Resolved, That the bill from the House of Representatives (H.R. 4475) entitled "An Act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2001, and for other purposes," do pass with the following amendment:

Strike out all after the enacting clause and insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise ap-

propriated, for the Department of Transportation and related agencies for the fiscal year ending September 30, 2001, and for other purposes, namely:

TITLE I

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

IMMEDIATE OFFICE OF THE SECRETARY

For necessary expenses of the Immediate Office of the Secretary, \$1,800,000.

IMMEDIATE OFFICE OF THE DEPUTY SECRETARY
For necessary expenses of the Immediate Office of the Deputy Secretary, \$500,000.

OFFICE OF THE GENERAL COUNSEL

For necessary expenses of the Office of the General Counsel, \$9,000,000.

OFFICE OF THE ASSISTANT SECRETARY FOR POLICY

For necessary expenses of the Office of the Assistant Secretary for Policy, \$2,500,000.

OFFICE OF THE ASSISTANT SECRETARY FOR AVIATION AND INTERNATIONAL AFFAIRS

For necessary expenses of the Office of the Assistant Secretary for Aviation and International Affairs, \$7,000,000: Provided, That notwithstanding any other provision of law, there may be credited to this appropriation up to \$1,250,000 in funds received in user fees.

OFFICE OF THE ASSISTANT SECRETARY FOR BUDGET AND PROGRAMS

For necessary expenses of the Office of the Assistant Secretary for Budget and Programs, \$6,500,000, including not to exceed \$60,000 for allocation within the Department for official reception and representation expenses as the Secretary may determine: Provided, That not more than \$15,000 of the official reception and representation funds shall be available for obligation prior to January 20, 2001.

OFFICE OF THE ASSISTANT SECRETARY FOR GOVERNMENTAL AFFAIRS

For necessary expenses of the Office of the Assistant Secretary for Governmental Affairs, \$2,000,000.

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

For necessary expenses of the Office of the Assistant Secretary for Administration, \$17,800,000.

OFFICE OF PUBLIC AFFAIRS

For necessary expenses of the Office of Public Affairs, \$1,500,000.

EXECUTIVE SECRETARIAT

For necessary expenses of the Executive Secretariat, \$1,181,000.

BOARD OF CONTRACT APPEALS

For necessary expenses of the Board of Contract Appeals, \$496,000.

OFFICE OF SMALL AND DISADVANTAGED BUSINESS UTILIZATION

For necessary expenses of the Office of Small and Disadvantaged Business Utilization, \$1,192,000.

OFFICE OF THE CHIEF INFORMATION OFFICER

For necessary expenses of the Office of the Chief Information Officer, \$6,000,000.

OFFICE OF CIVIL RIGHTS

For necessary expenses of the Office of Civil Rights, \$8,000,000.

TRANSPORTATION PLANNING, RESEARCH, AND DEVELOPMENT

For necessary expenses for conducting transportation planning, research, systems development, development activities, and making grants, to remain available until expended, \$5,300,000, of which \$1,400,000 shall only be available for planning for the 2001 Winter Special Olympics; and \$2,000,000 shall only be available for the purpose of section 228 of Public Law 106-181.