The Senate met at 11:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

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

Dear Father, who has graciously made each of us a never-to-be-repeated miracle of uniqueness, we praise You that we can be ourselves because You love us, we can use our gifts because You gave them to us, and we can grasp the opportunities You provide because You want to surprise us with Your goodness. All that we possess and have become is because of Your providence. The wonder of it all is that it is Your nature to go beyond what You have done or given before. This gives the zest of expectation and excitement to our lives. It also helps us to know that we can come to You with our worries and anxieties, our fears and frustrations, our hopes and hurts.

You know us as we really are and see beneath the shining armor of pretended sufficiency. You know when we are at the end of our tethers and need Your strength; You understand our discouragements and disappointments and renew our hope; You feel our physical and emotional pain and heal us. You have told us that to whom much is given, much will be required. Thank You that You have taught us that of whom much is required, much shall be given. Help us not to be stingy receivers today. You are our Saviour and Lord. Amen.

PLEDGE OF ALLEGIANCE
The Honorable MIKE ENZI, a Senator from the State of Wyoming, led the Pledge of Allegiance, as follows: I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESERVATION OF LEADER TIME
The PRESIDING OFFICER (Mr. ENZI). Under the previous order, the leadership time is reserved.

MORNING BUSINESS
The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 12:30 p.m., with Senators permitted to speak therein for up to 10 minutes each and with the time being equally divided in the usual form.

RECOGNITION OF THE ACTING MAJORITY LEADER
The PRESIDING OFFICER. The Chair recognizes the Senator from Oklahoma.

SCHEDULE
Mr. NICKLES. Mr. President, today, we will be in a period of morning business until 12:30 p.m. At 12:30, the Senate will recess for the weekly party conferences until 2:15 p.m. It is my hope that prior to the recess, we will reach a consent agreement for the consideration of four of the President’s Cabinet nominations. That agreement would allow for a vote or votes shortly after we reconvene at 2:15 today.

Senators can therefore expect roll-call votes later in the day. Additional nominations are scheduled for hearings during Wednesday’s session. It is hoped that we can expedite those nominations for full Senate action.

I thank my colleagues for their attention.

MEASURES PLACED ON THE CALENDAR—S. 73, S. 74, S. 75, S. 76, S. 78, AND S. 79
Mr. NICKLES. Mr. President, I understand there are six bills at the desk due for their second reading. I ask that they be read consecutively.

The legislative clerk read as follows:

A bill (S. 73) to prohibit the provision of Federal funds to any State or local educational agency that denies or prevents participation in constitutional prayer in schools.

A bill (S. 74) to prohibit the provision of Federal funds to any State or local educational agency that distributes or provides morning-after pills to schoolchildren.

A bill (S. 75) to make it a violation of a right secured by the Constitution and laws of the United States to perform an abortion with the knowledge that the abortion is being performed solely because of the gender of the fetus.

A bill (S. 76) to amend the Civil Rights Act of 1964 to make preferential treatment an unlawful employment practice, and for other purposes.

A bill (S. 79) to encourage Drug-Free Schools and Safe Schools.

* This “bullet” symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Mr. NICKLES. Mr. President, I object en bloc to further proceedings on these bills at this particular time.

The PRESIDING OFFICER. Under the rules, the bills will be placed on the calendar.
The Chair recognizes the Senator from Vermont.

EDUCATION

Mr. JEFFFORDS. Mr. President, this morning, I, Senator KENNEDY, Chairman of the House Education and Workforce Committee, and Congressman MILLER, the ranking Democrat of that committee, met with President Bush to discuss his very ambitious education initiative.

The package the President is putting forward today contains several areas where there is general, bipartisan agreement for providing the tools necessary for every child to receive a quality education.

These areas include: strengthening accountability to improve student performance; providing the funds necessary to prepare, recruit, and train high quality teachers; developing reading initiatives to ensure that all students will be able to read by the third grade; strengthening early childhood programs; creating a math/science partnership for states, colleges, and universities to strengthen K through twelve math and science education; providing activities related to technology as a means to boost student achievement; and giving school districts the flexibility to be innovative in implementing reform.

All Americans agree that every child in this country deserves a high quality education. We at the federal level must remember that we do not necessarily have all the answers for making high quality education accessible to all students. It is parents, teachers, principals, superintendents, school personnel, and local school board officials, and students that have many of the answers.

The proposal outlined by President Bush is a very good framework which will go a long way in providing the assistance that is needed at the state and local level to have a first-rate elementary and secondary educational system.

It is critical that all of us in the Senate and in the House join with the President in making comprehensive education reform our top priority. It is essential to our economic survival.

Almost half of all adults have neither completed high school nor have pursued any type of postsecondary education. Approximately twenty percent of all eighteen year olds do not graduate from high school.

The third International Mathematics and Science Study indicates that fourth graders performed well in both math and science in comparison to students in other nations. U.S. twelfth graders scored below the international average and among the lowest of the participating nations in general science knowledge.

It is perhaps this last statistic which has contributed to the fact that half of all college students must take at least one remedial course at an annual cost of one billion dollars to the nation’s public universities.

Last fall, Congress passed the American Competitiveness in the 21st Century Act. This initiative raises the cap on the number of H-1B visas to 195,000 a year for the next three years.

The H-1B bill, which passed the Senate by a vote of 96–1, was needed because this nation is lacking a skilled workforce in the areas of high tech and health care.

I hope that the sense of urgency that prevailed regarding the passage of the H-1B bill will lead all of us to pass an education reform package that will help create a workforce with the skills to meet the needs of our local, regional, national, and international economies.

I look forward to working with the President, Secretary of Education, Rod Paige, all members of the Health and Education Committee, all members of this body and our counterparts in the House to develop a bipartisan bill that passes the Congress with a final vote tally similar to the final vote cast on the H-1B bill.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Nevada.

ORDER OF PROCEDURE

Mr. REID. Mr. President, so Members have some idea of what is going to happen, I ask unanimous consent that the Senator from Maine be recognized for 5 minutes, the Senator from New Hampshire, Mr. Gregg, for 5 minutes, and the Senator from Illinois for 15 minutes, and the floor would be obtained by the Senator from Texas, Mrs. Hutchison.

Mrs. HUTCHISON. Mr. President, I amend that by asking unanimous consent that the majority leader be recognized immediately following Senator Durbin.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. Under the education of education, the Chair recognizes the Senator from Maine.

EDUCATION REFORM

Ms. COLLINS. Mr. President, I am very pleased that President Bush today has sent forth to the Congress a package of education reforms that carries through on his promise to make improving the quality of education his top priority. I believe the program he has proposed sets forth the basis for a bipartisan reform bill that I hope we will very shortly consider.

Last June, President Bush traveled to Maine with Roderick Paige, now his Secretary of Education, and met with educators from my State. I was extremely impressed with his heartfelt commitment to improving the education of all the children in America, and with the progress that he has made in the State of Texas on what is perhaps the greatest challenge our country faces; that is, narrowing the achievement gap between disadvantaged, low-income children and their more advantaged peers.

We know today that 70 percent of the fourth graders in the highest poverty schools cannot read at the basic level. That is both shameful and unacceptable, and it is a compelling reason why I so strongly support the President’s pledge to leave no child behind. I am particularly pleased that his education package contains two provisions that will be very helpful to my home State of Maine.

I am very proud of Maine’s public schools. We do very well in providing a quality education for all of our children. But we, like the President Office, have many school districts that are very small. They find it very difficult to cope with the red tape and paperwork that is required to spend literally hundreds of Federal programs. The President’s proposal would allow school districts to consolidate many of these programs and use the money for their most pressing needs. One school may need to hire more math and science teachers. Another may need to have computers in the classroom. Still another may need to provide a new program for gifted and talented programs. Yet another may have new construction needs. By allowing more flexibility in the use of Federal funds, President Bush has sent a strong signal to our educators across the country that it is time for our States and our local school boards to know what is best for their students and give them the flexibility they need while holding them strictly accountable for improved student achievement. Isn’t that what really counts?

We want to be certain that our children are learning. What we don’t need is too much or our educators’ attention diverted to whether or not they filled out some Federal form correctly. I am very pleased that is an important focus of President Bush’s election package.

I am also delighted that he has included legislation authored by Senator Kyl of Arizona and myself that will allow teachers to have a tax deduction up to $1000 to help defray the costs when teachers, out of their own pockets, buy supplies for their classrooms.

We all know teachers do this every day. Indeed, according to a study by the National Education Association, the average K–12 teacher spends $408 annually on classroom materials. By enacting our proposal, we can send a message of appreciation to teachers who are so dedicated to their students that they reach deep into their own pockets to buy supplies to enhance
their classrooms. We ought to help these dedicated professionals defray the costs associated with such classroom expenses.

I would like to see that bill broadened to allow all teachers to deduct the costs of professional development courses they undertake at their own expense. I know in the State of Maine we have many dedicated teachers who, at their own expense, pursue their education to make them even better teachers. I think we should help defray those expenses as well.

I look forward to working as a member of the Health, Education, Labor, and Pensions Committee, with the President. Senator Judd Gregg, who has been such a leader on this issue, our distinguished chairman, Jim Jeffords, and with many on both sides of the aisle who are committed to the goals and the challenges the President has set forth for us today. The President has laid out for us to ensure that every child in America, no matter where she lives or the income level of her family, will have the very best public education possible. I intend to answer the President’s challenge.

Thank you, Mr. President. I yield any remaining time of my 5 minutes to Senator Gregg, the Senator from New Hampshire.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Hampshire.

Mr. GREGG. Mr. President, I thank the Senator from Maine for her courtesy. I also wish to thank the Senator from Vermont, and Senator Biden in allowing us to go in front of him even though he has been waiting.

I want to join in congratulations of the President for putting forward his education package and fulfilling a promise he has made during the election, which was that education would be the President’s first legislative initiative. As such, he has put together a package which has many very strong points which will significantly improve our educational system in this country. The package, as I would describe it, can be divided into four elements.

First, it focuses on children. It sees children as the fundamental element of our educational system, which seems only logical but regrettably has not been true over the last few years. In fact, over the past 20 years we have spent over $27 billion on title I, but rather than spending it on children and having it focused, it has been institution focused or it has been bureaucracy focused. The President is shifting that title I money towards the child.

Second, the President is proposing much more flexibility to local school districts, to the teachers, to the principals, and, most importantly, flexibility to the parents because they are the folks on the front line who are most concerned about the child’s education and who understand how best to do that.

The educational system changes from not only State to State, not only community to community but literally classroom to classroom. The needs within a classroom are different. The needs in one first grade classroom in the community are different from the needs in the first grade classroom in another school. Flexibility is extremely important. That is a major element of their initiative.

Third, the President has focused on academic achievement. What an important goal. But it is, unfortunately, a goal we have forgotten. In fact, we have forgotten it in such a way that today our low-income children aren’t achieving at all. As I mentioned yesterday on the floor, the average fourth grader from a low-income family is reading at a second-grade level, below his peers, even though we have spent literally billions of dollars focused on that low-income child. Academic achievement is critical.

The fourth element is one of the core elements of his proposal. He has talked about accountability. We are no longer going to send funds out to the communities without expecting results. We need to get better results. We need to have the accountability which says to children: We are simply going to shuffle you through the system.

The President has said that from now on we are going to expect academic achievement and we are going to hold the systems accountable to results in academic achievement.

Those four goals are the right goals: Focusing the effort on the child, giving flexibility to the people who know how to educate so they can educate well, expecting academic achievement, and holding the school systems and the administrators accountable for academic achievement. I congratulate all those initiatives. This is a huge conceptual package with a lot of different initiatives performed in a variety of different ways.

I also hope we focus on moving down the educational road, the issue of special education, and the fact that we as a Republican Congress have committed our effort to try to fully fund special education. Certainly I hope that will be carried forward. I know this President is committed to that approach, also.

Nothing will free up local dollars more effectively and make more dollars genuinely available for good education than if the Federal Government pays its fair share of special education so the local tax dollars can be used where the local community thinks they can most effectively be used.

This package is a call to arms for an improvement in our educational system. It lays out specific guideposts of how to get there. I congratulate the President for putting it forward.

ORDER OF PROCEDURE

The PRESIDING OFFICER. Under the previous order, the Chair recognizes the Senator from Illinois for up to 15 minutes.

Mr. DURBIN. How much time is remaining on the other side of the 30 minutes they were allocated?

The PRESIDING OFFICER. Eleven and one-half minutes.

Mr. DURBIN. It is my understanding I have been recognized for 15 minutes and at the conclusion of the 15 minutes the majority leader will be recognized; therefore, Senator Bingaman be recognized after the majority leader. I make that request.

The PRESIDING OFFICER. Under the previous order, Senator Hutchison follows the majority leader.

Following that, Senator Bingaman will be recognized.

Mrs. HUTCHISON. I will yield to Senator Bingaman in the spirit of going back and forth, but I would like to see that Senator Craig be able to follow Senator Bingaman.

The PRESIDING OFFICER. Does the Senator amend his unanimous consent request?

Mr. DURBIN. I want to make sure I understand it. After I speak and the majority leaders speak, Senator Craig would be recognized.

The PRESIDING OFFICER. Senator Bingaman would be recognized, then Senator Craig.

Mr. DURBIN. After the time for majority leader, Senator Hutchison and Senator Craig would be within the 11 minutes allocated?

The PRESIDING OFFICER. The majority leader’s time is extra.

Mr. DURBIN. Understood.

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

NEW PRIORITIES

Mr. DURBIN. Mr. President, I thank my colleagues for coming together on the floor this morning. All Members who were present on Saturday for the inauguration of the new President realize it was an exciting and historic moment for our Nation. The weather did not cooperate; it was pretty miserable outside. We all felt honored to be there, to see once again this unique part of American history where we transfer power peacefully, even when we have been fighting like cats and dogs between the political parties leading up to the election.
I wish the new President the very best, even from this side of the aisle. We are hopeful his leadership will be successful and that he will bring our Nation together as he has promised.

We on the Democratic side have tried to be constructive. There was a special moment which we affectionately refer to as the “age of enlightenment” where the Democrats were in charge of the Senate for about 17 days and then the leadership was transferred again on Saturday back to the Republican side.

The President has sent us 13 nominations for the Cabinet which, of course, is his effort to bring his team together as quickly as he can. On Saturday, immediately after the President was sworn in, we approved 7 of those 13. To put that in context, when last we had a Democratic President and a Democratic Congress, on the first day after the swearing in, only three members of the Cabinet were approved.

We are proceeding very well on a bipartisan basis to give the President his team. There will be several other nominees for the Cabinet positions who will be considered this week. I assume most of them will be approved by the Senate. There are two or three who are controversial and may take longer. We are going to try to move, I am sure, in a reasonable manner to engage any floor debate and to reach a point where the President knows his team will be in place at some close date.

I am happy that President Bush has made education the first issue. I think that was the right choice, the right issue. Time and again when you ask Americans, rich and poor alike, what is the most important issue facing America, the answer is always education. I think it is because the term “education” embodies so many ideas and concepts which we value in America. Education means opportunity. Education means everyone has the right to go to the farm. That’s why I was able to get out of school to go help on the farm. That’s why our Nation will suffer. When we do not have skilled, our Nation will suffer. When we have a challenge to local property taxpayers in school districts and I hope we can include it in this debate.

The President has brought this issue to us. I hate tests as a student. Don’t most? Most students would rather not take a test. They have basically taken the same test over and over. They didn’t tear the school down. They didn’t close the school. They said: We are going to bring a new group of teachers and administrators to give these kids a chance. If I am the parent of a student in one of those classrooms, that is exactly what I want to see. It does me no good as a parent to know that the school system is doing well. If my child is not doing well, I have a responsibility as a parent. So they bring the parents in to be part of this learning process.

So when I hear the question of accountability and President Bush’s education package, I endorse it. I think it is a sound idea. It is one that we should include.

I might also say the idea of testing is one that I think is important. I hated tests as a student. Don’t most? Most students would rather not take a test. We ought to have summer school, enrichment programs and tutorial programs so kids can use that time as well.

I am hoping, after listening to the description of the President’s education package, there will be a lot of bipartisan agreement when it comes to education. Concepts that have been mentioned this morning are certainly concepts I endorse. I think about my own home State of Illinois and the Chicago public school system. This is a public school system which only a few years ago was written off by the Secretary of Education, Bill Bennett, as the worst in America.

I daresay today what is happening in Chicago is exciting, and in terms of big city school districts, may be one of the most promising programs in the United States of America. The leadership of Mayor Richard Daley, the leadership of the President of the school board, Gary Chico, and the CEO of Chicago schools, Paul Vallas, really took on a major challenge. In the Chicago public school system, 95 percent of the students are minority, 85 percent are below the poverty level. Imagine, if you will, that as your student enrollment.

First is accountability at all levels so the administrators and principals are held responsible for bringing a team of teachers together, and the parents and students, in creating a successful learning environment; accountability for the teachers so they come to the class prepared and are good teachers; accountability for the students and the parents; and they have basically taken the team of administrators and teachers, brought them in and said: You are finished. You had your chance. We are not going to leave kids in this classroom if they are not learning. This is a classroom that will not be over. We will at Chicago. They didn’t tear the school down. They didn’t close the school. They said: We are going to bring a new group of teachers and administrators to give these kids a chance.

I hate to take any classroom if they are not learning. This is a classroom that will not be over. We will at Chicago. They didn’t tear the school down. They didn’t close the school. They said: We are going to bring a new group of teachers and administrators to give these kids a chance.

The President has sent us 13 nominations for the Cabinet which, of course, is his effort to bring his team together. They have conceded that at times these experiments have failed. There have been several occasions now when the Chicago public school system has announced a school has failed. The teachers there have basically taken over the classroom, and the team of administrators and teachers, brought them in and said: You are finished. You had your chance. We are not going to leave kids in this classroom if they are not learning. This is a classroom that will not be over. We will at Chicago. They didn’t tear the school down. They didn’t close the school. They said: We are going to bring a new group of teachers and administrators to give these kids a chance.

There are two or three who are controversial. There have been several occasions now when the Chicago public school system has announced a school has failed. The teachers there have basically taken over the classroom, and the team of administrators and teachers, brought them in and said: You are finished. You had your chance. We are not going to leave kids in this classroom if they are not learning. This is a classroom that will not be over. We will at Chicago. They didn’t tear the school down. They didn’t close the school. They said: We are going to bring a new group of teachers and administrators to give these kids a chance.

If I am the parent of a student in one of those classrooms, that is exactly what I want to see. It does me no good as a parent to know that the school system is doing well. If my child is not doing well, I have a responsibility as a parent. So they bring the parents in to be part of this learning process.

Consider that you inherit a school system, 95 percent of the students are minority, 85 percent are below the poverty level. Imagine, if you will, that as your student enrollment. Some of the concepts that have been mentioned this morning are certainly concepts I endorse. I think it is a sound idea. It is one that we should include.

I might also say the idea of testing is one that I think is important. I hated tests as a student. Don’t most? Most students would rather not take a test. A test is the only objective way in which we affectionately refer to as the “age of enlightenment” where the Democrats were in charge of the Senate for about 17 days and then the leadership was transferred again on Saturday back to the Republican side.

The President has brought this issue to us. I hope we can include it in this debate.
CONGRESSIONAL RECORD — SENATE

Mr. BINGAMAN. Mr. President, I rise first to speak about one of the critical pieces of education legislation that the Congress is scheduled to consider this year. It is clear that we have wide agreement, now, on the need to increase school accountability, with new systems that will put real teeth into improving school performance for all students, and school districts, and for each State.

I have spoken for several years, now, about the need to improve school accountability. I introduced school accountability legislation in 1999. President Bush has spoken frequently about it. His new Secretary of Education, Rod Paige, whom we confirmed on Saturday, has spoken about its importance.

I believe there is strong support from those colleagues, both Democrat and Republican, on both committees. The provisions that we developed this last year to ensure accountability are included in S. 7, which Senator DASCHLE introduced yesterday.

In addition, I am introducing later today a bipartisan bill which contains these accountability provisions. I am very pleased that my colleague and friend, Senator LUGAR from Indiana, has joined me as a cosponsor of that bill. This will be a bipartisan effort which will demonstrate the bipartisan nature of these proposals.

These accountability provisions demand results of all students so the existing achievement gaps between minority and nonminority students, between poor and wealthier students, between limited English and English-proficient students, are eliminated and they are eliminated at the individual school level, at the school district level, and at the State level.

Mr. President, I do believe there is now widespread consensus on the need for rigorous school accountability in key areas that are addressed in this bill that Senator LUGAR and I am introducing.

The bill establishes aggressive performance objectives for all students that are linked to each school’s standards and assessments. It directs resources to the students and objectives most in need. It provides for significant consequences for failure so that States and school districts must take full responsibility for turning around those schools that have chronically failed to adequately educate the students in the schools.

Our bill provides maximum flexibility for educators to develop strategies to meet the basic goals of school improvement, and it ensures that every child has a fully qualified teacher.

The bill provides an expanded role for parents. Finally, the bill provides new funding for school improvement strategies that have been proven to work. These are strategies such as the Success for All Program, which Senator LUGAR and I strongly support.

I am very pleased that school accountability is finally getting the attention it deserves in Congress from both sides of the aisle. With widespread agreement now on the need for strong school accountability legislation—and sanctions for schools that do not live up to basic standards—I am very optimistic that this Congress can move quickly to develop a consensus package. I believe this bipartisan bill I referred to can serve as a starting point.

Second, we have to make sure we invest enough in Social Security and Medicare so that these systems will not go bankrupt. Mr. President, 40 million middle-class families depend on these systems to sustain them, and Social Security payments, to make sure they have quality health care—seniors and disabled Americans. If we have a surplus lets make sure we invest from our surplus into Social Security and Medicare for that purpose.

Finally, of course, I support a tax cut. The Democrats and Republicans both support tax cuts. My take on it may be a little different than that of some of my colleagues. I do not believe the tax cuts should go to the wealthiest people in America. I happen to think we ought to focus on struggling working families. I listen to the telephone in my office in Chicago and Springfield and Marion, Ill. I can tell you right now what families are struggling. They are struggling to pay heating bills in the Midwest. They have seen a dramatic increase over the last several years in the costs of college education. They are facing ongoing increases in the costs of child care. Any working parent wants to leave that son or daughter in the hands of qualified people. Yet it becomes increasingly expensive for them to pay for day care.

I receive telephone calls and read letters where people say: Senator, I have reached a point where my family is doing well below is reaching a point where he—or she—needs more and more attention and care. We are glad to give it, but it is expensive. Can you help us with that?

When you are talking about long-term care, when you are talking about child care, when you are talking about the expenses to put someone through college or even the expenses of heating your home, the average working family is struggling to make ends meet. When we talk about a tax cut, let us focus on helping those families first. The wealthiest in America are doing OK. They will continue to do fine. They may have a tax cut but it should not be at the expense of working families.

I yield the floor.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. CRAIG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The PRESIDING OFFICER. The acting minority leader, Mr. CRAIG, has closed the roll.

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

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

The Chair recognizes the Senator from New Mexico.

IMPROVING SCHOOL ACCOUNTABILITY

Mr. BINGAMAN. Mr. President, I rise to introduce a bipartisan bill that is designed to improve school accountability. It is an important piece of legislation that is needed to ensure that our schools are providing a quality education for all students.

In our efforts to improve school accountability, we must be careful to avoid creating a system that is too complex or burdensome for educators. We must balance the need for accountability with the need for flexibility and support for educators.

The bipartisan bill introduced by Senator DASCHLE and I would strengthen existing accountability measures while providing a clear and consistent framework for States and local districts to improve school performance. It would establish a system of accountability that is focused on results and aligned with the needs of students.

The bill would provide funding to support schools in implementing effective strategies to improve student achievement. It would also include provisions to ensure that schools receive adequate resources to address the needs of students with disabilities and English language learners.

In conclusion, I believe that the bipartisan bill introduced by Senator DASCHLE and I would be a strong step forward in improving school accountability. It would help ensure that all students have access to a high-quality education, and it would support educators in their efforts to improve student achievement.

Mr. President, I yield the floor.
Mr. President, I yield the floor, but I indicate I do want to speak as in morning business at some time after the majority leader speaks to pay tribute to our former colleague, Senator Cranston.

Mrs. HUTCHISON. Mr. President, point of clarification: Senator BINGMAN was not suggesting that he would speak immediately after Senator LOTT; is that correct?

Mr. BINGMAN. Mr. President, in deference to the other people who are here and waiting, I will certainly wait until they conclude their statements.

Mrs. HUTCHISON. Thank you, Mr. President.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

Mr. LOTT. I thank the Senator from New Mexico for offering to yield time earlier.

Mr. President, I ask that my time be taken from my leader time so it will not count against the time that was made available for this debate.

The PRESIDING OFFICER. The Senator has that right.

EDUCATION

Mr. LOTT. Mr. President, we have a new President of the United States who has grown in his own State of Texas and in his life—and with the encouragement of his wife—that he really cares about education and that he means it when he says we should leave no child behind.

We need an education system in America that is focused on one thing, and that is children learning. I am convinced he means that. I have had occasion to hear him talk about that in Texas, on the campaign trail, after the election, and even yesterday in the first meeting, when the bicameral Republican leadership met with the President, that was his focus. He made it clear he was going to reach out to the Congress, both Republicans and Democrats, and to outsiders to try to get a consensus as to how we want to move our country. But the issue he focused on was education.

I believe that is going to be well received by the American people. People of all backgrounds, races, creeds, color regions know that for continued advancement for the American culture, education and improving education is absolutely critical.

He clearly beheld to focus on this issue. This morning he met with the leaders of the appropriate committees to talk about his proposal that he is going to send to us today. I have spoken to a couple of those who attended that meeting, including Senator JEFFORDS. A moment ago, when the Senator from Vermont, the chairman of the Health, Education, Labor, and Pensions Committee, spoke, I felt there was an exuberance in him about the fact that this President is opening his administration the way he said he would, and in the Senate we are picking up that mantle. The bill that will carry the number S. 1 is going to be about education.

Today the President of the United States will keep his promise to America’s schoolchildren. He will articulate for the Nation a vision of America, a public school system that serves the children and leaves no child behind. I think that he is not going to send us a bill drafted with every word, every dot and comma, but he is going to lay out the provisions, the major points he intends to pursue, and he is asking us to pursue it legislatively in the Congress.

Under President Bush, our public schools can and will be doorways to opportunity. In Texas, he has proven that every child, particularly our disadvantaged children, can excel. As President, he will bring that same determination to all of our Nation’s children.

The President proposed we apply common sense principles to promote results. He also has picked an outstanding nominee to be Secretary of Education, Dr. Rod Paige. By the way, I should note he is a native Mississippian. He grew up with a very blue-collar upbringing. He attended public schools. He got a good education. He was the head coach at Jackson State University in Jackson, MS, a historically black university that has produced some outstanding academic leaders and athletic leaders in this country. Some of the most outstanding football players in the history of this country came out of Jackson State University.

He went beyond that. He got his postgraduate degrees. He got his doctorate, and then he went to the Houston, TX, school system, a school system that had all kinds of problems, that was deteriorating, declining, and he said: We are going to make this place work. We are going to provide different ideas, innovative ideas, and he produced results. Now he is going to be the Nation’s Secretary of Education. Here again is a man who has shown the American dream is alive and well. When you look at his humble beginnings and what he did in terms of getting an education in public schools, at Jackson State University, and then getting his postdoctorate degrees and now is Secretary of Education, it is a tremendous testament to what can be done.

Our schools should be measured by what our children learn. I have said on the floor many times that I am the son of a schoolteacher, a lady who taught school for 19 years. I am very proud of it. She still corrects my grammar when I use the wrong word, the wrong tense in my weekly columns or when she hears me speak. If I speak improperly, she will mark my paper in red or chastise me. I am proud of that.

Unfortunately, like a lot of teachers, after 14 years she left and went into bookkeeping and even radio announcing because she could make more money. That is a tragedy, too. At the local and State level, we have to make sure we pay our people a livable wage so they will stay in teaching and not go out into other places and get more money but maybe not much reward in terms of what they actually produce.

I went to public schools all my life. I did bring my wife and did my children. I remember distinctly the best teachers I had in my whole life. One of them was in the second, third, and fourth grades at Duck Hill, MS. Those teachers affected my life. They taught me the basics. They taught me to read.

By the way, I stayed in touch with two teachers there. They were my teachers in the first grade. One of them now I still hear from every now and then. They came from a small poor school, but they made a difference in my whole life, more than my college professors, more than my high school teachers.

We have to make sure we have that for every child in America.

No child—no child—in America should be trapped in failing schools just because they lack the economic means to have a chance to have a good education.

We have to be prepared to think outside the box. What we have been doing is not working in every school. Some schools are fantastic. In my own State, we have some great schools. We have some schools where the kids are making test scores on the ACT and SAT, and yet we have schools where children are just not getting a quality education. They are not learning. They are not safe. They are in danger from all kinds of things. These are kids we have to make sure they do get a good education.

We have one couple in my State of Mississippi who have been remarkably successful in their lives: Jim Barksdale and his wife Sally, from Jackson, MS. They went to the University of Mississippi. Jim Barksdale worked with FedEx. He worked with McCaw Telephone in Washington State. He is one of the founders of Netscape who made a fortune and is now on the board of AOL Time Warner. He and his wife just gave $100 million—$100 million—of personal money, the two of them, for one thing, and only one thing, in my State—4th grade reading.

The State said, OK, can we join in on this? And others said, no, we want this to be focused on teaching those 4th grade students to read. That is the kind of thing happening with individuals in the private sector. They have a responsibility to help with education, too.

So we need to really build on that. Parents have a right to hold schools to high standards and know that their
schools are meeting those high standards. Our children excel when they are exposed to basics, going back to the points I made about reading. Our early childhood programs should focus on reading first, and we should not be afraid of those programs to make sure they are succeeding and not merely just good-intentioned programs that do not produce results.

Also, character counts. There is a program called Character Counts in America. I think we need to incorporate what we teach. We should never shy away from teaching that basic lesson to our students.

These basic principles work. They have worked in Texas, they have worked in other parts of the country, and they have formed the cornerstone of the President’s education initiatives.

Under Governor Bush, African American 4th grade students have made the largest gains in the country in math and science. In fact, they had the highest test scores in their peer group of any State in the Nation. Hispanic students have made similar gains, scoring second highest of Hispanics in all States. We can and should do the same thing for all of America’s children.

The President’s education plan is based on a simple premise: Those who know our children best—parents, teachers, and principals—should determine how to prioritize our education dollars. The federal and rural America are often left out, and they are quite different from those in our cities. It makes sense that local schools have the freedom to design programs that meet individual needs. The compulsion in Washington has always been to have one size that fits all which they dictate from Washington.

What is needed in Pascagoula, my hometown, is obviously, on its face, different from what they need in Pittsburgh. We need that local accountability, that local control, and with accountability that goes along with it. In exchange for that freedom, the President proposes to hold States accountable for the one thing that matters, and that is to make sure our children are learning.

There are many special interests in education. Many of them will raise their voices against the President’s plan. They will use tactics to try to distract from what we are trying to accomplish by advocating other things and new programs. I think we need to go with what works and to make sure the only interests that matter are the interests of our children and that they are learning.

I believe this commonsense approach will form the kind of principles that can improve our education in America. I believe we can, in this area, reach bipartisan agreement. We tried mightily last year, and there was a lot of effort across the aisle from our education leaders, good men such as Paul Coverdell, who is not with us, and Slade Gorton, who will not be serving in the Sen-
President Bush’s proposal also expands the amount of money that can be put into tax-free education savings accounts. Parents are a key component of any education reform, and President Bush realizes that without empowering the parents we have little chance of success.

In short, the President’s plan provides the right blend of parental empowerment, local flexibility, federal funding, and accountability.

If enacted, this plan will go a long way to giving every child in America a chance to truly succeed.

There are a lot of issues to be dealt with in the coming days. A good deal of compromise is to be made. But I am extremely excited that our President, President Bush, is leading with this issue. Clearly, there is no question in our country it is a major issue, and a major issue of importance for all of us, but most importantly for the future of our country.

Mr. President, other colleagues have come to the floor and wish to speak, and we are operating under a unanimous consent agreement. So let me, with that, conclude my remarks and, in so doing, say I am excited that we have the opportunity to work together on the prove to Americans that education is the No. 1 priority of the Congress.

The PRESIDING OFFICER. Under the previous order, the Chair recognizes the Senator from Texas.

Mr. HUTCHISON. Mr. President, I yield 5 minutes to the Senator from Arkansas, who has the great name Senator Hutchinson.

PRESIDING OFFICER. The Chair recognizes the Senator from Arkansas for 5 minutes, under the previous order.

Mr. HUTCHISON. Thank you, Mr. President, and thank the Chair and the Senator from Texas for her leadership on education, and for having a good name, and for me having a name similar to it.

I agree with President Bush for his commitment to education in unveiling a very serious and comprehensive education reform program today. It is an education package that, if enacted in its entirety, I believe, will ensure that no child in America will be left behind.

That should be our goal.

One of the wonderful aspects of what President Bush is now doing is to help us redefine what success is in education. For too long, success has been defined by how much do we spend? President Bush wants to redefine that as to how much children are learning.

That should be the criteria for whether or not we are succeeding in education.

His proposals represent an excellent framework for moving forward, and moving forward quickly, on a bipartisan basis, with legislation in Congress. I call on my colleagues to have an open mind on this education package and allow us to work together to achieve this higher goal.

Among other things, he seeks to address the problem of failing schools. Federal support, under his plan, will be provided, augmenting State funds, to help schools that need improvement. States and districts will be expected to implement serious reforms in schools that continue to fail.

All children in America deserve to have the chance for a quality education. In order to achieve that, there must be real consequences for schools that are persistently dangerous or are not improving after serious reforms efforts for 3 years.

Under the Bush plan, if a school cannot achieve success in 3 years, with additional help and support, the Department of Education will take over the school and leave those children at risk.

That is what we are saying. We are saying that if a school fails for 3 years, we are going to empower parents and school districts and States to say there is an alternative and we are going to look at the options and select another alternative for your child.

That is the bottom line of what we are talking about today. So we are going to put a lot more money from the Federal level into public education. We are going to give schools the chance to succeed, and we are going to help them succeed. But, Mr. President, this is accountability that we are going to put into the system because we are not going to give a child be left behind because all the bureaucrats and the politicians in Washington are talking about accountability but not deciding what it is. We are going to decide in the next few months what it is and we are going to set a standard and we are going to require that standard be kept.

We have had several speakers this morning talk about the importance of addressing education as the first priority of our new President, George W. Bush. I think you can tell from the debate that Congress is ready to go on this issue.

We have been looking for accountability and flexibility in the Federal education since I came to Congress, and probably since Strom Thurmond came to Congress, because we know the difference between America and most other countries in the world is that we value every child getting a quality education.

That is why President Bush is putting this as a first priority, and why Congress is going to work with him to do it.

I think what President Bush is talking about is exactly the right approach that we are going to give incentives for creativity, for flexibility, that we are going to go for every child to have the best education that we can potentially give that child.

We are not going to sit back and say that year after year after year, if a public school fails, we are going to keep pouring money into that failing school and leave those children at risk.

That is what we are saying. We are saying that if a school fails for 3 or 4 years, we are going to empower parents and school districts and States to say there is an alternative and we are going to look at the options and select another alternative for your child.

We have been looking for accountability and flexibility in the Federal education since I came to Congress, and probably since Strom Thurmond came to Congress, because we know the difference between America and most other countries in the world is that we value every child getting a quality education.

That is why President Bush is putting this as a first priority, and why Congress is going to go for every child to have the best education that we can potentially give that child.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.
I was disappointed when Mr. Daniels indicated he would not support protection of the Medicare trust fund. I think that is a profoundly wrong position to take. I hope he will rethink it. I certainly hope he was not speaking for this administration.

Again, I would like to remind and remind this administration that, on a bipartisan basis, last year on the floor of the Senate, we had 60 votes for the proposition that we ought to protect both the Social Security trust fund and Medicare trust fund. That was supported by the American people that ought to be supported by the Office of Management and Budget. It was supported here on the floor of the Senate and I hope this administration will think very carefully about its position before they conclude they are going to adopt the position of Mr. Daniels.

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

Mr. CONRAD. I am happy to yield.

Mr. REID. The Senator from North Dakota and I, I think the ranking member of the Banking Committee, and others, were part of a debate that took place just a few years ago, where the then majority, the Republicans, were talking about the surpluses and trying to use Social Security surpluses to offset the deficit. Does the Senator recall that?

Mr. CONRAD. I remember it very well. In fact they had what they called a balanced budget amendment to the Constitution, but what they were doing to balance the budget was to raid the Social Security trust funds to achieve balance. That would have been an entirely phony balancing of the budget, I believe.

Mr. REID. So, as I hear what the Senator is saying, what he is afraid of is they are trying to use, now, the surpluses from Medicare to spend for other programs. Is that what the Senator is afraid of?

Mr. CONRAD. That is exactly what the new head of the Office of Management and Budget has announced in a hearing before Members of the United States Senate in the Government Affairs Committee. He said he is willing to protect the Social Security trust fund but he is not willing to protect the Medicare trust fund. They both ought to be protected. Neither one of them should be raided.

Mr. REID. I say to my friend, those should be trust funds, not slush funds. I know, believe that Americans are monitoring the money for the Democrats in the budget process, and where it should go and should not go, he will be vigilant because he is, in effect, protecting not only the Senate, but the American people.

The PRESIDING OFFICER. The distinguished Senator from North Dakota.

THE NOMINATION OF MITCHELL E. DANIELS, JR.

Mr. CONRAD. Mr. President, I want to speak briefly about the nomination of Mitch Daniels to be the head of the Office of Management and Budget. First of all, I want to say Mr. Daniels called and had been named and we had a brief, frank visit about the responsibilities of the Director of the Office of Management and Budget. I want to indicate that I will vote for his confirmation.

That is not the reason I rose to speak on his nomination. At his confirmation hearing Mr. Daniels indicated, in response to a question, that he would not support giving the same protection to the Medicare trust fund surpluses that we have agreed, on a bipartisan basis, to give to the Social Security trust fund surpluses. I want to indicate my strong disagreement with Mr. Daniels on that position. I think that is the entirely wrong position to take.

In fact, Mr. CONRAD, on a bipartisan basis, we voted overwhelmingly, last year, on a provision I offered to protect both the Social Security trust fund and the Medicare trust fund surpluses, to protect them against raids for other purposes.

Now Mr. Daniels has announced a policy of being willing to protect the Social Security trust fund but not the Medicare trust fund. I hope he will rethink that issue. I hope he will agree with what was a strong bipartisan vote here in the U.S. Senate last year, to protect both the Social Security trust fund and the Medicare trust fund surpluses. We should not permit raids of either one of them. We should not allow those funds to be used for any other purpose. Social Security funds should not be used for other spending. They should not be used for a tax cut. The Medicare trust funds should not be used for other spending. They should not be used for a tax cut. Those funds ought to be used for the programs for which they were raised, which is to support the Social Security Program and the Medicare program.
became deeply committed to serving his community. I believe this history has instilled in Mr. Martinez an understanding of and empathy for the less fortunate that will serve him well in his new role as Secretary of HUD.

Mr. Martinez has recently served as the county chairman of Orange County, FL. Prior to that, he served on the Orlando Housing Authority Board of Directors for 4 years, including 2 years as its chair in the mid-1990s. He served as volunteer executive director of Catholic Charities Services in the Diocese in Orlando throughout the 1980s and as president of the Orlando Utilities Commission from 1994 to 1997 and as a lawyer in his own firm. He has served his community in many ways as a volunteer member of numerous organizations.

As chairman of the Orlando Housing Authority, Mr. Martinez worked with his colleagues on the board to pass a measure to ensure that HUD has the funds to sustain a million or reserve funds to buildordable housing for the elderly, as well as transitional housing for low-income single mothers. He consistently showed a willingness to meet and work with residents to build affordable housing and other low-income residents of distressed neighborhoods in Orlando.

These efforts lead me to believe that as Secretary, Mr. Martinez will make every effort to make good on his promise ‘to work hard to ensure that every American has every opportunity to have affordable housing.’

Last year, a number of bipartisan proposals providing for funding the construction of affordable housing were offered in the Congress. I look forward to working with the new Secretary on legislation that will help us achieve the lofty goal he has set out.

As many of my colleagues know, HUD has had this history of being a troubled agency. While many of its programs do a good job of providing decent homes to millions of poor and working families, it has proven to be a difficult department to manage.

In 1995, when HUD was placed on the General Accounting Office’s high-risk list, the only agency to be so listed. However, as a result of concentrated efforts by Secretary Cuomo and his top staff, the GAO announced last week that HUD is now off the high-risk list. HUD achieved this result by working tirelessly to correct the problems in financial oversight and procurement systems. It is widely recognized that Secretary Cuomo has devoted significant time and effort to address these managerial issues, and I commend him for his success.

This is by no means to say all of HUD’s problems have been solved, but it does confirm that Mr. Martinez is taking over the Department with a management system in place that is moving HUD in the right direction. In his confirmation hearing, Mr. Martinez made it clear that he understood the progress that has been made while committing himself to continue the efforts to improve the operations of the Department.

I was also encouraged that Mr. Martinez recognized the importance of the Community Reinvestment Act in making housing opportunities more available to all Americans. Several committee hearings have established the fact that CRA is a crucial tool that is needed to ensure a number of other housing programs effective. The low-income housing tax credit, the community development block grant, and the HOME program all depend, to some extent, on bank credit made available largely because of CRA.

Finally, I note that this nomination has the support of a wide range of housing groups. A number of letters of support have been sent to the committee which are part of the hearing record. Included among these supporters are a number of industry groups, public housing organizations, and others. I note in particular a very strong letter of support sent to us by our former colleague, Senator Mack, who has high praise for the nominee.

Mr. President, I ask unanimous consent that Senator Mack’s letter be printed in the RECORD at the conclusion of these remarks.

The PRESIDING OFFICER. Without objection, it is so ordered. (See Exhibit 1.)

Mr. SARABANES. Mr. President, Mel Martinez understands the job ahead of him. He has committed to expanding housing opportunities for all Americans. I look forward to working with him, and I commend his nomination to my colleagues for their approval.

Mr. President, I yield the floor.

CONGRESSIONAL RECORD — SENATE January 23, 2001

Mr. LOTT. I thank the Chair.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE NOMINATIONS

Mr. LOTT. Mr. President, in executive session, I ask unanimous consent that the Senate now proceed to the consideration of the following nominations: Executive Calendar No. 7, Mitchell E. Daniels, Jr., to be Director of the Office of Management and Budget; Executive Calendar No. 8, Anthony Principi to be Secretary of Veterans Affairs; Executive Calendar No. 9, Melquiades Rafael Martinez to be Secretary of the Department of Housing and Urban Development.

I also ask unanimous consent that at 2 p.m., the Senate proceed to a vote on the nominations en bloc, and further, that one rollcall count for three votes with respect to the nominations.

I further ask unanimous consent that the motions to reconsider be laid upon the table and the President be notified of the Senate’s action.

I further ask unanimous consent that the Finance Committee be discharged from further consideration of the nomination of Gov. Tommy Thompson, to be Secretary of Health and Human Services, and the Senate proceed to the immediate consideration of the nomination, with the time on the nomination as follows: 60 minutes under the control of Senator Dole, 40 minutes under the control of the chairman and ranking member of the Finance Committee; 10 minutes under the control of Senator Feingold; 10 minutes under the control of Senator Kennedy; and that following, the Senator and following the consideration of the nomination of Gov. Tommy Thompson, to be Secretary of Health and Human Services, at 2:45 p.m. the Senate proceed to a vote on the nominations en bloc, and we could have another vote or the Senate proceed to a vote on the nominations en bloc, at 10 minutes under the chair and 10 minutes under the control of Senator Feingold; 10 minutes under the control of Senator Kennedy.

I also ask unanimous consent that at 2:45 p.m., the Senate proceed to a vote on the nominations en bloc, and further, that one rollcall count for three votes with respect to the nominations.

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The PRESIDING OFFICER. The PRESIDING OFFICER. The DISTINGUISHED SENATOR FROM MONTANA. That is, there is an objection to the motion, the Chair recognizes Senator Reid. Senator Reid, the right to object, will the majority leader allow 10 minutes under my control, which may or may not be used, following that of Senator Kennedy?

Mr. LOTT. I amend the UC to that effect. 10 minutes under the control of Senator Reid following Senator Kennedy.

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

Mr. LOTT. Mr. President, let me reiterate, we will have the one vote now for the three nominees en bloc. We will then have time for debate on the nomination of Gov. Tommy Thompson to be Secretary of HHS. The next recorded vote will be at 11:30 a.m. on Wednesday, and should could have one or two votes at that time on three additional nominees that will be ready to go at that time.
Mr. DODD. Mr. President, I rise today to voice my strong support for the confirmation of Mel Martinez to be Secretary of the Department of Housing and Urban Development. I am impressed by his background and his commitment to providing safe, affordable housing to all Americans. Based on my review of the Mr. Martinez’s record as a public official in Orlando and Orange County and his expressed dedication to the mission of the Department of Housing and Urban Development, I believe he will be a superb Secretary of Housing and Urban Development. I support his nomination and urge my colleagues to do the same.

Mel Martinez has an extraordinary story. At the age of 15, he fled Castro’s Cuba to come to the United States without his family. He stayed with a foster family for four years before the rest of his family could join him in Orlando. After earning a law degree from Florida State University, Mr. Martinez returned to Orlando and served on numerous public boards and committees. He served on the Board of Directors for the Orlando Public Housing Authority from 1982 to 1986. He was the Chair of the Orlando Affordable Housing Commission in 1984, and President of the Orlando Utilities Commission from 1994 to 1997.

Since 1998, Mr. Martinez has served as the Chief Elected Official of Orange County, Florida. He has a reputation for ‘championing progress’ and for understanding the need to ensure affordable housing for all citizens. He even established a commission to identify new ways to provide affordable housing.

Assuming that Mr. Martinez will be confirmed, he comes to HUD at a good time. Clearly, the nadir of HUD’s existence was during the 1980s when the Department was riven by mismanagement and even worse. Jack Kemp deserves credit for starting the reform and improving housing opportunities for the people served by HUD. He worked hard and achieved significant progress.

The last eight years have seen a continuation of reform and a realization of many of the goals of reform. The homeownership rate is now the highest in history—67.7% of all American families, nearly seven out of every ten families, own their own home. Nine million households have been added to the ranks of homeowners since 1993. We’ve also seen record high levels of homeownership for urban-center African-American and Hispanic families. The volume of Federal Housing Administration (FHA) loans has doubled in recent years. FHA now has about 6.7 million mortgages in its portfolio. FHA has gone from a $2.7 billion deficit to a current value of more than $15 billion. HUD has also recognized the changing needs of our aging population by producing the Housing Security Plan for Older Americans.

HUD has made progress, but there is still much work to be done. There is still much work to meet the continuing challenge of helping all Americans achieve the dream of homeownership and the promise first made over half a century ago in the National Housing Act: a safe and affordable place to live for all Americans.

One of the most troubling paradoxes of our recent prosperity is that despite the fact that incomes have risen for people in every income category, safe and affordable housing is more elusive than ever for many low-income households. The cost of housing has outpaced the increase in wages in many of our urban centers, including areas of Connecticut that now rank among some of the most expensive housing markets in the country.

We are losing public housing units in our country at an alarming rate. In some parts of the country, like the Northeast, the age of public housing units has necessitated the demolition of public housing that has deteriorated to be rehabilitated. Federal policy has tried to provide public housing residents with housing vouchers, but frankly, there just aren’t enough of those vouchers to go around. Further, the policy of using vouchers hasn’t always been useful to low-income families because they can’t always find landlords who are willing to accept the vouchers. Even with vouchers, many find rent to be all but out of reach.

We need more vouchers. We also need to invest in capital maintenance, and rehabilitation funding to ensure that public housing units remain habitable. And if we have dilapidated public housing, then we need to put money into building replacement units. While vouchers work in some places under some circumstances, they don’t work everywhere under all circumstances.

I also believe that the Federal government needs that ahead to address issues that will arise as our elderly population continues to grow. We should consider creating tax and other incentives for construction of privately-owned assisted living units. The time has also come for HUD to consider developing new standards or approaches to ensure that senior citizens who live in public housing can stay in their homes and not be forced prematurely into expensive and less independent institutional care facilities.

These are not trivial matters. They are tough problems. But from what I have been able to discern, Mel Martinez is up to the task. He has the knowledge, the energy, and the commitment to lead HUD as the agency begins to address these matters.

I look forward to working with Mr. Martinez. I have already invited Mr. Martinez up to Connecticut. Connecticut has some of the oldest housing in the country, but we also have some of the country’s most successful affordable housing projects. I welcome the opportunity to show him our state and, again, to work with him on behalf of
Mr. THURMOND. Mr. President, I rise today in support of the nomination of Anthony J. Principi to be Secretary of Veterans Affairs. I am pleased that President Bush has selected a person of experience and capability for this important position.

Mr. Principi has a strong background and association with the military community. He is a veteran of the United States Navy, a graduate from the U.S. Naval Academy, and a highly decorated Vietnam veteran. He also served in the Navy’s Judge Advocate General Corps.

Mr. Principi is well qualified for this position, having previously served as Acting Secretary of Veterans Affairs and Deputy Secretary of the VA. I personally know him to be a capable and dedicated public servant. In 1993, I called upon Mr. Principi to be my Staff Director for the Senate Armed Services Committee. Later, as Chairman, I appointed him to a Congressional Commission on Military Servicemembers and Veterans Transition. He subsequently was elected by his colleagues as Chairman of that Commission. In each of these instances, his performance was commendable.

There are a number of important issues facing the Department of Veterans Affairs which affect veterans, their families, and employees of the Department. I will mention a few of these issues to emphasize my own concern and to stress to Mr. Principi that he must aggressively address these matters.

The first issue I hope Secretary Principi strongly addresses is that of Veterans Benefits. It takes too long now to get initial decisions and the re-review process can take years. I hope Secretary Principi will work with the Under Secretary for Benefits to improve the VA benefit review process.

Secondly, I am concerned about the status of veterans health care. The Congress and the VA have enacted and implemented a number of reforms. The challenge now is to ensure that the availability, delivery and quality of health care improves.

A third concern I have relates to the Veterans Equitable Resource Allocation, VERA, process. A few years ago, Congress passed a bill that requires the VA to allocate resources according to veteran need, and use of VA medical facilities. This legislation generally has shifted some resources from the Northeast to the South and West. I trust Secretary Principi will continue to support this important reform despite political pressures to do otherwise.

I congratulate Mr. Principi on his nomination. As a member of the Senate Committee on Veterans’ Affairs, I look forward to working with the Secretary as we address the needs and concerns of the men and women who have given much for our Nation.

Mr. ROCKEFELLER. Mr. President, as the ranking member of the Committee on Veterans’ Affairs, I am pleased to support the nomination of Anthony J. Principi to be Secretary of Veterans Affairs. If confirmed, Mr. Principi will have the responsibility of steering the Department of Veterans Affairs through a period of great transformation.

I recently had the chance to meet with Mr. Principi and to discuss the many challenges he will face in guiding the VA through this critical period. I took the opportunity to read his answers to prehearing questions and to hear his testimony at the January 18, 2001, hearing of the Senate Committee on Veterans’ Affairs on his nomination. Mr. Principi has expressed his belief that our veterans deserve access to quality health care and swift and accurate decisions about disability benefits. I wholeheartedly agree and believe feel that Mr. Principi has the experience and the commitment to maintain this special obligation to our Nation’s veterans.

I know that with his years of service to veterans—at VA, here in the Senate, and as chair of the Commission on Servicemembers and Veterans Transition (the so-called Transition Commission)—Mr. Principi is familiar with the importance of the leadership role he will soon assume at the VA. Because of his long history and experience, we have great expectations for his success, and we expect him to hit the ground running to tackle the VA’s many challenges.

We have all heard the President speak about the need to revamp the VA health care system. But what exactly does that mean to veterans who depend upon the VA? Yes, we have made many sweeping changes in the delivery of VA health care. Veterans’ health care is now very often provided in different settings, which are frequently not the traditional hospital site. Outpatient clinics and hospital inpatient and ambulatory care have new access points to many veterans. And veterans—unlike many other groups—now have improved coverage of their long-term care needs, although VA has been embarrassingly slow in implementing some of these programs.

But while the past decade has brought tremendous transformation to the VA health care system, we may be approaching the most challenging period of all. The VA medical system offers programs of enormous value, especially for veterans who are blind or have spinal cord injuries, who need prosthetic devices or dependable mental health care. We must retain these specialized services, offered nowhere else in the U.S. healthcare landscape, which have made the VA great.

Mr. Principi understands that, if confirmed, he will be expected to be a steward and protector of this very special health care system. America’s veterans will accept no less.

The Veterans Benefits Administration is in crisis. Last year, Chairman SPECTER chaired a hearing on the benefits adjudication system, and we were greatly disturbed by what we heard about the lack of quality and timeliness in VBA decisionmaking. At that hearing, a Vietnam combat veteran from my state of West Virginia, suffering from post-traumatic stress disorder, testified that it took a full five years for his VA disability claim to be approved. The documented chronology of events over that five-year period paints a clear picture of a benefits system in crisis. We must do better than this.

We continue to be dismayed by the delays in making eligibility determinations. And despite efforts by hardworking, dedicated VBA employees, which have yielded some gains in customer service, the problems with VA claims processing seem to be getting worse. In fact, the backlog has increased by 50,000 claims just since we held that hearing last July.

You know the old saying: “Justice delayed is justice denied.” Our aging veterans population cannot afford to wait. We look to Mr. Principi for innovative approaches so that VBA can absorb changes in a timely and business-like manner.

Since Mr. Principi is familiar with the VA and its operations, I urge my colleagues to approve this nomination.

Mr. WARNER. Mr. President, I rise today to give my strongest recommendation for the confirmation of the nomination of Anthony Principi to be Secretary of Veterans Affairs.

On January 5, 2001, then President-elect Bush announced his intention to nominate former Deputy Secretary of Veterans Affairs Tony Principi, a man I have known for more than 20 years, to be his Secretary of Veterans Affairs. I support this nomination.

I am pleased that the President decided to recommend him for this important position.

Tony Principi served as Deputy Secretary of Veterans Affairs and as Acting Secretary of Veterans Affairs for President Bush from 1989 to 1993. I am confident that he will, once again, be a competent, trustworthy, effective Secretary of Veterans Affairs.

Tony Principi is a graduate of the United States Naval Academy and a decorated Vietnam Veteran. He earned a law degree from Seton Hall University in 1975. He was a professional staff member, Counsel and later Staff Director, for both the Senate Armed Services Committee and the Senate Veterans Affairs Committee.

In 1996, Tony was named as the Chairman of the Military Servicemembers and Veterans Transition Assistance Commission. This Congressional Commission reviewed the adequacy and effectiveness of the services and benefits available to active
Mr. DOMENICI. Mr. President, I rise today in strong support of M. Anthony Principi as Secretary of Veterans Affairs.

Our Nation’s veterans are important to all of us. From time and memorial, the men and women of our country’s Armed Services have dedicated themselves to freedom and democracy. They have done far more than representing freedom, they have given themselves to the cause, fighting for those inalienable rights that many of us take for granted.

There are 24.8 million veterans in the United States, 165,000 of which are in my own state of New Mexico. This means that all of us know a veteran. In fact, one out of every four men in the United States is a veteran, and there are 1.2 million female veterans. We must continue to work for the continued well-being of our veterans, as they have spent their lives working for our freedoms, fathers, grandmothers, and sons.

Health care is important to all of us, and veterans are no exception. I have worked with other members of Congress to dramatically increase funding for veterans’ health care. I know that more needs to be done for veterans and pledge myself to work for their interests.

The head of the Department of Veterans Affairs will be presented with unique challenges. The Secretary must be pro-active and must have a comprehensive understanding of veterans’ issues.

In that vein, I am confident that Mr. Principi is the best person for the job. As a decorated Vietnam War veteran, Mr. Principi can intimately relate to veterans’ special needs.

Furthermore, I fully appreciate the Department of Veterans Affairs after serving as Secretary and Deputy Secretary of the Department under the previous Bush Administration. Mr. Principi applied his pro-active attitude and experience when he ordered the creation of a registry to track medical conditions of Gulf War veterans.

Furthermore, Mr. Principi chaired the bipartisan Congressional Commission on Military Service Members and Veterans Assistance under the previous Administration.

The Department of Veterans Affairs has put forth significant effort in moving towards a “One V-A” in attempting to deliver seamless service to veterans. Yet, coordinating VA’s various missions as technology advances remains just one challenge that Mr. Principi must address.

Mr. Principi is a veteran. He has spent his life working for veterans. Mr. President, Anthony Principi is the best person to head the Department of Veterans Affairs.

As Secretary of the Department of Veterans Affairs, Mr. Principi will surely be tested. I am confident that he will ace the test.

Mr. MURKOWSKI. Mr. President, I rise in strong support of Tony Principi’s confirmation as Secretary of Veterans Affairs. I have known him for many years both as a staffer and a friend. He was my staff director when I was chairman of the Veterans’ Affairs Committee many years ago. Since then I have come to value his advice and expertise about our nation’s veterans as much as I come to value his friendship. His experience both within the government and the private sector, along with his desire to give veterans the kind of services they deserve, makes Tony the best man for the job. I support his nomination and urge my colleagues to do the same.

Mr. LOTT. Mr. President, I ask for the yeas and nays.

The nominations were confirmed.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nominations of Mitchell E. Daniels, Jr., to be Director of the Office of Management and Budget; Anthony Joseph Principi, to be Secretary of Veterans Affairs; and Melquiades Rafael Martinez, to be Secretary of Housing and Urban Development? The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 100, nays 0, as follows:

[Rollcall Vote Nos. 1, 2, 3 Ex.]

YEAS—100

Akaka                Durbin                McCain
Allen                 Grassley              McCall
Baucus                  Risch                Mikulski
Bayh                  Feingold                 Miller
Bennett               Feinstein                Murray
Biden                 Fitzgerald             Nelson (FL)
Bingaman             Pratt                   Nelson (NE)
Bond                   Graham                Nickles
Breaux               Grassley                 Reid
Brownback            Gregg                   Roberts
Buffington             Hatch                Sarbanes
Campbell                Helms                Schumer
Cantwell           Hollings                Sessions
Carnahan            Hutchinson              Shelby
Carper               Hutchinson             Smith (OK)
Chafee                   Inhofe                Smith (OH)
Cleland                Inouye                 Snowe
Clinton                Johnson               Stabenow
Collins                Kennedy               Stevens
Conrad                Kerry                   Thomas
Corinne            Kohl                   Thompson
Craig                 Kyl                   Thurmond
Crapo                Landrieu              Terrricelli
Daschle               Leahy                 Voinovich
Dayton                Levin                  Warner
DeWine               Lesko                  作文人
Dodd                  Lincoln               Wyden
Durbin                Logue

The nominations are confirmed.

The PRESIDING OFFICER (Mr. KYL). The clerk will report the next nomination.

The legislative clerk read the nomination of Tommy G. Thompson, of Wisconsin, to be Secretary of Health and Human Services.

The PRESIDING OFFICER. Under the previous order, the debate will include 60 minutes of time under the control of Senator WELLSTONE, with 40 minutes for the chairman and ranking minority member of the Finance Committee and 10 minutes each for Senators FEINGOLD, KENNEDY, and REID of Nevada.

Who yields time?

Mr. GRASSLEY. Mr. President, I yield myself such time as I might consume.

The PRESIDING OFFICER. The Senator from Iowa is recognized.
Mr. GRASSLEY. Mr. President, I had the privilege of hearingGov. Tommy Thompson, the designee for Secretary of Health and Human Services, when he came before our committee which the distinguished Senator from Montana chaired last week. We had a very good hearing.

I want to compliment Senator Baucus for putting together a good hearing and, more importantly, for his cooperation in helping President Bush move many of his nominees through the Senate as quickly as possible, and Senator Baucus was responsible for doing that in the case of Secretary of the Treasury O'Neill, and now Secretary of Health and Human Services Governor Thompson.

Last week, we invited then-Governor Thompson to testify. I have to say it was a very refreshing hearing. It became so apparent that the qualities that have made Governor Thompson so successful in Wisconsin are what will also make him very successful as a Secretary of the Department of Health and Human Services. This is a very ideal choice that President Bush has made.

First and foremost, Governor Thompson is a problem solver, focused on improving the lives of real people. As Senators of both parties noted during our hearing last week, Governor Thompson has made remarkable progress in addressing the health care needs of families in Wisconsin. Successful programs such as Badger Care and family care reflect his ability to reach consensus and implement concrete solutions. In addition, Governor Thompson is a true innovator. On issues such as Welfare reform he has shown that he is willing to cast away old, tired approaches. He reaches out for new ideas and develops creative solutions to tough problems.

Governor Thompson has also been an effective administrator and manager of his State’s resources that will be critical as he oversees important programs such as Medicare, Medicaid and the State children’s health insurance program. Coming from being a Governor of a State, I think he has appreciation that one size doesn’t fit all in our great country. A mold poured in Washington, DC, doesn’t necessarily solve the problems of New York City or Madison, WI, with the same effectiveness as if we would give some leeway to the Governor of New York and the Governor of the State of Wisconsin leeway in solving those problems that are unique to their respective States and, hence, deserve a unique solution.

I can say from the standpoint of his work on welfare reform that he did not wait for the Federal Government to pass welfare reform before he started working within Federal law with what he could do to improve the system. When we were working on this in 1996, he was able to come to Washington and discuss what he had done to improve the system, to help people move from welfare to work, to give people a chance, to move people from the fringe of our society to the mainstream of our society in order to be in that mainstream and to have the opportunities for advancement and progress as those in the mainstream.

Mr. President, I think that flexibility that he has will serve well not only our Federal policies, but it will also help Governors and State and local administrators do a better job as they have some leeway. Also, as there are some things that we do not have such a flexibility suggested by President Bush we in the Congress will work on, as well. It gives citizens an opportunity to have right here in this town, full time, a person who has had the experience of being a Governor—where the rubber meets the road—on Federal programs to make sure that we are able to make the best policy to fit a country that is as geographically vast as ours, with heterogeneous population.

Lastly—and I hope this responds to some of the optimism of people about Washington being too partisan sometimes I am pleased to report, as Governor Thompson has been successful in his State, he has done it because he has been able to reach across party lines because he followed the same principle of bipartisanship to find successful solutions in his home State by reaching across party lines. That bipartisanship and how it has been successful is shown in the fact he was warmly introduced to our committee by Senator Dole, a Republican, Senator Kohl, and Senator Feingold, who are Democrats, and by Secretary Shalala from the present administration, who worked closely with Governor Thompson when she was chancellor of the University of Wisconsin.

This support from party leaders on both sides of the aisle speaks for itself. I hope we in Washington will apply the Governor’s bipartisan approach in Congress.

As I noted at the hearing, we are in a unique situation in the Senate. Bipartisanship can no longer be a hobby for a few; instead, it needs to be a way of life for all. The American people demand it. We must respond. I think hopefully when we look back at this year and even more so after 2 years of this 107th Congress, we will be able to say that the fact that the Senate was split 50-50 was good because it brought people together.

For my part, I respond to the initiatives and the ideas that Governor Thompson brings and to an easily divided Finance Committee, hoping we will seize the opportunity to solve the real problems we face—modernizing Medicare and improving access to prescription drugs for seniors, reducing the number of 43.5 million uninsured, improving health care in rural communities. That is something that Senator Baucus and I have worked closely on for taking that in long-term care. These are priorities for me, but I am sure they are not just my priorities. They are priorities for many in this Congress, and particularly those that serve on the Senate Finance Committee.

I look forward to working closely on these priorities, not only with my colleagues, but with Governor Thompson in his new position as secretary HHS. Governor Thompson deserves not only our votes but our thanks for his willingness to serve our country even though it means leaving both a job and a State he loves. I am also grateful to President Bush for choosing such an qualified Senate. He sends a clear signal for his desire for problem solving, effective management, and bipartisanship.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, first, I note the presence of the new Finance Committee chairman. This is the first Secretary of Health and Human Services Governor Thompson, chairman of the Senate Finance Committee. I know all Senators agree with me in saying we look forward to a very long, prosperous, productive period, and eagerly see work with him underway in a bipartisan nature, noting the 50/50 composition of the Senate. It is a terrific opportunity we have. I know I speak for the chairman in saying he also shares my desire to do the same.

I rise to give my enthusiastic support to the nomination of Governor Tommy Thompson of Wisconsin to be our nation’s 19th Secretary of Health and Human Services, I think he will be a great Secretary. He has the energy, the spirit, the creativity, the enthusiasm, and he takes a bipartisan approach. He is quite a guy. He has the spirit of his predecessor, another Badger, if I can use that term. Secretary Shalala also had a lot of energy and spirit. I think Governor Thompson, when he takes that job, will retire from that job and looks back upon this term, will find that he feels good about his achievements, and the rest of the country will as well.

In saying so, I don’t mean to imply that I expect to agree with every position of our about-to-be-Secretary. There are clearly going to be some issues on which we disagree—for example, a woman’s right to choose and some aspects of the upcoming Medicare debate.

With that said, I think Mr. Thompson is the right person for a very tough job. It is not an easy job. But he is more than up to the task. He is known for his energy and his creative spirit, in particular for his work on welfare reform. He is the nation’s leader on this issue, as Governor of Wisconsin where he took the lead on their welfare reform. In many ways, his efforts helped the Senate advance welfare reform. And I was an early supporter of these efforts. Welfare reform has affected our nation very significantly, most particularly in my State of Montana. I credit Governor Thompson. I salute him for taking that important step.

Just as important, he has provided resources to the programs that are necessary to make Federal reform work
for needy families. If we are going to have welfare reform, certainly the families on welfare need these resources. And he didn't call it welfare reform, but a workfare program. It was obviously the correct approach.

Governor Thompson has also been a leader on health care issues. He has found innovative ways to ensure health care coverage for the working poor. We have heard reference to BadgerCare, a combination of increases in Medicaid and taking with him. I believe grizzly "grizzly care" makes much sense in Montana, but I mentioned that to him. Frankly, I am not sure BadgerCare really is that warm and comfortable either, but it gives Wisconsin a deep sense of pride.

Governor Thompson has a reputation for work in other areas: Expanded job training, reform of Wisconsin law to allow women on welfare to keep more of the child support payments that receive. Then of us who know Governor Thompson are getting to know him better see him as someone with a reputation who is very honest, who tells you where he stands. An innovator, a risk taker. Perhaps most important of all, as my good friend Chairman Grassley said, he is someone who worked with both Republicans and Democrats to find bipartisan solutions.

As the chairman mentioned during the confirmation hearings last week when Governor Thompson appeared before the Finance Committee, he was introduced not only by former majority leader Bob Dole, but also by his two Senators and by Secretary Shalala.

Senator Kohl told us that Governor Thompson's "methods reach across the aisle and his successes reach across the board." Senator Feingold said that he "values innovation above partisan gridlock."

And outgoing Secretary Shalala said that Thompson is a "consensus builder" rather than an ideologue. "That, to my mind, is precisely what we need. A consensus builder, because the next Secretary faces challenges that defy partisan solutions.

First and foremost, Congress must address the pressing need for Medicare to cover prescription drugs. The practice has changed dramatically since Medicare was created in 1965. Today, prescription drug therapies play a vital role in medical care. As we all know, drug prices are rising fast, and our seniors who do not have insurance for prescription drugs pay the highest prices of anyone in the world.

We need to fill this glaring gap in the Medicare program. Accordingly, it is my sincere hope that we can work together to enact a prescription drug program for all seniors, not just low-income seniors, and that we can do so quickly.

In addition, we need to improve the Medicaid program and the CHIP program for low-income kids. We need to find ways to lend a hand to the 43 million Americans who do not have health insurance. We all call that a national disgrace, that so many Americans do not have health insurance. There is no other country in the modern industrialized world that has such a large percentage of people uninsured. Americans have to fill that gap quickly.

On each of these issues, I look forward to having Secretary Thompson find innovative and bipartisan solutions that improve the delivery of health and human services.

He has my full support, and I urge colleagues to vote to confirm his nomination.

The PRESIDING OFFICER. Who yields time? The Senator from Minnesota? The Senator from Montana.

Mr. BAUCUS. Mr. President, I ask my good friend from Minnesota if this is a time when he wishes to make his statement or to withhold. I ask that because the Senator from Delaware asked me some time ago to speak for about 5 minutes.

Mr. WELLSTONE. Mr. President, as it turns out, I will be brief, too. It turns out I will take only about 10 minutes, 15 at the most.

Mr. BAUCUS. I might say, if that is all right with the Senator from Delaware because he did ask me earlier if he could speak. Mr. WELLSTONE. I apologize. I thought I had some time reserved.

The PRESIDING OFFICER. The Senator from Minnesota does have 60 minutes. Without objection, he is recognized.

Mr. WELLSTONE. Mr. President, first let me make it clear I am going to support Governor Thompson to be Secretary of Health and Human Services. I do not intend to oppose him, and I look forward to working with him.

When he appeared before the HELP Committee, we had a spirited discussion. I think there are many areas where we can work together. The Secretary of Health and Human Services is very important and there are a lot of areas that are critical to the lives of people in Minnesota where this Secretary is going to be in a key role.

I talked to Governor Thompson, soon to be Secretary Thompson, about having parity in ending the discrimination in mental health coverage. We talked also about trying to end discrimination when it comes to substance abuse coverage. We talked about the importance of the strong support that Secretary Shalala showed for the Violence Against Women Act and the steps we need to take to reduce that violence.

I think Senator HARKIN asked the question about stem cell research, how important it is not only for people struggling with Parkinson's disease but for people struggling with other diseases. I thought we covered a lot of issues that are extremely important. I believe Secretary-to-be Thompson will be an important leader in these areas.

I want to talk about one area of disagreement, though not a lot, which is why I want to take some time on the floor. It is an appeal to Governor Thompson. It is a time he wishes to make his statement.

It is something I intend to be vigilant about as a Senator from Minnesota. It has to do with TANF or what we call welfare reform.

As my colleague pointed out, Montana has been viewed as a State which is a leader in welfare reform—as a model, by some, for welfare reform. But what troubles me is that all too often we define reform as reduction of the caseload. None of us ever intended that welfare reform should be equated, ipso facto, with just the number of people who no longer receive welfare. The question was whether or not these families, almost all of them headed by women with children, all of them low-income, were able to move from welfare to economic independence.

It just does not suffice to say that in Wisconsin or Minnesota or Delaware or Montana or anywhere in the country, TANF has been a huge success because we have cut the rolls by 50, 70, or 80 percent. The question is for us, have we reduced the poverty. I raised these figures during our hearing. It is not really just about Wisconsin, which is a State I dearly love, and not to talk about a Governor in the negative who, frankly, has put more investment into child care and job training and health coverage than many Governors have, but it is interesting and important and I asked the Governor about this.

When it comes to infant mortality, in 1996-1998 Wisconsin had the highest Hispanic infant mortality rate in the country and the fourth highest black infant mortality rate in the United States of America. I believe the figures in the early 1990s were different. Wisconsin really ranked well. They did well compared with other States in the country. When it comes to neonatal mortality rates, in 1989-1991 Wisconsin had the seventh best black infant neonatal mortality rate. By 1997-1998, it had the fifth worst neonatal infant mortality rate in the United States. Wisconsin lagged dead last in the country for Hispanic neonatal infant mortality—double the U.S. average in 1996-1998.

Frankly, has put more investment into child care and job training and health coverage than many Governors have, but it is interesting and important and I asked the Governor about this.

When it comes to infant mortality, in 1996-1998 Wisconsin had the highest Hispanic infant mortality rate in the country and the fourth highest black infant mortality rate in the United States of America.

I believe the figures in the early 1990s were different. Wisconsin really ranked well. They did well compared with other States in the country. When it comes to neonatal mortality rates, in 1989-1991 Wisconsin had the seventh best black infant neonatal mortality rate. By 1997-1998, it had the fifth worst neonatal infant mortality rate in the United States. Wisconsin lagged dead last in the country for Hispanic neonatal infant mortality—double the U.S. average in 1996-1998.

I ask you: Do you have the empirical data? Can you tell me where these families are? Do they have jobs? Are they living wage jobs? What is the child care situation? Or, in the United States of America post-1996, do you know that there has been a 30-percent
decline in food stamp participation, which is the major safety net program for poor children in America, to make sure they do not go without food? Ask what has happened.

What has happened is we have become anti-welfare that we are neglecting to tell people they are eligible for some of these benefits.

So I want to make the case today not against Governor Thompson, but that even in Wisconsin, which is regarded as a State where you had a Governor who was willing to make more of the up-front investment, you have had a situation where there is some troubling data when it comes to the infant mortality rate, especially for children of color.

I will tell you something. I believe all of us have been guilty of not wanting to look at the data. Sometimes we do not know what we do not want to know, what we want to ignore and low and what we want to know from this administration is, as the TANF bill, welfare, comes up to reauthorization: Have we just dramatically reduced the rolls or have we really reduced the poverty?

I come so now I will tell you studies that will tell you that, in the majority of cases, these women do not have living-wage jobs. I can tell you too many of these families have lost medical assistance. I can tell you that based upon a Berkeley-Yale study, that the child care situation is really quite dangerous and inadequate. And I can tell you that just because you have single parents and just because they have children and just because they are scapegoated and just because it is easy to be anti-welfare, we better make sure in this reauthorization that we do it right.

That is why I speak because this Governor, this Secretary to be, is going to have a key role.

I will just conclude, since I do not have a lot of time, by showing a couple of charts which I have which make my point. I asked the Governor about this, I said to my colleague from Montana, during the hearing. If you look at President Bush’s proposed tax cut, which ultimately we are talking about $1.6 trillion in tax cuts over the next 10 years, and you add to that that interest, and you add to that that Pentagon expenditures, and you add to that what we must put into Social Security trust fund, and you add to that what we must spend for Medicare, do you know how much money you are going to have for child care, for the 1 million, for job training, for child care, for education and all the rest? Zero dollars.

So I would say to Governor Thompson, and I say to this administration: How are we going to do welfare reform right? Well, first be sure that women and poor children do not pay the price? Where is the investment in child care going to be? Where is the investment in education going to be? Where is the investment in job training going to be? I do not see any dollars for it. That is what I am worried about.

We all say we care so much about the elderly. I have two parents I desperately wanted to stay at home and not be in a nursing home. They both had Parkinson’s disease. Where is the money going to come from for the investment to make sure our parents and grandparents can live at home in normal circumstances with dignity, with $1.6 trillion in tax cuts?

Finally—and this goes way beyond Governor Thompson—no child left behind? This is President Bush’s education reform. I have heard some language about on the floor today. Here is where we are heading in my not, I will admit, so humble opinion.

Putting vouchers aside, which is a nonstarter, you are going to have mandatory testing in every State when it comes to title I children, low-income children, low-income neighborhoods, low-income schools. In the school districts, they are going to hire consultants to teach teachers how to teach for the tests. The kids are going to have to learn how to pass tests. It is going to be drill education. It is going to be educationally deadening. That is what is going on in the country. And do you know something else? We are setting up all these districts, we are going to have two children to teach—and we are going to set up all these schools for failure because the accountability does not stop at the school door. What about us, Democrats and Republicans, and what about President Bush? How can you leave no child behind when you have $1.6 trillion in tax cuts which erodes the revenue base and makes it impossible to expand funding for Head Start, child care, the title I program, and the IDEA program, which is nowhere fully funded.

This is not a step forward. It is a great leap sideways. This is a great leap backwards. Fannie Lou Hamer, a great civil rights leader, once uttered this great statement today: I am sick and tired of being sick and tired. I am sick and tired of playing symbolic politics with children’s lives. If you want to have children pass these tests, first, do not rely on one standardized test; have multiple measures. Then you make the investment in these children so every child has an opportunity to achieve, do well, and pass tests.

This cannot be done. You cannot “leave no child behind” on a tin-cup budget. I want to know whether this administration is serious about these investments. I will wait to see the budget, and I hope Democrats, if this administration wants to govern at the center of children’s lives, and it wants to make this investment so these kids come to kindergarten ready to learn, I say to the Presiding Officer, I am willing to work together. If this administration does not do that and just have these tests, then all we have done is set these districts on fire, these teachers, and these schools up for failure.

It will be cynical, it will be counterproductive, and as a Senator from Minnesota, I will draw the line, and I hope other Senators will as well. I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

BAUCUS. Mr. President, I yield now to a new Senator. I look forward to hearing from the former Governor of the State of Delaware, Mr. CARPER.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Mr. President, I thank the Senator for yielding and for the opportunity to speak today.

For the last 8 years, I served as Governor of Delaware and a colleague of Governor Thompson. During this period of time, my family was fortunate enough to be a guest in his home. We have eaten at his table. There were times over the last 8 years when we crossed swords—rarely. But there have been many more times when we found there was common ground and the opportunity to work together for the good of Wisconsin, Delaware, and the other 48 States.

I was chairman of the National Governors’ Association for a year. He was also the chairman for our Center for Best Practices within the National Governors’ Association. In those roles, I found him to be, first of all, pragmatic; secondly, I found him to be innovative.

I found Governor Thompson to be someone who is civil, who really does not just talk about bipartisanship, but he has really made it. I found in Governor Thompson someone who really tries to treat his colleagues the way he would want to be treated.

I want to pause for a moment and direct my thoughts and attention to welfare reform. Some people think it is possible to do welfare reform on the cheap and we simply set time limits and push people off a cliff at the end of that period of time. Governor Thompson does not approach welfare reform that way, nor do I, nor do most of our Governors.

When welfare was actually created over 60 years ago, we set up a system with the best of intentions, a system that unwittingly turned out to encourage people to get on welfare and have children out of wedlock, have them early, and for fathers to walk away from their responsibilities and for people to be better off by staying on welfare.

What Governor Thompson has done and what Governors across the country have done is to say maybe we should change the incentives we set up over the last 60 years so people are better off when they go to work, not by staying on welfare.

For Gov. Tommy Thompson, it has meant spending more money on health care for themselves and their families.

For Gov. Tommy Thompson, it has been providing transportation so people have the opportunity to take a job
and actually have a way of getting there.

For Gov. Tommy Thompson, and for the rest of us, it has meant changing our tax policies as well so people are not penalized for the first dollar they make, they go to work but actually are able to do just fine and keep that purchasing power they have earned.

He does not believe in welfare reform on the cheap. He has a good, realistic, tough-love approach. Sure, there is a toughness to it, but there is also real love and compassion, and I believe he will take those same qualities to his new post as Secretary if we confirm him, which I hope we will.

Another way I got to know him, believe it or not, is through Amtrak. The President historically appoints one Governor to serve on the Amtrak board. He was on the Amtrak board before me. President Clinton appointed me to serve for 4 years, and at the end of my service, I recommended the President appoint Governor Thompson again. Not only that, he ended up serving as the chairman of the board for Amtrak. In that capacity, he has helped to focus, spread, and expand passenger rail service, to improve the quality of passenger rail service, to find ways to reduce Amtrak's operating budget deficit, to invest in the infrastructure of passenger rail service, and to try to be fair to not just the customers but the folks who work for Amtrak.

In closing, I am delighted to be able to stand here before you today to say this is somebody I know, somebody I have known for a long time. This is someone of whom the people of Wisconsin can be proud. This is someone I am proud to express my support for today and to encourage my colleagues to support his nomination.

I thank the Chair. I yield back my time.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I thank Senator CARPER for those warm remarks about the Secretary-to-be, Governor Thompson. I say to the Senator—he may not know this—when Governor Thompson and the Amtrak board were working together on a wide range of issues—increasing access to home- and community-based services for the elderly and the disabled, and expanding health care for children and their families. I want to mention a couple things.

In the office of the Senator's predecessor, Senator Roth, with Governor Thompson and many others on how to handle all this.

Frankly, I was adamant that money not come out of the trust fund. My point being, very much to his credit and to the Senator from Delaware, we worked out another solution as the bonding authority to provide resources to Amtrak. I am very grateful and appreciative of the way in which Gov. Thompson handled this issue; that is, he wanted to accomplish the same goals and objectives: Further funding for Amtrak, but not at the expense of the highway trust fund, money motorists paid in gasoline taxes which should go back to the States for highways. Rather, we saw another way and both sides were happy. I commend the Senator from Delaware, as well as Governor Thompson. This is an early example of this is a guy with whom we can work with. He's pragmatic, and looks for solutions. That made a positive impression upon me.

Mr. President, I reserve the remainder of my time. The Senator from Wisconsin, the PRESIDING OFFICER. Under the previous agreement, the Senator from Wisconsin is recognized for 10 minutes.

Mr. FEINGOLD. Mr. President, while the distinguished Senator certainly has it right, he knows what it is like to watch Tommy Thompson in action and to watch him try to solve a problem. His assessment is right and so is the assessment of the former Governor and now new Senator from Delaware who, as some of my colleagues have told me how much they have enjoyed and benefitted from working with Governor Thompson. It is uniform.

That is also the experience we have had in Wisconsin. I think I speak for Senator Carper, Senator Roth, as Governor Thompson has told me. I think it is something we all know Tommy Thompson has served longer, and he is a very popular Governor.

For me, I marvel at him. I used to listen to older legislators talk about having known a person for many years and worked with them for many years. I am getting there with this one. I started working with Governor Thompson, then State representative Tommy Thompson, when I was in my twenties. Now 18 years later, I can tell you it has been an excellent relationship. Our roles have changed over the years, but consistently I have found it a pleasure to work with Governor Thompson, and I think you will find it the same when he becomes Secretary.

We worked together on a wide range of issues—increasing access to home- and community-based services for the elderly and the disabled, and expanding health care for children and their families.

I want to mention a couple things.

Everybody talks about, of course, the signature issue of Governor Thompson—welfare reform. It is probably the most well-known example of his can-do attitude.

We in Wisconsin can be proud that our State was the first in the Nation to submit a welfare plan under the 1996 law that created the temporary services to needy families, or the TANF program. In fact, I am very proud of Governor Thompson on this. The Wisconsin plan was submitted on the very day that President Clinton signed the TANF program into law.

Tommy Thompson has also been very devoted to the issue of child care. Because of his record, Wisconsin is also proud of its rating among the top 10 States in the Nation for the quality of child care by Working Mother magazine. The national recognition is a testament to the unprecedented investments Wisconsin continues to make in child care and early childhood education.

In the area of research, which is so very important across the country, and especially to those of us in Wisconsin and those of us who take pride in our State's universities and research abilities, this man, as Governor, has been a great supporter of medical research. He has been a vocal advocate of funding research at the University of Wisconsin, setting up an incubator for transferring that technology to the private sector. The Governor proposed a $317 million initiative to build a series of state-of-the-art research centers at the University of Wisconsin, Madison campus.

With regard to what we like to call BadgerCare. Tommy Thompson has worked with both Republicans and Democrats in Wisconsin to enact BadgerCare, Wisconsin's program to expand health care coverage opportunities to children and their families. He spoke passionately of BadgerCare's ideals—the idea that children have a much better chance of being healthy and doing well in school when they have a chance to live in a healthy family.

When BadgerCare took effect on July 1, 1999, again, as has been so often the case under Governor Thompson, Wisconsin became the first State in the Nation with a health insurance program that supports parents as well as children. This program has had a number of successes. According to the most recent statistics, more than 74,000 children and their families are now covered under BadgerCare.

Finally, I want to say a word about something on which I worked for many years, and that is our so-called Community Options Program in Wisconsin. We worked together, on a bipartisan basis, to support efforts to expand what we call the Community Options Program, which, better than any other State in the country, in my view, provides cost-effective home- and community-based, long-term care alternatives to institutions and nursing homes.

Governor Thompson was very strong on this issue and working effectively to find alternatives in the late 1970s, but there has been significant growth, on a bipartisan basis, on this issue ever since Governor Thompson became Governor in 1986. I think we all recognize that a lot more needs to be done to reform our long-term care system. It is one of my highest priorities.

I noticed, when I had the honor of introducing Governor Thompson to the HELP Committee, that many of the members mentioned long-term care. Perhaps the most mentioned issue was either home- and community-based care or home health care. Governor
Mr. HOLLINGS. Mr. President, I am worried. I expressed this concern before the inauguration, and I hoped that cooler heads would prevail after the inauguration. Specifically, as I said at that time, surplus, surplus, everywhere a man cries surplus, and there is no surplus.

Right to the point, I have been looking for a surplus since we had one in 1968 and 1969, almost 32 years ago. I worked with George Mahon, then chairman of the Appropriations Committee. We called over to the Capitol, and we asked Marvin Watson to check with President Johnson to see if we could cut another $5 billion from the budget. I think it was around December of 1968, and, at that particular time, there was no Budget Committee. The fiscal year used to run from July to the end of June the following year. We cut the budget. The entire budget amounted to some $178 billion. Now remember, that was guns and butter, the war in Vietnam, and domestic needs.

Now, here we are, facing $362 billion just in interest costs—a bit more than the $178 billion. More than double the amount, for nothing. Then I look at the record, and I follow it very closely because, back in 1997, when we passed the so-called Balanced Budget Act, I was on the floor with my distinguished colleague from New Mexico, the chairman of the Budget Committee. I said that if Balanced Budget Act works, I will jump off the Capitol dome.

Mr. President, around the fall of last year, I was looking up the price of a parachute because we were getting pretty close to a surplus. When President George Bush left town, the deficit was $403.6 billion. In other words, we were spending over $400 billion more than we were taking in. Of course, we have done that for 30 years. There has been no surplus in the entire 30-year period since our last surplus. We ended fiscal year 2000 with a deficit of $232 billion. As of September 30th, the year 2000, almost 4 months ago, it was $232 billion.

The past is prologue. My distinguished friend from Virginia...
prosperity than having gotten our fiscal house in order.

Bringing down the deficit allowed the Federal Reserve to lower interest rates, and lower rates played a key role in stimulating the greatest investment boom in history. Even after adjusting for inflation, investment has risen from $630 billion in 1992 to nearly $2 trillion last year, and investment has, in turn, been a critical part of the productivity surge associated with the New Economy (which remains very much with us in the recession).

Meanwhile, consumers have stopped saving. Without those savings available as investment capital, the federal deficit or surplus becomes even more important. Whatever the federal government doesn’t borrow to finance deficits (or produce) becomes available for business investment.

Tax cuts also bring international repercussions. The lack of savings has contributed meaningfully to our massively negative current account position as we ingest foreign capital to finance the investment boom. A tax cut compounds this problem.

While the Bush camp, with the federal budget, voting a sizable tax cut today would mean committing to spend money we may not, a significant step backward in the march to fiscal order. In truth, we only just balancing the budget. Don’t forget that the current year’s projected surplus of $256 billion consists mostly of surpluses in the Social Security and Medicare trust funds, surpluses that both presidential candidates agreed should go into a lockbox. And even if the $71 billion of true surplus must be viewed in the proper framework: the understandable desire of the Bush administration to propose new spending initiatives, this year and future, that we can afford and also one less oriented toward the Social Security and Medicare trust funds, surpluses that both presidential candidates agreed should go into a lockbox.

That’s particularly true with today’s stressors, particularly in the financial markets. We’ve seen this movie before. In late stages of an economic expansion, lenders relax their guard and investors fall in love with all manner of the next new thing. Belief we wheel out too much anti-recession artillery, bear in mind that no tax cut can help the fact that at 5000, the Nasdaq was wildly overvalued and that we have many companies in telecom and other sectors—with truly bad business plans that need to be allowed to disappear quietly into the night.

Nor can we help the fact that one cause of this slowdown and cleansing is a reversal of the “wealth effect,” the propensity of consumers to spend and business to invest when market capitalization of businesses and related optimizations of real-estate investment trust have been in the billions, and potential business plans that need to be assessed. Happily for the economy, cooler heads prevailed. The stimulus was abandoned, deficit reduction was passed, and we’ve had the longest economic boom in American history. Sounds like a pretty good plan.

Mr. HOLLINGS. I’d like you to read Steven Rattner, and if you read the Financial Times, the article by John Plender—I ask unanimous consent that his article, “A Sharp Adjustment” be printed in the RECORD.

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

A Sharp Adjustment

(John Plender)

Bond markets have rallied since the Federal Reserve’s surprise interest rate cut. But there are plenty of other directions a financial shock could come from " 

For several months, the tightness of credit in global markets has suggested that the current economic cycle could end in financial crisis. A financial stress index devised by the Bank of America’s Global Financial Research Group—based on factors such as the degree of leverage in financial markets, bank share prices and the shape of yield curves—has dropped into dangerous territory.

Yet the Federal Reserve’s half-point cut in interest rates on January 3 has put a dramatic brake on the stock market and the U.S. private sector’s balance sheet. One consequence of the Fed’s interest rate cut after the LTCM crisis was that it provided private sector flexibility to spend and accumulate more debt. Since the start of the bull market, U.S. household debt has gone from less than 65 per cent to more than 85 per cent of disposable income, while the savings ratio has fallen to zero.

When households are already so heavily indebted they may respond to the Fed’s interest-rate invitation to go on another spending binge. But the debt also needs
to be seen in the context of the overall household balance sheet, in which the asset side carries an unprecedented amount of stock market investments. About 45 per cent of the population is reckoned to have exposure to equities either directly or via defined contribution pension plans.

Stock market capitalization has fallen from about 180 per cent of gross domestic product at its peak last March to 164 per cent last week. There has been no collapse in residential property. But if that sounds reassuring, note that the stock market’s earlier peaks in August 1929 and December 1972 were well below these levels, at 81 per cent and 78 per cent of GDP.

The scope for an adverse valuation adjustment on the basis of changing expectations is far from negligible. The Bank Credit Analyst argues that the era of super-normal equity returns is over. Between 1982 and 1999, it points out, the Standard & Poor’s 500 index generated average annual total returns after inflation of 16 per cent, or twice the average during the previous half-century. The average returns in future, it argues, are likely to be no more than 8 per cent before inflation.

If that is right and if private individuals have yet to downgrade their expectations fully, there would be room for a very sharp balance sheet adjustment as disillusioned households rein in their depleted savings by investing in non-equity assets.

Also relevant is the distribution of household debt. A lesson of the late 1980s boom in the US and the UK was that only a small proportion of the borrowing population has to be in difficulty to put big downward pressure on asset prices and create a bust.

And any weaknesses among the investment banks, which have enormous leverage on and off the balance sheet, both through borrowing and exposure to derivatives, would be ruthlessly exposed.

There are other possible shocks. In the bond market, investors’ perceptions may become overwhelmed by falling out of equities. The risk, says David Hale of Zurich Financial Services, is that the new Bush administration may forge consensus by embracing the views of the Democrats’ spending proposals. If the economy is weak, he adds, Republicans will feel even less inhibited as they worry about the mid-term elections in 2002.

The dollar is another source of vulnerability, given the financing challenge of a current account deficit of 4 per cent of GDP. Weakness against the euro would be helpful in rebalancing global economic growth. But a collapse would be another matter given the inflationary consequences.

Whether these vulnerabilities turn into shocks is inherently unpredictable. But as Barton Biggs, Morgan Stanley Dean Witter’s investment guru, told Barron’s magazine last week, “It still boggles my imagination that everybody thinks we can come through the biggest bubble in the history of the world and certainly the longest boom the US has ever had, and get out of it with a very, very mild recession.”

His is but one imagination that remains boggled.

Mr. HOLLINGS. That is Tuesday, January 23—today. You will understand my grave misgivings about all of these tax cuts. Everyday loves a tax cut. But we have to act responsibly and look at whether or not, in essence, instead of cutting taxes, we are increasing taxes, namely, increasing interest costs on the national debt.

One of my colleagues, in cosponsoring President Bush’s tax cut package, said, “You have to starve the beast.” We heard about starving the beast from President Ronald Reagan. It was first Kemp-Roth; and Senator Dole, then the head of our Finance Committee, had his comments about that. Better than all of them was former President Bush. He called it voodoo economics. President Reagan turned Kemp-Roth into Reaganomics, and we are supposed to starve the beast, to cut all the taxes.

What did we do? We increased the biggest waste in the history of Government; namely, the interest cost that is gone, where it was at the time we balanced the budget at $16 billion, it has now increased to $362 billion—$362 billion for absolutely nothing, just for past profligacy, just for “starving the beast.”

Come on, there is no education in the second kick of a mule. Don’t come around here saying, “We are going to starve the beast and reduce the taxes of the people. You know those Washington folks, they are going to spend it. Get it out of the hands of the politicians.” That is big political nonsense.

You talk about campaign finance, the biggest campaign finance abuse is not soft money. Oh no, the biggest abuse is how the politicians—namely we Senators and Congressmen—use the Federal budget to get ourselves re-elected. If we can run around and give tax cuts, then, as President Reagan said, “The government is not the solution to the problem, the government is the problem.”

We have had 20 years of that nonsense. We have to sober up, and we have to start paying our bills. If I am going to be coming from time to time to explain that we do not have a surplus—I wish we did—and I am going to caution the Members that when they start giving tax cuts, they are only increasing the interest costs of the debt, we know President Bush is going to increase defense. He has already said we ought to have an increase in military pay. We gave a pay raise last year, but we are going to give another increase, he says.

We know, according to Secretary Colin Powell, we are going to increase funding for the State Department.

We know we are going to increase funding for the Department of Agriculture. If he doesn’t increase agriculture funding, Bush will be the first President who has not.

We know now we are going to increase energy funding. Look at the situation out on the west coast.

We know we are going to increase education funding. President Bush has a proposal in right now. If you are going to test everybody, you are going to have accountability. I hear it costs $1 million at the elementary level and $50 at the higher levels for testing. This is going to cost into the millions, perhaps billions.

So everybody is talking about increasing spending or increasing the debt and cutting out the revenues, increasing the debt. Somewhere, somehow, somebody will stand in front of this stampede and talk sense to the American people. Hopefully, the message will come through.

How is this even called a surplus with any face whatever? There is another little sheet that is put out that says, “Who Holds The Public Debt?”

I ask unanimous consent that it be printed in the RECORD.

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

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**WHO HOLDS THE PUBLIC DEBT?**

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| November 30, 2000      |               |       |
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The total amount held by the Government is $2,341,972,743.12, owing to the Public amount of $3,389,964,934.87, resulting in a total of $5,731,937,677.99.
Mr. HOLLINGS. Mr. President, that sheet breaks down the deficit and debt as it occurs in our government. The deficit and debt owed to the public. You can see the debt owed to the public has been reduced $37 billion. But then the debt held by the Government has gone up $91 billion. So what happens? Yes, we have now an increase in the debt of $54 billion.

This accounting is like using your Visa card to pay off your MasterCard. You still owe the same amount of money under the Visa card; the debt is on the Visa rather than on the MasterCard. It is tomfoolery. It is outrageous nonsense. We only have one Government, and it is public. That is why they call it the public debt. So let’s not get that “owe the public.” We are the custodians of the public. And we are spending Social Security, Medicare, Civil Service retirement, military retirement, unemployment compensation, all of these other funds, and saying we are reducing the budget.

Now they are off to a mumbo-jumbo, saving Social Security mode. All you have to do to save Social Security is not spend it. They continue to spend it. If you did not spend the Social Security money, you would have between $2.4 and $2.7 trillion in the next 10 years. How about putting $2.7 trillion back into the Social Security kitty rather than taking it out, whereby we owe $1.9 trillion to Social Security alone this minute.

The same case applies with Medicare. We have been using those moneys. We talk and say we are not going to do it. In fact, we passed a law, section 13301 of the Budget Act. Thou shalt not, you Congress, or you President — calculate Social Security moneys in your budget. But they do. They do. And they separate it out, and then they spend it later on. If they have a lockbox and somebody says they put in a bill on the lockbox — I am going to put in a true lockbox. Ken Aplet, the Administrator of Social Security, helped me draft it, whereby each month we remit the amount of T-bills we purchase or give to the public. So we will keep that in the fund and have a true lockbox and not a section 201 as the Social Security Act requires, just put it in Treasury bills.

There it is. We have this sheet. That is the game being played. Yes, campaign finance, McCain-Feingold. I voted for that bill five times already; I will vote for it again. That bill deals with soft money. Aspects of this bill are constitutionally questionable, and I have, in the past, introduced a constitutional amendment that says the Congress shall not be allowed to regulate or control spending in Federal elections. My bill received a majority vote in the Senate but never did get the 67 votes needed to send it to the States. They would ratify it in a snap. I can tell you paid investment. Some of those esteemed Senators who are voting so boldly and introducing bills to “starve the beast” are going to learn the hard way that they are going to be spending nothing but interest costs. They are really going to be increasing the worst kind of tax on the American people. Those interest costs for which they get absolutely nothing.

We are spending that amount of money. When President Clinton gave his State of the Union Address last January, it was said by one distinguished Senator that that gentleman is costing us $1 billion a minute. President Clinton then talked for 90 minutes, an hour and a half. President Bush now wants to give a $90 billion-a-year tax cut. Those two equal $180 billion. If we really had been paying the bill and had a true surplus, we could give both President Bush and President Clinton their programs of either spending increases or tax cuts and still have $182 billion. The truth is, instead of spending $362 billion, $1 billion a day, on carrying charges, we would have another $182 billion from the $180 billion with which we could easily increase research at the National Institutes of Health, pay for the military, State Department — all of these other budgets.

We would be tickled to death to increase all of them. We are spending the money but not getting anything for it. Somewhere, sometime we all have to start talking out of the same book, and that is the book put out by the U.S. Treasury itself. Every day they put out the public debt to the penny. When we pay down the public debt, rather than increasing it by some $54 billion, then let’s all get together and talk about tax cuts.

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

Mr. LOTT. Mr. President, earlier this morning, the PRESIDENT pro-ceeded to call the roll. The assistant legislative clerk proceeded to call the roll.

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

Ms. SMITH of Oregon. Without objection, it is so ordered.

GERARD LOUGEE MEMORIAL

Mr. LOTT. Mr. President, earlier this month the U.S. Senate lost another member of its family. Gerard Lougee passed away on January 6th at the Washington Hospital Center. Gerard worked in the Senate post office as a mail carrier for the past eighteen years. He was a graduate of Cardoza High School and attended the National Presbyterian Church in Washington.
D.C. He began work in the Senate in 1982 after working in the White House mail room. During his career in the Senate post office Gerard was recognized for his perfect attendance record, as well as numerous other performance awards. Many of our Senate colleagues will remember how he traveled the corridors of Congress delivering the mail with diligence and pride. He will be sorely missed not only by his mail room colleagues but by all of the Senate family. On behalf of the Senate I thank him for his service and dedication and express our condolences to his family.

### BUSH ADMINISTRATION DECISION ON INTERNATIONAL FAMILY PLANNING

Mrs. FEINSTEIN. Mr. President, I rise today to express my disappointment that President Bush chose yesterday to announce that as his first major policy pronouncement as President he is reinstating the “global gag rule” restricting United States assistance to international family planning organizations.

There have been few issues in recent years that have been more debated, with people of good intention on both sides of the issue, and I am dismayed that the President has opted to start his Administration with such a divisive action.

The world now has more than 6 billion people. The United Nations estimates this figure could be 12 billion by the year 2050. Almost all of this growth will occur in the places least able to bear up under the pressures of massive population increases. The blunt of this decision will be felt not in the United States but in developing countries lacking the resources needed to provide basic health or education services.

If women are to be able to better their own lives and the lives of their families, they must have access to the educational and medical resources needed to control their reproductive destinies and their health.

In fact, international family planning programs reduce poverty, improve health and raise living standards around the world; they enhance the ability of couples and individuals to determine the number and spacing of their children.

Under the leadership of both Democratic and Republican Presidents, and under Congresses controlled by Democrats and Republicans alike, the United States has established a long and distinguished record of world leadership on international family planning and reproductive health issues.

Unfortunately, in recent years these programs have come under increasing partisan attack by the anti-choice wing of the Republican party—despite the fact that most U.S. international family planning funds are spent on international abortion.

I do not expect President Bush to change his mind. He is the President, and, under legislation passed by the last Congress it is now his prerogative to determine how U.S. international family planning assistance will be used.

But I would ask him, and his advisors, to think long and hard about this decision. As I have said, this decision squares with “humble” U.S. leadership of the international community and our commitment to help those around the world who need and want our help and assistance.

I would ask the women of America, as they consider their own reproductive rights, to consider the aim and intent of a policy in which the reproductive rights of American women are approached one way, and those of women in the developing world another.

And I would ask my colleagues on both sides of the aisle who feel as strongly about this issue as I do to consider what legislative remedies and options we may have available to address this decision.

Mr. President, it had been my sincere hope that under President Bush international family planning would have been an issue that Republicans and Democrats, the Administration and Congress, could work on together, in a bipartisan fashion.

It is with no small amount of regret that I say that that no longer appears to be the case.

### TRIBUTE TO MARY NIELSEN

Mr. BURNS. Mr. President, I rise today in tribute to the memory of a lady who lived in northeastern Montana who just passed away. She was a reliable adviser to me and a wonderful person, although not being born of the land or even in that part of the country. She was a native of England and had moved to northeastern Montana many years ago.

Mary Nielsen was one of those unique persons, living in a very remote end of this country, the northeastern corner of Montana, isolated and 150 miles from the nearest major airport—which is not really major. And for those of us who enjoy pasta—affordable pasta, that is, nowadays—the main crop in that part of the world is durum wheat.

She served in a group called WIFE, Women Involved In Farm Economics. She took those responsibilities very seriously and, of course, with great purpose. She became a valuable resource to me and my staff on transportation issues.

When I first met her, I was a farm broadcaster. My programs were aired on the radio station in Plentywood, MT. This was at a time when the big railroads were in the business of abandoning, wanting to close the spur lines that were not very profitable to the big railroads. And that was the case on the Ophir spur up in that area. That was originally a part of the Great Northern Railway. We fought hard on that issue because we did not want to see that line abandoned, because up there rail transportation is very important in moving our crops to market.

So she took it on. It was one of those selfish things people do, leaders do. And you find out that in these small places, in some of these remote places, we have great minds and great leadership.

She and others formed a group known as the Great Northern Railway. And she is one of those who just kept fighting for rail transportation. She was a great lady, with grace, who represented a great, great industry.

Mr. President, I yield the floor.
of our energy policy. He has been one of the Senate’s most knowledgeable members on subjects related to high-technology policies and the contributions that this important sector makes to America’s economy and global success.

While Senator Abraham has expressed concerns about the role of the Department of Energy in the past, I’m pleased to note that he carefully addressed his current views in his statement on the Energy and Natural Resources Committee. In that statement, he emphasized his support for the many important missions that comprise the portfolio of the Department of Energy.

Service as the nation’s Secretary of the Department of Energy is a challenge for any individual. The Department has a diverse set of missions, that sometimes seem to lack a coordinating thread. Management of this Department is truly a daunting assignment.

National security and energy policy will present some of his largest challenges. In the national security area, he and Undersecretary John Gordon, Administrator of the National Nuclear Security Administration are responsible for all aspects of our nuclear stockpile and a wide range of non-proliferation programs. These two dimensions represent the two different major approaches to improved national security, minimizing threats that could jeopardize and potentially cripple our ability to protect ourselves if necessary.

Among many important areas, the NNSA must strive to rebuild morale at the weapons laboratories, develop a major infrastructure improvement initiative across the weapons complex, and address serious congressional concerns associated with faulty program management that has led in the recent past to large construction overruns such as the experience on the National Ignition Facility. In the non-proliferation area, transparency and accountability will remain serious issues as Congress evaluates the advisability of future funding for these vital programs.

A comprehensive energy policy is urgently needed, although recovery from our current energy crisis will be anything but overnight. First we need the policy, then we need years of careful support and implementation—only then can we approach a greater degree of energy security than we face today. As I’ve outlined now on several occasions, I urge the President to create a multi-Agency approach to national energy policy, so that several key agencies evaluate their decisions in light of assuring our nation’s energy security.

And finally, the Secretary is responsible for a large fraction of the federal support for science and technology. The nation’s scientific and engineering talent is a key component of this large and technologically advanced sector of the nation’s economy. The Secretary must be responsible for a large fraction of our economic strength. In recent years, Congress has started to increase funding in key areas of science and technology. The Secretary of the Department of Energy must organize his scientific programs to maximize their outputs and their contributions to our scientific understanding and economic security.

His past experiences have prepared him very well for these fresh challenges. I look forward to working with Senator Abraham on his new role as Secretary of the Department of Energy and encourage all of my colleagues to do likewise.

Mr. CONRAD. Mr. President, I am pleased to have supported the nomination of Spencer Abraham to be Secretary of Energy.

As Secretary, Senator Abraham will face a number of important and difficult challenges. Clearly, we must address our dependence on foreign sources of energy, particularly those in fuel prices that is driving transportation and heating costs to unacceptably high levels. In my state of North Dakota, home heating costs are painfully high for many families. And this spring farmers will face high input costs for their crops.

I do not think developing a comprehensive and effective long-term answer will be easy, but the strength of our economy will depend, in part, on our success in controlling energy price hikes.

In addition, our most populous state, California, is in the middle of an electric crisis. Again, this has potential implications for our economy. Finally, the security problems at our national labs will present a difficult challenge for our next Secretary of Energy.

Senator Abraham has been a capable and dedicated colleague for the past six years. As he noted in his confirmation hearing, his views have evolved since he was first elected to this body. Then, he called for the abolition of the Department of Energy. Now he looks forward to service as our next Secretary of Energy. As one who believes the Energy Department plays a critical role in setting policies that profoundly impact our economy and our national security, I welcome this change of heart and wish him well as he enters into this next chapter in his service to our Nation.

NOMINATION OF DR. ROD PAIGE

Mr. DOMENICI. Mr. President, I rise today in support of Dr. Rod Paige, Secretary of Education.

President George W. Bush has repeatedly emphasized the importance of education being a linchpin of America’s future. Moreover, he has linked increased spending on education with real accountability that actually produces results.

I think Ben Franklin may have put it best when he said, “An investment in knowledge always pays the best interest.” I believe this because even on its best day the Federal government can never be a replacement for local administrators, educators, and parents.

It is with this in mind that I am so pleased the nomination of Dr. Rod Paige is before us to be the next Secretary of Education. Dr. Paige is not a Washington bureaucrat, rather he is an accomplished educator and administrator who has actually served in the education trenches.

Dr. Paige’s recent tenure as the Superintendent of the Houston Independent School District provides him with the unique perspective of what is actually involved in running a local school district. Unfortunately, that is all too often not the case because Washington bureaucrats make the decisions affecting our students instead of local administrators.

However, I would submit the practice of implementing a Washington based one size fits all approach is about to come to an end.

As a former Superintendent, Dr. Paige, actually understands that every school district does not face the same problems and does not know what is best. Rather it is the local parents, teachers, and administrators who know what the problems are as well as the solutions.

I think it also interesting to note the breadth of Dr. Paige’s experience in the field of education. Not only was he a school superintendent, but prior to assuming that role he served as a member and then later the president of the Houston School Board.

We must also consider the importance of higher education. Dr. Paige has also spent time as an administrator and teacher at Utica Junior College, Jackson State, and Texas Southern University. In fact, Dr. Paige served as the dean of the College of Education at Texas Southern prior to serving on the Houston School Board.

I would also like to touch upon one final aspect of Dr. Paige’s career and that is his time as a football coach. While the head football coach at Utica, he was the head football coach at Utica Junior College and Jackson State he was still a teacher of students, but instead of desks and a chalkboard he used the gridiron as his classroom.

In closing, I think we all begin the 107th Congress with unlimited opportunities to improve our nation’s educational system and among those opportunities is the reauthorization of the Elementary and Secondary Education Act (ESEA).

There is a lot of agreement on the need for education reform conditioned upon accountability and I look forward to working with Secretary Paige to achieve those goals.

Mr. CONRAD. Mr. President, I am pleased to have supported the nomination of Dr. Roderick Paige to be Secretary of Education. I believe that his commitment to the improvement of public schools and his diverse education experience will bring him success in this challenging and rewarding position.

I am looking forward to working with him to address the critical issues associated with our nation’s educational system.
I am encouraged by Dr. Paige’s accomplishments. The Houston Independent School District has seen dramatic changes under the leadership of Dr. Paige, including a decrease in the dropout rate and an increase in graduation rates. He has worked hard to foster partnerships between public schools and businesses and to encourage community involvement. Dr. Paige’s seven-year tenure as superintendent has shown him to be capable, creative, and committed to his students.

As we enter a new Administration, it is important that we make the greatest effort to secure our public schools by providing them with the support they need. Whether it be through school modernization and class size reduction programs, or through increased financial aid for higher education, it is critical that we recognize the role of affordable, high quality public education for our children.

Mr. Rumsfeld held this senior position during the Ford administration, a time when some Members of Congress were just getting their start in public service. Decades of experience, respect from both sides of the aisle, thoughtfulness, and a strong commitment to this nation make Donald Rumsfeld well qualified to again serve as Secretary of Defense.

Mr. Rumsfeld’s confirmation hearing before the Senate Armed Services Committee, our new President has made a good choice for Secretary of Defense, one of the nations most important offices. Mr. Rumsfeld held this senior position during the Ford administration, a time when some Members of Congress were just getting their start in public service. Decades of experience, respect from both sides of the aisle, thoughtfulness, and a strong commitment to this nation make Donald Rumsfeld well qualified to again serve as Secretary of Defense.

As ranking member of the Budget Committee in this equally divided Senate, I look forward to working closely with Mr. Rumsfeld to craft a defense budget that strengthens our nation’s defense and makes sense in the context of our national fiscal priorities. In light of the fact that both the status quo and increased forces and massive increases in defense spending are untenable, I am interested in talking with the new Secretary about a sustainable defense budget and making policy and procedural changes at the Pentagon that might enable us to retool for the information age and get more for our defense dollar.

As the new administration begins to review our nation’s approach to arms control, missile defense, and proliferation of weapons of mass destruction, I would urge Mr. Rumsfeld to avoid preoccupation with specific numbers and keep efforts focused on a central objective: increasing strategic stability and nuclear safety. Toward that end, I hope the new Defense Secretary will support and expand the Nunn-Lugar Cooperative Threat Reduction program, broaden shared early warning initiatives, encourage more military-to-military contact with Russia, and pursue particular threat reduction with Russia’s enormous nuclear stockpile, resist de-alerting initiatives which could increase strategic uncertainty in a crisis, and ensure that the U.S. retains a robust and balanced triad of strategic forces.

I want the record to reflect that I have been concerned by some of this nominee’s statements regarding arms control. As my colleagues are aware, Mr. Rumsfeld suggested during his confirmation hearing that the ABM Treaty is an outdated relic of the cold war, and has discussed abandoning the process of arms control and sizing our strategic forces unilaterally. I urge Mr. Rumsfeld to reconsider these views. No arms control process over the past several decades the arms control process has produced momentum toward more inspections, transparency, reciprocity, and confidence-building between former cold war rivals.

This momentum toward greater stability and trust was hard-won and should not be abandoned. One need look no farther than Russia’s failure to fully implement the 1991 Bush-Gorbachev handshake agreement on tactical nuclear weapons to see the folly of unilateralism in arms control. In the view of this Senator, any further strategic force reductions would best be undertaken in the context of a new START accord, one built upon recognition that the ABM Treaty is the cornerstone of strategic stability and can allow the limited, effective, affordable national missile defense we need to counter emerging rogue-state threats.

Finally, I look forward to talking with the new Secretary about the importance of Defense Department compliance with statutes directing that the entire B-52 bomber force be funded. Billions of dollars of upgrades and the world’s most advanced precision weapons have transformed these airframes into airborne arsenal ships which today represent the fast, sharp end of the spear in our conventional deterrent force.

Mr. President, Donald Rumsfeld has an impressive record. He is qualified to be Secretary of Defense. I congratulate him on his confirmation and wish him the very best.

Mr. President, I am honored to have supported the nomination of Colin Powell to be our next Secretary of State. Few individuals submitted to the Senate for confirmation have the credentials, experience, values, and respect of the Nation that Colin Powell has. Colin Powell has served our Nation with distinction in both civilian and military capacities. Powell served the Carter Administration as an executive assistant in both the Energy and Defense Departments. During the Reagan Administration, Powell was chosen as a senior adviser to Defense Secretary Caspar Weinberger, and later held his first Cabinet post as National Security Advisor to President Reagan. During the Bush Administration, Colin Powell was nominated to serve as Chairman of the Joint Chiefs of Staff. Most Americans, however, remember Colin Powell’s role as the architect of Operation Desert Storm, and his skills in developing critical global alliances to defeat the Iraqi forces in 1991.

Colin Powell, however, represents more than a distinguished military leader. His life and those values that he has encouraged our young citizens to follow, are an inspiration to us all. During the decade since Operation Desert Storm, I have admired Colin Powell’s efforts to reach out to America’s youth, encouraging our younger citizens to continue their education, and to aspire to higher goals in life. For Powell, the challenge was to make sure that every child in America understands that he or she is important, and that we, as leaders and parents, are responsible, and only one of them achieves success in life. To achieve this goal, Colin Powell urged Americans to step forward as mentors for our youth, and to make certain that young people have access to computers and the Internet. In my opinion, no challenge is more important than the education of our youth.

Few individuals that have served in this capacity have faced the extraordinary challenges and threats around the world. Relations with China, Russia, the Balkans and the Middle East, as well as the continued nuclear threat and terrorism will demand his immediate attention and skills. I am confident of his abilities to handle these challenges, and I am prepared to work with Secretary of State Powell on these most difficult issues.

Not long ago, Colin Powell was asked during an interview on Scholastic.com “What do you believe history will say about you?” His response: “my only request of history is that history books say that I was a good soldier and served the nation well.” Mr. President, Colin Powell has already achieved that goal. I am confident of his continued challenge to continue to do the work with Secretary of State Powell on these next four years, and perhaps most importantly, as a wonderful example to the youth of America.

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As Secretary, Don Evans’ first mission will be to promote U.S. exports. With a record trade deficit of more than $300 billion last year, I can think of few tasks more urgent than this one. As he takes on this responsibility, I urge him to remember the critical role that small businesses and agriculture play in our export successes and not concentrate solely on the role of the largest corporations. We also cannot forget the other side of the ledger. Mr. Evans and his department must also work aggressively to level the playing field with our major competitors. Prices are at record lows. Farmers are leaving the land. And rural main street businesses are suffering.

Next, we must reinvigorate our agricultural trade policy. We’ve got to be competitive in world trade and be on a fair, competitive basis. I think we’ve got to level the playing field with our major competitors—the Europeans who are outspending us 10 to 1 in terms of providing support for their producers.

I think the first priority must be to rewrite the current federal farm policy. This is not working and it’s very clear to everyone that it’s not working. Prices are at record lows. Farmers are leaving the land. And rural main street businesses are suffering. We’ve got to level the playing field with our major competitors in world trade but it’s got to be on a fair, competitive basis. I think we’ve got to level the playing field with our major competitors—10 to 1 in terms of providing support for their producers. Leveling the playing field is one of my highest priorities, so we get farm income up and so our farmers have a fair chance to succeed.

As a senior member of the Agriculture Committee, I look forward to working with Ms. Veneman as we take on these challenges.

ADDITIONAL STATEMENTS

THE PASSING OF JOHN C. “JACK” RENNIE

Mr. KERRY. Mr. President, I speak today to pay tribute to the life of one of Massachusetts most prominent citizens and small business advocates, John C. “Jack” Rennie, who passed away last Monday, January 15th, at the age of 80. He was an extraordinary figure who changed the way American business looked at education, and the way education worked in Massachusetts.

Born in Boston in May of 1923, Jack attended and graduated from the U.S. Naval Academy and Harvard School of Business. He later went on to earn a master’s degree from Northeastern University.

Using the skills he learned while serving in the Navy as a test pilot, and putting his business education and experience to good use, he founded Pacer Systems in 1968. Pacer Systems provided systems integration and product services for the Department of Defense (DoD). Pacer was later to become AverStar and expand its systems integration work beyond DoD to other Federal agencies. Jack served as Vice Chairman of AverStar from 1998 until his retirement in June of last year.

His entrepreneurial spirit was not limited to his own company. In the mid-1970s, Jack was the driving force behind the creation of National Small Business United (NSBU), the nation’s oldest bipartisan trade association for small businesses. In the early 1980s, Jack served as the President of the Small Business Association of New England (SBANE), and in 1983, he led the first all small business trade mission to the People’s Republic of China. In 1983, he was also named the Small Business Person of the Year for Massachusetts by then President Ronald Reagan.

But despite all of these noteworthy accomplishments, Jack’s most lasting achievements came in the area of education reform.

As a business leader and entrepreneur, Jack was alarmed at the problems facing the public education system in Massachusetts and the nation. He realized that the education system of today would demand a higher caliber of education from its employees, and that education was an integral part of America’s future prosperity.

On one occasion he was asked why he engaged in world trade with our major competitors. As he took on this responsibility, I urge him to remember the critical role that small businesses and agriculture play in our export successes and not concentrate solely on the role of the largest corporations. We also cannot forget the other side of the ledger. Mr. Evans and his department must also work aggressively to level the playing field with our major competitors—10 to 1 in terms of providing support for their producers. Leveling the playing field is one of my highest priorities, so we get farm income up and so our farmers have a fair chance to succeed.

As a senior member of the Agriculture Committee, I look forward to working with Ms. Veneman as we take on these challenges.

RECOGNIZING FRANK HEMINGWAY

Mr. DOMENICI. Mr. President, recently Frank Hemingway came to Washington, D.C. to be a part of the 2001 Inaugural activities. A student from Onate High School in Las Cruces, New Mexico, he was the winner of the Character Counts Task Force Contest for high school students. To win this contest, Mr. Hemingway was required to write an essay dealing with his experience with one of the Pillars of Character Counts.

Character Counts is a grassroots effort for New Mexico and the nation. The Character Counts initiative strives to promote, in all aspects of American life, six basic pillars of good character: Trustworthiness, Respect, Responsibility, Fairness, Caring, and Citizenship.

Mr. Hemingway chose to write his on the Responsibility Pillar, and how to be responsible has changed his life. I commend Frank for his smart choices and hard work.

Mr. President, I ask that his essay be printed in the RECORD following my remarks.

The material was ordered to be printed in the RECORD following my remarks.

HOW RESPONSIBILITY CHANGED MY LIFE

(By Frank Hemingway)

Hey bud! want to go to the movies tonight? I’ve got some girls from across town going—’I know I can get you a date.’ ‘Maybe later,’ I answered to a typical offer from one of my closest friends. ‘It’s a school night and I’ve got a report that I need
with the knowledge that the abortion is being performed solely because of the gender of the fetus; read the first time.

S. 78. A bill to amend the Civil Rights Act of 1964 to provide for the treatment of unlawful employment practice, and for other purposes; read the first time.

S. 79. A bill to encourage drug-free and safe schools; read the first time.

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-298. A communication from the Under Secretary of Policy, Department of Defense, transmitting, pursuant to law, a report related to the Taiwan Relations Act and PRC-Taiwan military balance; to the Committee on Armed Services.

EC-299. A communication from the Under Secretary of Acquisition, Technology and Logistics, Department of Defense, transmitting, pursuant to law, a report related to outsourcing and privatization initiatives; to the Committee on Armed Services.

EC-300. A communication from the Assistant Secretary of Legislative Affairs, Department of Defense, transmitting, pursuant to law, the annual report for the year 2001; to the Committee on Governmental Affairs.

EC-301. A communication from the Assistant General Counsel for Regulatory Law, Office of Procurement and Assistance Policy, Department of Energy, transmitting, pursuant to law, a report of a rule entitled “Department of Energy Acquisition Regulation: Rewrite of Regulations Governing Management of Licenses, Permitting, and Certification” (RIN1024-AH46(1991-AH49)) received on January 10, 2001; to the Committee on Energy and Natural Resources.

EC-302. A communication from the Acting Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled “New Mexico Regulatory Program” (NM-041-FOR) received on January 12, 2001; to the Committee on Energy and Natural Resources.

EC-303. A communication from the Acting Chair of the Federal Subsistence Board, Fish and Wildlife Services, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled “Subsistence Management Regulations for Public Lands in Alaska, Subpart C and D—2001 Subsistence Taking of Fish and Wildlife Regulations” (RIN1048-AP39) received on January 17, 2001; to the Committee on Energy and Natural Resources.

EC-304. A communication from the Deputy Assistant Administrator of the Office of Division Control, Drug Enforcement Administration, Department of Justice, transmitting, pursuant to law, the report of a rule entitled “Dihydroetorphine Under the Controlled Substances Act (CSA)” received on January 10, 2001; to the Committee on Appropriations.

EC-305. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a Deficit Relating to Economic Policy Cost Estimate for Pay-As-You-Go Calculations dated January 8, 2001; to the Committee on Appropriations.

EC-306. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, Presidential Determination 2001–06 regarding a five-year suspension of limitations; to the Committee on Foreign Relations.

EC-307. A communication from the Administrator of the Agency for International Development, transmitting, pursuant to law, a report for the period July 1 through September 30, 2000; to the Committee on Foreign Relations.

EC-308. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, the annual report relating to contributions to international organizations for fiscal year 2000; to the Committee on Foreign Relations.

EC-309. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the annual report relating to the contributions to international organizations, other than treaties; to the Committee on Foreign Relations.

EC-310. A communication from the Public Printer, transmitting, pursuant to law, the Semiannual Report of the Office of the Inspector General for the period April 1 through September 30, 2000; to the Committee on Governmental Affairs.

EC-311. A communication from the Director of the Office of Transition Administration, Panama Canal Commission, transmitting, pursuant to law, a report related to accounting systems and administrative controls for calendar year 2000; to the Committee on Governmental Affairs.

EC-312. A communication from the Chairman of the Securities and Exchange Commission, transmitting, pursuant to law, the annual report relating to internal accounting and administrative systems for the fiscal year 2000; to the Committee on Governmental Affairs.

EC-313. A communication from the Federal Co-Chairman of the Appalachian Regional Commission, transmitting, pursuant to law, the semiannual report of the Inspector General for the period April 1 through September 30, 2000; to the Committee on Governmental Affairs.

EC-314. A communication from the Chair of the Federal Retirement Home Board, transmitting, a report on commercial activities inventory for the fiscal year 2000; to the Committee on Governmental Affairs.

EC-315. A communication from the President of the Institute of Peace, transmitting, pursuant to law, a report relating to financial statements and additional information for the fiscal years 1998 and 1999; to the Committee on Governmental Affairs.

EC-316. A communication from the Chairman of the African Development Foundation, transmitting, pursuant to law, the annual report on the internal controls and accounting system for the calendar year 2000; to the Committee on Governmental Affairs.

EC-317. A communication from the Director of Investigations Service, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled “Suitability” (RIN3306-AC19) received on January 19, 2001; to the Committee on Governmental Affairs.

EC-318. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to the Information Quality Act, 1996, the report of the Inspector General for the period April 1 through September 30, 2000; to the Committee on Governmental Affairs.

EC-319. A communication from the President’s Pay Agent, Office of Personnel Management, transmitting, pursuant to law, a
report related to the extension of locality-based comparability payments; to the Committee on Governmental Affairs.

EC-331. A communication from the Attorney General, transmittal, pursuant to law, the semiannual report of the Inspector General for the period April 1 through September 30, 2000; to the Committee on Governmental Affairs.

EC-332. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report relating to the cost of care for the mentally retarded and disabled; to the Committee on Governmental Affairs.

EC-333. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report relating to the commercial activities inventory by the Secretary to the Committee on Governmental Affairs.

EC-334. A communication from the Acting Assistant Secretary, Pension and Welfare Benefits Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled ‘‘National Medical Support Notice’’ (RIN1120-AA72) received on January 17, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC-335. A communication from the Director of Wage and Hour Division, Employment Standards Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled ‘‘Service Contract Act; Labor Standards for Service Contract Services’’ (RIN1215-AE29) received on January 17, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC-336. A communication from the Executive Secretariat, Bureau of Indian Affairs, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ‘‘Trust Management Reform: Leasing/Permitting, Grazing, Probate and Funds Held in Trust’’ (RIN1976-AE00) received on January 12, 2001; to the Committee on Indian Affairs.

EC-337. A communication from the Counsel for Legislation and Regulations, Office of Public and Indian Housing, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled ‘‘Revisions to the Application Process for Community Development Block Grants for Indian Tribes and Alaska Native Villages’’ (RIN2557-AC22) received on January 17, 2001; to the Committee on Indian Affairs.

EC-338. A communication from the President of the United States, transmitting, pursuant to law, a report relating to the modification of duty-free treatment under the generalized system of preferences for Sub-Saharan African countries; to the Committee on Finance.

EC-339. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ‘‘EP/EO user fees’’ (Revenue Procedure 2001-8) received on January 5, 2001; to the Committee on Finance.

EC-340. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ‘‘BLS—LIPO Department Store Index’’ (Rev. Proc. 2001-6) received on January 5, 2001; to the Committee on Finance.

EC-341. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ‘‘Liabilities Assumed in Certain Interstate Transactions’’ (Rev. Proc. 2001-6) received on January 5, 2001; to the Committee on Finance.

EC-342. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ‘‘Medium-Distance EP/EO Letter Rulings’’ (Revenue Procedure 2001-11) received on January 5, 2001; to the Committee on Finance.

EC-343. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ‘‘Annual Section 415(d) Cost-of-Living Adjustments’’ (Notice 2000-66) received on January 5, 2001; to the Committee on Finance.

EC-344. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ‘‘Extension of Local Pay or Converted Temporary Wage Rate’’ (Rev. Proc. 2001-3) received on January 5, 2001; to the Committee on Finance.

EC-345. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ‘‘Medium-Distance EP/EO Letter Rulings’’ (Revenue Procedure 2001-2) received on January 8, 2001; to the Committee on Finance.

EC-346. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ‘‘Annual Update of the Service’s No-Rule Revenue Procedures’’ (Revenue Procedures 2001-3 and 2001-1) received on January 12, 2001; to the Committee on Finance.

EC-347. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ‘‘Definition of Last Known Address’’ (Rev. Proc. 2001-6) received on January 12, 2001; to the Committee on Finance.

EC-348. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ‘‘The GUST Remedial Amendment Period for Employers Who Use M&P or Voluntary Submitter Specimen Plans’’ (Announcement 2000-64) received on January 12, 2001; to the Committee on Finance.

EC-349. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ‘‘New Revenue Ruling 2001-1’’ (Rev. Ruling 2001-2) received on January 12, 2001; to the Committee on Finance.

EC-350. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ‘‘New Revenue Ruling 2001-2’’ (Rev. Ruling 2001-2) received on January 12, 2001; to the Committee on Finance.

EC-351. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ‘‘New Revenue Ruling 2001-3’’ (Rev. Ruling 2001-3) received on January 12, 2001; to the Committee on Finance.

EC-352. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ‘‘New Revenue Ruling 2001-4’’ (Rev. Ruling 2001-4) received on January 12, 2001; to the Committee on Finance.

EC-353. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ‘‘New Revenue Ruling 2001-5’’ (Rev. Ruling 2001-5) received on January 12, 2001; to the Committee on Finance.

EC-354. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ‘‘New Revenue Ruling 2001-6’’ (Rev. Ruling 2001-6) received on January 12, 2001; to the Committee on Finance.

EC-355. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ‘‘New Revenue Ruling 2001-7’’ (Rev. Ruling 2001-7) received on January 12, 2001; to the Committee on Finance.

EC-356. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ‘‘New Revenue Ruling 2001-8’’ (Rev. Ruling 2001-8) received on January 12, 2001; to the Committee on Finance.

EC-357. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ‘‘New Revenue Ruling 2001-9’’ (Rev. Ruling 2001-9) received on January 12, 2001; to the Committee on Finance.

EC-358. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ‘‘New Revenue Ruling 2001-10’’ (Rev. Ruling 2001-10) received on January 12, 2001; to the Committee on Finance.

EC-359. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ‘‘New Revenue Ruling 2001-11’’ (Rev. Ruling 2001-11) received on January 12, 2001; to the Committee on Finance.
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. CLELAND:
S. 141. A bill to require country of origin labeling of peanuts and peanut products and to establish penalties for violations of the labeling requirements; to the Committee on Agriculture, Nutrition, and Forestry.

S. 145. A bill to amend title 10, United States Code, to eliminate an inequity in the applicability of early retirement eligibility requirements to military reserve technicians; to the Committee on Governmental Affairs.

By Mrs. BOXER:
S. 156. A bill to improve academic and social outcomes for students and reduce both juvenile crime and the risk that youth will become victims of crime by providing productive activities during after school hours; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BOXER:
S. 157. A bill to establish a program to help States expand the existing education system to include at least 1 year of early education preceding the year a child enters kindergarten; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BINGHAMAN (for himself and Mr. LUGAR):
S. 158. A bill to improve schools; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BOXER:
S. 159. A bill to elevate the Environmental Protection Agency to a cabinet level department, to redesignate the Environmental Protection Agency as the Department of Environmental Protection Affairs, and for other purposes; to the Committee on Governmental Affairs.

By Mr. BOXER:
S. 160. A bill to provide for the appointment of additional Federal district judges, and for other purposes; to the Committee on the Judiciary.

By Mr. CRAIG (for himself, Ms. LANDREIUI, Mr. JOHNSON, and Mr. STEVENS):
S. 162. A bill to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; to the Committee on Finance.

By Mr. ENZI (for himself, Mr. GRAMM, Mr. SABATINI, Mr. JOHNSON, Mr. HAGEL, Mr. ROBERTS, and Ms. STABENOW):
S. 167. A bill to provide authority to control exports, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. KERRY:
S. 150. A bill to amend the Internal Revenue Code of 1986 to provide an incentive to ensure that all Americans gain timely and equitable access to the Internet over current and future generations of broadband capability; to the Committee on Finance.

By Mr. THOMAS (for himself and Mr. ENZI):
S. 151. A bill for the Relief of Ashley Ross Fuller; to the Committee on the Judiciary.

By Mr. GRASSLEY (for himself and Mr. BAucus):
S. 152. A bill to amend the Internal Revenue Code of 1986 to eliminate the 60-month limit and increase the income limitation on the student loan interest deduction; to the Committee on Finance.

By Mr. HATCH:
S. 133. A bill to amend title XVIII of the Social Security Act to provide for State accreditation of diabetes self-management training programs under the medicare program; to the Committee on Finance.

S. 154. A bill to amend the Uniformed and Overseas Citizens Absentee Voting Act to ensure uniform treatment by States of Federal overseas absentee ballots, to amend titles 10 and 18, United States Code, and the Revised Statutes to remove the uncertainty regarding the authority of the Department of Defense to locate military installations and reserve component facilities to be used as polling places in Federal, State, and elections for public office, and for other purposes; to the Committee on Rules and Administration.

By Mr. BINGHAMAN:
S. 153. A bill to amend title 5, United States Code, to eliminate an inequity in the applicability of early retirement eligibility requirements to military reserve technicians; to the Committee on Governmental Affairs.

By Mrs. BOXER:
S. 154. A bill to provide for the appointment of additional Federal district judges, and for other purposes; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CLELAND (for himself and Mr. MILLER):
S. Res. 56, a resolution commending the Georgia Southern University Eagles football team for winning the 2000 NCAA Division I-AA football championship; considered and agreed to.

STATMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CLELAND:
S. 144. A bill to require country of origin labeling of peanuts and peanut products and to establish penalties for violations of the labeling requirements; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. CLELAND. Mr. President, today I am reintroducing the Peanut Labeling Act. This bill will require country of origin labeling for all peanut and peanut products sold in the United States; specifically, it will require consumers to be notified whether the peanuts are grown in the United States or in another country.

The purpose of this bill is to provide American consumers with information about where the peanuts they purchase are grown. This bill will allow consumers to make informed food choices and support American farmers in the best way that they can—with their food dollar.

By providing country of origin labels, consumers can determine if peanuts come from a country that has pesticides or other problems which may be harmful to their health. This is true particularly during a period when food imports are increasing, and will continue to increase in the wake of new trade agreements such as the WTO and GATT.

The growth of biotechnology in the food arena necessitates more information in the marketplace. Research is being conducted today on new peanut varieties. These research efforts include seeds that might dwarf peanut allergies, tolerate more drought, and be more resistant to disease. As various countries use differing technologies, consumers need to be made aware of the source of the product they are purchasing. GAO recently pointed out that FDA only inspected 1.7 percent of 2.7 million shipments of fruit, vegetables, seafood and processed foods under its jurisdiction. Inspections for peanuts can be assumed to be in this range or lower. This lack of inspection does not provide consumers of these products with a great deal of assurance.

Polls have shown that consumers in America want to know the origin of the products they buy. And, contrary to arguments that labeling measures that such requirements would drive prices up, consumers have indicated that they would be willing to pay extra for easy access to such information. I believe that this is a pro-consumer bill that will have wide support.

I am also very pleased that peanut growers in America strongly support my proposal. In fact, the Peanut Labeling Act has been endorsed by the Georgia Peanut Commission, the Southern Peanut Growers Association, the Southern Peanut Farmers Federation, the Alabama Peanut Producers Association, and the Florida Peanut Producers Association.

In conclusion, as my colleagues know, we live in a global economy which creates an international marketplace for our food products. I strongly believe that by providing country of origin labeling for agricultural products, such as peanuts, we not only provide consumers with information they need to make informed choices about the quality of food being served to their family but we also allow American farmers to showcase the time and effort they put into producing the safest and finest food products in the world. I believe this bill represents these principles and I ask my colleagues for their support.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:
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 “Peanut Labeling Act of 2001”.

SEC. 2. INDICATION OF COUNTRY OF ORIGIN OF PEANUTS AND PEANUT PRODUCTS.

(a) DEFINITIONS.—In this section:

(1) PEANUT PRODUCT.—The term “peanut product” means any product more than 3 percent of the retail value of which is derived from peanuts that are not produced in the United States.

(b) VIOLATIONS.

(2) EXISTING LABELING.—If a retailer fails to indicate the country of origin of the peanuts or peanut products at the final point of sale to consumers, the country of origin of the peanuts or peanut products.

(c) METHOD OF NOTIFICATION.

(1) IN GENERAL.—The information required by subsection (b) may be provided to consumers by means of a label, stamp, mark, placard, or other clear and visible sign on the peanuts or peanut products or on the package, display, holding unit, or bin containing the peanuts or peanut products at the final point of sale to consumers.

(2) EXISTING LABELING.—If the peanuts or peanut products are already labeled regarding country of origin by the packer, importer, or another person, the retailer shall be excused from providing any additional information in order to comply with this section.

(d) VIOLATIONS.—If a retailer fails to indicate the country of origin of peanuts or peanut products as required by subsection (b), the Secretary may impose a civil penalty on the retailer in an amount not to exceed:

(1) $1,000 for the first day on which the violation occurs; and

(2) $250 for each day on which the violation continues.

(e) DEPOSIT OF FUNDS.—Amounts collected under subsection (d) shall be deposited in the Treasury of the United States as miscellaneous receipts.

(f) APPLICATION.—This section shall apply with respect to peanuts and peanut products produced in, or imported into, the United States after the date that is 180 days after the date of enactment of this Act.

By Mr. THURMOND:

S. 145. A bill to amend title 10, United States Code, to increase to parity with other surviving spouses the basic annuity that is provided under the uniformed services Survivor Benefit Plan (SBP) for surviving spouses who are at least 62 years of age; and for other purposes; to the Committee on Veterans’ Affairs.

Mr. THURMOND. Mr. President, today, I am again introducing legislation that would correct the long-standing injustice affecting surviving spouses of our military retirees. The proposed legislation would immediately increase for surviving spouses over the age of 62 the minimum Survivor Benefit Plan (SBP) annuity from 35 percent to 40 percent of the SBP covered retired pay. The bill would provide a further increase to 45 percent of covered retired pay as of October 1, 2004 and to 55 percent as of September 2011.

As I outlined in my many statements in support of this important legislation, the Survivor Benefit Plan advertises, that if the service member elects to joint the Plan, his survivor will receive 50 percent of the member’s retirement pay. Unfortunately, that is not so. The reason that they do not receive the 55 percent of retired pay is that current law mandates that at age 62 this amount be reduced either by the amount of the Survivors Social Security benefit or to 35 percent of the SBP. This law is especially irksome to those retirees who joined the plan when it was first offered in 1972. These service members were never informed of the age-62 cut was made an irrevocable decision to participate. Many retirees and their spouses, as our constituent mail attests, believed their premium payments would guarantee 55 percent of retired pay for the life of the survivor. It is not hard to imagine the shock and financial disadvantage these men and women who so loyally served the Nation for many years experience when they learn of the annuity reducton.

Uniformed services retirees pay too much for the available SBP benefit both, compared to what we promised and what we offer other federal retirees. When the Survivor Benefit Plan was enacted in 1972, the Congress intended that the government would pay 40 percent of the cost to parallel the government subsidy of the Federal civilian survivor benefit plan. That was short-lived. Over time, the government’s cost sharing has declined to about 26 percent. In other words, the retiree pays about 74 percent of expected long-term program costs versus the intended 60 percent. Contrast this with the federal civilian SBP, which has a 42 percent subsidy for those personnel under the Federal Employees Retirement System and a 50 percent subsidy for those under the Civil Service Retirement System. Further, Federal civilian survivors receive 50 percent of retired pay with no offset at age 62. Although Federal civilian retirees pay 55 percent of their retirement pay, compared to 6.5 percent for military retirees, the difference in the percent of contribution is offset by the fact that our service personnel retire at a much younger age than the civil servant and, therefore pay premiums much longer than the federal civilavit.

Mr. President, although the House conferees thwarted my previous efforts to enact this legislation into law, I am ever optimistic that this year we will prevail. I base my optimism on the fact that the National Defense Authorization Act for Fiscal Year 2001 included a Sense of the Congress on increasing Survivor Benefit Plan annuities for surviving spouses age 62 or older. The sense of the Congress reflects the concern addressed by the legislation I am introducing again today. I urge my colleagues to support this bill and now ask that the bill be sent to the desk.

By Mr. LUGAR:

S. 146. A bill to amend part S of title 1 of the Omnibus Crime Control and Safe Streets Act of 1968 to permit the use of certain amounts for assistance to jail-based substance treatment programs, and for other purposes; to the Committee on the Judiciary.

Mr. LUGAR. Mr. President, I rise today to offer legislation amending the Residential Substance Abuse Treatment program, known as R-SAT, to enable jurisdictions below the state level to realize greater benefits from the program. The R-SAT program allows the Attorney General to make grants for the establishment of treatment programs for substance abusers through the Justice Department. It provides for the establishment of treatment for individuals in non-jail facilities, but only a few jurisdictions have been able to take advantage of these grants.

The legislation that I am offering today will address this problem by establishing a new grant program for substance abuse in non-state treatment programs. The R-SAT program grants are designed to be used by the states to fund treatment programs. These grants are intended to be used to fund treatment programs in the states that are available to states but are not available to local governments.

The legislation that I am offering today will address this problem by establishing a new grant program for substance abuse in non-state treatment programs. The R-SAT program grants are designed to be used by the states to fund treatment programs. These grants are intended to be used to fund treatment programs in the states that are available to states but are not available to local governments.
that approximately three-fourths of prison inmates—and over half of those in jail or on probation—are substance abusers, yet only a small percentage of inmates participate in treatment programs while they are incarcerated. The time during which drug-using offenders are in custody or under post-release correctional supervision—whether at a state or local level—presents a unique opportunity to reduce drug use and crime through effective drug testing and treatment programs.

Research shows that programs like J-SAT can help to reduce the strain on our communities by cutting drug use in half, by reducing the criminal activity that results from drug habits, and by reducing arrests for all crimes by up to 64 percent.

Jail-based treatment programs are cost effective. The Office of National Drug Control Policy states that treatment while in prison and under post-incarceration supervision can reduce recidivism by 50 percent. Furthermore, former Assistant Health Secretary Philip Lee has estimated that every dollar invested in treatment can save $7 in social and medical costs.

For these reasons, I ask my colleagues to support the Jail-Based Substance Abuse Treatment legislation that I am introducing today. I also ask unanimous consent that the bill be printed in the RECORD.

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

S. 146

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

SECTION 1. JAIL-BASED SUBSTANCE ABUSE TREATMENT PROGRAMS.

(a) Use of Residential Substance Abuse Treatment Grants To Provide Aftercare Services. (Part S of Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796f-1) is amended by adding at the end the following:

"(2) Average costs for nonresidential aftercare services. A State may use amounts received under this part to provide nonresidential substance abuse treatment aftercare services for inmates or former inmates that meet the requirements of subsection (c), if the chief executive officer of the State certifies to the Attorney General that the State is providing, and will continue to provide, an adequate level of residential treatment services.

(b) Jail-Based Substance Abuse Treatment. (Part S of Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796f et seq.) is amended by adding at the end the following:

"SEC. 1906. JAIL-BASED SUBSTANCE ABUSE TREATMENT PROGRAMS.

"(a) Definitions. In this section:

"(1) Jail-based substance abuse treatment program means a course of individual and group activities, lasting for a period of not less than 3 months, as a correctional facility set apart from the general population of the correctional facility, if those activities are—

(A) directed at the substance abuse problems of prisoners in order to address the substance abuse and related problems of prisoners.

(B) intended to develop the cognitive, behavioral, social, vocational, and other skills of prisoners to reduce the strain on our communities by cutting drug use in half, reducing the criminal activity that results from drug habits, and reducing arrests for all crimes by up to 64 percent.

"(2) Local correctional facility. The term "local correctional facility" means any correctional facility operated by a unit of local government.

"(b) Authorization. (1) In general. Not less than 10 percent of the total amount made available to a State under section 1904(a) for any fiscal year may be used by the State to make grants to local correctional facilities in the State for the purpose of assisting jail-based substance abuse treatment programs established by those local correctional facilities.

"(3) Approvals. (A) In general. The Secretary of Health and Human Services shall—

(A) approve the application, disapprove the application, or request a continued evaluation of the application for an additional period not to exceed 90 days, and

(B) notify the applicant of the action taken under paragraph (A) and, with respect to any denial of an application under subparagraph (A), afford the applicant an opportunity for reconsideration.

"(4) Eligibility for preference with aftercare component.—

"(4)(A) In general. In making grants under this section, a State shall give preference to jails that meet the requirements of paragraph (3) of this section.

"(B) Aftercare services program requirements. For purposes of paragraph (A), an aftercare services program meets the requirements of this paragraph if the program—

"(4) In selecting individuals for participation in the program, gives priority to individuals who have completed a jail-based substance abuse treatment program; or

"(ii) the date on which the participant completes the jail-based substance abuse treatment program or

"(ii) the date on which the participant is released from the correctional facility at the end of the sentence of the participant or is released on parole.

"(C) Coordination. (1) In general. Aftercare services programs that meet the requirements of paragraph (A), an aftercare services program meets the requirements of this paragraph if the program—

"(i) educational and job training programs; or

"(ii) parole supervision programs; or

"(iii) half-way house programs; or

"(iv) participation in self-help and peer group programs; and

"(D) Review of applications. (1) In general. Upon receipt of an application under subsection (c), the State shall—

"(1) in selecting individuals for participation in the program, gives priority to individuals who have completed a jail-based substance abuse treatment program; or

"(ii) the date on which the participant completes the jail-based substance abuse treatment program;

"(ii) the date on which the participant completes the jail-based substance abuse treatment program; or

"(ii) the date on which the participant completes the jail-based substance abuse treatment program.
border courts increased by 125 percent (from 6,460 to 14,517), drug prosecutions in these same districts increased by 189 percent (from 2,864 to 5,414), and immigration prosecutions by 431 percent (from 1,056 to 5,614).

The Five ‘Border Courts’ (Southern California, Arizona, New Mexico, West Texas, Southern Texas) now handle 26 percent of all federal court criminal filings in the United States, and are projected to handle one-third within two years. The 89 other district courts handle the other 74 percent of criminal filings.

All five border courts currently are among the top ten most burdened districts in the country in terms of weighted caseload.

While these courts have faced an ever rising caseload, their resources have remained stagnant. The Southern District of California, for example, has not been authorized a new judge since 1990.

Nowhere is the judicial crisis greater than in the Southern District of California. On October 30, 2000, the district took the unprecedented step of declaring a “judicial emergency.” The Southern district had a weighted caseload of 978 cases in Fiscal year 2000. That’s nearly two and a half times the national standard of 430 cases per judge;

The court’s criminal caseload is the heaviest in the nation, with 55 trials pending for each judge. In civil cases, many judges no longer hear oral arguments; they base their opinions solely on written briefs.

The Chief Judge in San Diego, Marilyn Huff, has resorted to desperate measures to hold back this tide of cases, including asking seven retired judges to return to the bench. Two of these judges, Judge Edward Schwartz and Judge Leland Nielsen, have recently died.

The Southern District of California and other border districts cannot continue to function effectively with a skeleton crew of judges. The crisis in San Diego, in particular, has reached a point where citizen access to justice is being threatened. It is imperative that Congress act proactively to address this shortage of resources.

The Southwest Border Judges Act would authorize nine permanent judgeships (5 judgeships for the Southern District of California; 1 judgeship for the district of New Mexico; 1 judgeship for the Southern District of Texas; and 2 judgeships for the western district of Texas) and nine temporary judgeships (four for Arizona, 3 for the Southern District of California; 1 for New Mexico, and 1 for the Western district of Texas).

I look forward to working with my colleagues to enact this urgent legislation.

Mr. KYL. Mr. President, I rise in support of Senator Feinstein’s bill to add judgeships to the states along U.S.-Mexico border. I agree with Senator Feinstein that, due to the growing population and caseload, additional judgeships are solely needed.

This bill seeks to enact a recommendation of the Judicial Conference of the United States. The bill would authorize nine permanent and nine temporary judgeships. I favor a different approach. I do not think all the judgeships in the bill should be permanent judgeships because the growth in population and resulting caseload is expected to continue. I have agreed to cosponsor the bill because I agree that additional judicial judgeships are needed and I believe that the bill provides a sound basis for discussions.

I look forward to working with Senator Feinstein and the other Senators along the southwest border, as well as Senators HATCH and LEAHY and the chair and ranking member of the Subcommittee on Courts and Administrative Oversight.

Mr. CRAIG (for himself, Mr. LANDRIEU, Mr. JOHNSON, and Mr. STEVENS):

S. 148. A bill to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; to the Committee of the Whole. Mr. CRAIG. Mr. President, there is some very important unfinished business from the last Congress that requires our early attention this year: renewing the adoption tax credit.

From March 1994 through March 1999, criminal case filings in Southwestern
bicameral, nonpartisan Congressional Coalition on Adoption, as well as our colleagues, the Senator from Alaska Mr. STEVENS, and the Senator from South Dakota Mr. JOHNSON.

Our legislation will extend, increase, and simplify these important tax measures. Specifically, the Hope For Children Act would remove the current sunset on both the adoption tax credit and the exclusion for employer-provided adoption benefits. It would also increase the benefit and exclusion from $5,000 (or in the case of an adoption of a child with special needs, $6,000) to $10,000, and adjust them for inflation. It would lift the cap on income eligibility for receiving the full benefit of these tax measures from $75,000 gross income to $150,000.

Also, the bill includes a provision that the Senate has passed more than once, liberalizing the tax credit for families adopting children with special needs, to take a similar adjustment as it relates to these families. Instead of being limited to the adoption expenses that the Internal Revenue Service decides are allowable, these families would be entitled to the full credit and exclusion. This change is necessary, because the financial challenges facing these families tend to fall outside or after the adoption process itself—for instance, they may include a wheelchair or special van for an adopted child with a physical disability, or home construction work to make it possible to adopt a sibling group, or counseling services for the family to cope with the extraordinary challenges of a child with special needs.

It is important to remember that the costs involved in such adoptions are truly staggering. Even with the increases we want to provide through the Hope For Children Act, the adoption tax credit and exclusion only offer a partial benefit to the families who are willing to open their hearts and homes to a child with special needs.

Mr. President, there are thousands and thousands of children in America who are waiting to be adopted. The adoption tax credit and exclusion are humane, measured, effective policies that truly help these children find safe, loving, permanent homes. Let’s send a strong message of support to these policies, through early passage of the Hope For Children Act.

I ask unanimous consent that a copy of the bill be printed in the CONGRESSIONAL RECORD.

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

S. 148

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 for Children Act”.

SEC. 2. EXPANSION OF ADOPTION CREDIT AND ADOPTION ASSISTANCE PROGRAMS.

(a) IN GENERAL.

(1) ADOPTION CREDIT.—Section 23(a)(1) of the Internal Revenue Code of 1986 (relating to allowance of credit) is amended to read as follows:

“(1) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter—

(A) in the case of an adoption of a child other than a child with special needs, the amount of the qualified adoption expenses paid or incurred by the taxpayer, and

(B) in the case of an adoption of a child with special needs, $10,000.”

(2) ADOPTION ASSISTANCE PROGRAMS.—Section 137(a) of such Code (relating to adoption assistance programs) is amended to read as follows:

“(a) IN GENERAL.—Gross income of an employee does not include amounts paid or expenses incurred by the taxpayer for adoption expenses in connection with the adoption of a child by an employee if such amounts are furnished pursuant to an adoption assistance program. The amount of the exclusion shall be—

(1) in the case of an adoption of a child other than a child with special needs, $10,000; and

(2) in the case of an adoption of a child with special needs, $15,000.”

(b) DOLLAR LIMITATIONS.—

(1) DOLLAR AMOUNT OF ALLOWED EXPENSES.—

(A) ADOPTION EXPENSES.—Section 23(b)(1) of the Internal Revenue Code of 1986 (relating to allowance of credit) is amended—

(i) by striking “$5,000” and inserting “$10,000”,

(ii) by striking “($6,000, in the case of a child with special needs)”, and

(iii) by striking “subsection (a)” and inserting “subsection (a)(1)”.

(B) ADOPTION ASSISTANCE PROGRAMS.—Section 137(b)(1) of such Code (relating to dollar amounts for adoption assistance programs) is amended—

(i) by striking “$5,000” and inserting “$10,000”, and

(ii) by striking “($6,000, in the case of a child with special needs)”, and

(iii) by striking “subsection (a)” and inserting “subsection (a)(1)”.

(2) PHASE-OUT LIMITATION.—

(A) ADOPTION CREDIT.—Clause (1) of section 23(b)(2)(A) of such Code (relating to income limitation) is amended by striking “$75,000” and inserting “$150,000”.

(B) ADOPTION ASSISTANCE PROGRAMS.—Section 137(b)(2)(A) of such Code (relating to income limitation) is amended by striking “$75,000” and inserting “$150,000”.

(c) YEAR CREDIT ALLOWED.—Section 23(a)(2) of the Internal Revenue Code of 1986 (relating to year credit allowed) is amended by adding at the end the following new flush sentence:

“In the case of the adoption of a child with special needs, the credit allowed under paragraph (1) shall be allowed for the taxable year in which the adoption becomes final.”

(d) REPEAL OF SUNSET PROVISIONS.—

(1) CHILDREN WITHOUT SPECIAL NEEDS.—Paragraph (2) of section 23(d) of the Internal Revenue Code of 1986 (relating to definition of eligible child) is amended to read as follows:

“(2) ELIGIBLE CHILD.—The term ‘eligible child’ means any individual who—

(A) has not attained age 18, or

(B) is physically or mentally incapable of caring for himself or herself.”

(2) ADOPTION ASSISTANCE PROGRAMS.—Section 137 of such Code (relating to adoption assistance programs) is amended by striking subsection (f).

(e) ADJUSTMENT OF DOLLAR AND INCOME LIMITATIONS FOR INFLATION.—

(1) ADOPTION CREDIT.—Section 23 of the Internal Revenue Code of 1986 (relating to adoption expenses) is amended by redesignating subsection (b) as subsection (i) and by inserting after subsection (g) the following new subsection:

“(h) ADJUSTMENTS FOR INFLATION.—In the case of a taxable year beginning after December 31, 2002, each of the dollar amounts in subsection (a)(1)(B) and paragraphs (1) and (2)(A)(1) of subsection (b) 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 the calendar year in which the taxable year begins, determined by substituting ‘calendar year 2001’ for ‘calendar year 1992’ in subparagraph (B) thereof.”

(2) ADOPTION ASSISTANCE PROGRAMS.—Section 137 of such Code (relating to adoption assistance programs), as amended by subsection (d), is amended by adding at the end the following new paragraph:

“(i) ADJUSTMENTS FOR INFLATION.—In the case of a taxable year beginning after December 31, 2002, each of the dollar amounts in subsection (a)(2) and paragraphs (1) and (2)(A) of subsection (b) 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 the calendar year in which the taxable year begins, determined by substituting ‘calendar year 2001’ for ‘calendar year 1992’ in subparagraph (B) thereof.”

(3) LIMITATION BASED ON AMOUNT OF TAX.—

(1) IN GENERAL.—Section 23(c) of the Internal Revenue Code of 1986 (relating to carryforwards of unused credit) is amended by striking “the limitation imposed” and all that follows through “1900C”)” and inserting “the applicable tax limitation.”

(2) APPLICABLE TAX LIMITATION.—Section 23(d) of such Code (relating to definitions) is amended by adding at the end the following new paragraph:

“(4) APPLICABLE TAX LIMITATION.—The term ‘applicable tax limitation’ means the sum of—

(A) the taxpayer’s regular tax liability for the taxable year, reduced (but not below zero) by the sum of the credits allowed by sections 21, 22, 24 (other than the amount of the credit under subsection (d) thereof), 25, and 25A, and

(B) the tax imposed by section 55 for such taxable year.

(4) CONFORMING AMENDMENTS.—

(A) Section 23(a)(1) of such Code (relating to limitation based on amount of tax) is amended by inserting “(other than section 23)” after “allowance by this subpart”.

(B) Section 53(b)(1) of such Code (relating to minimum tax credit) is amended by inserting “reduced by the aggregate amount taken into account under section 23(d)(3)(B) for all such prior taxable years,” after “1986,”.

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

By Mr. ENZI (for himself, Mr. GRAMM, Mr. JOHNSON, Mr. HAGEL, Mr. ROBERTS, and Ms. STABENOW):

S. 149. A bill to provide authority to control exports, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs. Mr. ENZI. Mr. President, I rise today to introduce the Export Administration Act of 2001. I am joined by my distinguished colleague, Senator GRAMM
of Texas, Senator SABANES of Maryland, Senator JOHNSON of South Dakota, Senator HAGEL of Nebraska, and Senator ROBERTS of Kansas. I thank each of them for their help in drafting and supporting this bipartisan bill. I believe such action is one of the true bipartisan accomplishments of the 107th Congress and President Bush. The EAA of 2001 would eliminate trade barriers while focusing control on those items most sensitive to our national security.

Let me begin by emphasizing the need to reauthorize and reform the EAA of 1979. The EAA provides export control authority for commercial or dual-use items—things that can be used in more than one way. For 6 years the Congress has failed to update and reauthorize this important act, with the exception of a 1-year reauthorization of the outdated Export Administration Act of 1979. As a result, our export control laws have been inadequately defined by either the EAA of 1979 or, more often than not, by emergency Presidential authority under the International Emergency Economic Powers Act. This situation has effectively allowed the situation, ignored by Congress, to set the export control policies of the United States.

The bill introduced today would place our export control system on firm statutory grounds and establish a modernized framework to recognize the rapid pace of economic innovation and the realities of globalization.

The Export Administration Act of 2001 is a reasonable and balanced bill that will put up higher fences around the most sensitive areas and focus our enforcement efforts on restricting all technology exports to all the true bad actors. At the same time, it takes into account the realities of today’s economy, incorporating the concept that items such as computers are very difficult to control.

The bill recognizes that items available from foreign sources or available in mass market quantities cannot be effectively controlled. At the same time, we recognize that the President may, in exceptional cases, want to control a very sensitive item even when that item is available from the foreign source or in mass marketed quantities. Therefore, we include a provision to provide the President with this authority.

The Export Administration Act of 2001 also strengthens national security in other areas. It enhances the role of the Department of Defense and other agencies by requiring the concurrence of the Secretary of Defense for items included on the control list as well as allowing licensing decisions to be appealed to the next level of review at the request of any participating agency representative. Licensing decisions would be made in part through the use of “country-tiering,” grouping countries and items according to their assessed risk. The bill would also target end-use checks on those items that pose the greatest risk to national security.

The EAA of 2001 provides tough new criminal and civil penalties for export control violations. For example, criminal penalties could be up to $500,000, or ten times the value of the export per violation. Criminal penalties for corporations could be up to $10 million or ten times the export value of the export per violation. It would also authorize up to 25 percent of the penalties imposed to a person providing information concerning an export control violation. The increase in penalties, which also include potential jail time and enhancement of enforcement provisions, will provide an effective deterrent to the violations of the act.

A number of reviews of technology transfer and export controls were unanimous in their statements that an export control requirement for an effective export control program is appropriate authorizing legislation.

The Cox committee on technology transfer to China, the joint Inspector General report on the review of the export licensing processes for dual-use commodities and munitions, and the Commission to Assess the Organization of the Federal Government to Combat the Proliferation of Weapons of Mass Destruction have all strongly recommended the authorization of the EAA. The bipartisan Export Administration Act of 2001 would accomplish this while balancing the national security and economic interests of the United States.

S. 1712, which was the EAA reauthorization bill of last session that unanimously passed the Senate Banking Committee last year, was strongly supported by Republicans and Democrats, as well as both large and small exporters.

The Clinton administration supported the bill. Even President Bush endorsed the bill in campaign statements that he made. It was prevented from coming up last year because of a crowded floor agenda, but now is the time to replace the current outdated export control system and pass the Export Administration Act of 2001. We have an opportunity. We have an obligation to make sure that we increase exports while we protect national security.

The bill was expired for six years. There have been 12 attempts to reauthorize the bill. The biggest reason that it has not been reauthorized is the complexity of detail of the licensing and appeal process. Fortunately, the Cox commission brought to light the need to reauthorize this important piece of legislation.

Last year, we passed it through committee by a 20-0 vote. After 12 failures, that is fairly significant. In fact, it is always significant around here when you have something bipartisan enough that it passes on a unanimous vote.

We have worked hard on the bill. We have listened to industry. We have listened to our colleagues. We have listened to those people over past administrations who have worked on the same issue. We have a bill that updates the process for the post-cold war so that it will work today and into the future. This is the new version that needs to be passed in this session of Congress. It needs to be passed early.

The current extension we got on the bill only extended it until August 29. That is coming up relatively early with our legislative calendar needs. I ask my colleagues to work promptly on this bill. We will be talking to everyone who has an interest in it, and coming back to the floor with debate and discussion and a vote that will put this in front of the President for signature so we can have the proper national security and increase in national exports.

I thank my colleagues for their support of this most important piece of legislation and look forward to working with my colleagues to reauthorize the EAA during the coming months.

I ask unanimous consent that the bill be printed.

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

S. 149

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 “Export Administration Act of 2001”.

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

| Sec. 1. Short title; table of contents. |
| Sec. 2. Definitions. |
| TITLE I—GENERAL AUTHORITY |
| Sec. 101. Commerce Control List. |
| Sec. 102. Delegation of authority. |
| Sec. 103. Public information; consultation requirements. |
| Sec. 104. Right of export. |
| Sec. 105. Export control advisory committees. |
| Sec. 106. President’s Technology Export Council. |
| Sec. 107. Prohibition on charging fees. |
| TITLE II—NATIONAL SECURITY EXPORT CONTROLS |
| Subtitle A—Authority and Procedures |
| Sec. 201. Authority for national security export controls. |
| Sec. 203. Country tiers. |
| Sec. 204. Incorporated parts and components. |
| Sec. 205. Petition process for modifying export status. |
| Subtitle B—Foreign Availability and Mass-Market Status |
| Sec. 211. Determination of foreign availability and mass-market status. |
| Sec. 212. Presidential set-aside of foreign availability determination. |
| Sec. 213. Presidential set-aside of mass-market status determination. |
| TITLE III—FOREIGN POLICY EXPORT CONTROLS |
| Sec. 301. Authority for foreign policy export controls. |
Section 301. Export license procedures.

Section 302. Interagency dispute resolution procedures.

Section VIII—PROCEDURES FOR EXPORT LICENSES AND INTERAGENCY DISPUTE RESOLUTION

Section 501. Export license procedures.

Section 502. Interagency dispute resolution procedures.

SECTION VI—INTERNATIONAL ARRANGEMENTS; FOREIGN BOYCotts; SANCTIONS; AND ENFORCEMENT

Section 601. International arrangements.

Section 602. Foreign boycotts.

Section 603. Penalties.

Section 604. Multilateral export control regime violation sanctions.

Section 605. Missile proliferation control violations.

Section 606. Chemical and biological weapons proliferation sanctions.

Section 607. Enforcement.

Section 608. Administrative procedure.

SECTION VII—EXPORT CONTROL AUTHORITY AND REGULATIONS

Section 701. Export control authority and regulations.

Section 702. Confidentiality of information.

SECTION VIII—MISCELLANEOUS PROVISIONS

Section 801. Annual and periodic reports.

Section 802. Technical and conforming amendments.

Section 803. Savings provisions.

SECTION I. GENERAL AUTHORITY

Section 101. Commerce control list.

(a) General—In general, as conditions as the Secretary may impose, consistent with the provisions of this Act, the Secretary—

(1) shall establish and maintain a Commerce Control List (in this Act referred to as the “Control List”) consisting of items the export of which are subject to licensing or other authorization or requirement; and

(2) may require an end-user license, or other authorization, including recordkeeping and reporting, appropriate to the effective and efficient implementation of this Act with respect to the export of an item on the Control List or otherwise subject to control under title II or III of this Act.

(b) Types of license or other authorization—The types of license or other authorization referred to in subsection (a)(2) include the following:

(1) Specific exports—A license that authorizes a specific export.

(2) Multiple exports—A license that authorizes multiple exports in lieu of a license for each such export.

(3) Notification in lieu of license—A notification in lieu of a license that authorizes a specific export or multiple exports subject to the condition that the Department advance notification of the intent to export in accordance with regulations prescribed by the Secretary.

(4) License exemption—Authority to export an item on the Control List without prior license or notification in lieu of a license.

(5) After-market service and replacement parts—A license to export an item under this Act shall not be required for an exporter to provide after-market service or replacement parts, to replace on a one-for-one basis parts that were in an item that was lawfully exported from the United States, unless—

(1) the Secretary determines that such license is required to export such parts; or

(2) the after-market service or replacement parts would materially affect the capability of an item which was the basis for the item being controlled.

(d) Incidental technology—A license or other authorization to export an item under this Act includes authorization to export technology related to the item, if the level of the technology does not require additional materials or equipment necessary to install, repair, maintain, inspect, operate, or use the item.
SEC. 102. DELEGATION OF AUTHORITY.

(a) The authority provided in subsection (b) and subject to the provisions of this Act, the President may delegate the power, authority, and discretion conferred upon the President under this Act to the heads of departments, agencies, and officials of the Government as the President considers appropriate.

(b) EXCEPTIONS.—

(1) DELEGATION TO APPOINTEES CONFIRMED BY SENATE.—No authority delegated to the President under this Act may be delegated by the President to, or exercised by, any official of any department or agency the head of which is not appointed by the President, by and with the advice and consent of the Senate.

(2) OTHER LIMITATIONS.—The President may not delegate or transfer the President’s power, authority, or discretion to override or modify any recommendation or decision made by the Secretary, the Secretary of Defense, or the Secretary of State under this Act.

SEC. 103. PUBLIC INFORMATION; CONSULTATION REQUIREMENTS.

(a) PUBLIC INFORMATION.—The Secretary shall keep the public fully informed of changes in policy and procedures instituted in conformity with this Act.

(b) CONSULTATION WITH PERSONS AFFECTED.—The Secretary shall consult regularly with representatives of a broad spectrum of enterprises, labor organizations, and citizens interested in or affected by export controls in order to obtain their views on United States control policies and the foreign availability or mass-market status of controlled items.

SEC. 104. RIGHT OF EXPORT.

No license or other authorization to export may be required under this Act, or under regulations issued under this Act, except to carry out the provisions of this Act.

SEC. 105. EXPORT CONTROL ADVISORY COMMITTEES.

(a) APPOINTMENT.—Upon the Secretary’s own initiative or upon the written request of representatives of a broad segment of any industry which produces any items subject to export controls under this Act or under the International Emergency Economic Powers Act, in consultation with other appropriate agencies, the Secretary may appoint export control advisory committees with respect to any item. Each such committee shall be composed of representatives of United States industry and Government officials, including officials from the Department of Commerce, Defense, and State, and other appropriate departments and agencies of the Government. The Secretary shall permit the widest possible participation by the business community on the export control advisory committees.

(b) FUNCTIONS.—

(1) IN GENERAL.—Export control advisory committees appointed under subsection (a) shall advise and assist the Secretary, and any other department, agency, or official of the Government carrying out functions under this Act, on actions (including all aspects of controls imposed or proposed) designed to carry out the provisions of this Act concerning the items with respect to which such export control advisory committees were established.

(2) OTHER CONSIDERATIONS.—Nothing in paragraph (1) shall prevent the United States Government from consulting, at any time, with the business community or with the general public, regardless of whether such person is a member of an export control advisory committee. Members of the public shall be given a reasonable opportunity, pursuant to regulations prescribed by the Secretary, to present information to such committee.

(c) REIMBURSEMENT OF EXPENSES.—Upon the request of any member of any export control advisory committee appointed under subsection (a), the Secretary may, if the Secretary determines it to be appropriate, reimburse such member for travel, subsistence, and other necessary expenses incurred by such member in connection with the duties of such member.

(d) CHAIRPERSON.—Each export control advisory committee appointed under subsection (a) shall elect a chairperson, and shall meet at least every 3 months at the call of the chairperson, unless the chairperson determines, in consultation with the other members of the committee, that such a meeting is not necessary to achieve the purposes of this section. Each such committee shall be terminated after a period of 2 years, unless extended by the Secretary for additional periods of 2 years each. The Secretary shall consult with each such committee on such termination or extension of that committee.

(e) ACCESS TO INFORMATION.—To facilitate the work of the export control advisory committees, and in conformity with such items, and compliance with verification considerations appropriate, adjust the National Security Control List to add items that require enhanced control should no longer apply to such item. The President may not delegate the authority provided for in this subsection.

SEC. 202. NATIONAL SECURITY CONTROL LIST.

(a) ESTABLISHMENT OF LIST.—

(1) ESTABLISHMENT.—The Secretary shall establish and maintain a National Security Control List as part of the Control List.

(b) REGULATIONS.—The National Security Control List shall be composed of a list of items the export of which is controlled for national security purposes under this title.

TITLE II—NATIONAL SECURITY EXPORT CONTROLS

Subtitle A—Approval and Procedures

SEC. 201. AUTHORITY FOR NATIONAL SECURITY EXPORT CONTROLS.

(a) AUTHORITY.—

(1) IN GENERAL.—In order to carry out the purposes set forth in subsection (b), the President may, in accordance with the provisions of this Act, prohibit, curtail, or require a license for the export of any item subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States, and may also require recordkeeping and reporting with respect to the export of such item.

(2) EXERCISE OF AUTHORITY.—The authority contained in paragraph (1) shall be exercised by the Secretary, in consultation with the Secretary of Defense, the intelligence agencies, and such other departments and agencies as the Secretary considers appropriate.

(b) PURPOSES.—The purposes of national security export controls are the following:

(1) To deter acts of international terrorism.

(2) To stem the proliferation of weapons of mass destruction, and the means to deliver them, and other significant military capabilities by:

(A) leading international efforts to control the production of chemical and biological weapons, nuclear explosive devices, missile delivery systems, key-enabling technologies, and other significant military capabilities; and

(B) controlling items that would contribute to the military potential of countries so as to prove detrimental to the national security of the United States, its allies or countries sharing common strategic objectives with the United States.

(3) To deter acts of international terrorism.

(c) END USE AND END USER CONTROLS.—Notwithstanding any other provision of this title, controls may be imposed, based on the end use or end user, on the export of any item, that would materially contribute to the proliferation of weapons of mass destruction or the means to deliver them.

The Secretary, with the concurrence of the Secretaries of Defense and of State, to prevent the proliferation of weapons of mass destruction and the means to deliver them, and to deter acts of international terrorism. The Secretary shall periodically review and, with the concurrence of the Secretary of Defense and in consultation with the Secretary of Commerce and the Secretary of State, and the concurrence of any other agency of the United States that the Secretary considers appropriate, adjust the National Security Export Control List to add items that require enhanced control and to remove items that no longer warrant control under this section.
(b) Risk Assessment.—
   (1) Requirement.—In establishing and maintaining the National Security Control List, the risk factors set forth in paragraph (2) shall be considered, weighing national security concerns and economic costs.
   (2) Risk Factors.—The risk factors referred to in paragraph (1), with respect to each item, are as follows:
      (A) The characteristics of the item.
      (B) The threat, if any, to the United States or the national security interest of the United States, resulting from the misuse or diversion of such item.
      (C) The effectiveness of controlling the item, and potential relationship of the United States, taking into account mass-market status, foreign availability, and other relevant factors.
      (D) The threat to the national security interests of the United States if the item is not controlled.
      (E) Any other appropriate risk factors.
   (c) Report on Control Lists.—Not later than 90 days after the date of enactment of this Act, the Secretary shall submit a report to Congress which lists all items on the Commercial License Exception List, and the export control regime controlled on the day before the date of enactment of this Act to protect the national security interests of the United States, taking into account mass-market status, foreign availability, and other relevant factors.

   (a) In General.—
      (1) Establishment and Assignment.—In administering export controls for national security purposes under this title, the President shall not later than 120 days after the date of enactment of this Act, establish and maintain a country tiering system in accordance with subsection (b), and assign to the countries of the world an appropriate tier for each item or group of items the export of which is controlled for national security purposes under this title.
      (2) Risk Assessment.
         (A) The assignments of country tiers shall be made after consultation with the Secretary of Defense, the Secretary of State, the intelligence agencies, and such other departments and agencies as the President considers appropriate.
         (B) The risk assessment shall be based on the assessments required under subsection (c), assign each country to an appropriate tier for each item or group of items the export of which is controlled for national security purposes under this title.
   (b) Tiers.
      (1) In General.—The President may reassign the country tier, at any time and shall review and, as the President considers appropriate, realign country tiers on an on-going basis.
      (2) Definitions.
         (A) Controlled United States Item.—The term ‘controlled United States item’ means an item that is produced in a country other than the United States and incorporates parts or components that are subject to the jurisdiction of the United States, if the value of the controlled United States content of the item produced in such other country is 25 percent or less of the total value of the item.
         (B) Controlled United States Content.—For purposes of this paragraph, the term ‘controlled United States content’ of an item means those parts or components that—
            (i) are subject to the jurisdiction of the United States;
            (ii) are incorporated into the item; and
            (iii) would, at the time of export, require a license under this title if exported from the United States to a country to which the item is to be reexported.

SEC. 203. Incorporation of Parts and Components.
   (a) Export of Items Containing Controlled United States Parts and Components.—No authority or permission to export to a country (other than a country designated as a country supporting international terrorism pursuant to section 310) an item that is produced in an other than the United States and incorporates parts or components that are subject to the
(I) FOREIGN AVAILABILITY STATUS.—The Secretary shall determine that an item has foreign availability status under this subtitle, if the item (or a substantially identical or directly competitive item):

(A) is available to controlled countries from sources outside the United States, including countries that participate with the United States in multilateral export controls;

(B) can be acquired at a price that is not excessive when compared to the price at which a controlled country could acquire such an item from sources within the United States in the absence of export controls; and

(C) sufficiently meets the requirement of a license or other authorization with respect to the export of such item or would be ineffective.

(II) MASS-MARKET STATUS.—

(A) IN GENERAL.—In determining whether an item has mass-market status under this subtitle, the Secretary shall consider the following criteria with respect to the item (or a substantially identical or directly competitive item):

(i) The production and availability for sale in a reasonable volume to multiple potential purchasers.

(ii) The widespread distribution through normal commercial channels, such as retail stores, direct marketing catalogues, electronic commerce, and other channels.

(iii) The conduciveness to shipment and delivery through generally accepted commercial means of transport.

(iv) The use for the item’s normal intended purpose without substantial and specialized service provided by the manufacturer, distributor, or other third party.

(B) DETERMINATION BY SECRETARY.—If the Secretary finds that the item (or a substantially identical or directly competitive item) meets the criteria set forth in subparagraph (A), the Secretary shall determine that the item has mass-market status.

(III) SPECIAL RULES.—For purposes of this subtitle—

(A) SUBSTANTIALLY IDENTICAL ITEM.—The determination of whether an item in relation to another item is a substantially identical item shall include a fair assessment of end-uses, the properties, nature, and quality of the items.

(B) DIRECTLY COMPETITIVE ITEM.—

(i) IN GENERAL.—The determination of whether an item in relation to another item is a directly competitive item shall include a fair assessment of whether the item, though not substantially identical in its intrinsic or inherent characteristics, is substantially equivalent for commercial purposes and may be adapted for substantially the same uses.

(ii) EXCEPTION.—An item is not directly competitive if the controlled item if the item is substantially inferior to the controlled item with respect to characteristics that resulted in the export of the item being controlled.

SEC. 212. PRESIDENTIAL SET-ASIDE OF FOREIGN AVAILABILITY DETERMINATION.

(A) CRITERIA FOR PRESIDENTIAL SET-ASIDE.

(1) GENERAL CRITERIA.—

(A) IN GENERAL.—If the President determines that—

(i) controlling or failing to control an item constitutes a threat to the national security of the United States, and

(ii) failure to control an item would be contrary to the provisions of section 309, the President may set aside the Secretary’s determination of foreign availability status with respect to the item.

(B) NONDELEGATION.—The President may not delegate the authority provided for in this paragraph.

(2) REPORT TO CONGRESS.—The President shall promptly—

(A) report any set-aside determination described in paragraph (1), along with the specific reasons why the determination was made, to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives; and

(B) publish the determination in the Federal Register.

(b) PRESIDENTIAL ACTION IN CASE OF SET-ASIDE.—

(1) IN GENERAL.—In any case in which export controls are maintained on an item because the President has made a determination under subsection (a), the President shall report the determination, along with the specific reasons why the determination was made, to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives, and shall publish notice of the determination in the Federal Register not later than 30 days after the Secretary publishes notice of the Secretary’s determination that an item has mass-market status.

(2) PERIODIC REVIEW OF DETERMINATION.—The President shall review determination made under subsection (a) at least every 6 months. Promptly after each review is completed, the Secretary shall submit a report on the results of the review to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives.

SEC. 214. OFFICE OF TECHNOLOGY EVALUATION.

(A) IN GENERAL.—

(1) ESTABLISHMENT OF OFFICE.—The Secretary shall establish in the Department of Commerce an Office of Technology Evaluation (in this subtitle referred to as the ‘‘Office’’), which shall be under the direction of the Secretary. The Office shall be responsible for gathering, coordinating, and analyzing all the necessary information in order for the Secretary to make determinations of foreign availability and mass-market status under this Act.

(2) STAFF.—The Secretary shall ensure that the Office include persons with the training, expertise and experience in economic analysis, the defense industrial base, technological developments, national security, and foreign policy export controls to carry out the responsibilities set forth in subsection (b) of this section. In addition to employees of the Department of Commerce, the Secretary may accept on nonreimbursable detail to the Office, employees of the Departments of Defense, State, and Energy and other federal and state and governments and agencies as appropriate.

(b) RESPONSIBILITIES.—The Office shall be responsible for—

(1) conducting foreign availability assessments to determine whether a controlled item is available to controlled countries and whether requiring a license, or denial of a license for the export of such item is or would be effective.

(2) conducting mass-market assessments to determine whether a controlled item is available to controlled countries because of the mass-market status of controlled items;

(3) monitoring and evaluating worldwide technological developments in industry sectors critical to the national security interests of the United States for foreign availability and mass-market status of controlled items;
monitoring and evaluating multilateral export control regimes and foreign government export control policies and practices that affect the national security interests of the United States; and

(5) conducting assessments of United States industrial sectors critical to the United States defense industrial base and how to protect them is conducted by technological developments, technology transfers, and foreign competition; and

(6) conducting assessments of the impact of United States export control policies on—

(A) United States industrial sectors critical to the national security interests of the United States; and

(B) the United States economy in general.

(c) REPORTS TO CONGRESS.—The Secretary shall make available to the Committee on International Relations of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate as part of the Secretary’s annual report required under section 301 information on the operations of the Office, and on improvements in the Government’s ability to assess foreign availability and mass-market status, during the preceding fiscal year, including information on the training of personnel, and the use of Commercial Service Officers and Foreign Commercial Service to assist in making determinations. The information shall also include a description of determinations made under this title during the preceding fiscal year that foreign availability or mass-market status did or did not exist (as the case may be), together with an explanation of the determinations.

(d) SHARING OF INFORMATION.—Each department or agency of the United States, including any intelligence agency, and all contractors with the Department or agency, shall, consistent with the need to protect intelligence sources and methods, furnish information to the Office concerning foreign availability and the mass-market status of items subject to export controls under this Act.

TITLE III—FOREIGN POLICY EXPORT CONTROLS

SEC. 301. AUTHORITY FOR FOREIGN POLICY EXPORT CONTROLS.

(a) AUTHORITY.—

(1) IN GENERAL.—In order to carry out the purposes set forth in subsection (b), the President may, in accordance with the provisions of this Act, prohibit, curtail, or require other authorization or licensing, or reporting for the export of any item subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States.

(2) EXERCISE OF AUTHORITY.—The authority contained in this subsection shall be exercised by the Secretary, in consultation with the Secretary of State and such other departments and agencies as the Secretary considers appropriate.

(b) PURPOSES OF FOREIGN POLICY EXPORT CONTROLS.—The purposes of foreign policy export controls are as follows:

(1) To promote the foreign policy objectives of the United States, consistent with the purposes of this section and the provisions of this Act.

(2) To promote international peace, stability, and respect for fundamental human rights.

(3) To use export controls to deter and punish acts of international terrorism and to encourage other countries to take immediate steps to implement the purposes of the use of their territories or resources to aid, encourage, or give sanctuary to those persons involved in directing, supporting, or participating in acts of terrorism.

(c) EXCEPTION.—The President may not control under this title the export from a foreign country (whether or not by a United States person) of any item produced or originating in a foreign country that contains parts or components produced or originating in the United States.

(d) CONTRACT SANCTUARY.—

(1) IN GENERAL.—The President may not prohibit the export from under this title if that item is to be exported—

(A) in performance of a binding contract, agreement, or other contractual commitment entered into prior to the date on which the President reports to Congress the President’s intention to impose controls on that item under this title; or

(B) under a license or other authorization issued under this Act before the earlier of the date on which the control is initially imposed or the date on which the President reports to Congress the President’s intention to impose controls under this title.

(2) EXCEPTION.—The prohibition contained in paragraph (1) shall not apply in any case in which the President determines and certifies to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives that—

(A) there is a serious threat to a foreign policy interest of the United States;

(B) the prohibition of exports under each section of comparable status, control, licensing, or authorization will be instrumental in remedying the situation posing the serious threat; and

(C) the export controls will be in effect only as long as the serious threat exists.

SEC. 302. PROCEDURES FOR IMPOSING CONTROLS.

(a) NOTICE.—

(1) INTENT TO IMPOSE FOREIGN POLICY EXPORT CONTROL.—Except as provided in section 306, not later than 45 days before imposing or implementing an export control under this title, the President shall publish in the Federal Register—

(A) a notice of intent to do so; and

(B) provide for a period of not less than 30 days for any interested person to submit comments on the export control proposed under this title.

(2) PURPOSES OF NOTICE.—The purposes of the notice are—

(A) to provide an opportunity for the formulation of an effective export control policy that advances United States economic and foreign policy interests; and

(B) to provide an opportunity for negotiations to achieve the purposes set forth in section 301(b).

(b) NEGOTIATIONS.—During the 45-day period that begins on the date of notice described in subsection (a), the President may negotiate with the government of the foreign country against which the export control is proposed in order to resolve the reasons underlying the proposed export control.

(c) CONSULTATION.—

(1) REQUIREMENT.—The President shall consult with the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives regarding any export control proposed under this title and the efforts to achieve or increase multilateral cooperation on the issues or problems underlying the proposed export control.

(2) CLASSIFIED CONSULTATION.—The consultations described in paragraph (1) may be conducted on a classified basis if the Secretary considers it necessary.

SEC. 303. CRITERIA FOR FOREIGN POLICY EXPORT CONTROLS.

Each export control imposed by the President under this title shall—

(1) have clearly stated and specific United States foreign policy objectives; and/or

(2) have objective standards for evaluating the success or failure of the export control;

(3) include an assessment by the President that—

(A) the export control is likely to achieve such objectives and the expected time for achieving the objectives; and

(B) the achievement of the objectives of the export control will outweigh the potential costs of the export control to other United States economic, foreign policy, humanitarian, or national security interests;

(4) be targeted and narrow; and

(5) seek to minimize any adverse impact on the humanitarian activities of United States and foreign nongovernmental organizations and the United States official diplomatic efforts.

SEC. 304. PRESIDENTIAL REPORT BEFORE IMPOSITION OF CONTROL

(a) REQUIREMENT.—Before imposing an export control under this title, the President shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives a report on the proposed export control. The report may be provided on a classified basis if the Secretary considers it necessary.

(b) CONTENT.—The report shall contain a description and assessment of each of the criteria described in section 303. In addition, the report shall contain—

(1) any diplomatic and other steps that the United States has taken to achieve the intended objective of the proposed export control;

(2) unilateral export controls imposed, and other measures taken, by other countries to achieve the intended objective of the proposed export control;

(3) the likelihood of multilateral adoption of comparable export controls;

(4) alternative measures to promote the same objective and the likelihood of their potential success;

(5) any United States obligations under international trade agreements, treaties, or other international arrangements, with which the proposed export control may conflict;

(6) any evidence that the proposed export control might lead to retaliation against United States interests;

(7) the likely economic impact of the proposed export control on United States economic, United States international trade and investment, and United States agricultural interests, commercial interests, and employment; and

(8) a conclusion that the probable achievement of the objectives of the proposed export control outweighs any likely costs to United States economic, foreign policy, humanitarian, or national security interests, including any potential harm to the United States agricultural and business firms and to the international reputation of the United States as a reliable supplier of goods, services, or technology.

SEC. 305. IMPOSITION OF CONTROLS

The President may impose an export control under this title if he determines that—

(a) the President may defer compliance with any requirement contained in section 302(a), 304, or 305 in the case of a proposed export control if—

(1) the President determines that a deferral of compliance with the requirement is in the national interest of the United States; and

(b) the requirement is satisfied not later than 60 days after the date on which the export control is imposed under this title.
(b) **Termination of Control.**—An export control with respect to which a deferral has been made under subsection (a) shall terminate 60 days after the date the export control is imposed unless the Secretary determines that the existing export control has been satisfied before the expiration of the 60-day period.

**SEC. 307. Review, Renewal, and Termination.**

(a) **Renewal and Termination.**—Any export control imposed under this title shall terminate on March 31 of each renewal year unless the President renews the export control on or before the close of the year in which the term “renewal year” means 2003 and every 2 years thereafter.

(b) **Notwithstanding.**—Any export control imposed under this title that is under consideration on January 1 of any year shall be deemed to be terminated on March 31 of the renewal year.

(c) **In General.**—Not later than February 1 of each renewal year, the President shall review all export controls in effect under this title.

(d) **Renewal.**—Before completing a review under paragraph (1), the President shall consult with the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives regarding each export control that is being reviewed.

(e) **Classification.**—The consultation may be conducted on a classified basis if the Secretary considers it necessary.

(f) **Public Comment.**—In conducting the review of each export control under paragraph (1), the President shall provide a period of not less than 30 days for any interested person to submit comments on renewal of the export control. The President shall publish notice of the opportunity for public comment in the Federal Register not less than 45 days before the review is required to be completed.

(g) **Report to Congress.**—(1) **Requirement.**—Before renewing an export control imposed under this title, the President shall submit to the Committees of Congress a report on each export control that the President intends to renew.

(2) **Form and Content of Report.**—The report may be provided on a classified basis if the Secretary considers it necessary. Each report shall contain the following:

(A) A clearly stated explanation of the specific United States foreign policy objective that the existing export control was intended to achieve.

(B) An assessment of—

(i) the extent to which the existing export control achieved its objectives before renewal based on the objective criteria established for evaluating the export control; and

(ii) the reasons why the existing export control has failed to fully achieve its objectives and, if renewed, how the export control will achieve that objective before the next renewal year.

(C) An updated description and assessment of—

(i) each of the criteria described in section 303, and

(ii) each matter required to be reported under section 304(b) (1) through (8).

(h) **Renewal of Export Control.**—The President may renew an export control under this title after submission of the report described in paragraph (2) and publication of notice of renewal in the Federal Register.

**SEC. 308. Termination of Controls Under This Title.**

(a) **In General.**—Notwithstanding any other provision of law, the President—

(1) shall terminate any export control imposed under this title if the President determines that it will not support acts of international terrorism; and

(2) may terminate any export control imposed under this title that is not required by law at any time.

(b) **Exception.**—Paragraphs (1) and (2) of subsection (a) do not apply to any export control imposed under this title that is targeted against any country designated as a country supporting international terrorism pursuant to section 310.

**SEC. 309. Compliance with International Obligations.**

Notwithstanding any other provision of this Act setting forth limitations on authority to control exports and except as provided in section 309, the President may impose controls on exports to countries in order to fulfill obligations or commitments of the United States under resolutions of the United Nations and under treaties, or arrangements, to which the United States is a party.

**SEC. 310. Designation of Countries Supporting International Terrorism.**

(a) **License Required.**—A license shall be required for the export of an item to a country if the Secretary of State has designated that country as a country supporting international terrorism; and

(b) **Export Control Determination.**—After designating a country as a country supporting international terrorism, the President shall—

(1) the reasons why the foreign country or international organization to which such export or transfer would be made;

(2) the manner in which the proposed export would affect the relative strength of such country in the region to which the item which is the subject of such export would be delivered and whether other countries in the region have comparable kinds and amounts of the item; and

(3) the reasons why the proposed export or transfer is in the national interest of the United States.

**SEC. 311. Exemption for Agricultural Commodities, Medicine, and Medical Supplies.**

(a) **Exception.**—The export of agricultural commodities, medicine, and medical supplies that are subject to national security export controls under title II or any other provision of law, the export controls imposed on items under title III shall not apply to agricultural commodities, medicine, and medical supplies.

**SEC. 312. Termination of Export Controls Required by Law.**

Notwithstanding any other provision of law, the President shall terminate any export control mandated by law on agricultural commodities, medicine, and medical supplies upon the date of enactment of this Act except for a control that is specifically reimposed by law.
and include such information as the Secretary may, by regulation, prescribe.

(2) PROCEDURES.—In guidance and regulations that implement this section, the Secretary shall include the procedures required by this section, the responsibilities of the Secretary and of other departments and agencies in reviewing applications, the right of the applicant and the Secretary to request other information, and other relevant matters affecting the review of license applications.

(3) CALCULATION OF PROCESSING TIMES.—In calculating the processing times set forth in this title, the Secretary shall use calendar days, except that if the final day for a required action falls on a weekend or holiday, that action shall be taken no later than the following business day.

(4) CRITERIA FOR EVALUATING APPLICATIONS.—In determining whether to grant an application to export a controlled item under this Act, the following criteria shall be considered:

(A) The characteristics of the controlled item;

(B) The threat to—

(i) the national security interests of the United States from items controlled under title II of this Act; or

(ii) the foreign policy of the United States from items controlled under title III of this Act.

(C) The country tier designation of the country to which a controlled item is to be exported, pursuant to section 202.

(D) The risk of export diversion or misuse by—

(i) the exporter;

(ii) the method of export;

(iii) the end-user;

(iv) the country where the end-user is located; and

(v) the end-use.

(E) Risk mitigating factors including, but not limited to—

(i) changing the characteristics of the controlled item;

(ii) after-market monitoring by the exporter; and

(iii) post-shipment verification.

(b) INITIAL SCREENING.—

(1) UPON RECEIPT OF APPLICATION.—Upon receipt of an export license application, the Secretary shall enter and maintain in the records of the Department information regarding the receipt and status of the application.

(2) INITIAL PROCEDURES.—

(A) IN GENERAL.—Not later than 9 days after receiving any license application, the Secretary shall—

(i) confirm the applicant if the application is improperly completed or if additional information is required, and hold the application for a reasonable time while the applicant provides the necessary corrections or information, and such time shall not be included in calculating the time periods prescribed in this title;

(ii) enter the application, through the use of a common data base or other means, and all information submitted by the applicant, and all necessary recommendations and analyses by the Secretary to the Secretary of Defense, the Secretary of State, and the heads of other departments and agencies to the Secretary considers appropriate;

(iii) enter the classification stated on the application for the export items is correct; and

(iv) return the application if a license is not required.

(B) REFERRAL NOT REQUIRED.—In the event that the head of a department or agency determines that certain types of applications need not be referred to the department or agency, such department or agency head shall notify the Secretary of the specific types of such applications that the department or agency does not wish to review.

(3) WITHDRAWAL OF APPLICATION.—An applicant may, by written notice to the Secretary, withdraw an application at any time before final action.

(c) ACTION BY OTHER DEPARTMENTS AND AGENCIES.—

(1) REFERRAL TO OTHER AGENCIES.—The Secretary shall promptly refer a license application to the departments and agencies under section 502(b)(3) and shall recommend actions and provide information to the Secretary.

(2) RESPONSIBILITY OF REFERRAL DEPARTMENTS AND AGENCIES.—Within 30 days after an application under this section is referred to the department or agency, the head of the department or agency shall make the determination provided for in section 502(b)(3) and shall notify the applicant of such steps.

(3) WITHDRAWAL OF APPLICATION.—Each department or agency reviewing an application under this section shall establish and maintain records properly identifying and monitoring the status of the matter referred to the department or agency.

(4) ADDITIONAL INFORMATION REQUESTS.—

(A) Each department or agency to which a license application is referred shall specify the information that is to be provided by the applicant if such information is not in the information that would be required for the department or agency to make a determination with respect to the application, and the Secretary shall promptly request such information from the applicant.

(B) If the information requested by that department or agency and the date the information is received by that department or agency shall not be included in calculating the time periods prescribed in this title.

(5) TIME PERIOD FOR ACTION BY REFERRAL DEPARTMENTS AND AGENCIES.—Within 30 days after an application under this section is referred to the department or agency, each department or agency shall determine whether it has the authority to make the determination provided for in section 502(b)(3) and shall notify the applicant of such steps.

(a) If the Secretary refers an application to another department or agency, the Secretary shall promptly refer a license application under this Act to the Secretary of State or to the head of the department or agency.

(b) A request by the Secretary to another department or agency for advice or assistance under this title shall be treated as an application for a license to export controlled items.

(c) In any case in which an application is referred to another department or agency under this title, the Secretary shall request that the department or agency provide all necessary recommendations and information within the time period prescribed in this title.

(d) If, after referral of an application, the Secretary determines that certain types of applications need not be referred to the department or agency, such department or agency shall notify the Secretary of the specific types of such applications that the department or agency does not wish to review.

(e) In any case in which the Secretary refers an application to another department or agency, the Secretary shall promptly refer a license application under this Act to the Secretary of State or to the head of the department or agency.

(2) PERIOD FOR APPLICANT TO RESPOND.—The following actions related to processing an application shall be included in calculating the time periods prescribed in this section:

(A) AGREEMENT OF THE APPLICANT.—Delays upon which the Secretary and the applicant mutually agree.

(B) PRELICENCE CHECKS.—A prelicensure check (for a period not to exceed 60 days) that may be required to establish the identity and reliability of the recipient of items controlled under this Act, if—

(i) the need for the prelicensure check is determined by the Secretary or by another department or agency in any case in which the request for the prelicensure check is made by such department or agency;

(ii) the request for a prelicensure check is initiated by the Secretary within 5 days after the determination that the prelicensure check is required; and

(iii) analysis of the result of the prelicensure check is completed by the Secretary within 5 days.
SEC. 501. LICENSING REQUIREMENTS.

(a) Multilateral export control regime.—It is the policy of the United States to seek multilateral arrangements that support the national security objectives of the United States (as described in title II) and that establish fairer and more predictable international export control systems containing the national security of the United States or countries whose activities are threatening to diversion of the most sensitive items to proliferation of nuclear weapons, biological weapons, and chemical weapons; and to prevent the proliferation of missile technology and materials to support such weapons.

(b) Annual report on multilateral export control systems.—The President shall submit to the appropriate committees of Congress an annual report on the effectiveness of each multilateral export control regime. The President shall establish the content and format of the annual report in consultation with the heads of the Department of State, Office of the Director of National Intelligence, and Office of the Secretary of Defense.

(c) Full membership.—All supplier countries are members of the regime, and the policies and activities of the members are consistent with the objectives and membership criteria of the multilateral export control regime.

(d) Effective enforcement and compliance.—The regime promotes enforcement of its rules and guidelines to ensure compliance with the regime’s rules and guidelines.

(e) Public understanding.—The regime makes efforts to enhance public understanding of its policies and activities.

(f) Effective implementation procedures.—The regime has procedures for the implementation of its rules and guidelines to make implementation consistent and clear.

(g) Enhanced cooperation with regimes not members.—There is agreement among the members of the multilateral export control regime to cooperate with governments outside the regimes to restrict the export of items controlled by such regime; and to establish an ongoing mechanism in the regime to coordinate planning and implementation of export control measures related to such cooperation.

(h) Periodic high-level meetings.—There are regular periodic meetings of high-level representatives of the members of the multilateral export control regime for the purpose of coordinating export control policies and issuing policy guidance to members of the regime.

(i) Harmonization of license approval procedures.—There is harmonization among the members of the regime of their national export license approval procedures and practices.

(j) Limit of application to controlled items.—There is agreement to prevent the export of items to countries whose activities are threatening the national security of the United States or its allies.

(k) Full membership.—All supplier countries are members of the regime, and the policies and activities of the members are consistent with the objectives and membership criteria of the multilateral export control regime.

(l) Effective enforcement and compliance.—The regime promotes enforcement of its rules and guidelines to ensure compliance with the regime’s rules and guidelines.

(m) Public understanding.—The regime makes efforts to enhance public understanding of its policies and activities.

(n) Effective implementation procedures.—The regime has procedures for the implementation of its rules and guidelines to make implementation consistent and clear.

(o) Enhanced cooperation with regimes not members.—There is agreement among the members of the multilateral export control regime to cooperate with governments outside the regimes to restrict the export of items controlled by such regime; and to establish an ongoing mechanism in the regime to coordinate planning and implementation of export control measures related to such cooperation.

(p) Periodic high-level meetings.—There are regular periodic meetings of high-level representatives of the members of the multilateral export control regime for the purpose of coordinating export control policies and issuing policy guidance to members of the regime.

(q) Harmonization of license approval procedures.—There is harmonization among the members of the regime of their national export license approval procedures and practices.

(r) Limit of application to controlled items.—There is agreement to prevent the export of items to countries whose activities are threatening the national security of the United States or its allies.
(3) ENFORCEMENT.—The enforcement mechanism provides authority for trained enforcement officers to investigate and prevent illegal exports.

(4) PROCUREMENT.—There is a system of export control documentation and verification with respect to controlled items.

(5) INFORMATION.—There are procedures for the coordination and exchange of information concerning licensing, end users, and enforcement with other members of the multilateral export control regime.

(6) RESOURCES.—The Department of Commerce has devoted adequate resources to administer effectively the authorities, systems, mechanisms, and procedures described in paragraphs (1) through (5).

(e) OBJECTIVES REGARDING MULTILATERAL EXPORT CONTROL REGIMES.—The President shall seek to achieve the following objectives with regard to multilateral export control regimes:

(1) STRENGTHEN EXISTING REGIMES.—Strengthening existing multilateral export control regimes—

(A) by creating a requirement to share information about export license applications among member states, which may approve an export license; and

(B) harmonizing national export license approval procedures and practices, including the elimination of undercutting.

(2) REVIEW AND UPDATE.—Review and update multilateral regime export control lists with the following goals:

(A) national security concerns;

(B) the controllability of items; and

(C) the costs and benefits of controls.

(3) ENFORCEMENT OF NONMEMBERS.—Encourage nonmembers of the multilateral export control regime—

(A) to strengthen their national export controls and enforcement mechanisms;

(B) to adhere to the appropriate multilateral export control regime; and

(C) not to undermine an existing multilateral export control regime by exporting controlled items in a manner inconsistent with the guidelines of the regime.

(4) TRANSPARENCY OF MULTILATERAL EXPORT CONTROL REGIMES.—

(I) PUBLICATION OF INFORMATION ON EACH EXISTING REGIME.—Not later than 120 days after the enactment of this Act, the Secretary shall, for each multilateral export control regime (to the extent that it is not inconsistent with the arrangements of that regime (national interest)), publish in the Federal Register and post on the Department of Commerce website the information described in subparagraphs (A) through (H) of paragraph (1) with respect to the regime.

(II) PUBLICATION OF CHANGES.—Not later than 180 days after any export control regime adopts any change in the information published under this subsection, the Secretary shall, to the extent not inconsistent with the arrangements of the regime or the national interest, publish such changes in the Federal Register and post such changes on the Department of Commerce website.

(g) SUPPORT OF OTHER COUNTRIES’ EXPORT CONTROL SYSTEMS.—The Secretary is encouraged to continue to—

(1) participate in training of, and provide training to, officials of other countries on the principles and procedures for implementing effective export controls; and

(2) participate in such training provided by other departments and agencies of the United States.

SEC. 602. FOREIGN BOYCOTTS.

(a) PURPOSES.—The purposes of this section are as follows:

(1) To counteract restrictive trade practices or boycotts fostered or imposed by foreign governments against other countries friendly to the United States or against any United States person.

(2) To encourage and, in specified cases, require United States persons to participate in the export of items to refuse to do business, including furnishing information or entering into or implementing agreements, which have the effect of undermining or supporting the restrictive trade practices or boycotts fostered or imposed by any foreign country against a country friendly to the United States or the United States person.

(b) PROHIBITIONS AND EXCEPTIONS.

(1) PROHIBITIONS.—In order to carry out the purposes set forth in subsection (a), the President shall prohibit the doing of business, or any act in support of the doing of business, except that, for purposes of applying any exception under this subparagraph, no information knowingly furnished or conveyed in response to such requirements may be cited in negative, similiar exclusionary terms, other than with respect to carriers or route of shipment as may be prescribed by this Act, with respect to a country or the recipient of the shipment;

(B) compliance, or agreement to comply, in the normal course of business with the unilateral and specific selection by a boycotting country, or a national or resident thereof, of importers, insurers, shippers, or agents of any business concern organized under the laws of the boycotting country or by nationals or residents of the boycotted country, or

(i) prohibiting the shipment of items to the boycotting country on a carrier of the boycotting country or by a route other than that prescribed by the boycotting country or the recipient of the shipment;

(B) compliance, or agreement to comply, with import and shipping document requirements with respect to the country of origin, the name of the carrier and route of shipment, the name of the supplier of the shipment, or the name of the provider of other services, except that, for purposes of applying any exception under this subparagraph, no information knowingly furnished or conveyed in response to such requirements may be cited in negative, similar exclusionary terms, other than with respect to buyers or route of shipment as may be prescribed by this Act, with respect to a country or the recipient of the shipment;

(B) compliance, or agreement to comply, with import and shipping document requirements with respect to the country of origin, the name of the carrier and route of shipment, the name of the supplier of the shipment, or the name of the provider of other services, except that, for purposes of applying any exception under this subparagraph, no information knowingly furnished or conveyed in response to such requirements may be cited in negative, similar exclusionary terms, other than with respect to buyers or route of shipment as may be prescribed by this Act, with respect to a country or the recipient of the shipment;

(B) compliance, or agreement to comply, with import and shipping document requirements with respect to the country of origin, the name of the carrier and route of shipment, the name of the supplier of the shipment, or the name of the provider of other services, except that, for purposes of applying any exception under this subparagraph, no information knowingly furnished or conveyed in response to such requirements may be cited in negative, similar exclusionary terms, other than with respect to buyers or route of shipment as may be prescribed by this Act, with respect to a country or the recipient of the shipment;

(B) compliance, or agreement to comply, with import and shipping document requirements with respect to the country of origin, the name of the carrier and route of shipment, the name of the supplier of the shipment, or the name of the provider of other services, except that, for purposes of applying any exception under this subparagraph, no information knowingly furnished or conveyed in response to such requirements may be cited in negative, similar exclusionary terms, other than with respect to buyers or route of shipment as may be prescribed by this Act, with respect to a country or the recipient of the shipment;

(B) compliance, or agreement to comply, with import and shipping document requirements with respect to the country of origin, the name of the carrier and route of shipment, the name of the supplier of the shipment, or the name of the provider of other services, except that, for purposes of applying any exception under this subparagraph, no information knowingly furnished or conveyed in response to such requirements may be cited in negative, similar exclusionary terms, other than with respect to buyers or route of shipment as may be prescribed by this Act, with respect to a country or the recipient of the shipment;

(B) compliance, or agreement to comply, with import and shipping document requirements with respect to the country of origin, the name of the carrier and route of shipment, the name of the supplier of the shipment, or the name of the provider of other services, except that, for purposes of applying any exception under this subparagraph, no information knowingly furnished or conveyed in response to such requirements may be cited in negative, similar exclusionary terms, other than with respect to buyers or route of shipment as may be prescribed by this Act, with respect to a country or the recipient of the shipment;
by such a person to comply, with the laws of the country with respect to the person's activities exclusively therein, and such regulations may contain exceptions for such resident and requirements for, and prohibitions against, the exportation of products from the foreign country governing imports into such country of trademarked, trademarked, or similarly specifically identifiable products of products from a person's own use, including the performance of contractual services within that country.

(3) Limitation on exceptions.—Regulations implementing paragraphs (2)(C) and (2)(F) shall not provide exceptions from paragraphs (1)(B) and (1)(C).

(4) Antitrust and civil rights laws not affected.—This subsection may be construed to supersede or limit the operation of the antitrust or civil rights laws of the United States.

(e) Evasion.—This section applies to any transaction or activity undertaken by or through a United States person or any other person with intent to evade the provisions of this section or the regulations issued pursuant to this subsection. The regulations issued pursuant to this section shall expressly provide that the exceptions set forth in paragraphs (1)(B) and (1)(C) and the provisions of paragraph (2)(C) are inapplicable to transactions or activities excluded under such regulations.

(f) Additional regulations and reports.—

(1) Regulations.—In addition to the regulations issued pursuant to subsection (b), regulations issued pursuant to title III shall implement the purposes set forth in subsection (a).

(2) Reports by United States persons.—The regulations shall require that any United States person receiving a request to furnish information, enter into or implement an agreement, or take any other action referred to in subsection (a) shall report that request to the Secretary, together with any other information concerning the request that the Secretary determines appropriate. The person shall also submit to the Secretary a statement regarding whether the person intends to comply, and whether the person shall be authorized to fulfill the request. Any report filed pursuant to this paragraph shall be made available promptly for public inspection and copying, except that information relating to sources, description, and value of any item to which such report relates may be treated as confidential if the Secretary determines that disclosure of that information would result in the United States person involved at a competitive disadvantage. The Secretary shall periodically transmit summaries of the information contained in the reports to the Secretary of State for such action as the Secretary of State, in consultation with the Secretary, considers appropriate to carry out the purposes set forth in subsection (a).

(d) Preemption.—The provisions of this section and the regulations issued under this section shall preempt any law, rule, or regulation that—

(1) is a law, rule, or regulation of any of the several States or the District of Columbia, or territories or possessions of the United States, or of any governmental subdivision thereof; and

(2) pertains to participation in, compliance with, or the furnishing of information regarding restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries.

SEC. 603. PENALTIES.

(a) General.=—

(1) Violations by an individual.—Any individual who knowingly violates, conspires to violate, or attempts to violate any provision of this Act or any regulation, license, or order issued under this Act shall be fined not more than $10,000,000, or imprisoned for not more than 10 years, or both, for each violation, except that the term of imprisonment may be increased to life for multiple violations or aggravated circumstances.

(2) Violations by a person other than an individual.—Any person other than an individual who knowingly violates, conspires to violate, or attempts to violate any provision of this Act or any regulation, license, or order issued under this Act shall be fined not more than $10,000,000, whichever is greater, for each violation.

(b) Foreclosure of Property Interest and Proceedings.—

(1) Forfeiture.—Any person who is convicted under paragraph (1) or (2) of subsection (a) shall, in addition to any other penalty, forfeit to the United States—

(A) any of that person’s security or other interest in, claim against, or property or contractual rights under the tangible items that were the subject of the violation; and

(B) any of that person’s security or other interest in, claim against, or property or contractual rights of any kind in the tangible property that was used in the export or attempt to export that was the subject of the violation; and

(C) any of that person’s property constituting, or derived from, any proceeds obtained directly or indirectly as a result of the violation.

(2) Procedure.—The procedures in any forfeiture under this subsection, and the duties and powers of the courts of the United States and the Attorney General with respect to any forfeiture action under this subsection, or with respect to any property that may be subject to forfeiture under this subsection, shall be governed by the provisions of chapter 46 of title 18, United States Code, to the same extent as property subject to forfeiture under that chapter.

(c) Civil Penalties; Administrative Sanctions.—

(1) Civil Penalties.—The Secretary may impose a civil penalty of up to $10,000,000 for each violation of a provision of this Act or any regulation, license, or order issued under this Act. The penalty in any such case may be in addition to, or in lieu of, any other liability or penalty which may be imposed for such a violation.

(2) Denial of Export Privileges.—The Secretary may deny the export privileges of any person, including the suspension or revocation of the authority of such person to export or reexport items subject to this Act, for a violation of a provision of this Act or any regulation, license, or order issued under this Act.

(3) Exclusion from contract.—The Secretary may exclude any person acting as an attorney, accountant, consultant, freight forwarder, or in any other representative capacity from participating in the Department with respect to a license application or any other matter under this Act.

(d) Payment of Civil Penalties.—

(1) Payment of civil penalties in furtherance of export privileges.—The payment of a civil penalty imposed under subsection (c) may be made in a condition for the granting, restoring, or continuation of any export license, permission, or privilege granted or to be granted to the person upon whom such penalty is imposed. The period for which the payment may be made in such condition may not exceed 1 year after the date on which the payment is due.

(2) Deferral or suspension.—

(A) In general.—The payment of a civil penalty imposed under subsection (c) may be deferred or suspended in whole or in part for the period no longer than any probation period which may exceed 1 year that may be imposed upon the person on whom the penalty is imposed.

(B) No bar to collection of penalty.—A deferral or suspension under subparagraph (A) shall not operate as a bar to the collection of the penalty concerned in the event that the person fails to comply with the conditions of the suspension, deferral, or probation are not fulfilled.

(3) Treatment of payments.—Any amount paid in satisfaction of a civil penalty imposed under subsection (c) shall be covered into the Treasury as miscellaneous receipts except as set forth in section 607(b).

(e) Refunds.—

(1) Authority.—

(A) In general.—The Secretary may, in the Secretary’s discretion, refund any civil penalty imposed under subsection (c) on the ground of a material error of fact or law in imposition of the penalty.

(B) Limitation.—A civil penalty may not be refunded under subparagraph (A) later than 2 years after payment of the penalty.

(f) Prohibition on actions for refund.—No person standing section 375(e) of title 50, United States Code, no action for the refund of any civil penalty referred to in paragraph (1) may be maintained in any court.

(g) Effect of convictions.—

(1) Denial of export privileges.—Any person convicted of a violation of—

(A) a provision of this Act or the Export Administration Act of 1979, 50 U.S.C. App. 16;

(B) a provision of the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.);

(C) section 781, 794, or 798 of title 18, United States Code;

(D) section 4(b) of the Internal Security Act (50 U.S.C. 783(b));

(E) section 38 of the Arms Export Control Act (22 U.S.C. 2778);

(F) section 16 of the Trading with the Enemy Act (50 U.S.C. App. 16);

(G) any regulation, license, or order issued under any provision of law listed in subparagraphs (A), (B), (D), (E), (F), or (G), other than section 371 or 1001 of title 18, United States Code, if in connection with the export of controlled items under this Act or any regulation, license, or order issued under this Act or the International Emergency Economic Powers Act, or the export of items controlled under the Arms Export Control Act;

(I) section 175 of title 18, United States Code;

(J) a provision of the Atomic Energy Act (42 U.S.C. 201 et seq.);

(K) section 831 of title 18, United States Code;

(L) section 2322a of title 18, United States Code,

may, at the discretion of the Secretary, be denied export privileges for a period not to exceed 10 years from the date of the conviction. The Secretary may also revoke any export license under this Act in which such person had an interest at the time of the conviction.

(2) Related persons.—The Secretary may exercise the authority under paragraph (1) with respect to a person related through affiliation, ownership, control, or position of responsibility to a person convicted of any violation of a law set forth in paragraph (1) upon a showing of such relationship with the convicted person. The Secretary shall make such showing only after providing notice and opportunity for a hearing.

(h) Certificate of nonadverse interest.—

(1) In general.—Except as provided in paragraph (2), a proceeding in which a civil
penalty or other administrative sanction (other than a temporary denial order) is sought under subsection (c) may not be instituted more than 5 years after the later of the date of conviction or the date of discovery of the alleged violation.

(2) Exception.—

(A) Tolling.—In any case in which a criminal indictment charging a violation of subsection (a) is returned within the time limits prescribed by law for the institution of such action, the limitation under paragraph (1) shall be tolled for the period of time during which the criminal indictment is being tried.

(B) Duration.—The tolling of the limitation with respect to a defendant under subparagraph (A) as a result of a criminal indictment charging a violation of subsection (a) continues for a period of 8 months from the date on which the conviction of the defendant becomes final, the indictment against the defendant is dismissed, or the criminal action has concluded.

(h) Violations defined by regulation.—Nothing in this section shall limit the authority of the Secretary to define by regulation violations under this Act.

(1) Construction.—Nothing in subsection (c), (d), (e), (f), or (g) limits—

(i) the availability of other administrative or judicial remedies with respect to a violation of a provision of this Act, or any regulation, order, or license issued under this Act; or

(ii) the authority to compromise and settle the administrative proceedings brought with respect to any such violation; or

(iii) the authority to compromise, remit, or mitigate seizures and forfeitures pursuant to section 1(b) of title VI of the Act of June 15, 1917 (22 U.S.C. 401(b)).

SEC. 604. MULTILATERAL EXPORT CONTROL REGULATION AND SANCTIONS.

(a) Imposition of sanctions.—

(1) In general.—The President, subject to subsection (c), shall impose sanctions described in subparagraph (B) for a period of not less than 2 years and not more than 5 years, if the President determines that—

(A) a foreign person has violated any regulation issued by a country to control exports for national security purposes pursuant to a multilateral export control regime; and

(B) such violation has substantially aided a country in—

(i) acquiring military significant capabilities or weapons, if the country is an actual or potential adversary of the United States; and

(ii) acquiring nuclear weapons provided such country is other than the declared nuclear states of the People’s Republic of China, the Republic of France, the Russian Federation, the United Kingdom, and the United States;

(iii) acquiring biological or chemical weapons; or

(iv) acquiring missiles.

(2) Notification of Congress.—The President shall notify Congress of each action taken under this section.

(b) Applicability and forms of sanctions.—The sanctions referred to in subsection (a) shall apply to the foreign person or other entity to which the United States operational military requirements; or

(B) if the President determines that the foreign person or other entity to which the United States operational military requirements; or

(C) if the President determines that such items are essential to the national security under defense coproduction agreements;

(2) in any case in which such sanctions would have been appropriate but for the earlier existence of treaties, agreements, or understandings; or

(3) to—

(A) items provided under contracts or other binding agreements (as such terms are defined by the President in regulations) entered into before the date on which the President makes the determination of the intent to impose the sanctions;

(B) after-market service and replacement parts including upgrades to items provided under contracts or other binding agreements; or

(C) components of, but not finished products, essential to United States products or productions;

(4) to—

(a) Violations by United States Persons.—The sanctions described in subparagraph (B) may not be imposed on—

(i) United States citizens or nationals;

(ii) United States corporations or other United States Government.

(b) Prohibitions or transfers of weapon systems.

(1) A prohibition on the importation into the United States of all items produced by a sanctioned person, by any department, agency, or instrumentality of the United States Government.

(2) A prohibition on the procurement into the United States of all items controlled under this Act.

(c) Exceptions.—The President shall not apply sanctions under this section—

(1) in the case of procurement of defense items—

(A) under existing contracts or subcontracts, including the exercise of options to satisfy for the United States operational military requirements;

(B) if the President determines that the foreign person or other entity to which the United States operational military requirements; or

(C) if the President determines that such items are essential to the national security under defense coproduction agreements;

(2) in any case in which such sanctions would have been appropriate but for the earlier existence of treaties, agreements, or understandings; or

(3) to—

(A) items provided under contracts or other binding agreements (as such terms are defined by the President in regulations) entered into before the date on which the President makes the determination of the intent to impose the sanctions;

(B) after-market service and replacement parts including upgrades to items provided under contracts or other binding agreements; or

(C) components of, but not finished products, essential to United States products or productions;

(4) to—

(a) Violations by United States Persons.—The President shall deny to such United States persons, for a period of 2 years, licenses for the transfer of missile technology or equipment controlled under this Act.

(b) Transfers of missile equipment or technology by foreign persons.

(1) Sanctions.—

(A) In general.—Subject to paragraphs (3) through (7), if the President determines that a foreign person, after the date of enactment of this section, knowingly exports, transfers, or otherwise engages in the trade in any MTCR equipment or technology that contributes to the design, development, or production of missiles in a country that is not an MTCR country and would be, if it were United States-origin equipment or technology, subject to the jurisdiction of the United States under this Act, the President shall impose the applicable sanctions under subsection (a).

(B) Sanctions described.—The sanctions which apply to a United States person under subparagraph (A) are the following:

(i) If the item on the MTCR Annex involved in the export, transfer, or trade is missile equipment or technology within category II of the MTCR Annex, then the President shall deny to such United States person, for a period of 2 years, licenses for the transfer of missile equipment or technology controlled under this Act.

(ii) If the item on the MTCR Annex involved in the export, transfer, or trade is missile equipment or technology within category I of the MTCR Annex, then the President shall deny to such United States person, for a period of not less than 2 years, all licenses for items the export of which is controlled under this Act.

(3) Waiver.—The President may waive the imposition of sanctions under paragraph (1) on a person with respect to an item if the President certifies to Congress that—

(A) the item is essential to the national security of the United States; and

(B) such person is a sole source supplier of the item, the item is not available from any alternative reliable supplier, and the need for the item cannot be met in a timely manner by improved manufacturing processes or technological developments.

(b) Transfers of missile equipment or technology by foreign persons.

(1) Sanctions.—

(A) In general.—Subject to paragraphs (3) through (7), if the President determines that a foreign person, after the date of enactment of this section, knowingly exports, transfers, or otherwise engages in the trade in any MTCR equipment or technology that contributes to the design, development, or production of missiles in a country that is not an MTCR country and would be, if it were United States-origin equipment or technology, subject to the jurisdiction of the United States under this Act, the President shall impose the applicable sanctions under subsection (a).

(B) Sanctions described.—The sanctions which apply to a United States person under subparagraph (A) are the following:

(i) If the item involved in the export, transfer, or trade is within category II of the MTCR Annex, then the President shall deny, for a period of 2 years, licenses for the transfer to such foreign person of missile equipment or technology the export of which is controlled under this Act.

(ii) If the item involved in the export, transfer, or trade is within category I of the MTCR Annex, then the President shall deny, for a period of not less than 2 years, licenses for the transfer of items the export of which is controlled under this Act.

(2) Exception.

(3) Tolling.—In any case in which a criminal indictment charging a violation of subsection (a) is returned within the time limits prescribed by law for the institution of such action, the limitation under paragraph (1) shall be tolled for the period of time during which the criminal indictment is being tried.

(b) Notification of Congress.—The President shall notify Congress of each action taken under this section.

(b) Applicability and forms of sanctions.—The sanctions referred to in subsection (a) shall apply to the foreign person or other entity to which the United States operational military requirements; or

(B) if the President determines that the foreign person or other entity to which the United States operational military requirements; or

(C) if the President determines that such items are essential to the national security under defense coproduction agreements;

(2) in any case in which such sanctions would have been appropriate but for the earlier existence of treaties, agreements, or understandings; or

(3) to—

(A) items provided under contracts or other binding agreements (as such terms are defined by the President in regulations) entered into before the date on which the President makes the determination of the intent to impose the sanctions;

(B) after-market service and replacement parts including upgrades to items provided under contracts or other binding agreements; or

(C) components of, but not finished products, essential to United States products or productions;

(4) to—

(a) Violations by United States Persons.—The President shall deny to such United States persons, for a period of 2 years, licenses for the transfer of missile technology or equipment controlled under this Act.

(b) Transfers of missile equipment or technology by foreign persons.

(1) Sanctions.—

(A) In general.—Subject to paragraphs (3) through (7), if the President determines that a foreign person, after the date of enactment of this section, knowingly exports, transfers, or otherwise engages in the trade in any MTCR equipment or technology that contributes to the design, development, or production of missiles in a country that is not an MTCR country and would be, if it were United States-origin equipment or technology, subject to the jurisdiction of the United States under this Act, the President shall impose the applicable sanctions under subsection (a).

(B) Sanctions described.—The sanctions which apply to a United States person under subparagraph (A) are the following:

(i) If the item involved in the export, transfer, or trade is within category II of the MTCR Annex, then the President shall deny, for a period of 2 years, licenses for the transfer to such foreign person of missile equipment or technology the export of which is controlled under this Act.

(ii) If the item involved in the export, transfer, or trade is within category I of the MTCR Annex, then the President shall deny, for a period of not less than 2 years, all licenses for items the export of which is controlled under this Act.
(iii) If, in addition to actions taken under clauses (i) and (ii), the President determines that the export, transfer, or trade has substantially contributed to the design, development, or production of missiles in a country that is not an MTCR adherent, then the President shall prohibit, for a period of not less than 2 years, the importation into the United States of products produced by that foreign person.

(2) INAPPLICABILITY WITH RESPECT TO MTCR ADHERENTS.—Paragraph (1) does not apply with respect to a (A) any export, transfer, or trading activity that is authorized by the laws of an MTCR adherent; or (B) any export, transfer, or trade of an item to an end user in a country that is an MTCR adherent.

(3) EFFECT OF ENFORCEMENT ACTIONS BY MTCR ADHERENTS.—Sanctions set forth in paragraph (1) may not be imposed under this subsection on a person with respect to acts described in such paragraph or, if such sanctions are in effect against a person on account of such acts, such sanctions shall be terminated if the MTCR adherent is taking judicial or other enforcement action against that person with respect to such acts, or that person has been found by the government of an MTCR adherent to be innocent of wrongdoing with respect to such acts.

(4) ADVISORY OPINIONS.—The Secretary, in consultation with the Secretary of Defense, may, upon the request of any person, issue an advisory opinion to that person as to whether a proposed activity by that person would subject that person to sanctions under this subsection. Any person who relies in good faith on such an advisory opinion which states that the proposed activity would not subject that person to such sanctions, and any person who thereafter engages in such activity, may not be made subject to such sanctions on account of such activity.

(5) WAIVER AND REPORT TO CONGRESS.—(A) WAIVER.—In any case other than one in which an advisory opinion has been issued under paragraph (4) stating that a proposed activity would not subject a person to sanctions under this subsection, the President may waive the application of paragraph (1) to a proposed export, transfer, or retransfer of missiles in a country that determines that such waiver is essential to the national security of the United States.

(B) REPORT TO CONGRESS.—In the event that the President decides to apply the waiver described in subparagraph (A), the President shall so notify Congress not less than 20 working days before issuing the waiver. Such notification shall include a report fully articulating the rationale and circumstances which led the President to apply the waiver.

(6) SANCTIONS SHALL NOT BE IMPOSED.—The President may waive the imposition of sanctions under paragraph (1) on a person with respect to a product or service if the President certifies to the Congress that—

(A) the product or service is essential to the national security of the United States; and

(B) such person is a sole source supplier of the product or service, the product or service is not available from any alternative reliable supplier, and the need for the product or service cannot be met in a timely manner by improved manufacturing processes or technological developments.

(7) EXCEPTIONS.—The President shall not apply the sanction under this subsection prohibiting the importation of the products of a foreign person—

(A) in the case of procurement of defense articles and services—

(i) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy requirements essential to the national security of the United States; (ii) if the President determines that the waiver is essential to the national security of the United States; and (iii) if the President determines that such activity would not subject a person to sanctions on account of such activity by that person; or

(B) in any case of corporations, including the exercise of options under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy requirements essential to the national security of the United States; and (ii) if the President determines that the waiver is essential to the national security of the United States; and (iii) if the President determines that such activity would not subject a person to sanctions on account of such activity by that person; or

(C) to do any of the following—

(i) spare parts,

(ii) component parts, but not finished products, essential to United States products or production;

(iii) routine services and maintenance of products, to the extent that alternative sources are not readily or reasonably available; or

(iv) information and technology essential to United States products or production.

(c) DEFINITIONS.—In this section:

(1) MISSILE TECHNOLOGY CONTROL REGIME: MTCR.—The term ‘‘Missile Technology Control Regime’’ or ‘‘MTCR’’ means the Treaty statement, between the United States, the United Kingdom, the Federal Republic of Germany, France, Italy, Canada, and Japan, announced on April 16, 1987, to restrict sensitive missile-relevant transfers based on the MTCR Annex, and any amendments thereto.

(2) MISSILE TECHNOLOGY CONTROL REGIME: MTCR.—The term ‘‘Missile Technology Control Regime’’ or ‘‘MTCR’’ means the Treaty statement, between the United States, the United Kingdom, the Federal Republic of Germany, France, Italy, Canada, and Japan, announced on April 16, 1987, to restrict sensitive missile-relevant transfers based on the MTCR Annex, and any amendments thereto.

(3) MTCR ADHERENT.—The term ‘‘MTCR adherent’’ means a country that participates in the MTCR or that, pursuant to an international understanding to which the United States is a party, controls MTCR equipment or technology in accordance with the criteria and standards set forth in the MTCR.

(4) MTCR ANNEX.—The term ‘‘MTCR Annex’’ means the Guidelines and Equipments Annex of the MTCR, and any amendments thereto.

(5) MISSILE EQUIPMENT OR TECHNOLOGY; MTCR EQUIPMENT OR TECHNOLOGY.—The terms ‘‘missile equipment or technology’’ and ‘‘MTCR equipment or technology’’ mean those items listed in category I or category II of the MTCR Annex.

(6) FOREIGN PERSON.—The term ‘‘foreign person’’ means any person other than a United States person.

(7) PERSON.—(A) IN GENERAL.—The term ‘‘person’’ means a natural person as well as a corporation, business association, partnership, society, trust, any other nongovernmental entity, organization, or group, and any governmental entity operating as a business enterprise, and any successor of any such entity.

(B) IDENTIFICATION IN CERTAIN CASES.—In the case of countries where it may be impossible to identify a specific governmental entity referred to in subparagraph (A), the term ‘‘person’’ means—

(i) all activities of that government relating to the development or production of any missile equipment or technology; and

(ii) all activities of that government affecting the production of any aircraft, electronics, and space systems or equipment.

(8) OTHERWISE ENGAGED IN THE TRADE OF.—The term ‘‘otherwise engaged in the trade of’’ means, with respect to a particular export or transfer, to be a freight forwarder or transportation agent, a consignee or end user of the item to be exported or transferred.

SEC. 606. CHEMICAL AND BIOLOGICAL WEAPONS PROLIFERATION SANCTIONS.

(a) IMPOSITION OF SANCTIONS.— (1) DETERMINATION BY THE PRESIDENT.—Except as provided in subsection (b), the President shall impose both of the sanctions described in subsection (c) if the President determines that a foreign person, or on after the date of enactment of this Act, has knowingly and materially contributed—

(A) through the export from the United States of any item that is subject to the jurisdiction of the United States under this Act, or

(B) through the export from any other country of any item that would, if it were a United States item, subject to the jurisdiction of the United States under this Act, to the efforts by any foreign country, project, or entity described in paragraph (2) to develop or otherwise acquire chemical or biological weapons.

(2) COUNTRIES, PROJECTS, OR ENTITIES RECEIVING ASSISTANCE.—Paragraph (1) applies in the case of—

(A) any foreign country that the President determines has, at any time after the date of enactment of this Act—

(i) used chemical or biological weapons in violation of international law;

(ii) used lethal chemical or biological weapons against its own nationals; or

(iii) made substantial preparations to engage in the activities described in clause (i) or (ii);

(B) any foreign country whose government is determined for purposes of section 310 to be a government that has repeatedly provided support for acts of international terrorism; or

(C) any other foreign country, project, or entity designated by the President for purposes of this section.

(3) PERSONS AGAINST WHICH SANCTIONS ARE TO BE IMPOSED.—Sanctions shall be imposed pursuant to paragraph (2) upon—

(A) the foreign person with respect to which the President makes the determination described in that paragraph;

(B) any successor entity to that foreign person;

(C) any foreign person that is a parent or subsidiary of that foreign person if that parent or subsidiary knowingly assisted in the activities which were the basis of that determination; and

(D) any foreign person that is an affiliate of that foreign person if that affiliate knowingly assisted in the activities which were the basis of that determination and that affiliate is controlled in fact by that foreign person.

(b) CONSULTATIONS WITH AND ACTIONS BY FOREIGN GOVERNMENT OF JURISDICTION.—(1) CONSULTATIONS.—If the President makes the determinations described in subsection (a)(1) with respect to a foreign person, Congress urges the President to initiate consultations immediately with the government with primary jurisdiction over that foreign person with respect to the imposition of sanctions pursuant to this section.

(2) ACTIONS BY GOVERNMENT OF JURISDICTION.—In order to pursue such consultations with that government, the President may direct the Department of State to do any act prescribed in this section for a period of up to 90 days. Following the consultations, the President shall
impose sanctions unless the President determines and certifies to Congress that government has taken specific and effective actions, including appropriate penalties, to terminate the violation of the foreign person in the activities described in subsection (a)(1). The President may delay imposition of sanctions for an additional period of up to 90 days after making a determination under subsection (a)(1), on the status of consultations and the appropriate action under this subsection, and the basis for any determination under paragraph (2) of this subsection that such government has taken specific corrective actions.

(c) SANCTIONS.—
(1) DESCRIPTION OF SANCTIONS.—The sanctions to be imposed pursuant to subsection (a)(1) are, except as provided in paragraph (2) of this subsection, the following:
(A) PROCUREMENT SANCTION.—The United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from any person described in subsection (a)(3).
(B) IMPORT SANCTIONS.—The importation into the United States of products produced, or a person described in subsection (a)(3) shall be prohibited.
(2) EXCEPTIONS.—The President shall not be required to apply or maintain sanctions under this section—
(A) in the case of procurement of defense articles or defense services—
(i) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy United States operational military requirements;
(ii) for compensation of the United States Customs Service designated by the Commissioner of Customs, and officers and employees of any other department or agency designated by the head of a department or agency exercising functions under this Act, to search, detain (after search), and seize commodities or technology at the ports of entry into or exit from the United States where officers of the United States Customs Service are authorized by law to carry out law enforcement responsibilities. Subject to paragraph (3), the United States Customs Service is authorized, in the course of enforcing this Act, to search, detain (after search), and seize Commodities or technology at the ports of entry into or exit from the United States where officers of the United States Customs Service are authorized by law to conduct searches, detentions, and seizures, and at the places outside the United States where the United States Customs Service is authorized to perform enforcement activities.
(C) OTHER ACTIONS BY CUSTOMS SERVICE.—In carrying out enforcement authority under paragraph (3), the Commissioner of Customs and employees of the United States Customs Service designated by the Commissioner may make investigations within or outside the United States and at ports of entry into or exit from the United States where officers of the United States Customs Service are authorized by law to carry out law enforcement responsibilities. Subject to paragraph (3), the United States Customs Service is authorized, in the course of enforcing this Act, to search, detain (after search), and seize Commodities or technology at the ports of entry into or exit from the United States where officers of the United States Customs Service are authorized by law to conduct searches, detentions, and seizures, and at the places outside the United States where the United States Customs Service is authorized to perform enforcement activities.
(D) AGREEMENTS AND ARRANGEMENTS.—The Secretary and the Commissioner of Customs shall enter into agreements and arrangements for the enforcement of this Act, including foreign investigations and information exchange.

(b) DEFINITIONS.—
(1) SANCTION.—The term ‘sanction’ means—
(A) any limitation on the ability of a person described in subsection (a)(3) to deal in products, essential to United States products or services, which the President publishes his intention to impose; or
(B) any limitation on the ability of an individual who is not a citizen of the United States on an alien admitted for permanent residence to the United States; or
(C) other actions by Customs Service personnel.
(2) PROCUREMENT SANCTION.—Any officer or employee designated under paragraph (2), in carrying out the enforcement authority under this Act, may do the following:
(I) Make investigations of, obtain information from, make inspection of any books, records, or reports (including any writings required to be kept by the Secretary), premises, or property of, and take the sworn testimony of, any person.
(ii) Administer oaths or affirmations, and by subpoena require any person to appear and testify or to appear and produce books, records, and other writings, or both. Any failure to obey such order of the court may be punished by such court as a contempt thereof. The attendance of witnesses and the production of documents and writings provided for in this clause may be required from any State, the District of Columbia, or in any territory of the United States at any designated place. Witnesses subpoenaed under this subsection shall be paid the same fees and mileage allowance as paid witnesses in the district courts of the United States.

(c) ENFORCEMENT.—
(1) OEE PERSONNEL.—Any officer or employee designated by the President under paragraph (2) may, in carrying out the enforcement authority under this Act:
(I) Execute any warrant or other process issued by a court or officer of competent jurisdiction with respect to the enforcement of this Act.
(ii) Make arrests without warrant for any violation of this Act committed in his or her presence, or when the person so arrested has probable cause to believe that the person to be arrested has committed, is committing, or is about to commit such a violation.
(iii) Carry firearms.

(2) OTHER ACTIONS BY CUSTOMS SERVICE PERSONNEL.—Any officer or employee of the United States Customs Service designated by the President under paragraph (2) may—
(I) Exercise the enforcement authority under paragraph (2) as defined by law to conduct searches, detentions, and seizures, and at the places outside the United States where the United States Customs Service is authorized to perform enforcement activities.
(II) Carry firearms.
the Commissioner of Customs under para-
graph (2) may do the following in carrying out the enforcement authority under this Act:

(1) Stop, search, and examine a vehicle, vessel, aircraft, or person on which or whom the officer or employee has reasonable cause to suspect there is any item that has been, is being, or is about to be exported from or transited through the United States in violation of this Act.

(ii) Detain and search any package or container either of the officer or employee has reasonable cause to suspect there is any item that has been, is being, or is about to be exported from or transited through the United States in violation of this Act.

(iii) Detain (after search) or seize any item, for purposes of securing for trial or forfeiture to the United States, on or about such vehicle, vessel, aircraft, or person or in such package or container, if the officer or employee has probable cause to believe the item has been, is being, or is about to be exported from or transited through the United States in violation of this Act.

(4) OTHER AUTHORITIES NOT AFFECTED.—The authorities conferred by this section are in addition to any authorities conferred under other laws.

(b) FORFEITURE.

(i) IN GENERAL.—Any tangible items lawfully seized under subsection (a) by designated officers or employees shall be subject to forfeiture to the United States.

(ii) PAYMENTS UNDER LAWS.—Those provisions of law relating to—

(A) the seizure, summary and judicial forfeiture, and condemnation of property for violation of customs laws;

(B) the disposition of such property or the proceeds from the sale thereof;

(C) the remission or mitigation of such forfeitures;

and

(D) the compromise of claims, shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this subsection, insofar as applicable and not inconsistent with this Act.

(c) FORFEITURES UNDER CUSTOMS LAWS.—Duties that are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws may be performed with respect to seizures and forfeitures of property under this subsection by the Secretary or any officer or employee of the Department that may be authorized or designated for that purpose by the Secretary or, upon the request of the Secretary, by any other agency that has authority to manage and dispose of seized property.

(d) REFERRAL OF CASES.—All cases involving violations of this Act shall be referred to the Secretary for purposes of determining civil penalties and administrative actions under section 636 or to the Attorney General for criminal action in accordance with this Act or to both the Secretary and the Attorney General.

(e) UNDERCOVER INVESTIGATION OPERATIONS.—

(i) USE OF FUNDS.—With respect to any undercover investigative operation conducted by the OEE that is necessary for the detection and prosecution of violations of this Act—

(A) funds made available for export enforcement under this Act may be used to purchase property, buildings, and other facilities, equipment, and services, and space within the United States, without regard to sections 1341 and 3324 of title 31, United States Code, the third underlined, and the heading in “miscellaneous” of the Act of March 3, 1877, (40 U.S.C. 34), sections 3732(a) and 3741 of the Revised Statutes of the United States (41 U.S.C. 11(a) and 22), subsections (a) and (c) of section 304 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251(a) and (c)); and (b) funds made available for export enforcement under this Act and the proceeds from undercover operations may be deposited in banks or other financial institutions without regard to the provisions of section 648 of title 18, United States Code, and section 3302 of title 31, United States Code; and

(ii) The number of undercover investigative operations, the funds used for such operations and the proceeds resulting from such operations shall apply to seizures and forfeitures in connection with such operations.

(2) DISPOSITION OF BUSINESS ENTITIES.—If a corporation or business entity, established or acquired, pursuant to an undercover operation, has a net value of more than $250,000 and is to be liquidated, sold, or otherwise disposed of, the Director of OEE shall report the circumstances to the Secretary and the Comptroller General of the United States as much in advance of such disposition as the Director determines is practicable. The proceeds of the liquidation, sale, or other disposition, after obligations incurred by the corporation or business enterprise are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

(3) DEPOSIT OF PROCEEDS.—Any property or equipment purchased pursuant to paragraph (1) may be retained for subsequent use in undercover operations under this section. When such property or equipment is no longer needed, it shall be considered surplus and disposed of as surplus government property.

(4) AUDIT AND REPORT.—(A) ANNUAL AUDIT.—The Director of OEE shall conduct a detailed financial audit of each closed OEE undercover investigative operation and shall submit the results of the audit within 180 days after an undercover operation is closed. The Secretary shall submit to Congress a report on the results of the audit.

(B) REPORT.—The Secretary shall annually report to Congress a report, which may be included in the annual report under section 801, specifying the following information:

(i) The number of undercover investigative operations pending as of the end of the period for which such report is submitted.

(ii) The number of undercover investigative operations conducted in the 1-year period preceding the period for which such report is submitted.

(iii) The number of undercover investigative operations conducted in the 1-year period preceding the period for which such report is submitted and, with respect to each such closed undercover operation, the results obtained and any civil claims made with respect to the operation.

(5) DEFINITIONS.—For purposes of paragraph (4)—

(A) the term “closed”, with respect to an undercover investigative operation, refers to the earliest point in time at which all criminal activities known to the OEE pursuant to the investigative operation are concluded, or covert activities pursuant to such operation are concluded, whichever occurs later; and

(B) the terms “undercover investigative operation” and “undercover operation” mean any undercover investigative operation conducted by the OEE.

(i) in which the gross receipts (excluding interest earned) exceed $25,000, or expenditures (other than expenditures for salaries of employees) exceed $75,000, and

(ii) which is exempt from section 3302 or 9102 of title 31, United States Code, except that clauses (i) and (ii) shall not apply with respect to the report to Congress required by paragraph (4)(B).
(B) such information leads to the recovery of any criminal fine, civil penalty, or forfeiture, the Secretary and the Commissioner of Customs, after a discretion exercised by the Secretary or the Commissioner, award and pay an amount that does not exceed 25 percent of the net amount recovered.

(2) SOURCE OF PAYMENT.—The amount awarded and paid to any person under this section may not exceed $250,000 for any case.

(3) SOURCE OF PAYMENT.—The amount paid under this section shall be paid out of any penalties, forfeitures, or appropriated funds.

(f) FREIGHT FORWARDERS BEST PRACTICES PROGRAM.—There is authorized to be appropriated to the Department of Commerce $3,500,000 and such sums as may be necessary to hire 10 additional employees to assist United States freight forwarders and other interested parties in developing and implementing, on a voluntary basis, a "best practices" program to ensure that exports or controlled items undertaken in compliance with this Act.

(p) END-USE VERIFICATION AUTHORIZATION.—(1) IN GENERAL.—There is authorized to be appropriated to the Department of Commerce $4,500,000 and such sums as may be necessary to hire 10 additional overseas investigators to be posted in the People's Republic of China, the People's Republic of Vietnam, the People's Republic of Pakistan, the People's Republic of North Korea, the People's Republic of Indonesia, the People's Republic of Thailand, and other countries or regions, to verify the end use of high-risk, dual-use technology.

(2) REPORT.—Not later than 2 years after the date of enactment of this Act and annually thereafter, the Department shall, in its annual report to Congress on export controls, include a report on the effectiveness of the end-use verification activities authorized under subsection (a). The report shall include the following information:

(A) The activities of the overseas investigators of the Department.

(B) The types of goods and technologies that were subject to end-use verification.

(C) The ability of the Department's investigators to detect the illegal transfer of high-risk, dual-use goods and technologies.

(D) ENHANCEMENTS.—In addition to the authorization provided in paragraph (1), there is authorized to be appropriated to the Department of Commerce $5,000,000 to enhance its program for verifying the end use of items subject to the Export Administration Act.

(2) ENHANCEMENTS.—There is authorized to be appropriated to the Department of Commerce $2,000,000 to conduct professional training of license review officers, auditors, and investigators conducting post-shipment verification checks. These funds shall be used to—

(A) train and certify, through a formal program, new employees entering these positions for the first time; and

(B) the ongoing professional training of experienced employees on an as needed basis.

(q) AUTHORIZATION.—There are authorized to be paid to the Department of Commerce $2,000,000 to conduct professional training of license review officers, auditors, and investigators conducting post-shipment verification checks.

(r) AUTHORIZATION FOR LICENSE REVIEW OFFICERS.—(1) IN GENERAL.—There is authorized to be appropriated to the Department of Commerce $2,000,000 to conduct professional training of license review officers, auditors, and investigators conducting post-shipment verification checks. These funds shall be used to—

(A) train and certify, through a formal program, new employees entering these positions for the first time; and

(B) the ongoing professional training of experienced employees on an as needed basis.

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(A) train and certify, through a formal program, new employees entering these positions for the first time; and

(B) the ongoing professional training of experienced employees on an as needed basis.

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(A) train and certify, through a formal program, new employees entering these positions for the first time; and

(B) the ongoing professional training of experienced employees on an as needed basis.
the administrative law judge and the Secretary shall constitute the administrative record for purposes of review by the court.

(3) COURT APPEALS.—An order of the Secretary whole or in part, the issuance or renewal of a temporary denial order may, within 15 days after the order is issued, be appealed by a person subject to the order to the United States Court of Appeals for the District of Columbia Circuit, which shall have the jurisdiction of the appeal. The court may review only those issues necessary to determine whether the issuance of the temporary denial order was based on reasonable cause to believe that the person subject to the order is engaged in or was engaged in an activity to engage in any act or practice that constitutes or would constitute a violation of this title, or any regulation, order, or license issued under this Act, or whether a criminal indictment has been returned against the person subject to the order alleging a violation of this Act or of any of the statutes listed in section 603. The court shall vacate the Secretary's order if the court finds that the Secretary's order is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

(e) LIMITATIONS ON REVIEW OF CLASSIFIED INFORMATION.—Any classified information that is or has been administered or disclosed that is subject to review pursuant to subsection (b)(1) or (d)(3) may be reviewed by the court only on an ex parte basis and in camera.

TITLE VII—EXPORT CONTROL AUTHORITY AND REGULATIONS

SEC. 701. EXPORT CONTROL AUTHORITY AND REGULATIONS.

(a) EXPORT CONTROL AUTHORITY.—

(1) IN GENERAL.—Unless otherwise reserved to the President or a department (other than the Department of the Treasury) or agency of the United States, all power, authority, and discretion conferred by this Act shall be exercised by the Secretary.

(2) DELEGATION OF FUNCTIONS OF THE SECRETARY.—The Secretary may delegate any function under this Act, unless otherwise provided, to the Under Secretary of Commerce for Export Administration or to any other officer of the Department.

(b) UNDER SECRETARY OF COMMERCE; ASSISTANT SECRETARIES.

(1) UNDER SECRETARY OF COMMERCE.—There shall be within the Department an Under Secretary of Commerce for Export Administration (in this Act referred to as the “Under Secretary”) who shall be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary shall carry out all functions of the Secretary under this Act and other provisions of law relating to national security, as the Secretary may delegate.

(2) ADDITIONAL ASSISTANT SECRETARIES.—In addition to the number of Assistant Secretaries otherwise authorized for the Department of Commerce, there shall be within the Department the following Assistant Secretaries of Commerce:

(A) An Assistant Secretary for Export Administration who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall assist the Secretary and the Under Secretary in carrying out functions relating to export listing and licensing;

(B) An Assistant Secretary for Export Enforcement who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall assist the Secretary and the Under Secretary in carrying out functions relating to export enforcement.

(c) DELEGATION OF REGULATIONS.—

(1) IN GENERAL.—The President and the Secretary may issue such regulations as are necessary to carry out this Act. Any such regulations the purpose of which is to carry out title II or title III may be issued only after the regulations are submitted for review, and approved by the President, as the President considers appropriate. The Secretary shall consult with the appropriate export control advisory committee appointed under section 706(c) of this Act, or with the Committee on International Trade of the House of Representatives, the Senate Committee on Foreign Relations upon the request of the chairman or ranking minority member of such committee or subcommittee.

(2) AMENDMENTS TO REGULATIONS.—If the Secretary proposes to amend regulations issued under this Act, the Secretary shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives on the intent and rationale of such amendments. Such report shall evaluate the cost and burden to the United States exporters of the proposed amendments in relation to any enhancement of licensing objectives. The Secretary shall consult with the appropriate export control advisory committees appointed under section 706(c) of this Act on any proposed regulations issued under this Act.

SEC. 702. CONFIDENTIALITY OF INFORMATION.

(a) EXEMPTIONS FROM DISCLOSURE.—

(1) INFORMATION OBTAINED ON OR BEFORE JUNE 30, 1980.—Except as otherwise provided by the third sentence of section 602(c)(2), information obtained under the Export Administration Act of 1979, or any predecessor statute, on or before June 30, 1980, which is deemed confidential, including Shipper’s Export Declarations, or with respect to which a request for confidential treatment is made to or filed with, such department or agency to which such regulations or information are submitted, shall not be subject to disclosure under section 552 of title 5, United States Code, and such information shall not be disclosed, unless the Secretary determines that the withholding thereof is contrary to the national interest.

(2) INFORMATION OBTAINED AFTER JUNE 30, 1980.—Except as otherwise provided by the third sentence of section 13(b)(2) of the Export Administration Act of 1979, information maintained or amended under the Export Administration Act of 1979 after June 30, 1980, or under the Export Administration regulations as maintained and amended under the Export Administration Act of 1979 and the Emergency Economic Powers Act (50 U.S.C. 1706), may be withheld from disclosure only to the extent permitted by statute, except that information which is submitted to the Secretary and is not otherwise considered in connection with an application for an export license or other export authorization (or recordkeeping or reporting requirement) under the Export Administration Act of 1979, under this Act, or under the Export Administration regulations as maintained and amended under the authority of the Emergency Economic Powers Act (50 U.S.C. 1706), including—

(A) the export license or other export authorization itself;

(B) classification requests described in section 501(h),

(C) information or evidence obtained in the course of any investigation,

(D) information obtained or furnished under title VII in connection with any international agreement, treaty, or other obligation, and

(E) information obtained in making the determinations set forth in section 211 of this Act, and information obtained in any investigation under section 602(c) of this Act except for information required to be disclosed by section 602(c)(2) or 606(b)(2) of this Act, shall be withheld from public disclosure and shall not be subject to disclosure under section 552 of title 5, United States Code, unless the release of such information is determined by the Secretary to be in the national interest.

(b) INFORMATION TO CONGRESS AND GAO.—

(1) IN GENERAL.—Nothing in this title shall be construed as authorizing the withholding of information from Congress or from the General Accounting Office.

(2) AVAILABILITY TO THE CONGRESS.—Any information obtained at any time under this Act or under any predecessor Act regarding the control of exports which is submitted on a confidential basis to the Congress, including the full committee to which the information is made available determines that the withholding of the information is contrary to the national interest.

(3) AVAILABILITY TO THE GAO.—

(A) IN GENERAL.—Notwithstanding subsection (a), information described in paragraph (1) shall, consistent with the protection of intelligence, counterintelligence, and law enforcement sources, methods, and activities, as determined by the agency that obtained the information, be made available only by the agency, upon request, to the Comptroller General of the United States or to any officer or employee of the General Accounting Office authorized by the Comptroller General to have access to such information.

(B) PROHIBITION ON FURTHER DISCLOSURE.—No officer or employee of the General Accounting Office shall disclose, except to Congress, any such information which is submitted on a confidential basis and from which any individual can be identified.

(c) INFORMATION ON EXCHANGE.—Notwithstanding subsection (a), the Secretary and the Commissioner of Customs shall exchange licensing and enforcement information with each other as necessary to facilitate effective enforcement efforts and effective license decisions.

(d) PENALTIES FOR DISCLOSURE OF CONFIDENTIAL INFORMATION.—

(1) DISCLOSURE PROHIBITED.—No officer or employee of the United States, or any department or agency thereof, may publish, divulge, disclose, or make known in any manner any information that is not authorized by law that information that—

(A) the officer or employee obtains in the course of his or her employment or official duties or by reason of any examination or investigation made by, or report or record made to or filed with, such department or agency, or officer or employee thereof; and

(B) is exempt from disclosure under this section.

(2) CRIMINAL PENALTIES.—Any such officer or employee who knowingly violates paragraph (1) shall be fined not more than $50,000, and imprisoned not more than 1 year, or both, for each violation of paragraph (1). Any such officer or employee may also be removed from office by the President or other head of the department or agency.

(3) CIVIL PENALTIES; ADMINISTRATIVE SANCTIONS.—The Secretary may impose a civil
penalty of not more than $5,000 for each violation of paragraph (1). Any officer or employee who commits such violation may also be removed from office or employment for the remainder of the current term of office of such officer or employee by a Federal judge under the provisions of section 603 of title 5, United States Code, and such officer or employee shall be subject to prosecution under section 106 of title 18, United States Code.

TITLES V—MISCELLANEOUS PROVISIONS SEC. 801. ANNUAL AND PERIODIC REPORTS.

(a) ANNUAL REPORT.—Not later than February 1 of each year, the Secretary shall submit to Congress a report on the administration of the Export Administration Act during the fiscal year ending September 30 of the preceding calendar year. All Federal agencies shall cooperate fully with the Secretary in providing information for such report.

(b) REPORT ELEMENTS.—Each such report shall include in detail—

(1) a description of the implementation of the export control policies established by this Act, including any delegations of authority by the President and any other changes in the exercise of delegated authority;

(2) a description of the changes to and the year-end status of country tiering and the Control List;

(3) descriptions of the regulations, policies, and administrative procedures in effect under this Act;

(4) a description of the regulations issued under this Act;

(5) a description of organizational and procedural changes undertaken in furtherance of this Act;

(6) a description of the enforcement activities, violations, and sanctions imposed under section 604;

(7) a statistical summary of all applications and notifications pending review at the beginning of the fiscal year;

(8) the number of applications and notifications pending review at the end of the fiscal year;

(9) the number of notifications returned and subject to full license procedure;

(10) the number of notifications with no action required;

(11) the number of applications that were approved, denied, or withdrawn, and the number of applications where final action was taken; and

(12) the number of applications and notifications pending review at the end of the fiscal year;

(13) a summary of export license data by export identification code and dollar value by country;

(14) an identification of processing time by—

(A) overall average, and

(B) top 25 export identification codes;

(15) an assessment of the effectiveness of multilateral regimes, and a description of negotiations and recording export controls;

(16) a description of the significant differences between the export control requirements of the United States and those of other multilateral control regime members, the specific differences between United States requirements and those of other significant supplier countries, and a description of the extent to which the executive branch intends to address the differences;

(17) an assessment of the costs of export controls;

(18) a description of the progress made toward achieving the goals established for the Department dealing with export controls under the Government Performance Results Act; and

(19) any other reports required by this Act to be submitted to the Committee on Bank-

ing, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives.

(c) CONGRESSIONAL NOTIFICATION.—Whenever the Secretary determines, in consultation with other appropriate departments and agencies, that a significant violation of this Act poses a direct and imminent threat to United States national security, the Secretary, in consultation with other appropriate departments and agencies, shall advise the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives of such violation consistent with the protection of law enforcement sources and activities.

(d) FEDERAL REGISTER PUBLICATION REQUIREMENTS.—Whenever information under this Act as required to be published in the Federal Register, such information shall, in addition, be made available on the appropriate Internet website of the Department.

SEC. 802. TECHNICAL AND CONFORMING AMENDMENTS.

(a) REPEAL.—The Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq.) is repealed.

(b) ENERGY POLICY AND CONSERVATION ACT.

(1) Section 103 of the Energy Policy and Conservation Act (42 U.S.C. 6712(a)(1)) is repealed.

(2) Section 251(d) of the Energy Policy and Conservation Act (42 U.S.C. 2721(d)) is repealed.

(c) ALASKA NATURAL GAS TRANSPORTATION ACT.—Section 12 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719b) is repealed.

(d) MINERAL LEASING ACT.—Section 28(a) of the Mineral Leasing Act (30 U.S.C. 185(e)) is repealed.

(e) EXPORTS OF ALASKAN NORTH SLOPE OIL.—Section 28(e) of the Mineral Leasing Act (30 U.S.C. 185(e)) is repealed.

(f) DISPOSITION OF CERTAIN NAVAL PETROLEUM RESERVE PRODUCTS.—Section 7430(e) of title 10, United States Code, is repealed.

(g) OUTER CONTINENTAL SHELF LANDS ACT.—Section 29 of the Outer Continental Shelf Lands Act (43 U.S.C. 1354) is repealed.

(h) ARMS EXPORT CONTROL ACT.

(1) Section 38 of the Arms Export Control Act (22 U.S.C. 2751) is amended—

(A) in subsection (e)—

(i) in the first sentence, by striking “subsections (c) and all that follows through “12(a)(3)”’’ and inserting “section 603(c) of the Export Administration Act of 2001, by subsections (a) and (b) of section 607 of such Act, and by subsection 602(b)”;

(ii) in the third sentence, by striking “11(c)” and inserting “603(c)” of the Export Administration Act of 2001”;

(B) by striking “section 603(c)” and inserting “section 603(c)”.

(2) Section 40(c) of the Arms Export Control Act (22 U.S.C. 2760(k)) is amended—

(A) in subsection (a), by striking “section 603(b), 603(c), 603(e), 607(a), and 607(b)” and inserting “603(c)”;

(B) by striking “11(c)” and inserting “603(c)”.

(3) Section 40(k) of the Arms Export Control Act (22 U.S.C. 2760(k)(5)) is amended—

(a) by striking “section 603(b), 603(c), 603(e), 607(a), and 607(b)” and inserting “603(c)”;

(b) by striking “11(c)” and inserting “603(c)”.

(4) Section 50(b)(4) of the Trading with the Enemy Act (50 U.S.C. App. 2504(b)(4)) is amended by striking “section 5 of the Export Administration Act of 1979 and inserting “section 6(j)” of the Export Administration Act of 1979”.

(5) Section 502(b)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2304(a)(3)) is amended in the second sentence—

(A) by striking “Export Administration Act of 1979”;

(B) by striking “and” and inserting “or”.

(6) Section 140(a) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2565(a)(1)) is amended—

(A) in paragraph (1)(B), by inserting “or section 310 of the Export Administration Act of 2001” after “Act of 1979”; and

(B) in paragraph (2), by inserting “or 310 of the Export Administration Act of 2001” after “Act of 1979”.

(7) Section 40(c)(1) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2240(c)(1)) is amended—

(A) by striking “Act of 1979”;

(B) by inserting “Act of 1979”; and

(C) in subsection (g) and inserting “Act of 2001”.

(8) Section 28 of the Outer Continental Shelf Lands Act (43 U.S.C. 1354) is amended by striking “section 6(j)” of the Export Administration Act of 2001”.

(9) Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking “section 6(j)” of the Export Administration Act of 1979”.

(10) Section 1621(a) of the International Financial Institutions Act (22 U.S.C. 262f) is amended by striking “section 6(j)” of the Export Administration Act of 1979”.

(11) Section 310 of the Export Administration Act of 1979, as added by section 6(j)” of the Export Administration Act of 1979”.

(12) Section 2405 of the Export Administration Act of 1979, as added by section 6(j)” of the Export Administration Act of 1979”.

S478

CONGRESSIONAL RECORD—SENATE

January 23, 2001
end of the last Congress we passed a temporary extension of the EAA that expires on August 20 of this year. Prior to this most recent temporary extension, the authority of the President to impose export controls had been exerted pursuant to the National Emergency Economic Powers Act (IEEPA). In my view, Congress should put in place a permanent statutory framework for the imposition of export controls. They should not be imposed in effect on an ad hoc basis pursuant to an emergency economic authority of the President. Just one example of the implications of depending on IEEPA is that the penalties that may be imposed for violations of export controls under IEEPA are significantly less than those imposed under the EAA.

I believe this legislation is a carefully balanced effort to provide the President authority to control exports as well as their national security and foreign policy, while also responding to the need of U.S. exporters to compete in the global marketplace.

Extensive consultation took place with representatives of the previous Administration, Commerce Department, the Defense Department, the intelligence agencies and the National Security Council, as well as representatives of the different industry groups. I also understand that during the campaign then-Governor Bush also endorsed this legislation, and we would hope to work closely with the new Administration on this bill.

I would like to commend Senator Enzi of the committee of the International Trade and Finance Subcommittee of the Banking Committee in the last Congress, Senator Johnson (who was the ranking member of the Subcommittee), and Senator Gramm, for their efforts to develop a bipartisan consensus on this legislation. The legislation generally tracks the authorities provided under the export controls. However, a significant effort was made, with the assistance of the Legislative Counsel's Office, to provide these authorities in a more clear and straightforward manner. We believe this will make the statute both more readable and enforceable.

The bill also makes a number of significant improvements to the EAA. I could not mention just a few. The legislation provides for the first time a statutory basis for the resolution of interagency disputes over export license applications. The intent is to provide an orderly process for the timely resolution of issues, allowing all interested agencies a full opportunity to express their views. This was an issue of great concern to the Administration, the national security community, and industry. I believe we have reached a reasonable resolution of this issue in the bill.

The bill significantly increases both criminal and civil penalties for violations of the Export Administration Act, reflecting the seriousness of such violations.

The bill provides new authority to the President to determine that a good has mass market status in the United States and will therefore be recontrolled. The President retains authority to set aside a mass market determination if he determines it would constitute a serious threat to national security and continued export controls would not be in the national security interests of the United States. This was a provision of great importance to U.S. exporters.

At the urging of Senator Enzi, the bill contains a provision that would require the President to establish a system of tiers to which countries would be assigned based on their perceived threat to U.S. national security. The intent is to provide exporters a clear guide as to the licensing requirements of an export of a particular item to a particular country.

The bill would also require that any additional license be the Congress in which the Export Administration Act is enacted back into law.

By Mr. KERRY:

S. 150. A bill to amend the Internal Revenue Code of 1986 to provide an incentive to ensure that all Americans gain timely and equitable access to the Internet over current and future generations of broadband capability; to the Committee on Finance.
Current law allows qualified small businesses to deduct 60 percent of their health insurance payments. The cost of health insurance and the lack of a full deduction has kept many small businesses from obtaining health insurance for their employees. In 1996, an estimated 12 percent of workers were employed but only about 3.2 million tax returns claimed the self-employed health insurance deduction. In 1998, 34 percent of workers in firms with fewer than 10 employees lacked health insurance compared with only 13 percent of workers in firms with more than 1,000 employees. Clearly, the cost of health insurance has kept many small businesses from offering health insurance. Many small businesses simply cannot afford to pick up the difference between the deduction and the total cost of health insurance.

Unfortunately, due to an inequity within our current tax law, big businesses are currently allowed to deduct 100 percent of their health insurance costs. While small businesses are slated to have their health insurance deduction increase to 100 percent in 2003, I believe this is far too long for many small businesses to wait to obtain health insurance.

That is why I am proud to cosponsor the legislation introduced yesterday by Senators BOND and DURBIN, which will finally end the inequity in current tax law and allow small businesses to deduct the same amount of their health insurance costs as big businesses. For many small businesses, this increase in the deduction will make it possible for them to obtain health insurance for the first time.

No one in the United States should be without adequate health care because he or she cannot afford it. Access to affordable health insurance is crucial to increase the quality of life for working families across this nation. That is why we must enact this legislation during the 107th Congress.

By Mr. GRASSLEY (for himself and Mr. BAUCUS):

S. 152. A bill to amend the Internal Revenue Code of 1986 to eliminate the 60-month limit and increase the income limitation on the student loan interest deduction; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, today I am introducing legislation to expand the tax deduction for student loan interest. I am proud to have as my original cosponsor Senator MAX BAUCUS of Montana.

Under the Tax Reform Act of 1986, the tax deduction for student loan interest was eliminated. This action, done in the name of fiscal responsibility, disregarded the duty we have to the education of our nation’s students. This struck me and many of my colleagues as wrong. Since 1987, I have spearheaded an effort with Chairman GRASSLEY to reinstate the tax deduction for student loan interest. In 1992, we succeeded in passing the legislation only to have it vetoed as part of a larger bill with tax increases. Finally, after ten long years our determination and perseverance paid off. Under the Taxpayer Relief Act of 1997 we reinstated the deduction. In our success, we sent a message to the students and their families of this nation that the United States understands the financial hardships they face, and that we are willing to assist them in easing those hardships so they can continue to receive the education they need to become productive members of society and of their place of work.

In 1997, our steps were in the right direction. We did what needed to be done. Regrettably, due to fiscal constraints, we were not able to go as far as we wanted. The nation was still struggling to eliminate the deficit. In order to control costs, we were forced to limit the deductibility of student loan interest to only sixty payments, which is five years’ worth plus the time spent in forbearance or deferment.

This restriction hurts some of the most needy borrowers. Many of these borrowers are students who, due to limited means, have borrowed most heavily. The restriction discriminates against those who have the highest debt loads and the lowest incomes. It makes the American dream of self-improvement harder to achieve for those struggling to pull themselves up—but who started with less. It is simply unjust.

Today, our situation is vastly different. In these times of economic surplus, we have a responsibility to do what we were unable to do before. Student debt is rising to alarming levels and additional relief is needed. We must eliminate the sixty month restriction on the deductibility of student loan interest and adjust the income limits to show that the United States Congress stands behind our nation’s students in their endeavors to better themselves.

In addition, the removal of the sixty-month limit on deductibility of student loan interest will bring most needed relief to some of the most deserving borrowers. The restriction weighs most heavily on those who, despite lower pay have decided to dedicate themselves to public service. Thus this change will have the added benefit of rewarding civic virtue of these admirable citizens.

Additionally, eliminating this restriction will remove difficult and costly reporting requirements that are currently required for both the borrower and lender. By supporting our nation’s students, we will also be reducing costly and unnecessary regulatory requirements.

Currently, to claim the deduction, the taxpayer must have an adjusted gross income of $40,000 or less or $60,000 for married couples. The amount of the deduction is gradually phased out for those with incomes between $40,000 and $55,000, or $60,000 and $75,000 for married couples. The deduction was phased in at $1,000 and will cap out at $2,500 in 2002. This bill will adjust those limits.

Many students in our country are suffering from heavy education-related debt. More can and must be done to help them. In these times of relative budget surplus, it is our duty to invest in our future, so is an investment in America’s future. To maintain our competitive edge in the global marketplace, America must have a well-educated workforce. By making it easier for students to take out the loans they need to obtain the highest level of education they can, we can, we can, we can, we can,

I urge members to join me and Senator BAUCUS in our effort to relieve these excessive burdens on those trying to better themselves and their futures through education, by expanding the tax deduction for student loan interest payments. I now ask that the full text of the bill be printed in the RECORD.

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

S. 152

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

SECTION 1. ELIMINATION OF 60-MONTH LIMIT AND INCREASE IN INCOME LIMITATION ON STUDENT LOAN INTEREST DEDUCTION.

(a) ELIMINATION OF 60-MONTH LIMIT.—

(1) IN GENERAL.—Section 221 of the Internal Revenue Code of 1986 (relating to interest on education loans) is amended by striking subsection (d) and by redesignating subsections (e), (f), and (g) as subsections (d), (e), and (f), respectively.

(2) CONFORMING AMENDMENT.—Section 6050S(e) of such Code is amended by striking “section 221(e)(1)” and inserting “section 221(d)(1)”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to any loan interest paid after December 31, 2000, in taxable years ending after such date.

(b) INCREASE IN INCOME LIMITATION.—

(1) IN GENERAL.—Section 221(b)(2)(B) of the Internal Revenue Code of 1986 (relating to amount of reduction) is amended by striking clauses (i) and (ii) and inserting the following:

“(i) the excess of—

(II) $50,000 (twice such dollar amount in the case of a joint return), bears to

(ii) $15,000.”;

(2) CONFORMING AMENDMENT.—Section 221(g)(1) of such Code is amended by striking “$40,000 and $60,000 amounts” and inserting “$50,000 amount”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years ending after December 31, 2000.

Mr. BAUCUS. Mr. President, I am pleased to join my colleague, Senator GRASSLEY, in introducing legislation to expand the tax deduction for student loan interest.

Under current law, student loan interest is only deductible for the first sixty loan repayments, which is equivalent to five years in addition to any deferrals. While this limitation was
A bill to amend the Uniformed and Overseas Citizens Absentee Voting Act to ensure uniform treatment by States of Federal overseas absentee ballots, to amend titles 10 and 18, United States Code, and the Revised Statutes to remove the uncertainty regarding the authority of the Department of Defense to permit buildings located on military installations and reserve component facilities to be used as polling places in Federal, State, and elections for public office, and for other purposes; to the Committee on Rules and Administration.--------------------

Mr. SHELBY. Mr. President, I rise today to introduce the Military and Overseas Citizens Voting Fairness Act of 2001. This bill ensures that the men and women of the military who go into harm’s way and bravely serve our country will have their vote counted. Given the great sacrifice that men and women make to defend our country, it is essential that we as lawmakers do all that we can to have their voices heard.

Although military mail is technically supposed to carry a postmark, the reality of the situation is that exigent circumstances aboard Navy ships and in foreign theaters can result in mail being sent without a postmark. Because several states require a postmark for an absentee ballot to be counted, the unfortunate outcome is that many military persons who went through the timely process of registering, applying for and sending in a ballot are disenfranchised through no fault of their own.

My bill provides that lack of a postmark does not result in automatic rejection of an overseas ballots in states that require a postmark. Specifically, the bill states that as long as there is conclusive proof of timely sending and the ballot is received by a state within 10 days after a federal election, mere lack of a postmark will not prevent the ballot from being counted.

My bill lists two ways in which conclusive proof of timely sending may be established, although any conclusive evidence could establish timely sending. If a ballot is received on or before election day, logic dictates that the ballot was sent in a timely manner. Also, timely sending would be conclusively established by examining the date of signature and witness on the outside of the ballot envelope. Fraudulently misdating the date would be punishable by civil and criminal penalties.

In addition to creating a uniform absentee voting law, my bill includes provisions to allow polling places on domestic military bases. These provisions

SECTION 1. STATE ACCREDITATION OF DIABETES SELF-MANAGEMENT TRAINING PROGRAMS

Section 1865(q)(2) of the Social Security Act (42 U.S.C. 1365(q)(2)) is amended—

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

(2) in subparagraph (A)—

(A) by striking “a certified provider” and inserting “A certified provider”; and

(B) by striking “and” at the end and inserting a period; and

(3) in subparagraph (B)—

(A) by striking “a physician, or such other individual” and inserting “a physician, or such other individual”;

(B) by inserting “before meets applicable standards” after “certified provider”;

(C) by inserting “before is recognized”;

(D) by inserting “or by a program described in clause (1)” after “recognized by an organization that represents individuals (including individuals under this title) with diabetes”;

(E) by inserting the following after the following new clause:

“Notwithstanding any reference to a national accreditation body” in section 1865(q)(2), a program described in this clause is a program operated by a State for the purposes of accrediting diabetes self-management training programs, if the Secretary determines that such State program has established quality standards that meet or exceed the standards established by the Secretary under clause (i) or the standards originally established by the National Diabetes Advisory Board and subsequently revised as described in clause (i).”
will make it easier for military personnel located on remote bases to be able to participate in the voting process. Voting is one of the most important civic duties in a democracy. By allowing voting to take place on-base, we as the Senate, will guarantee that all military personnel who serve in the active military have every opportunity to exercise their important right to vote.

Mr. President, confidence, clarity, and participation in our voting process are vital to the continuation of our great democracy. The election of this past year illustrates the need for change in our voting procedures. While more reform will be needed, my bill is a crucial step in that direction. For this and all the above reasons, I urge you and all my other colleagues to support the passage of this all important bill.

By Mr. BINGAMAN:
S. 155. A bill to amend title 5, United States Code, to eliminate an inequity in the applicability of early retirement eligibility requirements to military reserve technicians; to the Committee on Governmental Affairs.

Mr. BINGAMAN. Mr. President, I rise today to introduce a bill that I put forward last year to remove the inequity that continues to exist in retirement pay benefits for critical personnel, referred to as ‘Dual Status Technicians’ in our National Guard and Reserve. The Senate approved my proposed legislation last year by including it in the FY 2001 Defense Authorization bill. This year, I urge my colleagues in the Senate and House to join with me to see that this important initiative is enacted into law.

There are about 40,000 Dual Status Technicians covered by retirement requirements and restrictions contained in Title 32 of the United States Code. The legislation ‘Dual Status’. Mr. President, refers to the fact that these technicians serve the government simultaneously both as military and civilian employees. These men and women are the backbone of our National Guard and Reserve structure. They are the mechanics, pilots, engineers, equipment operators, supply and support technicians who keep things running so that the Guard is able to respond to natural disasters and national emergencies, as well as serve on active duty in accordance with the ‘total force concept’ that integrates active and reserve forces in the military. These hardworking men and women are often the first called to duty in an emergency and play a key role, for example, in the major firefighting efforts that took place in New Mexico and throughout western states last summer.

As essential as Dual Status Technicians are, they suffer from the worst of two worlds. These technicians are by statute both military and civilian employees. Guard technicians must maintain their military job and grade in order to keep their technician status and remain a federal employee. In the event of separation from military service, however, under existing law they are denied the retirement benefit options extended to those who serve in the same grade and time in service—retirement in the active military. Frequently, Dual Status Technicians who are separated from the Guard and Reserve must wait years to qualify to receive their Federal Service retirement benefits.

The bill I am introducing in the Senate today corresponds to a companion bill being introduced on the House side by Representative ABERCROMBIE. It seeks to eliminate retirement inequities—a problem we just addressed head on in the Armed Services Committee when we included a provision in the FY 2000 Defense Authorization Bill eliminating retirement inequities between active duty personnel who retire before or after 1986. By that provision we effectively eliminated the ‘Redux’ retirement benefit program because of the lower benefits it offered to personnel who retired after 1986. The action I am proposing in this legislation is similar.

The bill will permit Dual Status Technicians to retire at any age with 25 years of service or at age 50 with 20 years of service. Those criteria reflect benefit options now extended to Federal police and fire employees. They also replicate those offered to federal employees who retire from the Congress.

Last year, I was pleased to see, Mr. President, that the FY 2000 Defense Authorization Act took a step to extend more equitable retirement benefits to Dual Status Technicians. In doing so, however, the Congress created an inequity within the Technician community itself. A provision in that Act authorized early retirement after 25 years at any age and completing 20 years of service—but only for those employed as Dual Status Technicians after 1996. Those same benefits are withheld from those employed before 1996. In other words, Mr. President, we created a situation similar to the one the Senate dealt with regarding the ‘Redux’ retirement program in the FY 2001 Defense Authorization Act. The bill I offer today would remove that inequity in the same way the Congress voted to remove the inequity for active duty personnel who retired under the ‘Redux’ program.

Mr. President, the cost of achieving retirement equity for Dual Status Technicians would not be high. Last year, the Congressional Budget Office estimated that this bill could cost about $74 million over a five year period. That estimate may be on the high side, I believe, since it is based on the assumption that nearly all technicians eligible for retirement under those criteria would choose to retire. The actual number who would choose to retire would vary, of course, depending on individual circumstances. It is important to note, Mr. President, that we’re not only providing for equity here. We’re authorizing appropriate compensation, well deserved, to the men and women who have devoted their careers to service for the nation both at home and abroad. The men and women of our National Guard and Reserve.

I urge my colleagues to support this bill and urge my fellow members to support this effort through cosponsorship. I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 155
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SECTION 1. EQUITABLE APPLICATION OF EARLY RETIREMENT ELIGIBILITY REQUIREMENTS TO MILITARY RESERVE TECHNICIANS.

(a) Technicians Covered by FERS.—Paragraph (1) of section 8414(c) of title 5, United States Code, is amended by striking ‘‘after becoming 50 years of age and completing 25 years of service’’ and inserting ‘‘after completing 25 years of service or after becoming 50 years of age and completing 20 years of service’’.

(b) Technicians Covered by CSRS.—Section 8336 of title 5, United States Code, is amended by adding at the end the following new subsection:

“(p) Section 8414(c) of this title applies—”

“(1) under paragraph (1) of such section to a military technician (dual status) described in that paragraph for purposes of determining entitlement to an annuity under this subchapter; and

“(2) under paragraph (2) of such section to a military technician (dual status) described in that paragraph for purposes of determining entitlement to an annuity under this subchapter.”.

(c) Applicability.—Subsection (c) of section 8414 of title 5, United States Code (as amended by subsection (a)), and subsection (p) of section 8336 of such title (as added by subsection (b)), shall apply according to the provisions thereof with respect to separations from service referred to in such subsections that occur on or after October 5, 1999.

By Mrs BOXER:
S. 156. A bill to improve academic and social outcomes for students and reduce both juvenile crime and the risk that youth will become victims of crime by providing productive activities during after school hours; to the Committee on Health, Education, Labor, and Pensions.

S. 157. A bill to establish a program to help States expand the existing education system to include at least 1 year of early education preceding the year a child enters kindergarten; to the Committee on Health, Education, Labor, and Pensions.

Mrs. BOXER. Mr. President, there have been many positive steps taken to support quality early education and afterschool programs, yet they still represent only a small fraction of what is needed. America must commit to ensuring a comprehensive education system beginning with early education.
would help provide afterschool programs for 1.5 million youth in the year 2002 with the potential to assist nearly 2.5 million in the year 2006.

While afterschool programs continue the learning process during after school hours, we also must support initiatives that encourage our children to receive quality educational experiences in their early, formative years.

In 1989, the nation’s governors established a goal that all children would have access to high quality prekindergarten education by the year 2000. It is now the year 2001, and this goal still has not been met.

Importantly, researchers have discovered that children have a learning capacity that can and should be developed at a much earlier age than was previously thought. The National Research Council reported that prekindergarten educational opportunities are necessary if children are going to develop the language and literacy skills needed to read.

Furthermore, studies have shown that children who participate in prekindergarten programs are less likely to be held back a grade, show greater learning retention and initiative, have better social skills, are more enthusiastic about school, and more likely to have good attendance records. Yet, of the nearly 8 million 3- and 4-year-olds that could be in early education, fewer than half are enrolled.

My bill, the Early Education Act of 2001, would create a demonstration project in at least 10 States that want to provide one year of prekindergarten early education in the public schools. There is a 50 percent matching requirement, and the $300 million authorized under this bill would be used by States to supplement—not supplant—other Federal, State or local funds.

Our children need a solid foundation that builds on our current education system by providing them with early learning opportunity to learn and further develop these skills during the afterschool hours. My bills will help create such a positive environment for our Nation’s youth.

By Mr. BINGAMAN (for himself and Mr. LUGAR):
S. 158. A bill to improve schools; to the Committee on Health, Education, Labor, and Pensions.

Mr. BINGAMAN. Mr. President, I rise today to re-introduce legislation that I first introduced in 1999. This bill will establish much needed accountability for our education system so that the taxpayers’ investment in education is adequate and pupils and our children receive the best possible education. I am pleased to offer this bipartisan bill on behalf of myself and my colleague Senator LUGAR. The provisions of this bill are also included in S. 7, introduced yesterday by Senator DASCHLE and 18 other Senators.

I think that we can all agree that greater accountability in our public schools is an imperative. I am encouraged that President Bush and our new Secretary of Education, Rod Paige, have both expressed a strong commitment to increased accountability and have implemented strong school accountability standards in Texas. I understand accountability is a central feature of the Administration’s proposal being released today.

In 1994, we made some important changes to the Elementary and Secondary Education Act. We created an accountability system by requiring states, through amendments to Title I and Title IV, to develop sanctions for states, districts, and schools that do not meet agreed-upon performance objectives. Through amendments to Title VI of the Elementary and Secondary Education Act, our bill establishes aggressive but achievable performance objectives for all students linked to each State’s standards and assessments; (2) directs resources to the students and objectives most in need and (3) provides maximum flexibility for teacher quality and other federal education programs encompassed in the Elementary and Secondary Education Act. In particular, our bill (1) establishes aggressive but achievable performance objectives for all students linked to each State’s standards and assessments; (2) directs resources to the students and objectives most in need and (3) provides maximum flexibility for teacher quality and other federal education programs encompassed in the Elementary and Secondary Education Act.
and non-minority students, poor and non-poor students, and LEP and English-speaking students. The achievement gap between low-income students and their more advantaged peers has narrowed significantly from 1970 until the mid-1980's. This was a central tenet of the Title I program and its success in this regard is underrated. But we have not done enough to accelerate those results. Accountability systems that depend upon average student achievement data—data in the aggregate—do not close the achievement gaps that separate low-income students from more affluent students or minority students from white students.

For example, in my home State of New Mexico, in 1994 4th grade reading data show that an average of 21 percent of the 4th graders in my state were reading at the proficient level. This is distressing enough, but the disaggregated data tells an even more depressing story. In New Mexico only 11 percent of the African American 4th graders and just 15 percent of the Latino 4th graders were reading at the proficient level. The 1996 4th grade NAEP data show that 13 percent of all students did not reach the proficient level in math while only 3 percent of African American students and 6 percent of Latino students were proficient.

The fact that these students are in the minority means that their performance data is swamped by data of the majority when an accountability system that depends on averages is used. To remedy this—to close the gaps and to make good on the promises of Title I—our bill would demand that states use disaggregated data and goals to hold schools and school districts accountable for the use of Title I funds.

Mr. President, recognizing that increased accountability and increased results will not be easy to accomplish, our bill also directs additional resources to the students and objectives most in need.

First, our bill would set aside a pot of funds (3 percent of Title I funds—about $250 million at current funding levels— and 5 percent after three years) for school improvement. 80 percent of these funds would be sent to the local level to support efforts to turn around failing schools. Schools can use these funds to implement research-based comprehensive school reform programs.

An example of a comprehensive school reform model used widely in my State and throughout the nation with great results is Success for All. This program is a proven early grade reading program, which if implemented properly can ensure results. At the end of the first grade, Success for All schools have average reading scores almost three months ahead of those in matching control schools, and by the end of 3rd grade, students read more than one year ahead of control peers. The program can reduce the need for special education placements by more than 50 percent and virtually eliminate retention. Our bill provides new funding of $500 million per year to states and school districts to implement comprehensive, research-based school reform programs, such as Success for All, that have proven effectiveness.

Second, the state may use the remaining State funds to provide assistance to districts and schools as they implement their accountability system and develop school improvement plans. States that implement an increased accountability level for Title I—$15 billion—and will continue to fight for substantial increases in the appropriations process.

Mr. President, the bill does not provide additional resources without asking for something in return. The bill would ensure that if states, districts or schools fail to demonstrate returns on the federal investment through increased student performance, real consequences would be included; and states must provide a mechanism for the transfer of students to higher performing schools. The states and districts must provide the necessary resources for transportation with state and local funds; state administrative funds will be withheld; and Title VI funding (block grant program) will be reduced and States will be ineligible for the Ed-Flex program.

This bill also would establish aggressive but achievable performance objectives to ensure that every class has a qualified teacher. Our bill does this by first, requiring states receiving federal funds to ensure that all teachers are fully qualified by December 2005; second, requiring states and districts receiving federal teacher quality funds to set specific numerical performance goals and targets for reducing the number of unqualified and out-of-field teachers; and third, ensuring that low income and minority students are not taught by unqualified teachers at higher rates than other students.

The bill would ensure that resources are directed to these objectives first, by ensuring that federal funds are not used to hire unqualified teachers and second, by ensuring that resources are provided for, and school improvement plans incorporate, high-quality, research-based professional development for instructional staff.

Again, in exchange for increased resources, our bill would provide consequences for failing to meet performance objectives. States failing to meet their performance objectives would lose State administrative funding. Districts and schools failing to meet performance objectives would be ineligible for competitive funding.

This bill also ensures that the other Federal Education Programs in the ESEA incorporate performance-based accountability measures by: First, requiring that all plans submitted with grant applications incorporate performance-based objectives for increased student performance or other relevant program objectives. Second, providing additional funding through Title VI block grant to ensure the states in the ESEA to achieve performance-based objectives. Third, providing consequences for failing to meet performance-based objectives, including ineligibility for continuing grants in the case of a competitive program and ineligibility for flexible funding programs in current law ("Ed Flex").

In addition, this bill recognizes the critical role played by parents in improving performance and ensuring accountability. The bill provides parents the right to know their child's teacher qualifications; that parents be notified when their child's school is failing; it requires school improvement plans be published and parents be included in their development; and it requires school report cards to inform parents about the quality of their schools and their programs in meeting student achievement goals.

Finally, our bill authorizes $200 million dollars for States to reward high performing schools and districts so that schools and districts are recognized and encouraged to strive for high performance.

Mr. President, our bill would use an output-based rather than an input-based system of accountability for the various programs authorized by this bill. A shift that my colleagues on the both sides of the aisle have repeatedly endorsed.

Indeed, Both President Bush and Secretary Paige have expressed support for this type of accountability in this bill and implemented many of them with some success in Texas. Both have endorsed closing the achievement gap at the school level with real consequences for failure—the key component for accountability under Title I. They have indicated support for report cards, a rewards program for successful schools, and using performance-based accountability for all education programs. At his confirmation hearing, Secretary Paige also endorsed providing additional resources to schools to help them turn around before corrective actions are taken. So I am very hopeful that this will be a bill that receives strong bipartisan support and I look forward to working with my colleagues on both sides of the aisle on it.

In conclusion, Mr. President, many schools that educate hard-to-serve students have shown success by setting high standards for staff and students and mobilizing educators and the community around a clear set of educational goals.

In fact, there are successful schools all over the country, in every type of
community, that are living proof that all children have the ability to achieve beyond our wildest expectations, no matter what their economic or social background.

Success is not yet the rule in all of our schools. In this Congress, to support parents and educators in every community as they apply these lessons and leverage federal funds so that they create change in areas where success continues to lag. We know what we must do to achieve the resources needed to apply what works and hold the system accountable for real results. Again, I want to thank my colleague, Senator LUGAR, for his co-sponsorship of this bill.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD.

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

S. 158

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 “School Improvement Accountability Act”.

TITLE I—HELPING DISADVANTAGED CHILDREN

SEC. 101. RESPONSIBILITIES FOR ACCOUNTABILITY.

Section 1003 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6303) is amended to read as follows:

SEC. 1003. RESERVATION FOR ACCOUNTABILITY IN THE STATE.

``(a) STATE RESERVATION.—

'(1) In general.—Each State educational agency shall reserve 3 percent of the amount the agency receives under part A for each of fiscal years 2002 and 2003, and 5 percent of that amount for each of fiscal years 2004 through 2006, to carry out paragraph (2) and to carry out its responsibilities under sections 1116 and 1117, including carrying out its statewide system of technical assistance and providing support for local educational agencies.

'(2) LOCAL EDUCATIONAL AGENCIES.—Of the amount reserved under paragraph (1) for any fiscal year, not less than 80 percent shall be awarded to local educational agencies to carry out this section. The State educational agency shall allocate not less than 80 percent directly to local educational agencies. In making allocations under this paragraph, the State educational agency shall take into account the educational needs of schools in need of improvement.

'(b) NATIONAL ACTIVITIES.—Notwithstanding subsections (A) and (B), the amount reserved under paragraph (1) shall be used to carry out the following:

'(1) Activities supported under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6111(b)) is amended—

'(1) the number or percentage of schools making adequate yearly progress for each school year.

'(ii) The State plan shall provide that the number or length of time local educational agencies making adequate yearly progress among local educational agencies whose concentrations of poor children are less than the State average of such concentrations shall be not less than the percentage of local educational agencies making adequate yearly progress among local educational agencies whose concentrations of poor children are less than the State average.

'(3) paragraph (3)—

(1) in the matter preceding subparagraph (A)—

(i) by striking “developed or adopted” and inserting “in place”;

(ii) by inserting “, not later than the school year 2000-2001,” after “will be used”;

(2) by redesigning subparagraphs (G), (H), and (I) as subparagrpahs (H), (I), and (J); and

(3) in subparagraph (F)—

(i) in clause (ii), by striking “and” after the semicolon; and

(ii) by adding at the end the following:

‘(iv) the use of assessments written in Spanish for the assessment of Spanish-speaking students with limited English proficiency if Spanish-language assessments are more likely than English language assessments to yield accurate and reliable information regarding what those students know and can do in content areas other than English; and

‘(v) notwithstanding clauses (iii) and (iv), the development, use, and administration of assessments written in English of reading or language arts of any student who has attended school in the United States (not including Puerto Rico) for 3 or more consecutive years, for purposes of school accountability.”;

(D) by inserting after subparagraph (F) the following:

“(G) result in a report from each local educational agency that indicates the number and percentage of students excluded from each assessment at each school, including the student participation rates, student dropout rates, and rates of student participation in advanced level courses; and

“(H) notwithstanding paragraphs (4), (5), (6), and (8) as paragraphs (9), (10), and (11), respectively; and

(H) by inserting after paragraph (3) the following:

“(I) Adequate yearly progress for a local educational agency shall be based upon both—

'(1) the number or percentage of schools identified as making school improvement or corrective action;

'(2) the proportion of the local educational agency in reducing the number or length of time schools are subject to identification for improvement or corrective action.

“(ii) The State plan shall provide that each local educational agency shall ensure that, not later than the fourth academic year after the effective date of the School Improvement Accountability Act, the percentage of schools making adequate yearly progress among schools whose concentrations of poor children are greater than the average concentration of such children served by the local educational agency shall not be less than the percentage of schools making adequate yearly progress among schools whose concentrations of poor children are less than the average concentration of such children served by the local educational agency.

“(a) Each State plan shall specify what con-
meet the State’s proficient and advanced levels of performance within 10 years after the date of enactment of the School Improvement Accountability Act. The State accountability system shall—

(1) be the same accountability system the State uses for all schools or all local educational agencies in the State, if the State has an accountability system for all schools or all local educational agencies in the State;

(2) hold local educational agencies and schools accountable for student achievement in at least reading and mathematics and in any other subject that the State may choose; and

(3) identify schools and local educational agencies for improvement or corrective action based upon failure to make adequate yearly progress, including—

(A) the number and names of schools and local educational agencies identified under section 1116(a)(2) under this section on the day preceding the date of enactment of the School Improvement Accountability Act.

(B) The accountability system described in subparagraph (A) and described in the State plan shall also include a procedure for identifying for improvement a school or local educational agency, intervening in that school or agency, and, if that intervention is not expected to result in a corrective action not later than 3 years after first identifying such agency or school, that—

(i) complies with sections 1116 and 1117, including provisions of technical assistance, professional development, and other capacity-building as needed, to ensure that schools and local educational agencies so identified possess the knowledge and skills needed to carry out their obligations under sections 1114 and 1115 and to meet the requirements for adequate yearly progress described in paragraph (2); and

(ii) includes rigorous criteria for identifying those agencies and schools based upon failure to make adequate yearly progress and requires the State to review the student achievement in accordance with paragraph (2).

(4) in subparagraph (A), by striking the phrase "elementary schools served under this part" and before making a final determination regarding identification, the State shall be subject to such other penalties as are provided in this Act for failure to develop the assessments; and

(5) in subparagraph (B)(ii), by striking the phrase "elementary schools served under this part" and before making a final determination regarding identification, the State shall be subject to such other penalties as are provided in this Act for failure to develop the assessments; and

(6) ANNUAL REVIEW.—The State plan shall provide that the Secretary will annually submit to the Secretary, information, as part of the State’s consolidated plan under section 14302, on the extent to which schools and local educational agencies are making adequate yearly progress, including the number and names of schools and local educational agencies identified for improvement or corrective action under section 1116, the steps taken to address the performance problems of such schools and local educational agencies, and the number and names of schools that are no longer so identified, for purposes of determining State and local compliance with section 1116.

(7) PENALTIES.—(A) The State plan shall provide that, if the State fails to meet the deadlines described in paragraphs (1)(C) and (10) for demonstrating that the State has in place high-quality State content and student performance and aligned assessments, or if the State fails to establish a system for measuring and monitoring adequate yearly progress, for a fiscal year, including having in place high-quality State content and student performance and aligned assessments, or achievement data for the assessments as required under this section at the State, local educational agency, and school levels, then the State shall be ineligible to reserve a greater amount of administrative funds under section 1003 for the succeeding fiscal year than the amount of administrative funds reserved for the succeeding fiscal year in which the failure occurred.

(B) The State plan shall provide that, except as otherwise described in the State plan, if the State fails to meet the deadlines described in paragraphs (1)(C) and (10) for a fiscal year, then the Secretary will withhold funds made available under this part for administrative expenses for the succeeding fiscal year in such amount as the Secretary determines appropriate.

(C) The State plan shall provide that, if the State fails to meet the deadlines described in paragraphs (1)(C) and (10) for the succeeding fiscal year or a subsequent fiscal year, the Secretary shall withhold not less than 1⁄2 of the funds made available under this part for administrative expenses for the fiscal year.

(8) in subparagraph (A), by striking the phrase "elementary schools served under this part" and before making a final determination regarding identification, the State plan shall not exceed 30 days. At the end of any other subject that the State may choose;

(9) in subparagraph (B)(i), by striking the phrase "elementary schools served under this part" and before making a final determination regarding identification, the State plan shall not exceed 30 days. At the end of any other subject that the State may choose;

(10) for demonstrating that the State has in place high-quality State content and student performance and aligned assessments, or if the State fails to establish a system for measuring and monitoring adequate yearly progress, for a fiscal year, including having in place high-quality State content and student performance and aligned assessments, or achievement data for the assessments as required under this section at the State, local educational agency, and school levels, then the State shall be ineligible to reserve a greater amount of administrative funds under section 1003 for the succeeding fiscal year than the amount of administrative funds reserved for the succeeding fiscal year in which the failure occurred.

(B) The State plan shall provide that, except as otherwise described in the State plan, if the State fails to meet the deadlines described in paragraphs (1)(C) and (10) for a fiscal year, then the Secretary will withhold funds made available under this part for administrative expenses for the succeeding fiscal year in such amount as the Secretary determines appropriate.

(C) The State plan shall provide that, if the State fails to meet the deadlines described in paragraphs (1)(C) and (10) for the succeeding fiscal year or a subsequent fiscal year, the Secretary shall withhold not less than 1⁄2 of the funds made available under this part for administrative expenses for the fiscal year.

(11) in subparagraph (A), by striking the phrase "elementary schools served under this part" and before making a final determination regarding identification, the State plan shall not exceed 30 days. At the end of any other subject that the State may choose;

(12) in subparagraph (B)(ii), by striking the phrase "elementary schools served under this part" and before making a final determination regarding identification, the State plan shall not exceed 30 days. At the end of any other subject that the State may choose;

(13) in subparagraph (C), by striking the phrase "elementary schools served under this part" and before making a final determination regarding identification, the State plan shall not exceed 30 days. At the end of any other subject that the State may choose;

(14) in subparagraph (D), by striking the phrase "elementary schools served under this part" and before making a final determination regarding identification, the State plan shall not exceed 30 days. At the end of any other subject that the State may choose;

(15) in subparagraph (E), by striking the phrase "elementary schools served under this part" and before making a final determination regarding identification, the State plan shall not exceed 30 days. At the end of any other subject that the State may choose;

(16) in subparagraph (F), by striking the phrase "elementary schools served under this part" and before making a final determination regarding identification, the State plan shall not exceed 30 days. At the end of any other subject that the State may choose;

(17) in subparagraph (G), by striking the phrase "elementary schools served under this part" and before making a final determination regarding identification, the State plan shall not exceed 30 days. At the end of any other subject that the State may choose;

(18) in subparagraph (H), by striking the phrase "elementary schools served under this part" and before making a final determination regarding identification, the State plan shall not exceed 30 days. At the end of any other subject that the State may choose;

(19) in subparagraph (I), by striking the phrase "elementary schools served under this part" and before making a final determination regarding identification, the State plan shall not exceed 30 days. At the end of any other subject that the State may choose;

(20) in subparagraph (J), by striking the phrase "elementary schools served under this part" and before making a final determination regarding identification, the State plan shall not exceed 30 days. At the end of any other subject that the State may choose;

(21) in subparagraph (K), by striking the phrase "elementary schools served under this part" and before making a final determination regarding identification, the State plan shall not exceed 30 days. At the end of any other subject that the State may choose;

(22) in subparagraph (L), by striking the phrase "elementary schools served under this part" and before making a final determination regarding identification, the State plan shall not exceed 30 days. At the end of any other subject that the State may choose;

(23) in subparagraph (M), by striking the phrase "elementary schools served under this part" and before making a final determination regarding identification, the State plan shall not exceed 30 days. At the end of any other subject that the State may choose;

(24) in subparagraph (N), by striking the phrase "elementary schools served under this part" and before making a final determination regarding identification, the State plan shall not exceed 30 days. At the end of any other subject that the State may choose;

(25) in subparagraph (O), by striking the phrase "elementary schools served under this part" and before making a final determination regarding identification, the State plan shall not exceed 30 days. At the end of any other subject that the State may choose;

(26) in subparagraph (P), by striking the phrase "elementary schools served under this part" and before making a final determination regarding identification, the State plan shall not exceed 30 days. At the end of any other subject that the State may choose;

(27) in subparagraph (Q), by striking the phrase "elementary schools served under this part" and before making a final determination regarding identification, the State plan shall not exceed 30 days. At the end of any other subject that the State may choose;

(28) in subparagraph (R), by striking the phrase "elementary schools served under this part" and before making a final determination regarding identification, the State plan shall not exceed 30 days. At the end of any other subject that the State may choose;

(29) in subparagraph (S), by striking the phrase "elementary schools served under this part" and before making a final determination regarding identification, the State plan shall not exceed 30 days. At the end of any other subject that the State may choose;

(30) in subparagraph (T), by striking the phrase "elementary schools served under this part" and before making a final determination regarding identification, the State plan shall not exceed 30 days. At the end of any other subject that the State may choose;

(31) in subparagraph (U), by striking the phrase "elementary schools served under this part" and before making a final determination regarding identification, the State plan shall not exceed 30 days. At the end of any other subject that the State may choose;

(32) in subparagraph (V), by striking the phrase "elementary schools served under this part" and before making a final determination regarding identification, the State plan shall not exceed 30 days. At the end of any other subject that the State may choose;

(33) in subparagraph (W), by striking the phrase "elementary schools served under this part" and before making a final determination regarding identification, the State plan shall not exceed 30 days. At the end of any other subject that the State may choose;

(34) in subparagraph (X), by striking the phrase "elementary schools served under this part" and before making a final determination regarding identification, the State plan shall not exceed 30 days. At the end of any other subject that the State may choose;

(35) in subparagraph (Y), by striking the phrase "elementary schools served under this part" and before making a final determination regarding identification, the State plan shall not exceed 30 days. At the end of any other subject that the State may choose;

(36) in subparagraph (Z), by striking the phrase "elementary schools served under this part" and before making a final determination regarding identification, the State plan shall not exceed 30 days. At the end of any other subject that the State may choose;
“(C) Each school identified under paragraph (1)(A) shall, within 3 months after being so identified, and in consultation with parents, the local educational agency, and the school support team or other outside experts, develop or revise a plan that—

(i) addresses the fundamental teaching and learning needs in the school;

(ii) describes the specific achievement problems to be solved;

(iii) includes the strategies, supported by valid and reliable evidence of effectiveness, with measurable objectives, that have the greatest likelihood of improving the performance of participating students in meeting the State’s student performance standards;

(iv) explains how those strategies will work to address the achievement problems identified in paragraph (ii), including providing a summary of evaluation-based evidence of student achievement after implementation of those strategies in other schools;

(v) addresses the need for high-quality staff by ensuring that all new teachers in the school in programs supported with funds provided under this part are fully qualified;

(vi) addresses the professional development needs of the instructional staff of the school by describing a plan for spending a minimum of 10 percent of the funds received by the school under this part on professional development that—

(I) does not consist of professional development services that the instructional staff would otherwise receive; and

(II) is designed to increase the content knowledge of teachers, build teachers’ capacity to align classroom instruction with challenging content standards, and bring all students in the school to proficient or advanced levels.

(vii) identifies specific goals and objectives the school will undertake for making adequate yearly progress, including specific numerical performance goals and targets that are high enough to ensure that all groups of students specified in section 1111(b)(2)(B)(iv) meet or exceed the proficient levels of performance in each subject area within 10 years after the date of enactment of the School Improvement Accountability Act.

(viii) specifies the responsibilities of the school and the local educational agency, including how the local educational agency will hold the school accountable for, and assist the school in, meeting the school’s obligations to provide enriched and accelerated curricula, effective instructional methods, highly qualified professional development, and timely and effective individual assistance, in partnership with parents.

(D)(i) The school shall submit the plan (including any revised plan) to the local educational agency for approval.

(ii) The local educational agency shall promptly subject the plan to a peer review process in which the school tells the plan as necessary, and approve the plan.

(iii) The school shall implement the plan as soon as the plan is approved.

(iv) By amending paragraph (4) to read as follows:

(4) TECHNICAL ASSISTANCE.—(A) For each school identified for school improvement under paragraph (1)(A), the local educational agency shall provide technical assistance as the school develops and implements the school’s plan.

(B) The technical assistance—

(I) shall include information on effective methods and instructional strategies that are supported by valid and reliable evidence of effectiveness;

(ii) shall be designed to strengthen the core academic program for the students served under this part, address specific elements of student performance problems, and address problems, if any, in implementing the parental involvement requirements in paragraph (14) of section 1111; and—

(II) is designed to increase the content knowledge of teachers, build teachers’ capacity to align classroom instruction with challenging content standards, and bring all students in the school to proficient or advanced levels.

(iii) may be provided directly by the local educational agency, through mechanisms authorized under section 1117, or (with the local educational agency’s approval) by an institution of higher education whose teacher preparation program is not identified as low performing by its State and that is in full compliance with the requirements of section 297 of the Higher Education Act of 1965, a private nonprofit organization, an educational partnership, a comprehensive regional assistance center under part A of title XIII, or other entities with experience in helping schools improve achievement.

(C) Technical assistance provided under this section by the local educational agency or an entity approved by such agency shall be supported by valid and reliable evidence of effectiveness.

(D) by amending paragraph (5) to read as follows:

(5) CORRECTIVE ACTION.—In order to help students served under this part meet challenging State standards, each local educational agency shall implement a system of corrective action in accordance with the following:

(A) In this paragraph, the term ‘corrective action’ means action, consistent with State and local law, that—

(I) substantially and directly responds to the consistent academic failure that caused the local educational agency to take such action; and

(ii) addresses any underlying standards, curricular, or other problems in the school involved; and

(iii) is designed to substantially increase the likelihood that students will perform at the proficient and advanced performance levels.

(B) After providing technical assistance under paragraph (4), the local educational agency—

(i) may take corrective action at any time with respect to a school that has been identified under paragraph (1)(A); and

(ii) shall take corrective action with respect to any school that fails to make adequate yearly progress, as defined by the State, for 2 consecutive years following the school’s identification under paragraph (1)(A), at the end of the second year; and

(iii) may defer, reduce, or withhold funds provided under this part on a nondiscriminatory and equitable basis.

(C) The school shall implement the corrective action described in paragraph (B)(ii), the local educational agency—

(i) shall take corrective action that changes the school’s administration or governance by—

(I) instituting and fully implementing a new curriculum, including providing appropriate professional development for all relevant staff, that is supported by valid and reliable evidence of effectiveness and offers substantial promise of improving educational achievement for low-performing students;

(II) restructuring the school, such as by creating schools within schools or other small learning environments, or making alternate educational arrangements (such as the creation of a public charter school);

(III) redesigning the school by reconstituting all or part of the school staff;

(IV) eliminating the use of noncredentialed educators; or

(V) closing the school;

(ii) shall provide professional development for all relevant staff, that is supported by valid and reliable evidence of effectiveness and that offers substantial promise of improving educational achievement for the school; and is directly related to the content area in which each teacher is providing instruction and the State’s content and performance standards in that content area;

(iii) may defer, reduce, or withhold funds provided to carry out this title.

(D)(i) When a local educational agency has identified a school for corrective action under subparagraph (B)(ii), the agency shall provide all students enrolled in the school with the option to transfer to another public school that is within the area served by the local educational agency that has not been identified for school improvement and provide such students with transportation (or the costs of transportation) to such school, subject to the following requirements:

(I) Such transfer must be consistent with State or local law.

(ii) If the local educational agency cannot accommodate the request of every student from the identified school, the agency shall permit as many students as possible to transfer, with such students being selected at random on a nondiscriminatory and equitable basis.

(iii) The local educational agency may use more than 10 percent of the funds the local educational agency allocates through the State reservation under section 1003(a)(2) to provide transportation to students whose parents choose to transfer the students to a different school under this subparagraph.

(ii) If all public schools served by the local educational agency are identified for corrective action, the agency shall, to the extent practicable, establish a cooperative agreement with another local educational agency in the area to enable students served by the agency to transfer to a school served by that other agency.

(E) A local educational agency may delay, for a period not to exceed 1 year, implementation of corrective action if the failure to make adequate yearly progress was justified due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous decline in the financial resources of the local educational agency or school.

(F) The local educational agency shall publish and disseminate the proposed corrective action in a public in a format and, to the extent practicable, in a language the parents and the public can understand, through such means as the Internet, the media, and public agencies, information on any corrective action the agency takes under this paragraph.

(G)(i) Before taking corrective action with respect to any school under this paragraph, the local educational agency shall inform the school that the agency proposes to take corrective action and provide the school with an opportunity during the review period, and the agency shall consider such evidence before making a final determination regarding corrective action.

(ii) The review period under this subparagraph shall not exceed 45 days. At the end of the period, the local educational agency shall make public a final determination regarding corrective action.

(E) by amending paragraph (6) to read as follows:
"(6) STATE EDUCATIONAL AGENCY RESPONSIBILITIES.—If a State educational agency determines that a local educational agency failed to carry out its responsibilities under this section, the State educational agency shall take such action as the agency finds necessary, consistent with this section, to improve the affected schools and to ensure that the educational agency carries out its responsibilities under this section; and

(7) WAIVERS.—The State educational agency shall review any waivers that have previously been approved for a school identified under paragraph (2) and shall terminate any waiver approved by the State, under the Educational Flexibility Partnership Act of 1998, if the State determines, after soliciting the opportunity for a hearing, that the waiver is not helping such school make adequate yearly progress toward meeting the goals, objectives, and performance targets in the school’s improvement plan; and

(3) by amending subsection (d) to read as follows:

"(d) STATE REVIEW AND LOCAL EDUCATIONAL AGENCY IMPROVEMENT.—

(1) IN GENERAL.—A State educational agency may review the progress of any local educational agency receiving funds under this part to determine whether schools receiving assistance under this part are making adequate yearly progress as defined in section 1111(b)(2) toward meeting the State’s student performance standards.

(2) IDENTIFICATION OF LOCAL EDUCATIONAL AGENCY FOR IMPROVEMENT.—A State educational agency shall identify for improvement any local educational agency that—

(A) for 2 consecutive years failed to make adequate yearly progress as defined in the State’s plan under section 1111(b)(2); or

(B) was identified for improvement under this section as this section was in effect on the day preceding the date of enactment of the School Improvement Accountability Act.

(3) TRANSITION.—The 2-year period described in paragraph (2)(A) shall include any continuous period of time immediately preceding the date of enactment of such Act, during which a local educational agency did not make adequate yearly progress as defined in the State’s plan, as such plan was in effect on the day preceding the date of enactment.

(4) TARGETED ASSISTANCE SCHOOLS.—For purposes of reviewing the progress of targeted assistance schools served by a local educational agency, a State educational agency, after obtaining the progress of only the students in such schools who are served under this part.

(5) OPPORTUNITY TO REVIEW AND PRESENT EVIDENCE.—(A) Before identifying a local educational agency for improvement under paragraph (2), a State educational agency shall inform the local educational agency that the State educational agency proposes to identify the local educational agency for improvement and provide the local educational agency with an opportunity to review the local educational agency data, including assessment data, upon which the proposed determination regarding identification is based.

(B) If the local educational agency believes that the proposed identification is in error for statistical or other substantive reasons, the agency may provide supporting evidence to the State educational agency during the review period, and the agency shall consider such evidence before making a final determination regarding identification.

(6) INITIAL DETERMINATION.—If the local educational agency is identified under this section for improvement, the State educational agency shall—

(a) provide the local educational agency with a copy of the written determination of the local educational agency; and

(b) request the local educational agency to develop a plan to bring about increased achievement and to any underlying staffing, curricular, or other problems in the schools involved; and

(7) LOCAL EDUCATIONAL AGENCY REVIEWS.—(A) Each local educational agency identified under paragraph (2) shall, not later than 3 months after being so identified, develop or revise a local educational agency plan and annual academic achievement goals, in consultation with parents, school staff, and others.

(B) ACHIEVEMENT GOALS.—The annual academic achievement goals shall be sufficiently high to ensure that all students, including low performing students, economically disadvantaged students, students of different races and ethnicities, and students with limited English proficiency will meet or exceed the proficient level of performance on the assessments required by section 1111 within 10 years after the date of enactment of the School Improvement Accountability Act.

(C) The plan shall—

(i) address the fundamental teaching and learning needs in the schools served by that agency, and the specific academic problems of low-performing students, including students of different races and ethnicities, and students with limited English proficiency;

(ii) incorporate strategies that are supported by valid and reliable evidence of effectiveness and that strengthen the core academic program in the local educational agency;

(iii) identify specific annual academic achievement goals and objectives that will—

(I) have the greatest likelihood of improving the performance of participating students in meeting the State’s student performance standards;

(II) include specific numerical performance goals and targets for each of the groups of students for which data are disaggregated pursuant to section 1111(b)(2)(A)(iv); and

(iv) address the professional development needs of the instructional staff of the schools by describing a plan for spending a minimum of 10 percent of the funds made available pursuant to section 1111(b)(2)(A)(iv) by the schools under this part on professional development that—

(I) does not supplant professional development services provided by instructional staff; and

(II) is designed to substantially increase the likelihood that students served under this part will perform at the proficient and advanced performance levels.

(B) After providing technical assistance under paragraph (8) and subject to subparagraph (D), the State educational agency may take corrective action with respect to any local educational agency that fails to make adequate yearly progress, as defined in the State’s plan, for 3 consecutive years following the agency’s identification under paragraph (2), at the end of the third year; and

(C) (i) shall continue to provide technical assistance while instituting any corrective action under clause (i) or (ii).

(C) (ii) Reconstituting school district personnel.

(C) (iii) Removing particular schools from the jurisdiction of the local educational agency and establishing alternative arrangements for public governance and supervision of the schools.

(C) (iv) Abolishing or restructuring the local educational agency.
“(D) When a State educational agency has identified a local educational agency for corrective action under subparagraph (B)(i), the State educational agency shall provide all students in a school served by the local educational agency with a plan to transfer to a higher performing public school served by another local educational agency and, if feasible, with transportation (or the costs of transportation) to such schools, subject to the following requirements—

(i) the provisions of the transfer shall be done in conjunction with at least 1 additional action described in this paragraph.

(ii) if the State educational agency cannot accept the request of every student from the schools served by the agency, the agency shall permit as many students as possible to transfer, with such students being selected at random on a nondiscriminatory and equitable basis.

(iii) The State educational agency may use not more than 10 percent of the funds the agency receives through the State reservation under section 1002(a)(2) to provide transportation to students whose parents choose to transfer their child to a different school under funds received under this subparagraph.

“(E) Prior to implementing any corrective action under this paragraph, the State educational agency shall provide due process and a full evaluation of the affected local educational agency, if State law provides for such process and hearing. The hearing shall take place not later than 45 days following the decision to implement the corrective action.

“(F) The State educational agency shall publish and disseminate to parents and the public, to the extent practicable, in a language the parents and the public can understand, through such means as the Internet, the media, and public agencies, any corrective action the agency takes under this paragraph.

“(G) A State educational agency may delay, for a period not to exceed 1 year, implementation of corrective action if the failure to make adequate yearly progress was justified due to exceptional or uncontrollable circumstances such as a natural disaster and unforeseen and unforeseeable in the financial resources of the local educational agency.

“III. W.A.K.R.S.—The State educational agency shall review any waivers that have previously been approved for a local educational agency identified for improvement or corrective action, and shall terminate any waiver approved by the State, under the Educational Flexibility Partnership Act of 1999, if the State determines, after notice and an opportunity for a hearing, that the waiver is not helping such agency make adequate yearly progress toward meeting the goals, objectives, and performance targets in the agency’s improvement plan.

(d) STATE ASSISTANCE FOR SCHOOL SUPPORT AND IMPROVEMENT.—Section 1117(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is amended to read as follows—

“(a) SYSTEM FOR SUPPORT.—

“(1) In general.—Each State educational agency shall establish a statewide system of improving local educational agencies and schools serving such local educational agencies and schools served by the State whose content standards and student performance standards.

“(2) PRIORITIES.—In carrying out this section, a State educational agency shall—

“(A) provide support and assistance to local educational agencies and schools identified for corrective action under section 1116;

“(B) provide support and assistance to other local educational agencies and schools identified for improvement under section 1116;

“(C) provide support and assistance to each school receiving funds under this part in which the number of students in poverty equals or exceeds 75 percent of the total number of students enrolled in such school.

“(3) APPROACHES.—In order to achieve the objectives of this subsection, each statewide system shall have assistance and support through approaches as—

“(A) use of school support teams, composed of individuals who are knowledgeable about research on and practice of teaching and learning, particularly about strategies for improving educational results for low-achieving students;

“(B) the designation and use of ‘Distinguished Educators’, chosen from schools served under this part that have been especially successful in improving academic achievement;

“(C) assisting local educational agencies or schools to implement research-based comprehensive school reform models; and

“(D) use of a peer review process designed to increase the quality of local educational agencies and schools to develop high-quality school improvement plans.

“(4) FUNDS.—Each State educational agency—

“(A) shall use funds reserved under section 1003(a)(1), but not used under section 1003(a)(2) and funds appropriated under section 1002(f) to carry out this section; and

“(B) may use State administrative funds authorized for such purpose.

“(5) ALTERNATIVES.—The State educational agency may devise additional approaches to meeting the requirements of subparagraphs (A) and (B) of paragraph (3), other than the provision of assistance under the statewide system, such as providing assistance through institutions of higher education, educational service agencies, or other local consortia. The State educational agency may seek approval from the Secretary for such approaches for the State plan.

“(e) CONFORMING AMENDMENTS.—The Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is amended—

“(1) in section 1112(c)(1)(D) (20 U.S.C. 6312(c)(1)(D)), by striking “section 1116(c)(4)” and inserting “section 1116(c)(5)”;

“(2) in section 1115(c)(1)(D), by striking “section 1116(c)(4)” and inserting “section 1116(c)(5)”;

“(3) in section 1117(c)(2)(A) (20 U.S.C. 6317(c)(2)(A)), by striking “section 1116(c)(4)” and inserting “section 1116(c)(5)”;

“(4) in section 1118(e)(1) (20 U.S.C. 6318(e)(1)), by striking “section 1116(c)(3)” and inserting “section 1116(a)(3)”;

“(5) in section 1118(e)(2) (20 U.S.C. 6318(e)(2)), by striking “section 1116(c)(3)” and inserting “section 1116(a)(3)”;

“(6) in section 1119(b)(3) (20 U.S.C. 6320(b)(3)), by striking “section 1116(d)(1)” and inserting “section 1116(d)(9)”.

“SEC. 103. COMPREHENSIVE SCHOOL REFORM.

“Title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is amended—

“(1) by redesignating part F as part G; and

“(2) by inserting after part E the following:

“PART F—COMPREHENSIVE SCHOOL REFORM

“SEC. 1551. PURPOSE.

“The purpose of this part is to provide financial incentives for schools to develop comprehensive school reform plans based upon promising and effective practices and research-based programs that emphasize basic academic achievement and parental involvement so that all children can meet or exceed the State content and student performance standards.

“SEC. 1552. PROGRAM AUTHORIZATION.

“(a) PROGRAM AUTHORIZED.—In general.—The Secretary may award grants to State educational agencies, from allotments under paragraph (2), to enable the State educational agencies to award subgrants to local educational agencies to carry out the purpose described in section 1551.

“(b) ALLOCATIONS.

“(1) RESERVATIONS.—Of the amount appropriated under section 1558 for a fiscal year, the Secretary may reserve—

“(i) not more than 1 percent to provide assistance to schools supported by the Bureau of Indian Affairs and in the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands according to their respective needs for assistance under this part; and

“(ii) not more than 1 percent to conduct national evaluation activities described in section 1557.

“(B) IN GENERAL.—Of the amount appropriated under section 1558 that remains after making the reservation under subparagraph (A) for a fiscal year, the Secretary shall allocate to each State for the fiscal year an amount that bears the same ratio to the remainder for that fiscal year that the amount made available under section 1124 to the State for the preceding fiscal year bears to the total amount made available under section 1124 to all States for the preceding fiscal year.

“(C) REALLOTMENT.—If a State does not apply for funds under this part, the Secretary shall reallocate such funds to other States in proportion to the amount allotted to such other States under subparagraph (B).

“SEC. 1553. STATE APPLICATIONS.

“(a) IN GENERAL.—Each State educational agency that desires to receive funds under this part shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

“(b) CONTENTS.—Each such application shall describe—

“(1) the process and selection criteria by which the State educational agency, using expert review, will select local educational agencies to receive subgrants under this part;

“(2) how the State educational agency will ensure that only comprehensive school reforms that are based upon promising and effective practices and research-based programs receive funds under this part;

“(3) how the State educational agency will disseminate information on comprehensive school reforms that are based upon promising and effective practices and research-based programs;

“(4) how the State educational agency will evaluate the implementation of such reforms and measure the extent to which the reforms have resulted in increased student academic performance; and

“(5) how the State educational agency will make available technical assistance to a local educational agency in evaluating, developing, and implementing comprehensive school reform.

“SEC. 1554. STATE USE OF FUNDS.

“(a) IN GENERAL.—Except as provided in subsection (b), a State educational agency

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that receives a grant under this part shall use the grant funds to award subgrants, on a competitive basis, to local educational agencies (including consortia of local educational agencies) in the State that receive funds under part A.

(b) Subgrant Requirements.—A subgrant to a local educational agency shall—

(1) of sufficient size and scope to support the initial costs for the particular comprehensive school reform plan selected or designed by each school identified in the application of the local educational agency;

(2) in an amount not less than $50,000 for each participating school; and

(3) on a schedule of 1-year periods after the initial 1-year grant is made, if the participating school is making substantial progress in the implementation of reform.

(c) Priority.—A State educational agency, in awarding subgrants under this part, shall give priority to local educational agencies that—

(1) plan to use the funds in schools identified for improvement or corrective action under section 1116(c); and

(2) demonstrate a commitment to assist schools with budget allocation, professional development, and other strategies necessary to ensure that comprehensive school reforms are properly implemented and are sustained in the future.

(d) Grant Consideration.—In awarding subgrants under this part, the State educational agency shall take into consideration the equitable distribution of subgrants to different geographic regions within the State, including urban and rural areas, and to schools serving elementary school and secondary school students.

(e) Administrative Costs.—A State educational agency that receives a grant under this part may reserve not more than 5 percent of the grant funds for administrative, evaluation, and technical assistance expenses.

(f) Supplement.—Funds made available under this part shall be used to supplement, and not supplant, any other Federal, State, or local funds that would otherwise be available to carry out the activities assisted under this part.

(g) Contents.—Each State educational agency that receives a grant under this part shall provide to the Secretary such information as the Secretary may require, including the names and addresses of schools receiving assistance under this part, the amount of the assistance, and a description of the comprehensive school reform model identified and used.


SEC. 2211. Local Continuation of Funding.

SEC. 2212. Information and Notice to Parents.
“(a) whether the teacher has met State certification or licensing criteria for the academic subjects and grade levels in which the teacher teaches the student;”

“(b) that the teacher is teaching with emergency or other provisional credentials, due to which any State certification or licensing criteria have been waived; and

“(c) the academic qualifications of the teacher in the academic subjects and grade levels in which the teacher teaches.”

“(b) NOTICE.—In addition to providing the information described in subsection (a), if a school that receives funds under this title signs a teacher to a teacher who is not a fully qualified teacher, the school shall provide notice of the assignment of the teacher, not later than 15 school days after the assignment.

“SEC. 2213. GENERAL ACCOUNTING OFFICE STUDY

“Not later than September 30, 2005, the Comptroller General of the United States shall prepare and submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a study setting forth information regarding the progress of States’ compliance in increasing the percentage of fully qualified teachers for fiscal years 2001 through 2004.

“SEC. 2214. DEFINITION OF FULLY QUALIFIED

“(a) IN GENERAL.—In this part, the term ‘fully qualified’, used with respect to a teacher, means a teacher who—

“(1) has demonstrated the subject matter knowledge, teaching knowledge, and teaching skill necessary to teach effectively in the academic subjects and grade levels in which the teacher teaches, according to the criteria described in subsections (b) and (c); and

“(2) holds a bachelor’s degree and demonstrates the subject matter knowledge, teaching knowledge, and teaching skill required to teach effectively in the academic subjects and grade levels in which the teacher teaches.

“(b) ELEMENTARY SCHOOL.—For purposes of making the demonstration described in subsection (a)(1), each teacher who teaches elementary school students (other than middle school students) shall, at a minimum—

“(1) have State certification (which may include certification obtained through an alternative route) or a State license to teach; and

“(2) hold a bachelor’s degree and demonstrate the subject matter knowledge, teaching knowledge, and teaching skill required to teach effectively in reading, writing, mathematics, social studies, science, and other elements of a liberal arts education.

“(c) MIDDLE SCHOOL AND SECONDARY SCHOOL.—For purposes of making the demonstration described in subsection (a)(1), each teacher who teaches middle school students or secondary school students shall, at a minimum—

“(1) have State certification (which may include certification obtained through an alternative route) or a State license to teach; and

“(2) hold a bachelor’s degree or higher degree and demonstrate a high level of competence in the academic subjects in which the teacher teaches through—

“(A) achievement of a high level of performance on rigorous academic subject area tests;

“(B) completion of an academic major (or courses totaling an equivalent number of credit hours) in each of the academic subjects in which the teacher teaches; or

“(C) in the case of teachers hired before the date of enactment of the School Improvement Act of 1994, the completion of appropriate coursework for mastery of the academic subjects in which the teacher teaches;”

“and

“(3) by amending section 2215 (as so redesignated)—

“(A) in subsection (a)(3), by adding after ‘agency the following: ‘for which at least 75 percent of the student performance data served by the agency are eligible for free or reduced price lunches under the Richard B. Russell National School Lunch Act’; and

“(B) by inserting after subsection (a)(4) the following—

“(5) REPORTING REQUIREMENTS.—Each institution of higher education receiving assistance under this subpart (1) shall fully report with all reporting requirements of title II of the Higher Education Act of 1965.

“(9) CONFORMING AMENDMENTS.—The Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is amended—

“(1) in section 2230(a)(2) (20 U.S.C. 6643(a)(2)), by striking ‘section 2211’ and inserting ‘section 2215’;

“(2) in section 2255(c)(2) (20 U.S.C. 6645(c)(2)), by striking ‘section 2211’ and inserting ‘section 2215’.

“TITLE III—INNOVATIVE EDUCATION

“SEC. 201. REQUIREMENTS FOR STATE PLANS.

Part B of title VI of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7531 et seq.) is amended by adding at the end the following:

“SEC. 6203. REQUIREMENTS FOR STATE PLANS.

“(a) STATE PLANS.—In addition to require-ments relating to State applications under this part, a State educational agency for each State desiring a grant under this title shall submit a State plan that meets the requirements of this section to the Secretary of Education, in such manner, and accompanied by such information as the Secretary may require.

“(b) CERTIFIED PLAN.—A State plan submitted under subsection (a) may be submitted as part of a consolidated plan under section 14302, and as part of a State applica-tion described in section 14303.

“(c) CONTENTS.—Each plan submitted under subsection (a) shall—

“(1) describe how the funds made available through the grant will be used to increase student academic performance;

“(2) describe annual, quantitative, and measurable performance goals that will be used to measure the impact of those funds on student performance;

“(3) describe the methods the State will use to measure the annual impact of programs described in paragraph (1) and the extent to which such goals are aligned with State standards;

“(4) certify that the State has in place the standards and assessments required under section 1111;

“(5) certify that the State educational agency has a system, as required under section 1111, for

“(A) holding each local educational agency and school accountable for adequate yearly progress (as described in section 1111(b)(2));

“(B) identifying local educational agencies and schools for improvement and corrective action (as required in sections 1116 and 1117);

“(C) assisting local educational agencies and schools that are identified for improvement with the development of improvement plans; and

“(D) providing technical assistance, profes-sional development, and other capacity building as needed to get such agencies and schools out of improvement status;

“(6) certify that the State educational agency will use the disaggregated results of student assessments required under section 1111(b)(3), and other measures or indicators of performance to review progress of each local educational agency and school served under this title to determine whether each such agency and school is making ade-quate yearly progress as required under section 1111(b)(2);

“(7) certify that the State educational agency will take action against a local edu-cational agency that did not meet the requirements for corrective action and receiving funds under this title;

“(8) describe what, if any, State and other national programma for which funds are appropriated to local educational agencies and schools served under this title to carry out activities consistent with this title; and

“(9) certify that the State educational agency has a system to hold local educational agencies accountable for meeting the annual performance goals required under paragraph (2).

“(d) APPROVAL.—The Secretary, using a peer review process, shall approve a State plan submitted under this section if the State plan meets the requirements of this section.

“(e) DURATION OF THE PLAN.—Each State plan shall remain in effect for the duration of the State’s participation under this title.

“(f) REQUIREMENT.—A State shall not be eligible to receive funds under this title unless the State has established the standards and assessments required under section 1111.

“(g) PUBLIC REVIEW.—Each State educational agency will make publicly available the plan approved under subsection (d).

“SEC. 6204. SANCTIONS.

“(a) THIRD FISCAL YEAR.—If a State receiv-ing grant funds under this title fails to meet performance goals established under section 6203(c)(2) by the end of the third fiscal year for which the State receives such grant funds, the Secretary shall reduce by 50 percent the amount the State is entitled to receive for administrative expenses under this title.

“(b) FOURTH FISCAL YEAR.—If the State fails to meet such performance goals by the end of the fourth fiscal year for which the State receives grant funds under this title, the Secretary shall reduce the total amount the State receives under this title by 20 percent.

“(c) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance, at the request of a State subjected to sanctions under subsection (a) or (b).

“(d) LOCAL SANCTIONS.—

“(1) IN GENERAL.—Each State receiving assistance under this title shall develop a system to hold local educational agencies accountable for meeting the adequate yearly progress requirements established under part A of title I and the performance goals established under this title.

“(2) SANCTIONS.—A system developed under paragraph (1) shall include a mechanism for sanctioning local educational agencies for failure to meet such performance goals and adequate yearly progress levels.

“SEC. 6205. STATE REPORTS.

“Each State educational agency or Chief Executive Officer of a State receiving funds under this title shall annually publish and disseminate to the public in a format and, to the extent practicable, in a language that the public can understand, a report on—

“(1) the use of such funds;

“(2) the impact of programs conducted with such funds and an assessment of such programs’ effectiveness; and

“(3) the progress of the State toward attaining the performance goals established
under section 6203(c)(2), and the extent to which the programs have increased student achievement.

SEC. 6206. STANDARDS; ASSESSMENTS ENHANCEMENT.

(a) In General.—Each State educational agency or local educational agency receiving a grant under this title shall develop and implement educational programs, including language instruction educational programs, and of instructional alternatives; and

(b) Accountability.—Each State educational agency or local educational agency receiving a grant under this title shall develop and implement educational programs, including language instruction educational programs, and of instructional alternatives; and

(c) The instructional goals of the language instruction educational program, and

(d) What programs are available to meet the extent to which the programs have increased student achievement.

SEC. 7106. PERFORMANCE OBJECTIVES.

(a) In General.—Each State educational agency or local educational agency receiving a grant under this title shall develop and implement educational programs, including language instruction educational programs, and of instructional alternatives; and

(b) Accountability.—Each State educational agency or local educational agency receiving a grant under this title shall develop and implement educational programs, including language instruction educational programs, and of instructional alternatives; and

(c) What programs are available to meet the extent to which the programs have increased student achievement.

SEC. 302. PERFORMANCE OBJECTIVES.

Title VII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7401 et seq.) is amended by inserting after section 7106 the following:

SEC. 303. REPORT CARDS.

(a) Grants Authorized.—The Secretary shall award a grant, from allotments under subsection (b), to each State having a State educational agency under this title, in a manner and form that demonstrates comprehensive knowledge; or

(b) Develop and implement value-added assessments.

(c) The instructional goals of the language instruction educational program, and

(d) What programs are available to meet the extent to which the programs have increased student achievement.

SEC. 14001. REPORT CARDS.

(a) Grants Authorized.—The Secretary shall award a grant, from allotments under subsection (b), to each State having a State educational agency under this title, in a manner and form that demonstrates comprehensive knowledge; or

(b) Develop and implement value-added assessments.

(c) The instructional goals of the language instruction educational program, and

(d) What programs are available to meet the extent to which the programs have increased student achievement.

SEC. 302. PERFORMANCE OBJECTIVES.

(a) In General.—Each State educational agency or local educational agency receiving a grant under this title shall develop and implement educational programs, including language instruction educational programs, and of instructional alternatives; and

(b) Accountability.—Each State educational agency or local educational agency receiving a grant under this title shall develop and implement educational programs, including language instruction educational programs, and of instructional alternatives; and

(c) What programs are available to meet the extent to which the programs have increased student achievement.
participation in schools, parental involvement activities, and extended learning time programs, such as after-school and summer programs.

(1) LOCAL EDUCATIONAL AGENCY AND SCHOOL REPORT CARDS.—

(1) IN GENERAL.—The State shall ensure that each local educational agency, elementary school, and secondary school in the State, collects appropriate data and publishes an annual report card consistent with this subsection.

(2) REQUIRED INFORMATION.—Each local educational agency, elementary school, and secondary school described in paragraph (1), at a minimum, shall include in its annual report card—

(II) information regarding the number and percentage of schools served by the local educational agency that are identified for school improvement, including schools identified under section 1116;

(aa) information on the most recent 3-year trend in the number and percentage of elementary schools and secondary schools served by the local educational agency that are identified for school improvement; and

(bb) information on how students in the schools served by the local educational agency performing worst in the statewide assessment compared with students in the State as a whole;

(C) in the case of an elementary school or a secondary school—

(i) information regarding whether the school has been identified for school improvement;

(ii) information on how the school’s students performed on the statewide assessment compared with students in schools served by the same local educational agency and with all students in the State; and

(iii) information about the enrollment of students compared with the rated capacity of the schools; and

(D) other appropriate information, regardless of whether the information is included in the annual State report.

(2) DISSEMINATION AND ACCESSIBILITY OF REPORT CARDS.—

(1) REPORT CARD FORMAT.—Annual report cards under this part shall be—

(II) concise; and

(B) presented in a format and manner that parents can understand, including, to the extent practicable, in a language the parents can understand.

(2) STATE REPORT CARDS.—State annual report cards under subsection (e) shall be disseminated to all elementary schools, secondary schools, and the local educational agencies in the State, and made broadly available to the public through means such as posting on the Internet and distribution to the media and other public agencies.

(3) LOCAL REPORT CARDS.—Local educational agency report cards under subsection (f) shall be disseminated to all elementary schools and secondary schools served by the local educational agency and to parents of students attending such schools, and made broadly available to the public through means such as posting on the Internet and distribution to the media, and through public agencies.

(4) SCHOOL REPORT CARDS.—Elementary schools and secondary schools that have report cards under subsection (f) shall be disseminated to parents of students attending that school, and made broadly available to the public through means such as posting on the Internet and distribution to the media, and through public agencies.

(3) COORDINATION OF STATE PLAN CONTENT.—A State shall include in its plan under part A of title I or part B of title II, an assurance that the State has in effect a policy that meets the requirements of this section.

(4) PRIVACY.—Information collected under this section shall be disseminated in a manner that protects the privacy of individuals.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this part $5,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 4 succeeding years.

PART J—ADDITIONAL PERFORMANCE AND ACCOUNTABILITY PROVISIONS

SEC. 14011. REWARDING HIGH PERFORMANCE.

(a) STATE REWARDS.—

(1) IN GENERAL.—From amounts appropriated under subsection (d), the Secretary shall make awards to States that—

(A) for 3 consecutive years have—

(i) exceeded the State performance goals and objectives established for any title under this Act;

(ii) exceeded the adequate yearly progress levels established under section 1111(b)(2);

(iii) significantly narrowed the gaps between minority and nonminority students, and between economically disadvantaged students and students who are not economically disadvantaged;

(iv) raised all students to the proficient standard level prior to 10 years after the date of enactment of the School Improvement Accountability Act; or

(v) significantly increased the percentage of core classes being taught by fully qualified teachers, in schools receiving funds under part A of title I; or

(B) not later than December 31, 2006, ensure that all teachers teaching in the elementary schools and secondary schools served by the local educational agency are fully qualified; or

(C) have attained consistently high achievement in another area that the State determines appropriate to reward.

(2) SCHOOL-BASED PERFORMANCE AWARDS.—A local educational agency shall use funds made available under paragraph (1) for activities described in subsection (c) such as school-based performance awards.

(b) RESERVATION FOR ADMINISTRATIVE EXPENSES.—Each local educational agency receiving an award under paragraph (1) may set aside not more than ½ of 1 percent of the award funds for the planning and administrative costs of carrying out this section, including the costs of distributing awards.

(c) SCHOOL REWARDS.—Each local educational agency receiving an award under subsection (b) shall consult with teachers and principals to develop a reward system, and shall use the award funds—

(1) to reward individual schools that demonstrate high performance with respect to—

(A) increasing the academic achievement of all students;

(B) narrowing the academic achievement gap described in section 1111(b)(2)(B)(iv);

(C) improving teacher quality;

(D) increasing high-quality professional development for teachers, principals, and administrators; or

(E) improving the English proficiency of limited English proficient students;

(2) to reward collaborative teams of teachers, or teams of teachers and principals, that—

(A) significantly increase the annual performance of low-performing students; or

(B) significantly improve the performance of students, in the year the English proficiency of limited English proficient students;

(3) to reward principals who successfully raise the performance of the number of low-performing students to high academic levels;

(4) to develop or implement school district-wide programs or policies to increase the level of student performance on State assessments that are aligned with State content standards; and

(5) to reward schools for consistently high achievement in another area that the local educational agency determines appropriate to reward.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $200,000,000 for fiscal year 2002, and such sums as may be necessary for each of the 4 succeeding fiscal years.

DEFINITION.—The term ‘‘low-performing student’’ means a student who is below a basic State standard level.’’

SEC. 304. ADDITIONAL ACCOUNTABILITY PROVISIONS.

Part E of title XIV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8891 et seq.) is amended by adding at the end the following:
(a) In general.—Notwithstanding any other provision of this Act, a recipient of funds provided for a fiscal year under part A of title I, part A or C of title III, part A of title IV, part A of title V, or title VII, shall include—

(1) in the plans or applications required under such part or title—

(A) the methods the recipient will use to measure the annual impact of each program funded in whole or in part with funds provided under such part or title and, if applicable, the extent to which such each program will increase academic achievement;

(B) the annual, quantifiable, and measurable performance goals and objectives for each such program, and the extent to which, if applicable, the recipient’s performance goals and objectives align with State content standards and State student performance standards established under section 1111(b)(1)(A); and

(C) if the recipient is a local educational agency, assurances that the local educational agency consulted, at a minimum, with parents, school board members, teachers, administrators, business partners, education organizations, and community groups to develop the plan or application submitted and that such consultation will continue on a regular basis; and

(2) in the reports required under such part or title, a report for the preceding fiscal year regarding consensus building and information on public involvement in the implementation of the plans or applications submitted for such fiscal year under each such program, and the extent to which, if applicable, the plans or applications submitted for such fiscal year under each such program were implemented, the recipient’s progress toward attaining the performance goals and objectives identified in the plan or application for such fiscal year, and, if applicable, the extent to which such programs funded in whole or in part with funds provided under such part or title increased student achievement.

(b) Penalties.—If a recipient of funds under a part or title described in subsection (a) fails to meet the performance goals and objectives of the part or title for 3 consecutive fiscal years, the Secretary shall—

(1) withhold not less than 20 percent of the funds made available under the relevant program for administrative expenses for the succeeding fiscal year, and for each consecutive fiscal year until the recipient meets such performance goals and objectives; and

(2) in the case of—

(A) a competitive grant (as determined by the Secretary) under the recipient is ineligible for grants under the part or title until the recipient meets such performance goals and objectives; and

(B) a formula grant (as determined by the Secretary), withhold not less than 20 percent of the total amount of funds provided under title VI for the succeeding fiscal year and each consecutive fiscal year until the recipient meets such goals and objectives.

(c) Other Penalties.—A State that has not met the requirements of subsection (a) for 3 consecutive fiscal years—

(1) shall not be eligible for designation as an Ed-Flex Partnership State under the Education Flexibility Partnership Act of 1999 until the State meets the requirements of subsection (a)(1)(B); and

(2) shall be subject to such other penalties as are provided in this Act for failure to meet the requirements of subsection (a)(1)(B).

(d) Special Rule for Secretary Awards.

(1) In general.—Notwithstanding any other provision of this Act, a recipient of funds provided under a direct award made by the Secretary pursuant to this Act for a program agreement entered into with the Secretary, for a program shall include the following in—

(a) fails to meet the performance goals and objectives described in paragraph (1)(B), where applicable, the assessment of the magnitude of dissemination described in paragraph (1)(A) if the program described in paragraph (1)(B) have not been met;

(ii) where applicable, the dissemination has not been of a magnitude to ensure goals and objectives are being addressed; and

(iii) where applicable, the information or materials produced have not made a significant impact on raising student achievement in places where such information or materials are used.”.

By Mrs. BOXER.

S. 159. A bill to elevate the Environmental Protection Agency to a cabinet level department, to reauthorize the Environmental Protection Agency as the Department of Environmental Protection Affairs, and for other purposes; to the Committee on Governmental Affairs.

Mrs. BOXER. Mr. President, today I am pleased to introduce the Department of Environmental Protection Affairs Act of 2001. The bill redesignates the Environmental Protection Agency (EPA) as the Department of Environmental Protection Affairs and makes the Department part of the president’s cabinet.

As most of my colleagues know, President Nixon established EPA in 1970 as a response, in part, to water for drinking and air too dirty to breathe. It had become clear by that time that air, waste and water pollution problems did not respect state boundaries, and that public health and environmental protections varied widely from state to state.

In the 30 years since its founding, EPA has played a critical role in ensuring that all Americans enjoy the same basic level of public health and environmental protection.

The Department of Environmental Protection Affairs Act of 2001 recognizes that role. The bill reflects that all Americans view protection of the public health and environment as duties of at least equal importance as our national programs for education, energy, defense, commerce and agriculture.

The impact of this bill, however, goes beyond the very important symbolic statement it makes.

First, elevating the EPA to the cabinet will ensure that the president is directly involved in setting environmental policies. While past presidents have chosen to make the EPA Administrator part of cabinet-level discussions, this bill expresses Congress’ will that environmental protection is given its place among the other national issues which occupy the president and his cabinet.

Second, this bill will ensure that the EPA Administrator is on equal footing with her colleagues in the rest of the cabinet. This is important because some of the worst environmental policy issues and decisions are departments of the federal government. For example, Department of Defense and Department of Energy facilities are some of the most polluted toxic waste sites in the nation.

EPA must be on equal footing with those departments if it is to ensure that the environment is restored and that the public health is protected at those sites.

Third, this bill will strengthen EPA’s role in negotiating international agreements with foreign nations. Protection of public health and the environment has increasingly become an important part of foreign relations. Most of the industrialized nations have adopted environmental policies similar to those in the United States, and have environmental policy as duties of at least equal importance as other national programs.

I am hopeful that my House and Senate colleagues can act quickly to ensure the passage of this important legislation. I ask you to give this legislation your full support.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, SEC. 1. SHORT TITLE. This Act may be cited as the “Department of Environmental Protection Affairs Act of 2001”.

SEC. 2. FINDINGS. Congress finds that—

(1) protection of public health and the environment is a mission of at least equal importance to the duties carried out by cabinet-level departments;

(2) the Federal Government should ensure that all Americans enjoy the same basic level of public health and environmental protection regardless of where they live;

(3) the public health and the environment increasingly involves negotiation with foreign nations, including the

SEC. 14515. ADDITIONAL ACCOUNTABILITY PROVISIONS.

(a) In general.—Notwithstanding any other provision of this Act, a recipient of funds provided for a fiscal year under A of title I, part A of title II, part A or C of title III, part A or C of title IV, part A or C of title V, or title VII, shall include—

(i) the successful dissemination of information or materials produced;

(ii) where information or materials produced are being used; and

(iii) the impact of such use and, if applicable, the extent to which such use increased student academic achievement or contributed to the stated goal of the program.

(b) Requirement.—If no application or plan is required under a program described in paragraph (1), the Secretary shall require the recipient of funds to submit a plan containing the information required under paragraph (1).

(c) Failure to Achieve Goals and Objectives.—

(iii) the impact of such use and, if applicable, the extent to which such use increased student academic achievement or contributed to the stated goal of the program.

(2) Requirement.—If no application or plan is required under a program described in paragraph (1), the Secretary shall require the recipient of funds to submit a plan containing the information required under paragraph (1).

(d) Special Rule for Secretary Awards.

(i) the goals and objectives described in paragraph (1)(B) have not been met;

(ii) where applicable, the dissemination has not been of a magnitude to ensure goals and objectives are being addressed; and

(iii) where applicable, the information or materials produced have not made a significant impact on raising student achievement in places where such information or materials are used.”.

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Second, this bill will ensure that the EPA Administrator is on equal footing with her colleagues in the rest of the cabinet. This is important because some of the worst environmental policy issues and decisions are departments of the federal government. For example, Department of Defense and Department of Energy facilities are some of the most polluted toxic waste sites in the nation.

EPA must be on equal footing with those departments if it is to ensure that the environment is restored and that the public health is protected at those sites.

Third, this bill will strengthen EPA’s role in negotiating international agreements with foreign nations. Protection of public health and the environment has increasingly become an important part of foreign relations. Most of the industrialized nations have adopted environmental policies similar to those in the United States, and have environmental policy as duties of at least equal importance as other national programs.

I am hopeful that my House and Senate colleagues can act quickly to ensure the passage of this important legislation. I ask you to give this legislation your full support.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, SEC. 1. SHORT TITLE. This Act may be cited as the “Department of Environmental Protection Affairs Act of 2001”.

SEC. 2. FINDINGS. Congress finds that—

(1) protection of public health and the environment is a mission of at least equal importance to the duties carried out by cabinet-level departments;

(2) the Federal Government should ensure that all Americans enjoy the same basic level of public health and environmental protection regardless of where they live;

(3) the public health and the environment increasingly involves negotiation with foreign nations, including the
most highly industrialized nations all of whose top environmental officials have ministerial status; and
(4) a cabinet-level Department of Environmental Protection Affairs should be established.

SEC. 3. ESTABLISHMENT OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION AFFAIRS.

(a) Redesignation.—The Environmental Protection Agency is redesignated as the Department of Environmental Protection Affairs (in this Act referred to as the ‘‘Department’’) and shall be an executive department in the executive branch of the Government.

(b) Secretary of the Department of Environmental Protection Affairs.—

(1) In general.—There shall be at the head of the Department a Secretary of Environmental Protection Affairs who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) Nondelegation.—The Secretary may not assign duties for or delegate authority for the supervision of the Assistant Secretaries, the General Counsel, or the Inspector General of the Department to any officer of the Department other than the Deputy Secretary.

(c) Delegations.—Except as described under paragraph (2) of this section and section 4(b)(2), and notwithstanding any other provision of law, the Secretary may delegate any function, duty, or authority for the making of determinations to such officers and employees of the Department as the Secretary may designate, and may authorize such successive delegations of such functions within the Department as determined to be necessary or appropriate.

(d) Deputy Secretary.—There shall be in the Department a Deputy Secretary of the Environment, who shall be appointed by the President, by and with the advice and consent of the Senate.

(e) Regional Offices.—The regional offices of the Environmental Protection Agency are redesignated as regional offices of the Department of Environmental Protection Affairs.

(f) International Responsibilities of the Secretary.—

(1) In general.—In addition to exercising other international responsibilities under existing provisions of law, the Secretary is—

(A) encouraged to assist the Secretary of State in exercising his principal responsibilities for coordinating, negotiating, implementing, and participating in international agreements, including participation in international organizations, relevant to environmental protection; and

(B) authorized and encouraged to—

(i) conduct research on and apply existing research capabilities to the nature and impacts of international environmental problems and develop responses to such problems; and

(ii) provide technical and other assistance to foreign countries and international bodies to improve the quality of the environment.

(2) Consultation.—The Secretary of State shall consult with the Secretary of Environmental Protection Affairs and such other persons as he determines appropriate on such matters as he determines appropriate on such negotiations, implementation, and participation described under paragraph (1)(A).

(g) Authority of the Secretary Within the Department.—Nothing in this Act—

(1) authorizes the Secretary of Environmental Protection Affairs to require any action by any officer of any executive department or agency other than officers of the Department of Environmental Protection Affairs, except that this paragraph shall not affect any authority provided for by any other provision of law authorizing the Secretary of Environmental Protection Affairs to require any such actions;

(2) modifies any Federal law that is administered by any executive department or agency; or

(3) transfers to the Department of Environmental Protection Affairs any authority exercised by any other Federal executive department or agency before the effective date of this Act, except the authority exercised by the Environmental Protection Agency.

(h) Application to the Department of Environmental Protection Affairs.—This Act applies only to activities of the Department of Environmental Protection Affairs, except where expressly provided otherwise.

SEC. 4. ASSISTANT SECRETARIES.

(a) Establishment of Positions.—There shall be in the Department such number of Assistant Secretaries, not to exceed 10, as the President shall determine, each of whom shall be appointed by the President, by and with the advice and consent of the Senate.

(b) Responsibilities of Assistant Secretaries.—

(1) In general.—The Secretary shall assign to Assistant Secretaries such responsibilities as the Secretary considers appropriate, including—

(A) enforcement and compliance monitoring;

(B) research and development;

(C) air and radiation;

(D) water;

(E) pesticides and toxic substances;

(F) solid waste;

(G) hazardous waste;

(H) hazardous waste cleanup;

(I) emergency response;

(J) international affairs;

(K) policy, planning, and evaluation;

(L) pollution prevention;

(M) congressional, intergovernmental, and public affairs; and

(N) administration and resource management, including financial and budget management, information resources management, procurement and assistance management, and personnel relations.

(2) Assignment of Responsibilities.—The Secretary may assign and modify any responsibilities at his discretion under paragraph (1), except as otherwise provided for—

(i) permitting, enforcement, and compliance monitoring; and

(ii) science, research, and development.

(3) Assignment of Additional Responsibilities.—The Secretary may assign any such additional responsibilities as the President shall designate from time to time.

(c) Chief Information Resources Officer.—There shall be in the Department a Deputy Secretary of Environmental Protection Affairs, who shall be appointed by the President, by and with the advice and consent of the Senate.

(d) Chief Information Resources Officer.—

(1) In general.—The Secretary shall designate the Assistant Secretary whose responsibilities include information resource management functions as required by section 3506 of title 44, United States Code, as the Chief Information Resources Officer of the Department.

(2) Responsibilities.—The Chief Information Resources Officer shall—

(A) advise the Secretary on information resource management activities of the Department as required by section 3506 of title 44, United States Code;

(B) develop and maintain an information resources management system for the Department which provides for—

(i) the conduct of and accountability for any acquisitions made under a delegation of authority under section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759); and

(ii) the implementation of all applicable government-wide and Department information policies, principles, standards, regulations, and guidelines with respect to collection, paperwork reduction, privacy and security of records, sharing and dissemination of information, acquisition and use of information technology, and other information resource management functions;

(iii) the periodic evaluation of, as needed, the planning and implementation of improvements in the accuracy, completeness, and reliability of data and records contained with Department information systems; and

(iv) the development and annual revision of a 5-year plan for meeting the Department’s information technology needs; and

(C) report to the Secretary as required under section 3506 of title 44, United States Code.

SEC. 5. DEPUTY ASSISTANT SECRETARIES.

(a) Establishment of Positions.—There shall be in the Department such number of Deputy Assistant Secretaries as the Secretary may determine.

(b) Appointment.—Each Deputy Assistant Secretary shall—

(1) be appointed by the Secretary; and

(2) perform such functions as the Secretary shall prescribe.

(c) Functions.—Functions assigned to an Assistant Secretary under section 4(b) may be performed by 1 or more Deputy Assistant Secretaries appointed to assist such Assistant Secretary.

SEC. 6. OFFICE OF THE GENERAL COUNSEL.

There shall be in the Department, the Office of the General Counsel. There shall be in the head of such office a General Counsel who shall be appointed by the President, by and with advice and consent of the Senate. The General Counsel shall be the chief legal officer of the Department and shall provide legal assistance to the Secretary concerning the programs and policies of the Department.

SEC. 7. OFFICE OF THE INSPECTOR GENERAL.


SEC. 8. MISCELLANEOUS EMPLOYMENT RESTRICTIONS.

Except as otherwise provided in this Act, political affiliation or political qualification may not be taken into account in connection with employment in the Department or the Office of Inspector General.
with the appointment of any person to any position in the career civil service or in the assignment or advancement of any career civil servant in the Department.

SEC. 9. Administration of the Department of Environmental Protection Affairs.

(a) Acceptance of Money and Property.—(1) IN GENERAL.—The Secretary may accept and retain money, uncompensated services, and any personal property rights (whether by gift, bequest, devise, or otherwise) for the purpose of carrying out the Department’s programs and activities, except that the Secretary shall not authorize any contract, agreement, or arrangement, whether by competitive bid or negotiation, for the purpose of conveying, in a mannerreasonably calculated to convey, a false impression of sponsorship or approval by the Government of the United States or by any department, agency, or instrumentality thereof, which has a possible conflict of interest with respect to any of the following described rights if the related property acquired is for use by or for, or useful to, the Department:

(A) Copyrights, patents, and applications for patents, designs, processes, and manufacturing data.

(B) Licenses under copyrights, patents, and applications for patents.

(C) Registrations that are brought, for past infringement of patents or copyrights.

(d) Advisory Committee Standards of Conduct and Compensation.—The Secretary may make any activity which is less unconstitutionally related to the public interest as to mandate performance by Government officials and employees; and

(B) includes

(1) activities which require either the exercise of discretion in applying Government authority or the use of value of judgment in making decisions for the Government; and

(ii) work of a policy, decisionmaking, or inherently governmental function performed only by officers and employees of the United States.

SEC. 10. INHERENTLY GOVERNMENTAL FUNCTIONS.

(a) Government Officers and Employees.—

(1) IN GENERAL.—Any inherently governmental function of the Department shall be performed only by officers and employees of the United States.

(2) Definition.—In this section, the term “inherently governmental function” includes any activity which is so intimately related to the public interest as to mandate performance by Government officers and employees; and

(B) includes

(1) which have a possible conflict of interest with respect to—

(A) being able to render impartial, technically sound, or objective assistance or advice in light of other activities or relationships with other persons; or

(B) being given an unfair competitive advantage.

(2) Subcontractors.—Such person shall ensure, in accordance with regulations prescribed by the Secretary, compliance with this section by subcontractors of such person who are engaged to perform similar services.

(c) REQUIRE AFFIRMATIVE FINDING; CONFLICTS OF INTEREST WHICH CANNOT BE AVOIDED; MISCONDUCT.

(1) IN GENERAL.—Subject to paragraph (2), the Secretary may not enter into any such contract, agreement, or arrangement, unless he affirmatively finds, after evaluating all such information and any other relevant information otherwise available to him, that—

(A) there is little or no likelihood that a conflict of interest would exist; or

(B) that such conflict has been avoided and appropriate provisions have been included in such contract, agreement, or arrangement.

(2) Mitigation of Conflicts.—If the Secretary determines that such conflict of interest exists and that such conflict of interest cannot be avoided by including appropriate conditions therein, the Secretary may enter into such contract, agreement, or arrangement, if he—

(A) determines that it is in the best interests of the United States to do so; and

(B) includes appropriate conditions in such contract, agreement, or arrangement to mitigate such conflict.

(d) Public Notice Regarding Conflicts of Interest.—The Secretary shall promulgate regulations which require public notice to be given whenever the Secretary determines that the award of a contract, agreement, or arrangement, or any portion thereof, is calculated, in light of other activities or relationships with other persons, to result in a conflict of interest which cannot be avoided by including appropriate conditions therein.

(2) Judicial Review.—Nothing in this section shall prevent the Secretary from promulgating regulations to monitor potential conflicts after the contract award.

(3) Details. —Not later than 90 days after the effective date of this Act, the Secretary shall publish rules for the implementation of this section.

(5) Supplementary Regulations —The Department shall maintain a central file regarding all cases when a public notice is issued. Other information required under this section shall also be compiled. Access to the information shall be controlled to safeguard any proprietary information.

(2) Definitions.—In this section, the term “advisory and assistance services” includes—

(1) management and professional support services;

(2) the conduct of studies, analyses, and evaluations; and

(3) engineering and technical services, excluding routine technical services.

SEC. 11. REFERENCES.

Reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document or pertaining to—

(1) the Administrator of the Environmental Protection Agency shall be deemed to refer to the Secretary of Environmental Protection Affairs;

(2) the Environmental Protection Agency shall be deemed to refer to the Department of Environmental Protection Affairs;

(3) the Deputy Administrator of the Environmental Protection Agency shall be deemed to refer to the Deputy Secretary of Environmental Protection Affairs; or

(4) any Assistant Administrator of the Environmental Protection Agency shall be deemed to refer to an Assistant Secretary of the Department of Environmental Protection Affairs.

SEC. 12. SAVINGS PROVISIONS.

(a) Continuing Effect of Legal Documents.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(1) which have been issued, made, granted, ordered, or allowed to become effective by the President, or by the Administrator of the Environmental Protection Agency, or by a court of
striking “Administrator of Environmental Protection Agency” and inserting “Deputy Secretary of Environmental Protection Agency’s”

(e) COMPENSATION, LEVEL IV.—Section 5315 of title 5, United States Code, is amended—

(1) by striking “Inspector General, Environmental Protection Agency” and inserting “Inspector General, Department of Environmental Protection Affairs”;

(2) by striking each reference to an Assistant Administrator of the Environmental Protection Agency and by adding at the end the following:

“Assistant Secretaries, Department of Environmental Protection Affairs (10).

“General Act of 1978 (5 U.S.C. App.) is amended—

(A) by inserting “after Veterans Affairs,” after “Veterans Affairs,” and

(B) by striking “The Environmental Protection Agency”;

(2) in section 11(1) by striking “or Veterans Affairs” and inserting “Veterans Affairs, or Environmental Protection Affairs,”; and

(3) in section 11(2) by striking “or Veterans Affairs” and inserting “Veterans Affairs, or Environmental Protection Affairs.”

SEC. 14. ADDITIONAL CONFORMING AMENDMENTS.

After consultation with the Committee on the Environment and Public Works and other appropriate committees of the House of Representatives, the Secretary of the Environment shall prepare and submit to Congress proposed legislation containing technical and conforming amendments to the United States Code, and to other provisions of law, to reflect the changes made by this Act. Such legislation shall be submitted not later than 6 months after the effective date of this Act.

SEC. 15. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on January 23, 2001.

By Mrs. BOXER: S. 160. A bill to provide assistance to States to expand and establish drug abuse treatment programs to enable such programs to provide services to individuals who voluntarily seek treatment for drug abuse; to the Committee on Health, Education, Labor, and Pensions.

Mr. BOXER. Mr. President, today I am introducing the Drug Abuse Treatment on Demand Assistance Act to help ensure that substance abuse treatment for non-violent offenders is available to all substance abusers who seek it.

According to the Department of Health and Human Services, each year nearly 2.7 million substance abusers are receiving treatment "under the same terms and conditions to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(c) NONABATEMENT OF ACTIONS.—This Act shall not affect suits commenced before the date this Act takes effect, and in all such suits, proceedings shall be continued by the Department with the same effect as if this Act had not been enacted.

(d) ENRAINTMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Environmental Protection Agency, by or against any individual in the official capacity of such individual as an officer of the Environmental Protection Agency, shall abate by reason of the enactment of this Act.

(e) ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.—Any administrative action relating to the promulgation of regulations by the Environmental Protection Agency may be continued by the Department with the same effect as if this Act had not been enacted.

(f) RESOURCES.—Contracts, liabilites, records, property, and other assets and interests of the Environmental Protection Agency shall, after the effective date of this Act, be considered to be the contracts, liabilities, records, property, and other assets and interests of the Department.

(g) SAVINGS.—The Department of Environmental Protection Affairs and its officers, employees, and agents shall have all the powers and authorities of the Environmental Protection Agency in the performance of the functions of the Administrator or the Environmental Protection Agency, and (2) which are in effect at the time this Act takes effect, shall continue in effect according to their terms until modified, terminated, or revoked, in accordance with law by the President, the Secretary of Environmental Protection Affairs, or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) PROCEEDINGS NOT AFFECTED.—This Act shall not affect any proceedings or any application for, or permits, permits, certificates, or financial assistance pending before the Environmental Protection Agency at the time this Act takes effect, but such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments and applications shall be continued by such orders, as if this Act had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding or permit, certificate, or financial assistance pending before the Environmental Protection Agency at the time this Act takes effect, but such proceedings and applications shall be continued by such orders, as if this Act had not been enacted.

(2) which are in effect at the time this Act takes effect, shall continue in effect until modified, terminated, superseded, or revoked in accordance with law by the President, the Secretary of Environmental Protection Affairs, or other authorized official, a court of competent jurisdiction, or by operation of law.

(3) which are in effect at the time this Act takes effect, shall continue in effect until modified, terminated, superseded, or revoked in accordance with law by the President, the Secretary of Environmental Protection Affairs, or other authorized official, a court of competent jurisdiction, or by operation of law.

(4) which are in effect at the time this Act takes effect, shall continue in effect until modified, terminated, superseded, or revoked in accordance with law by the President, the Secretary of Environmental Protection Affairs, or other authorized official, a court of competent jurisdiction, or by operation of law.

(5) which are in effect at the time this Act takes effect, shall continue in effect until modified, terminated, superseded, or revoked in accordance with law by the President, the Secretary of Environmental Protection Affairs, or other authorized official, a court of competent jurisdiction, or by operation of law.

SEC. 12. CONFORMING AMENDMENTS.

(a) PROVISIONS OF REPEAL.—Section 5310 of title 5, United States Code, is amended by adding at the end the following: “The Department of Environmental Protection Affairs”.

(b) DEFINITIONS OF DEPARTMENT, CIVIL SERVICE LAW.—Section 102 of title 5, United States Code, is amended by adding at the end the following: “The Department of Environmental Protection Affairs”.

(c) COMPENSATION, LEVEL I.—Section 5312 of title 5, United States Code, is amended by adding at the end the following: “The Department of Environmental Protection Affairs”.

(d) COMPENSATION, LEVEL II.—Section 5313 of title 5, United States Code, is amended by adding before the period at the end the following: “The Department of Environmental Protection Affairs”.

(2) which are in effect at the time this Act takes effect, shall continue in effect until modified, terminated, superseded, or revoked in accordance with law by the President, the Secretary of Environmental Protection Affairs, or other authorized official, a court of competent jurisdiction, or by operation of law.

(3) which are in effect at the time this Act takes effect, shall continue in effect until modified, terminated, superseded, or revoked in accordance with law by the President, the Secretary of Environmental Protection Affairs, or other authorized official, a court of competent jurisdiction, or by operation of law.

(4) which are in effect at the time this Act takes effect, shall continue in effect until modified, terminated, superseded, or revoked in accordance with law by the President, the Secretary of Environmental Protection Affairs, or other authorized official, a court of competent jurisdiction, or by operation of law.

(5) which are in effect at the time this Act takes effect, shall continue in effect until modified, terminated, superseded, or revoked in accordance with law by the President, the Secretary of Environmental Protection Affairs, or other authorized official, a court of competent jurisdiction, or by operation of law.


ADDITIONAL COSPONSORS

S. 21

At the request of Mr. Cleland, his name was added as a cosponsor of S. 21, a bill to establish an off-budget lockbox to strengthen Social Security and Medicare.

S. 22

At the request of Mr. Hagel, the name of the Senator from Kansas (Mr. Roberts) was added as a cosponsor of S. 22, a bill to amend the Federal Election Campaign Act of 1971 to provide meaningful campaign finance reform through requiring better reporting, decreasing the role of soft money, and increasing individual contribution limits, and for other purposes.

S. 27

At the request of Mr. Feingold, the names of the Senator from Georgia (Mr. Cleland) and the Senator from Florida (Mr. Nelson) were added as cosponsors of S. 27, a bill to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform.

S. 29

At the request of Mr. Bond, the names of the Senator from Nebraska (Mr. Hagel), the Senator from New Jersey (Mr. Torricelli), the Senator from Indiana (Mr. Bayh), the Senator from Maryland (Mr. Sarbanes), the Senator from Washington (Mrs. Murray), the Senator from California (Mrs. Boxer), and the Senator from Louisiana (Mr. Breaux) were added as cosponsors of S. 29, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for 100 percent of the health insurance costs of self-employed individuals.

S. 30

At the request of Mr. Sarbanes, the name of the Senator from Illinois (Mr. Durbin) was added as a cosponsor of S. 30, a bill to strengthen control by consumers over the use and disclosure of their personal financial and health information by financial institutions, and for other purposes.

S. 35

At the request of Mr. Gramm, the names of the Senator from Arizona (Mr. Kyl) and the Senator from Kentucky (Mr. Bunning) were added as cosponsors of S. 35, a bill to provide relief to America’s working families and to promote continued economic growth by returning a portion of the tax surplus to those who created it.

S. 104

At the request of Ms. Snowe, the names of the Senator from Rhode Island (Mr. Chafee), the Senator from Michigan (Mr. Levin), and the Senator from Michigan (Ms. Stabenow) were added as cosponsors of S. 104, a bill to require equitable coverage of prescription contraceptive drugs and devices, and contraceptive services under health plans.

S. 127

At the request of Mr. McCain, the name of the Senator from Georgia (Mr. Miller) was added as a cosponsor of S.

127, a bill to give American companies, American workers, and American ports the opportunity to compete in the United States cruise market.

SENATE RESOLUTION 14—COMMENDING THE GEORGIA SOUTHERN UNIVERSITY EAGLES FOOTBALL TEAM FOR WINNING THE 2000 NCAA DIVISION I-AA FOOTBALL CHAMPIONSHIP

Mr. Cleland (for himself, and Mr. Miller) submitted the following resolution; which was considered and agreed to:

S. RES. 14

Whereas Georgia Southern University is a member of the Southern Conference of the National Collegiate Athletic Association Division I-AA and the Conference’s champion for 4 consecutive years;

Whereas in 2000, Georgia Southern captured its second consecutive and a record-setting sixth overall Division I-AA national title;

Whereas Head Coach, Paul Johnson, has won numerous Coach of the Year awards during his career; has a 50-8 win-loss record at Georgia Southern, which is one of the best records in college football; and had 13 first-place starts in 2000; Sea Eagles were still able to win 13 games on the way to another national championship;

Whereas junior running back, Adrian Peterson, ran for 148 yards in the championship game, which marked the 43rd consecutive game in which he rushed for 100 or more yards;

Whereas the students, alumni, and supporters of Georgia Southern University, as well as the community of Statesboro, are to be congratulated for their unshakable commitment to the Georgia Southern University football team; and

Whereas their Division I-AA national championships in 1985, 1986, 1989, 1990, 1999, and 2000, as well as their place as runner-up in 1988 and 1998, make the Georgia Southern University program the most successful college football program in Division I-AA football history; Now, therefore, be it

Resolved, that the Senate—

(1) commends the Georgia Southern University Eagles football team for winning the 2000 NCAA Division I-AA collegiate football national championship;

(2) recognizes the achievements of all the players, coaches, and support staff who were instrumental in helping Georgia Southern win the 2000 NCAA Division I-AA collegiate football national championship and invites the team and its coach to the United States Capitol Building to be honored;

(3) requests that the President recognize the accomplishments and achievements of the 2000 Georgia Southern football team and invite them to Washington, D.C. for a White House ceremony for national championship teams; and

(4) directs the Secretary of the Senate to make available enrolled copies of this resolution to Georgia Southern University for appropriate display and to transmit an enrolled copy of this resolution to each coach and member of the 2000 NCAA Division I-AA collegiate national championship football team.

Mr. Cleland. Mr. President, I rise to pay tribute to the Georgia Southern University football team for their second consecutive and sixth overall NCAA’s Division I-AA football national championship. In addition to the record number of National Championship titles, Georgia Southern has captured four consecutive Southern Conference titles. Never in the history of Division I-AA has there been such a successful football program and I see no end to their success in the future. Among the many players and coaches who have been honored this year was Coach Paul Johnson who was recognized as the American Football Coaches Association’s 2000 Regional Coach of the Year. Another notable performance was that of running back Adrian Peterson who completed his 43rd consecutive game rushing for more than 100 yards—including 152 yards against the much larger school, the University of Georgia and 148 yards against Montana in the National Championship game. Much credit is due to all the players—offense, defense and special teams—who made this wonderful season possible.

While the Eagles had just two losses this season—one to rival Furman and the other to the Division I-A opponent the University of Georgia—they had an impressive list of victories this season, including: a 57-13 victory over Johnson C. Smith; a 24-17 victory over Wofford; a 42-24 victory over VMI; a 34-28 victory over Appalachian State; a 27-10 victory over the Citadel; a 42-7 victory over East Tennessee State; and a 32-9 victory over McNeese.

In addition to the post season, Georgia Southern defeated: McNeese State 42-17; Hofstra 48-20; Delaware 27-18; and finally, Montana 27-25 for the National Championship.

Mr. President, at this time, I would like to recognize all the 2000 Georgia Southern football team for their dedication to the team and their commitment to the hard work it takes to win a national championship: Derek Adams, T.J. Anderson, Mike Anderson, Brandon Bird, Rob Baxas, Chris Bass, Bubba Brantley, James Burchett, Travis Burkett, Victor Cabral, P.J. Cantrell, Charles Clarke, Edmund Coley, Paul Collins, Dreek Cooper, Reggie Cordy, Melvin Cox, Leonard Daggett, Devin Danridge, Kevin Davis, Dietrich Everett, Hakim Ford, Nate Gates, Justin Godsey, Ryan Hadden, Eric Hadley, Travis Hames, Winston Hardison, Kevin Heard, Nick Heuman, Sean Holland, Dallas Horne, Donte Hunter, Troy Hunter, Eric Irby, Chris Johnson, Tijuana Johnson, Willis Johnson, Jamaar Jones, Josh Jones, Nick Kearns, Tom LaRocco, Robert LeBlanc, Robert Lockse, Basail Mack, James McCoy, Jim McCullough, Chad McDonnell, Eric McIntire, Jesse McMillan, Ceesha Middlebrooks, Steven Moore, Phillip Mouzon, Mark Myers, Jason Neese, Derrick Nobles, Chris O’Neill, Carlton Oglesby, Terry Owens, Kevin Patterson, Freddy Pesqueira, Adria Peterson, Lavar Rainey, J.R. Revere, Matt Rice, Andra Robinson, Elliot Rogers, Darryl Royal, Anthony Scott, Joe Scott, Scott Shelton, Mike Stewart, Dion Stokes, Taqua Thrasher, Gino Tutera, Zzream Walden, Michael

...
January 23, 2001

CONGRESSIONAL RECORD — SENATE

WARD, ANDRE WEATHERS, SID WILDES, ANTHONY WILLIAMS, CHAZ WILLIAMS, DERICK WILLIAMS, TYRRE WILLIAMS, VERGE WILLIAMS, JUSTIN WRIGHT, BRIAN YOUNG, DAVID YOUNG, JAMES YOUNG AND MIKE YOUNGBLOOD.

FINALLY, I WOULD LIKE TO OFFER MY THANKS AND CONGRATULATIONS TO THE PEOPLE OF GEORGIA SOUTHERN—THE STUDENTS, ALUMNI, SUPPORTERS, FACULTY, STAFF AS WELL AS THE COMMUNITY OF STATESBORO. AS YOU WELL KNOW, THIS CHAMPIONSHIP COULD NOT HAVE BEEN ACCOMPLISHED WITHOUT THE SACRIFICIAL COMMITMENT TO THE FOOTBALL PROGRAM LAST YEAR AND THE MANY PREVIOUS YEARS. I AM PROUD OF ALL THE EAGLE PLAYERS AND COACHES AND I AM PROUD TO SAY THE MOST SUCCESSFUL FOOTBALL TEAM IN DIVISION I-AA IS STILL IN STATESBORO, GEORGIA.

I ASK UNANIMOUS CONSENT THAT THE TEXT OF THE RESOLUTION BE PRINTED IN THE RECORD.

REMAINING MATERIALS FROM THE 106TH CONGRESS

MESSAGE FROM THE HOUSE RECEIVED SUBSEQUENT TO SINE DIE ADJOURNMENT

ENROLLED BILL SIGNED

Under the authority of the order of the Senate of January 6, 1999, the Secretary of the Senate, on December 15, 2000, subsequent to the sine die adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bill:

H.R. 4577. An act making consolidated appropriations for international malaria control, and for other purposes.

S. 296. An act to modify the definition of Federal statute relating to false identification, and for other purposes.

S. 3181. An act to establish the White House Commission on the National Moment of Remembrance, and for other purposes.

Mr. FEINGOLD. MR. PRESIDENT, I OPPOSE THE CONFERENCE REPORT OF THE LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION APPROPRIATIONS BILL, WHICH HAS BECOME THE VEHICLE FOR THE FINAL BUDGET AGREEMENT FOR FISCAL YEAR 2001, AND I REGRET THE NEED TO DO SO FOR THERE ARE MANY LAUDABLE PROVISIONS INCLUDED IN THIS PACK-AGE. I WAS PARTICULARLY PLEASED WITH THE VENT IN FUNDING FOR HEAL-TH CARE, AN ABSOLUTELY CRITICAL PROGRAM THAT ENSURES LOWER INCOME STUDENTS HAVE THE OPPORTUNITY TO GO TO COLLEGE. WELCOME, TOO, WAS THE ADDITIONAL SUPPORT FOR CLASS SIZE REDUCTION AND SPECIAL EDUCATION FUNDING. THIS LATTER PROGRAM, THOUGH, IS STILL FAR SHORT OF WHERE IT OUGHT TO BE. WHILE THIS SPENDING PACKAGE BRINGS FUNDING FOR THE FEDERAL SHARE OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT TO 15 PERCENT, THE HIGHEST IT HAS EVER BEEN, IT IS STILL FAR SHORT OF THE 40 PERCENT WHICH REPRESENTS THE MAXIMUM FEDERAL CONTRIBUTION UNDER IDEA. I WAS PROUD TO JOIN WITH MY COLLEAGUE FROM VERMONT, MR. JEFFORDS, IN OFFERING AN AMENDMENT TO THE BUDGET RESOLUTION TO REQUIRE THAT THIS BILLS HAVE PROVIDED THAT FUL FUNDING FOR IDEA, AND THOUGH WE WERE NOT SUCCESSFUL, I VERY MUCH HOPE MY COLLEAGUES WILL MAKE FULL FUNDING OF THIS PROGRAM A HIGH PRIORITY.

I WAS ALSO PLEASED THAT THIS MEASURE INCLUDES NEEDED INCREASES IN SUPPORT FOR SOCIAL SERVICES BLOCK GRANTS, A VITALLY IMPORTANT PROGRAM THAT HELPS COUNTIES AND SOCIAL SERVICE PROVIDERS SERVE OUR MOST VULNERABLE CITIZENS AND THAT HAD BEEN DRASTICALLY CUT IN EARLIER VERSIONS OF THE LABOR, HEALTH AND HUMAN SERVICES SPENDING BILL. AS WELL, I WAS GLAD THAT ADDITIONAL FUNDING WAS PROVIDED TO THE NATIONAL INSTITUTES OF HEALTH AND THE CENTERS FOR DISEASE CONTROL, AND THAT ADDITIONAL RESOURCES WERE INCLUDED TO RELIEF PENSIONS ON THOSE WHO PROVIDE MEDICARE SERVICES. IN THIS LAST AREA, I WAS ESPECIALLY PLEASED THAT THE LEGISLATION WILL PROVIDE RELIEF FOR MEDICARE PROVIDERS IN THE VAST MAJORITY OF WISCONSINSITES. THE UNDERLYING REIMBURSEMENT FORMULA FOR MEDICARE HMOs IS GROSSLY UNFAIR, PENALIZING THOSE AREAS, LIKE WISCONSIN, WITH WOMEN, LOW-COST HEALTH CARE PROVIDERS. SIGNIFICANT REFORM IS NEEDED FOR THE MEDICARE HMO REIMBURSEMENT FORMULA, AND UNTIL THAT REFORM IS TAKEN, WE SHOULD NOT PUT BILLIONS AND BILLIONS MORE INTO A MEDICARE HMO SYSTEM THAT IS SO FUNDAMENTALLY UNFAIR. IN ADDED THOSE FACTORS, HAVE BEEN TARGETED TOWARD PROVISIONS TO ENSURE ADEQUATE ACCESS TO HOME HEALTH CARE AND FUNDING A SIGNIFICANT PRESCRIPTION
\textbf{SECTION 1. SHORT TITLE; AMENDMENT OF TITLE 49, UNITED STATES CODE.}

(a) \textbf{SHORT TITLE.}—This Act may be cited as the "\textit{Pipeline Safety Improvement Act of 2001}."

(b) \textbf{AMENDMENT OF TITLE 49, UNITED STATES CODE.}—Except as otherwise expressly provided, whenever in this Act an amendment is required by 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, as amended by this Act.

\textbf{SEC. 2. IMPLEMENTATION OF INSPECTOR GENERAL RECOMMENDATIONS.}

(a) \textbf{IN GENERAL.}—Except as otherwise required by this Act, the Secretary shall implement the safety improvement recommendations provided for in the Department of Transportation Inspector General’s \textit{Report (RT-2000-939).}

(b) \textbf{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 Committee on Transportation and Infrastructure of the House of Representatives a report on the specific actions taken to implement such recommendations.

(c) \textbf{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.

\textbf{SEC. 3. NSB SAFETY RECOMMENDATIONS.}

(a) \textbf{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) \textbf{PUBLIC AVAILABILITY.}—The Secretary, Administrator, or Director, respectively, shall make a copy of each recommendation on pipeline safety and response, as described in section 1135 of title 49, United States Code, available to the public at a reasonable cost.

(c) \textbf{REPORTS TO CONGRESS.}—The Secretary, Administrator, or Director, respectively, shall submit to the 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.

\textbf{SEC. 4. QUALIFICATIONS OF PIPELINE PERSONNEL.}

(a) \textbf{QUALIFICATIONS PLAN.}—Each pipeline operator shall make available to the Secretary of Transportation, or, in the case of an intrastate pipeline facility operator, the appropriate State regulatory agency, a plan that is designed to enhance the qualifications of pipeline personnel and to reduce the likelihood of accidents and injuries. The plan shall be made available not more than 6 months after the date of enactment of this Act, and the operator shall revise or update the plan as appropriate.

(b) \textbf{REQUIREMENTS.}—The enhanced qualification plan shall include, at a minimum, criteria to demonstrate the ability of an individual to safely and properly perform tasks identified in title 49, United States Code. The plan shall also provide for training and periodic reexamination of pipeline personnel qualifications and provide for requalification as appropriate. The Secretary, or, in the case of an intrastate pipeline facility operator, the appropriate regulatory agency may review and certify the plans to determine if they are sufficient to provide a safe operating environment and shall periodically review the conformance of the employee to the plan.

\textbf{SEC. 5. PIPELINE INTEGRITY INSPECTION PROGRAM.}

\textsection{499 is amended by adding at the end the following:}

(c) \textbf{INTEGRITY MANAGEMENT.}—

(1) \textbf{GENERAL REQUIREMENT.}—The Secretary shall promulgate regulations requiring operators of hazardous liquid pipelines and natural gas transmission pipelines to evaluate the risks to the operator’s pipeline facilities in areas identified pursuant to subsection (a)(1), and to adopt and implement a program for integrity management that reduces the risk of an incident in those areas. The regulations shall be issued no later than one year after the date of enactment of this Act.

(2) \textbf{STANDARDS FOR PROGRAM.}—In promulgating regulations under this section, the Secretary shall require an operator’s integrity management plan to be based on risk analysis and each plan shall include, at a minimum:

(A) periodic assessment of the integrity of the pipeline through methods including in situ inspection, pipeline testing, or other effective methods;

(B) clearly defined criteria for evaluating the results of the periodic assessment method carried out under (A) and procedures to ensure identified problems are corrected in a timely manner; and

(C) measures, as appropriate, that prevent and mitigate unintended releases, such as leak detection, integrity evaluation, restrictive fluid devices, or other measures.

(3) \textbf{CRITERIA FOR PROGRAM STANDARDS.}—In determining the continued acceptance of a safety management program, the Secretary may consider compliance with the integrity assessment methods carried out under paragraph (2)(A) must be conducted, an operator shall take into account the potential for new defects developing or existing structural defects caused by construction or installation, the operational characteristics of the pipeline, and leak history. In addition, there shall be an opportunity for operators of pipeline facilities to conduct internal inspections.

\textbf{PIPIELINE SAFETY IMPROVEMENT ACT OF 2001}

The text of S. 141, introduced by Mr. McCain on January 22, 2001, is as follows:

SEC. 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 2001.”

(b) AMENDMENT OF TITLE 49, UNITED STATES CODE.—Except as otherwise expressly provided, whenever in this Act an amendment is required by 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, as amended by this Act.

SEC. 2. IMPLEMENTATION OF INSPECTOR GENERAL RECOMMENDATIONS.

(a) IN GENERAL.—Except as otherwise required by this Act, the Secretary shall implement the safety improvement recommendations provided for in the Department of Transportation Inspector General’s Report (RT-2000-939).

(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 Committee on Transportation and Infrastructure 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. 3. NSB 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 section 1135 of title 49, United States Code, available to the public at a reasonable cost.

(c) REPORTS TO CONGRESS.—The Secretary, Administrator, or Director, respectively, shall submit to the 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. 4. QUALIFICATIONS OF PIPELINE PERSONNEL.

(a) QUALIFICATIONS PLAN.—Each pipeline operator shall make available to the Secretary of Transportation, or, in the case of an intrastate pipeline facility operator, the appropriate State regulatory agency, a plan that is designed to enhance the qualifications of pipeline personnel and to reduce the likelihood of accidents and injuries. The plan shall be made available not more than 6 months after the date of enactment of this Act, and the operator shall revise or update the plan as appropriate.

(b) REQUIREMENTS.—The enhanced qualification plan shall include, at a minimum, criteria to demonstrate the ability of an individual to safely and properly perform tasks identified in title 49, United States Code. The plan shall also provide for training and periodic reexamination of pipeline personnel qualifications and provide for requalification as appropriate. The Secretary, or, in the case of an intrastate pipeline facility operator, the appropriate regulatory agency may review and certify the plans to determine if they are sufficient to provide a safe operating environment and shall periodically review the conformance of the employee to the plan.

SEC. 5. PIPELINE INTEGRITY INSPECTION PROGRAM.

Section 499 is amended by adding at the end the following:

(c) INTEGRITY MANAGEMENT.—

(1) GENERAL REQUIREMENT.—The Secretary shall promulgate regulations requiring operators of hazardous liquid pipelines and natural gas transmission pipelines to evaluate the risks to the operator’s pipeline facilities in areas identified pursuant to subsection (a)(1), and to adopt and implement a program for integrity management that reduces the risk of an incident in those areas. The regulations shall be issued no later than one year after the date of enactment of this Act.

(2) CRITERIA FOR PROGRAM STANDARDS.—In promulgating regulations under this section, the Secretary shall require an operator’s integrity management plan to be based on risk analysis and each plan shall include, at a minimum:

(A) periodic assessment of the integrity of the pipeline through methods including in situ inspection, pipeline testing, or other effective methods;

(B) clearly defined criteria for evaluating the results of the periodic assessment method carried out under (A) and procedures to ensure identified problems are corrected in a timely manner; and

(C) measures, as appropriate, that prevent and mitigate unintended releases, such as leak detection, integrity evaluation, restrictive fluid devices, or other measures.

(3) CRITERIA FOR PROGRAM STANDARDS.—In determining the continued acceptance of a safety management program, the Secretary may consider compliance with the integrity assessment methods carried out under paragraph (2)(A) must be conducted, an operator shall take into account the potential for new defects developing or existing structural defects caused by construction or installation, the operational characteristics of the pipeline, and leak history. In addition, there shall be an opportunity for operators of pipeline facilities to conduct internal inspections.
"(4) STATE ROLE.—A State authority that has an agreement in effect with the Secretary under section 60116 is authorized to review and assess an operator’s risk analyses and integrity management plans required under this section for interstate pipeline facilities located in that State. The reviewing State authority shall provide the Secretary with a written assessment of the plans, make recommendations, as appropriate, to address safety concerns, and notify the operator of any necessary modifications of the plans. The Secretary shall consider the State’s proposals and work in consultation with the States and operators to address safety concerns.

5. MONITORING IMPLEMENTATION.—The Secretary of Transportation shall review the risk analysis and program for integrity management required under this section and provide for continued monitoring of such plans. Not later than 2 years after the implementation of integrity management plans under this section, the Secretary shall complete an assessment and evaluation of the effects on safety and the environment of extending all requirements mandated by the regulations described in paragraph (1) to additional areas. The Secretary shall submit the assessment and evaluation to Congress along with any recommendations to improve and expand the utilization of integrity management plans.

6. OPPORTUNITY FOR LOCAL INPUT ON INTEGRITY MANAGEMENT.—Within 18 months after the date of enactment of the Pipeline Safety Improvement Act of 2002, the Secretary shall, by regulation, establish a process for raising and addressing local safety concerns about pipeline integrity and the operator’s pipeline integrity plan. The process shall include—

(A) a requirement that an operator of a hazardous liquid or natural gas transmission pipeline facility provide information about the risk analysis and integrity management plan required under this section to local officials in a State in which the facility is located;

(B) a description of the local officials required to be informed, the information that is to be provided, and the manner in which, which may include traditional or electronic means, in which it is provided;

(C) a requirement that input from the local officials that may include traditional or electronic means, in which it is provided;

(D) the extent to which an operator of a pipeline facility must participate in a public forum sponsored by the Secretary or in another means for receiving input from the local officials or in the evaluation of that input; and

(E) the manner in which the Secretary will notify the local officials about how their concerns are being addressed.

SEC. 6. ENFORCEMENT.

(a) IN GENERAL.—Section 60112 is amended by adding—

(1) by striking subsection (a) and inserting the following:

"(a) GENERAL AUTHORITY.—After notice and an opportunity for a hearing, the Secretary of Transportation may declare 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, 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; and

(2) by striking "is hazardous," in subsection (d), and inserting "is, or would be, hazardous."

(b) AUTHORITY TO DECLARE.—The Secretary, after notice and an opportunity for a hearing, may declare a pipeline facility hazardous if the Secretary finds that such a facility is hazardous to life, property, or the environment.

SEC. 7. PUBLIC EDUCATION, EMERGENCY PREPAREDNESS, AND COMMUNITY RIGHT TO KNOW.

(a) Section 60116 is amended to read as follows:

**60116. Public education, emergency preparedness, and community right to know.**

(A) Public Education Programs.—

(1) Each owner or operator of a gas or hazardous liquid pipeline facility shall carry out an emergency education program for effectiveness of the program.

(2) Within 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 public education program for effectiveness of the program, 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.

(B) 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.

(b) Emergency Preparedness.—

(1) OPERATOR LIABILITY.—Within 12 months after the date of enactment of the Pipeline Safety Improvement Act of 2002, an operator of a gas transmission or hazardous liquid pipeline facility shall initiate and maintain loyalty with 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.

(2) OPERATOR LIABILITY.—Within 12 months after the date of enactment of the Pipeline Safety Improvement Act of 2002, an operator of a gas transmission or hazardous liquid pipeline facility shall initiate and maintain loyalty with 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.

(3) 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.

(c) EMERGENCY PREPAREDNESS.—

(1) OPERATOR LIABILITY.—Within 12 months after the date of enactment of the Pipeline Safety Improvement Act of 2002, an operator of a gas transmission or hazardous liquid pipeline facility shall initiate and maintain loyalty with 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.

(2) OPERATOR LIABILITY.—Within 12 months after the date of enactment of the Pipeline Safety Improvement Act of 2002, an operator of a gas transmission or hazardous liquid pipeline facility shall initiate and maintain loyalty with 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.

(3) 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.

(d) Emergency Preparedness.—

(1) OPERATOR LIABILITY.—Within 12 months after the date of enactment of the Pipeline Safety Improvement Act of 2002, an operator of a gas transmission or hazardous liquid pipeline facility shall initiate and maintain loyalty with 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.

(2) OPERATOR LIABILITY.—Within 12 months after the date of enactment of the Pipeline Safety Improvement Act of 2002, an operator of a gas transmission or hazardous liquid pipeline facility shall initiate and maintain loyalty with 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.

(3) 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. 8. PENALTIES.

(a) CIVIL PENALTIES.—Section 60122 is amended—

(1) by striking "$25,000" in subsection (a)(1) and inserting "$500,000"; and

(2) by striking "$500,000" in subsection (a)(1) and inserting "$1,000,000";

(b) PENALTY CONSIDERATIONS.—Section 60122(h)(2) is amended by striking "authorities." and inserting "officials, including the local emergency responders."

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 601 is amended by striking the item relating to section 60116 and inserting the following:

"60116. Public education, emergency preparedness, community right to know."

SEC. 9. PENALTIES.
“(B) with respect to the violator, the degree of culpability, any history of prior violations, the ability to pay, 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, taking account of the amount of subsequent damages; and

“(B) other matters that justice requires.”.

Sec. 9. State Oversight Role.

(a) State Agreements With Certification.—Section 60106 is amended—

(1) by striking “generally” and “willfully”; and

(2) by inserting “generally and willfully” before “engages” in paragraph (1); and

(b) Agreements With Certification.—Section 60123(d) is amended—

(1) by striking paragraphs (2) and (3) and inserting the following:

“(B) a pipeline facility, is aware of damage, and does not report the damage promptly to the operator of the pipeline facility and to other appropriate authorities; or”;

(c) Civil Actions.—Section 60120(a)(1) is amended to read as follows:

“(1) On 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 of this chapter, and to bring a civil action in an appropriate district court of the United States to enforce this section when the Secretary finds that the State Authority has not complied with any provision of the agreement.

(2) The Secretary shall give a State the opportunity for a hearing to a State authority before ending an agreement under this section.

(3) Nothing in this paragraph shall prevent the Secretary from terminating an agreement on the date of enactment; or

(4) inserting the first word of the last sentence and inserting “(4)” before “The Secretary” in that sentence.

Sec. 10. Improved Data and Data Availability.

(a) Innovative Technology Development.—

(1) In General.—As part of the Department of Transportation’s research and development program, the Secretary of Transportation shall direct and coordinate research and development of alternative technologies—

(A) to expand the capabilities of internal inspection devices to identify and accurately measure defects and assess the integrity of pipelines;

(B) to inspect pipelines that cannot accommodate internal inspection devices available on the date of enactment;

(C) to develop innovative techniques measuring the structural integrity of pipelines;

(D) to improve the capability, reliability, and practicality of external leak detection devices; and

(E) to develop and improve alternative technologies to identify and monitor outside force damage to pipelines.

(2) Cooperative.—The Secretary may participate in additional technological development through cooperative agreements with any public or private bodies, institutions, or other qualified organizations.

(b) Pipeline Safety and Reliability Research and Development.—

(1) In General.—The Secretary of Transportation, in coordination with the Secretary of Energy, shall develop and implement an accelerated cooperative program of research and development of the integrity of natural gas and hazardous liquid pipelines. This research and development program—

(A) shall include materials inspection techniques, risk assessment methodology, and information systems surety; and

(B) the actions planned under the agreement would not impede interstate commerce or jeopardize public safety.

(3) Existing Agreements.—If requested by the Secretary, the agreement shall authorize the State Authority which has an interstate agreement in effect before January, 1999, to oversee interstate pipeline transportation if the Secretary determines that the agreement on the date of enactment; or

(G) 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 6016, as redesignated by subsection (a), is amended to read as follows:

“(4) 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 an oversight responsibility 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 the notice and an opportunity to participate in a hearing before ending an agreement under this section. The Secretary may provide a State an opportunity to correct any deficiencies before ending an agreement. The 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.”.

Sec. 10. Improved Data and Data Availability.

(a) In General.—Within 12 months after the date of enactment of this Act, the Secretary shall develop and implement a comprehensive plan for the collection and use of gas and hazardous liquid pipeline data to revise the causal categories on the incident report forms to eliminate overlapping and confusing categories and include subcategories. The plan shall include components to provide the capability to perform sound incident trend analysis and evaluations of pipeline pipeline operator performance using normalized accident data.

(b) Report of Releases Exceeding 5 Gallons.—Section 60117(b) is amended—

(1) by inserting paragraphs (1) and (2) as subparagraphs (A) and (B);

(2) redesignating paragraphs (1) and (2) as paragraphs (A) and (B);

(3) inserting before the last sentence the following:

“(2) A person owning or operating a hazardous liquid pipeline facility shall report to the Secretary each release of any substance greater than five gallons of the hazardous liquid or carbon dioxide transported. The report shall include information required under this section; and

(4) inserting the second word of the last sentence and inserting “(4)” before “The Secretary” in that sentence.

Sec. 11. Research and Development.

(a) Innovative Technology Development.—

(1) In General.—As part of the Department of Transportation’s research and development program, the Secretary of Transportation shall direct and coordinate research and development of alternative technologies—

(A) to expand the capabilities of internal inspection devices to identify and accurately measure defects and assess the integrity of pipelines;

(B) to inspect pipelines that cannot accommodate internal inspection devices available on the date of enactment;

(C) to develop innovative techniques measuring the structural integrity of pipelines;

(D) to improve the capability, reliability, and practicality of external leak detection devices; and

(E) to develop and improve alternative technologies to identify and monitor outside force damage to pipelines.

(2) Cooperative.—The Secretary may participate in additional technological development through cooperative agreements with any public or private bodies, institutions, or other qualified organizations.

(b) Pipeline Safety and Reliability Research and Development.—

(1) In General.—The Secretary of Transportation, in coordination with the Secretary of Energy, shall develop and implement an accelerated cooperative program of research and development of the integrity of natural gas and hazardous liquid pipelines. This research and development program—

(A) shall include materials inspection techniques, risk assessment methodology, and information systems surety; and
Department of Transportation who has been
subsection the research and development pro-
lines.
that might lead to shortened service life;
prevention of pipeline failures;
ure defects and anomalies;
pipeline safety research and development
PLANS.
—Within 240 days after the date of en-
this Act, the Secretary of Trans-
portation, in coordination with the Secre-
etary of Energy and the Pipeline Integrity
Technical Advisory Committee, shall pre-
pare and submit to the Congress a 5-year
program plan for activities under this
subsection. In preparing the program plan, the
Secretary shall consult with appropriate repre-
sentatives of the natural gas, crude oil, and
petroleum product pipeline industries to
select and prioritize appropriate project pro-
posals. The Secretary may also seek the ad-
dvice of utilities, manufacturers, institutions
of higher learning, state and federal agencies, the
pipeline research institutions, national lab-
oratories, State pipeline safety officials, en-
vironmental organizations, pipeline safety
advocates, and professional and technical so-
cieties.
(6) IMPLEMENTATION.—The Secretary of
Transportation shall have primary respon-
sibility for coordinating and overseeing the
implementation of the research, development,
and demonstration activities under this
gram. The Secretary of Transportation and the Secretary
of Energy may use, to the extent authorized under applicable
provisions of law, contracts, cooperative agreements, research and develop-
ment agreements under the Stevenson-
Wyller Technology Innovation Act of 1980 (15 U.S.C. 7501 et seq.), grants, joint ventures,
collaborations, or any other form of agreement that the Secretary
determines are necessary for the Secretary to carry out the purposes of
the Advisory Committee.
(7) REPORTS TO CONGRESS.—The Secretary of
Transportation shall report to the
Congress annually as to the status and results to
date of the implementation of the research and development program plan. The report shall include the activities of the Depart-
ments of Transportation and Energy, the na-
tional laboratories, universities, and any other research organizations, including in-
dustry research organizations.
SEC. 12. PIPELINE INTEGRITY TECHNICAL ADVI-
SCY.
(a) ESTABLISHMENT.—The Secretary of
Transportation shall enter into appropriate arrangements with the National Academy of
Sciences to establish and manage the Pipe-
line Integrity Technical Advisory Com-
mittee for the purpose of advising the Secre-
tary of Transportation and the Secretary of
Energy on the recommendation and imple-
mentation of the 5-year research, develop-
ment, and demonstration program plan
under section 11(b)(5). The Advisory Com-
mittee shall have an ongoing role in evalu-
ating the progress and results of the re-
search, development, and demonstration car-
rried out under that section.
(b) MEMBERSHIP.—The National Academy of
Sciences shall appoint the members of the
Pipeline Integrity Technical Advisory Com-
mittee after consultation with the Secretary of Transportation and the Secretary of
Energy. Members appointed to the Advisory Committee shall be qualified to
provide technical contributions to the purposes of the Advisory Committee.
SEC. 13. AUTHORIZATION OF APPROPRIATIONS.
(a) GAS AND HAZARDOUS LIQUIDS.—Section
60125(a) is amended to read as follows:
“(a) GAS AND HAZARDOUS LIQUID.—To carry
out this chapter and other pipeline-related
damage prevention activities of this title
(except for section 60107), there are author-
ized to be appropriated to the Department of
Transportation—
“(1) $20,000,000 for fiscal year 2002, of which
$20,000,000 is to be derived from user fees for
fiscal year 2002 collected under section 6031
of this title; and
“(2) $30,000,000 for each of the fiscal years
2003 and 2004 of which $25,000,000 is to be
derived from user fees for fiscal year 2003 and
fiscal year 2004 collected under section 6031
of this title.”.
(b) GRANTS TO STATES.—Section 60125(c) is
amended to read as follows:
“(c) GRANTS TO STATES.—Nothing more than
the following amounts may be appropriated to the Secretary to carry out section 60107—
“(1) $17,000,000 for fiscal year 2002, of which
$15,000,000 is to be derived from user fees for
fiscal year 2002 collected under section 6031
of this title; and
“(2) $20,000,000 for the fiscal years 2003 and
2004 of which $18,000,000 is to be derived from
user fees for fiscal year 2003 and fiscal year
2004 collected under section 6031 of this title.”.
(c) OIL SPILLS.—Sections 60125 is amended by
repealing subsections (d), (e), and (f) as
sections (e), (f), (g) and inserting after
subsection (c) the following:
“(d) PIPELINE INTEGRITY PROGRAM.—(1)
There are authorized to be appropriated to the Secretary of Transportation for carrying out
sections 11(b) and 12 of this Act $3,000,000,
which shall be derived from user fees for
fiscal year 2003 and fiscal year 2004 of which
$20,000,000 is to be derived from user fees for
fiscal year 2003 under section 6031 of this title.
(2) Of the amounts available in the Oil Spill Liabil-
ity Trust Fund, $8,000,000 shall be transferred to
carry out programs authorized in this Act for
fiscal year 2002, fiscal year 2003, and fiscal
year 2004.”.
(d) REQUIREMENTS ON APPROPRIATIONS.
(1) In General.—If the Department of
Transportation or the National Transpor-
tation Safety Board investigate an accident, the
operator involved shall make available to the representative of the Department or
the Board all records and information that
in any way pertain to the accident (including
integrity management plans and test re-
sults), and shall afford all reasonable assist-
ance in the investigation of the accident.
(2) CORRECTIVE ACTION ORDERS.—Section
6112(d) is amended by
inserting “(1)” after “CORRECTIVE ACTION ORDERS.”; and
(2) by adding at the end the following:
"(2) 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 the activity described in section 60129(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—

(A) the Secretary determines that the employee has been re-trained or re-qualified as to the extent it is not inconsistent with the employee's performance of duty in carrying out the activity did not contribute substantially to the cause of the accident; or

(B) the Secretary determines the employee's involvement in the activity or performance of duty, as described in section 60129(a), was not conduct an investigation otherwise required by any behavior described in paragraphs (1) through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

(2) provided, caused to be provided, or is about to provide (with any knowledge of the employee or contractor) to the employee or the employer or Federal Government information relating to any violation or alleged violation of any order, regulation, or standard of the Research and Special Programs Administration or any other provision of Federal law regulating pipeline safety under this chapter or any other law of the United States;

(3) provided, caused to be provided, or is about to provide (with any knowledge of the employee or contractor) to the employee or the employer or Federal Government information relating to any violation or alleged violation of any order, regulation, or standard of the Research and Special Programs Administration or any other provision of Federal law regulating pipeline safety under this chapter or any other law of the United States;

(3) tested or is about to testify in such a proceeding; or

(4) assisted or participated or is about to assist or participate in such a proceeding.

(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 60 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 named in the complaint and the Administrator of the Research and Special Programs Administration 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 to be afforded to such person 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 named in the complaint an opportunity to be heard, the Secretary shall, after having reviewed the complaint, 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 alleged to have committed a violation of subsection (a) of the Secretary’s findings. If the Secretary concludes that there is reasonable cause to believe the complaint has merit, the Secretary shall accompany the Secretary’s findings with a preliminary order providing the relief prescribed by paragraph (3)(B). Not later than 30 days after the date of the notification of findings under this paragraph, either the person alleged to have committed the violation or the complainant may file objections to the findings. The filing of objections shall not operate to stay any reinstatement remedy contained in the preliminary order that shall be conducted expeditiously. If a hearing is not requested in such 30-day period, the preliminary order shall be issued as 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 Secretary determines that the complainant makes a prima facie showing that any behavior described in paragraphs (1) through (4) of 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 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’s behavior was not a contributing factor in the unfavorable personnel action in the absence of that behavior.

(iii) CRITERIA FOR DETERMINATION BY SECRETARY.—If a violation of subsection (a) has occurred only if the complainant demonstrates that any behavior described in paragraphs (1) through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

(iv) PROHIBITION.—Relief may not be ordered under paragraph (3) 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 120 days after the date of the notification of findings under paragraph (2), the Secretary of Labor shall issue a final order providing the relief prescribed by this paragraph or denying the complaint. If the Secretary determines that 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 and the person 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 who committed such violation to—

(1) take affirmative action to abate the violation; and

(2) compensate the complainant to his or her former position with the compensation (including back pay) and restore the terms, conditions, and privileges associated with his or her employment.

(C) FRIVOLOUS COMPLAINTS.—If the Secretary concludes (after allowing the complaining party a reasonable opportunity to respond) that a complaint was brought in bad faith, the Secretary may award to the prevailing employer a reasonable attorney’s fee not exceeding $1,000.

(D) REVIEW.—

(A) APPEAL TO COURT OF APPEALS.—Any person adversely affected or aggrieved by an order issued under paragraph (3) may obtain a 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 order. The petition for review of the order issued under paragraph (3) may commence a civil action in the United States district courts of the United States district court for the district in which the violation was found to occur to enforce such order. In a civil action brought under this subsection, the district courts shall have jurisdiction to grant all appropriate relief, including, but not to be limited to, injunctive and compensatory damages.

(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 civil proceeding.

(C) 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 a civil action brought under this subsection, the district courts shall have jurisdiction to grant all appropriate relief, including, but not to be limited to, injunctive and compensatory damages.

(D) ENFORCEMENT OF ORDER BY PARTIES.—

(A) COMMENCEMENT OF ACTION.—A person on whose behalf an order was issued under paragraph (3) may bring a action against the person 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 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 employee of a pipeline, contractor or subcontractor who, acting without
direction from the pipeline contractor or subcontractor (or such person’s agent), deliberately causes a violation of any requirement relating to pipeline safety under this chapter or any other law of the United States.

“(e) CONTRACTOR DEFINED.—In this section, the term ‘contractor’ means a company that performs safety-sensitive functions by contract for a pipeline.”.

(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 chapter analysis for chapter 601 is amended by adding at the end the following:

“60129. Protection of employees providing pipeline safety information.”.

SEC. 16. 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 actions, 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. 17. FINES AND PENALTIES.

The Inspector General of the Department of Transportation shall conduct an analysis of the Department’s assessment of fines and penalties on gas transmission and hazardous liquid pipelines, including the cost of corrective actions required by the Department in lieu of fines, and, no later than 6 months after the date of enactment of this Act, shall provide a report to the Senate Committee on Commerce, Science, and Transportation and the House Committee on Transportation and Infrastructure on any findings and recommendations for actions by the Secretary or Congress to ensure the fines assessed are an effective deterrent for reducing safety risks.

SEC. 18. STUDY OF RIGHTS-OF-WAY.

The Secretary of Transportation is authorized to conduct a study on how best to preserve environmental resources in conjunction with maintaining pipeline rights-of-way. The study shall recognize pipeline operators’ regulatory obligations to maintain rights-of-way and to protect public safety.
Chamber Action

Routine Proceedings, pages S429–S505

Measures Introduced: Seventeen bills and one resolution were introduced, as follows: S. 144–160, and S. Res. 14.

Measures Passed:

Georgia Southern University Eagles Commendation: Senate agreed to S. Res. 14, commending the Georgia Southern University Eagles football team for winning the 2000 NCAA Division I-AA football championship.

Nomination Considered: Committee on Finance was discharged from further consideration of the nomination of Tommy G. Thompson, of Wisconsin, to be Secretary of Health and Human Services, and the Senate began consideration of the nomination.

A unanimous-consent agreement was reached providing for further consideration of the nomination on Wednesday, January 24, 2001, with a vote on the confirmation of the nomination to occur at 11:30 a.m.

Nominations Confirmed: Senate confirmed the following nominations:

By unanimous vote of 100 yeas (Vote No. EX. 1), Mitchell E. Daniels, Jr., of Indiana, to be Director of the Office of Management and Budget.

By unanimous vote of 100 yeas (Vote No. EX. 2), Anthony Joseph Principi, of California, to be Secretary of Veterans Affairs.

By unanimous vote of 100 yeas (Vote No. EX. 3), Melquiades Rafael Martinez, of Florida, to be Secretary of Housing and Urban Development.

Communications:

Statements on Introduced Bills:

Additional Cosponsors:

Additional Statements:

Record Votes: Three record votes were taken today. (Total—3)
House of Representatives

Chamber Action

The House was not in session.

Committee Meetings

No committee meetings were held.

COMMITTEE MEETINGS FOR WEDNESDAY, JANUARY 24, 2001
(Committee meetings are open unless otherwise indicated)

Senate

Committee on Commerce, Science, and Transportation: to hold hearings on the nomination of Norman Mineta, to be Secretary of Transportation, 9:30 a.m., SR–253.

Committee on Energy and Natural Resources: business meeting to consider the nomination of Gale Ann Norton, of Colorado, to be Secretary of the Interior, 9:30 a.m., SD–628.

Committee on Health, Education, Labor, and Pensions: to hold hearings on the nomination of Elaine Chao, to be Secretary of Labor, 9:30 a.m., SD–106.

Committee on the Judiciary: business meeting to consider John D. Ashcroft, of Missouri, to be Attorney General of the United States, 10 a.m., SD–226.

House

No committee meetings are scheduled.
Next Meeting of the SENATE
10 a.m., Wednesday, January 24

Senate Chamber

Program for Wednesday: After the recognition of three Senators for speeches and the transaction of any morning business (not to extend beyond 11 a.m.), Senate will continue consideration of the nomination of Tommy G. Thompson, of Wisconsin, to be Secretary of Health and Human Services, with a vote on confirmation of the nomination to occur at 11:30 a.m., and may consider other pending nominations.

Next Meeting of the HOUSE OF REPRESENTATIVES
2 p.m., Tuesday, January 30

House Chamber

Program for Wednesday: The House is not scheduled to be in session.