The Senate met at 10 a.m. and was called to order by the Honorable HARRY REID, a Senator from the State of Nevada.

PRAYER
The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:
Gracious Father, You are the source of strength when we trust You, the source of courage when we ask for Your help, the source of hope when we wonder if we can make a difference, the source of peace in the stresses and strains of applying truth to the formation of public policy. Bless the Senators as they return from the August recess to a heavy and demanding fall schedule of the ongoing challenges and opportunities in this 107th Congress. Help them to reaffirm the basic absolutes of faithfulness and obedience to You: Remind them that they are here by Your permission; rekindle in them a holy passion for social righteousness; restore a profound patriotism for this Nation You have blessed so magnificently; and refract the eyes of their minds to see Your plan for America spelled out in the specifics of the legislation to be debated and decided in these next weeks.

We ask for Your encouraging presence and enabling power for TOM DASCHLE and TRENT LOTT, HARRY REID and DON NICKLES as they exemplify greatness in cooperative leadership of the Senate. All of us—Senators, officers, and the over 6,000 people who form the Senate family—humble ourselves to receive Your inspiration and dedicate our work to serve You as the only sovereign of this land.

We express our profound sympathy to the family of former House of Representatives Chaplain, James Ford. Comfort and bless them in this time of grief and loss. You are our only Lord and Saviour.
Amen.

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE
The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, today the Senate will be in a period of morning business until 11 a.m. as has been announced by the Chair. At 11 a.m. today, the Senate will begin consideration of S. 149, the Export Administration Act. There will be at least one rollcall vote today that will occur at 5 p.m.

ORDER FOR RECESS
I ask unanimous consent that the recess scheduled for 12:30 to 2:15 p.m. today be vitiated and the Senate recess tomorrow, Wednesday, September 15, from 12:30 to 2:15 p.m. for the weekly party conferences.

The PRESIDING OFFICER. Without objection, it is so ordered.
The Senator from Wyoming.

Mr. THOMAS. Mr. President, I request the opportunity to speak in morning business.

The PRESIDING OFFICER. The Senator is recognized.

THE SENATE AGENDA

Mr. THOMAS. Mr. President, all of us are pleased to be back, able to go on and finish the business we have yet to do. There is a lot of it, of course. I have read from time to time that we have been on vacation. I have to tell you, it is scarcely a vacation. All of us spend this time, as we should, traveling in our States and visiting with the people we represent. Frankly, it is a real pleasure and honor to travel about Wyoming this time of year. It is important that we reflect on what we have heard, some of the issues that before us, some of the notions of the people at home. After all, it is our responsibility to be here to represent those people.

There are a number of things we all hear about and hear about repeatedly while we are in our States. One of them is the tax issue, the idea of tax reduction, and specifically the returns that have been made during this period of time. Many people have received their $600 or $300. I heard a great deal about that. I heard a great deal of praise and support for tax relief, having an opportunity to receive those dollars that were deemed to be surplus. They were not dollars that belonged to Washington; they were dollars that belonged to the taxpayers.

I heard that quite often. Frankly, I was very pleased to hear that and also to share the belief that the return of tax dollars certainly is appropriate in a time of a slowing-down economy.

We also hear a great deal about budgets. Most people do understand that, depending on your point of view about the size of government and the involvement of government, sticking to budgets is a very important issue. Of course, it is very significant now as we enter into this last month. We are supposed to pass all the appropriations bills and come up with next year’s spending outline during these next several weeks. That is a relatively short time to do that.

The majority of people I spoke with said: You passed a budget; stay with the budget and a 4 percent increase, which is a reasonable increase; stay with it. Of course, that is not what we have done over the last number of years. I think that shows a good deal of knowledge about what is happening.

In Wyoming, where we are involved in the production of energy, whether it be gas or oil or coal, there is a great deal of interest in energy policy. That is something we have not had for a very long time. The President set one forth and, as a matter of fact, the House has passed an energy bill. We have a lot of the issues that ought to be a priority. The folks at home indicated to me it ought to be a priority.

When we first started talking about energy 6 or 8 months ago, California was undergoing an energy shortage. It certainly seemed that it was a crisis. Then we got over that a little bit; some of the gas prices began to go down some, although we may be back up again now, but the problem still remains. We have not resolved the energy problem at all. I hope that will be a high priority for us during these closing weeks. Some of us had hoped it would have been a priority before now, but it has not been. Now I think it is clear it needs to be.

One of the other things I heard a great deal about, which I suppose is a little different in a State such as Wyoming where 50 percent of the State belongs to the Federal Government, is that this administration has indicated and is beginning to demonstrate that they are willing and anxious to have more local input into the decisions that affect the people who live by and depend on public land. That is not saying it is going to protect the environment. It says that each area, each park, and each forest is unique, and to try to set national parks, for example, in Washington, as has been done in the recent past, is not a workable situation. Our folks are very pleased about that.

Finally, I will take a moment to say, as someone who feels some responsibility, that I like the idea that we are paying down the debt. That is good.

We have a number of things to do. Certainly this whole business of appropriations needs to be done. I have already mentioned energy.

I hope we are able to work some more on simplifying and making Medicare a little more workable and putting pharmaceuticals into it. We are working on that, of course, in the Finance Committee, and we will continue to do so. There are dollars in the budget to do those things.

Education: We need to complete our work on education, once more. Sometimes it seems the only solution to education is the dollars. Dollars are necessary, but dollars alone do not work. We need to have some accountability. We need to have some local control.

In any event, I think we have some real challenges before us and an opportunity to accomplish them. Frankly, I am a little discouraged about what I read and hear—that we are entering into the fall campaign and some, particularly I think on the other side of the aisle, are more interested in developing issues for their upcoming campaigns than they are in solving the problems. I hope that is not the case. We are trying to move programs under the trust funds. That is the way it works. It is the only place to put the money to have a return on the money that is there and meeting the needs that are set forth.

I hope we can hold the political rhetoric to a minimum and deal with the real issues and the fact that we have the second largest surplus in history. Besides, the surplus, frankly, has no impact on those trust funds. The President’s priorities are to protect Social Security and Medicare. We are going to improve Medicare to help seniors. We are going to work on that.

We are paying down a good deal of publicly held debt. Sometimes we have to review what happens to a surplus. If we use it to pay down publicly held debt, then debts are created for the various programs under the trust funds. That is the way it works. It is the only place to put the money to have a return on the money that is there and meeting the needs that are set forth.

I hope we can hold the political rhetoric to a minimum and deal with the real issues and the fact that we have the second largest surplus in history. Besides, the surplus has really no impact on the trust funds. It has been that way over the years. We have to pay down a historic amount of publicly held debt and work to foster economic growth. That is one of the ways to do that.
I see my friend from Iowa is here. I urge setting those issues before us and moving to resolve them in a fashion that is best for this country. I yield the floor.

MEASURE PLACED ON THE CALENDAR—H.R. 4

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, I understand there is a bill at the desk due for its second reading.

The PRESIDING OFFICER. The clerk will report.

The Legislative clerk reads as follows:

A bill (H.R. 4) to enhance energy conservation, research and development and to provide for security and diversity in the energy supply for the American people, and for other purposes.

Mr. REID. Mr. President, I ask unanimous consent that there be no further proceedings at this time on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The bill will be placed on the calendar.

The Senator from Iowa is recognized.

(The remarks of Mr. Grassley pertaining to the introduction of S. 1397 are located in today’s Record under “Statements on Introduced Bills and Joint Resolutions.”)

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. How much time do we have remaining?

The PRESIDING OFFICER. Seven minutes twenty seconds.

ENERGY POLICY

Mr. THOMAS. Mr. President, I want to expand a little bit on the question of energy policy. As I mentioned before, there certainly have been some changes in the California situation. There have been some changes throughout the country in gas prices and other kinds of energy prices. They are not significant changes and, indeed, now we see them moving back again.

The point we do not want to overlook is that when we had what we called an energy crisis 6 or 8 months ago, we had a problem; and the problem basically, of course, was that demand was growing but supply was not. We had a problem in terms of the amount of refining capacity in this country. It had not grown in the same time. The same was true with electric generation.

We overcame that problem largely, I suppose, because, among other things, winter was over and some of the refineries that had to make fuel oil for New England had changed their production. But the fact is, the problem is still there. We do need an energy policy.

I urge that we do move forward. The President has put forth a policy—and much of it is incorporated in what has passed in the House—that I think makes a lot of sense. It includes conservation, having some opportunities for conservation in the usage of energy. There are many things we could do in that area. We can do it as individuals and we can do it as governments and still continue to be productive. Conservation should be part of our energy plan. There are many groups that believe conservation is very important.

One of the other other energy policy has to do with renewable energy. We have renewables that are growing. We have wind energy, hydroenergy, and other kinds of energy that I suppose have potential for the future. Outside of hydro, renewables now represent 6% of our total energy usage, but, nevertheless, we ought to be doing something in that area. To do that, of course, we need research and research dollars.

Our committee has already dealt with research, but there needs to be a considerable amount of research in the whole area of conservation, of renewables, of how to have more efficient production with less impact on the environment. So that is a very real part of energy research.

Then, of course, the real key is production. We have allowed ourselves in the energy production field to become dependent on OPEC. Nearly 60% of our energy resources now come from overseas.

When they change their views, or when things happen over in those countries, it impacts our economy and our society.

We need to have an opportunity to increase production and to do it with diversity. We’ve got to have different kinds of energy, which includes coal. Part of the research is to make coal even more clean in terms of the air. We need to have diversity in terms of using gas, coal, nuclear, oil, and renewables so we do not find ourselves becoming dependant on one source.

Unfortunately, the plans that were sort of underway for having additional generating plants almost all had to do with natural gas. Natural gas is a good source for energy, but our largest energy resource is coal. If we can continue to make coal even more clean, why, certainly that is a source of energy that ought to be used for generation.

Also, we have not built generation plants for a very long time. Part of the reason for that is because of the uncertainty of some deregulation and ideas that are out there. In the past, when utilities served a particular area, they produced the electricity. That was a pretty simple arrangement. Now we find more people looking at generation as a marketable commodity. It does not have to be tied to any particular area. But what is the secret to making that work? More transmission. More production.

If you cannot move energy from the place it is developed and manufactured to where the markets are, of course, that is part of the problem. The main source in the Western coal and gas has been the Mountain States area: Wyoming, Montana, Colorado, and New Mexico. But in order to get it to the market, you have to have transmission capacity, particularly if you have mine mouth which is very efficient. So these are issues that need to be dealt with in terms of an energy policy.

One of the issues in terms of transmission capacity is to have a national transmission grid. That grid would be able to be moved across the country and can be moved into the RTOs, the regional transmission organizations, and become an efficient transmitter of energy. We can, in fact, do that.

There is a need to be an emphasis on this energy question between now and the time we adjourn so we can get into the field and begin to make some difference in terms of where our energy sources are coming from so we can continue to have reasonably priced energy in order to fuel an economy that we would like to have, which obviously is necessary in order to do that.

So I am hopeful that as we set our priorities for where we go we will include that in the very near future. We have talked about it a great deal. I think actually in a lot of ways there isn’t a lot of controversy. There has been controversy, of course, in relation to having access to ANWR and the idea of protecting the environment which has to go with energy development.

Some have used ANWR up in the north region as a target child not getting into public lands. The fact is, the House-passed provision is 2,000 acres out of 19 million that would be accessible for a footprint. So we are pretty close to some agreements on how we can set this policy forward in terms of a source and an opportunity to have affordable energy.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I have another subject upon which I am going to speak. I do want to make a couple of comments on the statements made by my friend, the distinguished Senator from Wyoming.

This last couple weeks has been somewhat troublesome to me because we have all been spread around the country not able to respond to the President who, of course, has the ability to speak from any place in the world. What has concerned me a great deal is the President and his Director of Budget Mitch Daniels talking about this great surplus we have, the second largest surplus in the history of the country. Those folks fail to mention the surplus is all Social Security surplus.

Of course, we have a surplus because Social Security is not something that is funded as we go along. We forward fund Social Security. We have huge amounts of money coming into the Social Security trust fund today that we are not paying out. That is the way it was planned in 1983 when there was a compromise reached by Tip O’Neill, Ronald Reagan, Claude Pepper, and a few others. So the President of the United States, who talk about this huge surplus are not being fair to the American public.
We do not have a surplus. The surplus is a Social Security surplus. The economy is in a tremendous downturn. This country's tax revenues are significantly lower than they have been in a long time. We have had 8 years where we have been paying off the debt. In fact, the 1993 budget deficit reduction act, passed in the House without a single Republican vote, passed in the Senate without a single Republican vote—Vice President Gore had to break the tie. They turned the country on its head to economic stability. We have 300,000 fewer Federal jobs than we had in 1993. We have a surplus that we have never had before. And that is as a result of the efforts of President Clinton and his Democratic colleagues in the House and the Senate.

We have experienced inflation lower than it has been in some 40 odd years. We have done remarkably good things with the economy. Created 24 million new jobs. What we need is a mask for the Federal deficit. We stopped doing that. But now the second Bush Presidency is using Social Security surpluses to again mask this deficit.

I can't imagine how anyone can come on the floor today with a straight face that we have the second largest surplus in the history of the country, unless they are candid and say that it is as a result of the Social Security surplus. That is what it is all about. I hope everyone understands that Illinois has an opportunity today; I know he has some things to say about this.

But let's also talk about energy policy. One of the biggest robberies in the history of this country took place in Congress the last week that the House was in session when they passed the energy bill. The reason I say it was a robbery is because people who voted for that bill thought that they had limited the drilling in ANWR to 2,000 acres. That is a big diversion from the truth.

The fact is, they now allow them to have 2,000 acres of oil derricks all over the Arctic national wilderness. That is what they would allow, 2,000 acres of equipment. This could cover 150, 200,000 acres of pristine wilderness.

There are some of us who believe so strongly about this drilling in the Arctic national wilderness that we will do just about anything to stop it from happening. We are not going to let them drill in the Arctic wilderness. We are not going to let them pull this phony situation where they say we are only going to drill on 2,000 acres when, in fact, the legislation states that they are going to allow oil equipment on 2,000 acres.

We don't have a surplus. We are not going to allow drilling in ANWR.

**RED LIGHT CAMERAS**

Mr. REID. Mr. President, when I first got out of law school, I had a part-time job. I was a city attorney for the city of Henderson. Henderson at the time was a suburb of Las Vegas and a relatively small community. Now, by Nevada standards, it is a large city, the second largest city in Nevada, approaching about 250,000 people.

When I was city attorney, one of the things I did was prosecute people convicted of misdemeanors, but one of the big jobs I had was prosecuting drunk drivers. Prosecuting drunk drivers was very difficult because a police officer who was pursuing a drunk driver would stop somebody and say: OK, put your finger to your nose, walk on the line—all these things they had people do who were suspected of drunk driving. They would come in and the person charged would say: I hadn't had anything to drink; I don't know why I was arrested. And the police officer would say: His eyes were bloodshot; I could smell liquor on his breath. It was a factual issue as to whether or not that person had been drinking.

After I was city attorney, I long came some new procedures. You could breathe into a piece of equipment and it would determine how much alcohol was in your system or an even more sure-fire way was blood alcohol tests. That way the driver was protected. The driver was protected because the driver no longer had to depend on some police officer who may have been mad at him, may have had some personal grudge with him, may have not liked the kind of car he drove or the color of his skin. Now this person driving could have a blood test administered and show that he was not drinking or they could breathe into a balloon and a breathometer would tell whether or not he had anything to drink—scientific advancements to protect not only the accused but also to protect the State.

When I decided to run for Congress at the beginning of the 1980s, one of the big jobs I had was to prosecute people who I recognized was doing some really good things for many years was a Congressman from New York by the name of James Scheuer. What had Congressman Scheuer done that attracted my attention? He gave speeches around the country and in Congress on the need for police officers to have more scientific equipment to keep up with the more scientific criminals. I thought this was intriguing. I thought it was true. Having been a prosecutor and having seen some of these attorneys, I recognized that was true.

I was able as a defense attorney to do a lot of things to really hinder the process. That was part of my job. And because we were more in tune with modern scientific things we could hold up warrants and all kinds of things. But we have gotten more modern. We have electronic warrants that are now available. We have video arraignments for people charged with crimes. We have SWAT teams, special weapons people who can take down a special situation can really go into a building, which is safer for the people in the neighborhood. These people are experts at getting into buildings. They are experts at negotiating with people.

As I speak, there is a situation going on since the weekend. In Michigan, one person has been killed. There is another person negotiating in this community who is going to allow oil equipment on 2,000 acres. We are not going to do that. We are not going to do drilling in the neighborhood. These people are experts at negotiating with people.

For example, there are about a thousand lights that we have put in the greater Las Vegas area. Odds are very good that the police won't be watching when we drive through an intersection a little too late. Nevadans have paid a high price for this daredevil driving. Las Vegas ranks 12th in the Nation in deaths attributed to motorists running red lights.

I can't help but think that Las Vegas streets, as well as streets nationwide, would be a lot safer if there were cameras for running red lights. What if there were a traffic officer at every intersection, all 1,000 intersections where there are red lights in Las Vegas? Let's say there was a traffic officer, or at least that were a possibility. The District of Columbia found out last they can do that. In 1989—and I have spoken to the chief as late as this morning—the District began using cameras to catch motorists running red lights. Thirty other districts in the country have similar laws.

We have all witnessed it. Probably, we have truthfully all run a red light or two. The signal changes to yellow and vehicles continue to pass through the intersection with little hesitation. The light turns red and one or two more cars blow past in a hurry, speeding through intersections until the last possible second. Unfortunately, experience has taught us that we can get away with it.

For example, there are about a thousand intersections with 2,000 traffic signals in the greater Las Vegas area. Odds are very good that the police won't be watching when we drive through an intersection a little too late. Nevadans have paid a high price for this daredevil driving. Las Vegas ranks 12th in the Nation in deaths attributed to motorists running red lights.
What is this lobbying organization that has very little power? It is called the American Trauma Society. I am sure the Presiding Officer has met with them. I have gone to their facilities and seen the people who have had these terrible head injuries. Most are traffic related. Many are people having run red lights.

On this issue, the American Trauma Society, composed of emergency room personnel, would like to have fewer customers, studies that cameras reduce violations by 40 percent.

The American Civil Liberties Union, which opposes a lot of things, dropped its opposition to red light cameras because they recognize there is a limit even to what they can go to. They believe this is something that helps keep highways safe. With a million crashes at intersections each year, causing 250,000 injuries and 2,000 deaths, the carnage is bad enough.

Why do I raise this issue? Because changing driver behavior in a meaningful way will save lives. Studies show that more than 90 percent of Americans believe red light running is dangerous. Why do I raise this issue? Because changing driver behavior in a meaningful way will save lives. Studies show that more than 90 percent of Americans believe red light running is dangerous. It is getting caught that counts. There are consequences for breaking traffic laws. Ensuring the safety and well-being of America's families and neighborhoods should be one of our top priorities. Photo enforcement supports this priority in a way that is constitutionally effective and proven free of bias.

I want those 30 jurisdictions, including the chief in the District of Columbia, to know I am going to do what I can to support his position and not go off on some side issue or street issue saying this is an 'inner-city' or that Orwells are coming after us.

There is a lot of agreement in the country, not the least of which was a very fine editorial in the U.S. News and World Report of September 3 of this year written by Randall E. Stross, "Choose Life Over Liberty." I ask unanimous consent that the article be printed in the RECORD. There being no objection, the article was ordered to be printed in the RECORD, as follows:


**CHOOSE LIFE OVER LIBERTY**

**RED-LIGHT CAMERAS IN DICK ARMEY'S SIGHTS**

(By Randall E. Stross)

In police work, technology increasingly has supplanted the vagaries of human judgment, and I say, Amen! Beginning in the 1990s with the pioneering Drunkometer, followed by the breathalyzer, the Breathalyzer, impartial mechanical devices have indirectly saved countless lives.

Today, another kind of gadget records objectively and avers future accidents: red-light cameras installed at intersections to automatically record and ticket violators. House Majority Leader Dick Armey is up in arms, however, assailing the camera as an "unchielding machine" that has usurped police officers in the performance of their "traditional duties."

When Armey says that the answer to red-light violations is "putting cops on the beat," is that meant in the truly traditional sense of walking the beat? Even if granted dispensation to use unthinking machines with wheels—automobiles—police officers giving physical checks to red-light-running drivers must run the light, too. With 1 million crashes at intersections each year, causing 250,000 injuries and 2,000 deaths, the carnage is bad enough.

As a former professor of economics, Armey surely is capable of grasping the concept of productivity gains that follow automation. When he gravely intones that "police officers belong on the streets and in the community, not in remote control booths," he is demagoguing. The cameras are activated automatically by sensors on the road, capturing in a single frame the car's license plate, presence in the intersection, and the color of the traffic light. The evidence is incontestible, wonderful, and I like to see the incidence of death and mayhem decline, and maddeningly so if you believe that a traffic light's signal is best left to you to interpret.

Video on demand. The newest generation of "unchielding machines" that Armey detests are actually doing considerable thinking on their own. Digital cameras use software to track the progress of approaching vehicles and predict whether the driver will stop for the red light. If it appears likely the driver is going to go through, the system will extend the red light shown to the cross traffic, removing the chance of a collision with a law-abiding driver about to set off in harm's way.

EDS, which markets the system as CrossingGuard—admittedly, not as catchy as Drunkometer—is considering offering police departments the ability to post video clips on the Web. The ticket that is mailed out on the Web. The ticket that is mailed out would include a Web address and password; the recipient could have the wisdom of contesting on epistemological grounds what can be seen plainly in beautiful, living color.

What if the culprit was a friend to whom you loaned the car? The system can be set up to capture the faces of drivers as well as license plates; the degree of intrusion is determined by requirements of varying state laws. What makes the most sense is the approach taken by New York: "Owner liability" allows the state to treat red-light runners like a parking ticket, which makes registered owners responsible regardless of who actually drives. The American Civil Liberties Union dropped its opposition to the red-light cameras when it was assured the cameras be trained only on the license plates.

House Majority Leader Armey's opposition to the cameras places him somewhere off to the left of the ACLU. He is also talking on a small 2,700-member group that may not have a lot of political weight in Armey's Washington, but nevertheless carries a lot of credibility on this issue: the American Trauma Society, composed of emergency-room personnel. They, however, have indirectly saved countless lives. **September 4, 2001**
concern. But a distinction is easily drawn: Using cameras activated only when a traffic law is broken—good; deploying police cameras in public spaces in order to scan in the faces of passersby—bad.

Army would have us believe that the police departments that use red-light cameras are not interested in reducing accidents but in maximizing traffic-ticket revenue. His evidence, however, consists of nothing more than listing the number of tickets issued by various departments and his calculation of what they could earn had they not taken out of that, which is called Social Security taxes. They are told it is going to go into a trust fund. This money taken out for Social Security is not taken out by the President of the United States for running the Defense Department, or paying for air traffic controllers, or paying for a farm program, or paying for food inspection; it is taken out of the paycheck and the worker is told that this income is in a Social Security trust fund. The word “trust” is used in the trust fund because it is a trust fund in the classic sense. That trust fund invests its money in Government securities, the trust fund exists; it is real. If Mr. Novak, for example, purchases a U.S. Government savings bond for his grandson next Christmas, I hope he will not tell his grandson what he is doing it for. Well, that is new. The message ought to be, keep your hands off these trust funds, they do not belong to the Government. They belong to the American people. They are the ones who paid those taxes, and they were the ones who told it was going to be put in a trust fund. The word “trust” ought to mean something.

I will comment on another issue. This weekend I was enormously dismayed to see press reports in the New York Times and the Washington Post subject to this trust fund. That is not true. The fact is, it forces national savings if we have a fiscal policy that recognizes these trust funds for the purpose they were collected in the first instance.

Now we have a lot of people who are poised to get their mitts into that trust fund and use it for other purposes. I hope the administration and the Congress will hold firm and say, keep your hands off those trust funds. They do not belong to the Government. They belong to the American people. They are the ones who paid those taxes, and they were the ones who told it was going to be put in a trust fund.

I say to my conservative friends who write these columns that you do a real disservice, in my judgment, to the facts when you suggest that that which we take out of workers’ paychecks to be put in a trust fund does not really exist in the trust fund. That is not true. The fact is, it forces national savings if we have a fiscal policy that recognizes these trust funds for the purpose they were collected in the first instance.

One story that I hear in the future the United States and China might also discuss resuming under underground nuclear tests.

Let me ask a question: Does anyone think this will be a safer and more secure world? I wonder whether China builds more offensive nuclear weapons? Does anyone believe it enhances world security and makes this a safer place in which to live if we give a green light to China and tell them the country that is richer to us, you just go ahead and build up a huge nuclear arsenal? It defies all common sense. We ought to be the world above the Social Security accounts. That is all gone. It has evaporated. It does not exist anymore. The question for the President and Congress, both Republicans and Democrats, is how do you reconcile all of these interests and needs with the current situation?

The President wants $18 billion additional spending for defense. The surplus that would be used to pay for that does not exist at this point. It seems to me that Mr. Daniels is attempting to interfere in a local election. It is the way to go ahead with cameras anyhow. War is peace, and now red lights are yellow-light signals. His reasoning is more Orwellian than listing the number of tickets issued by various departments and his calculation of what they could earn had they not taken out of that, which is called Social Security taxes. They are told it is going to go into a trust fund. This money taken out for Social Security is not taken out by the President of the United States for running the Defense Department, or paying for air traffic controllers, or paying for a farm program, or paying for food inspection; it is taken out of the paycheck and the worker is told that this income is in a Social Security trust fund. The word “trust” is used in the trust fund because it is a trust fund in the classic sense. That trust fund invests its money in Government securities, the trust fund exists; it is real. If Mr. Novak, for example, purchases a U.S. Government savings bond for his grandson next Christmas, I hope he will not tell his grandson what he is doing it for. Well, that is new. The message ought to be, keep your hands off these trust funds, they do not belong to the Government. They belong to the American people. They are the ones who paid those taxes, and they were the ones who told it was going to be put in a trust fund. The word “trust” ought to mean something.

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Now we have a lot of people who are poised to get their mitts into that trust fund and use it for other purposes. I hope the administration and the Congress will hold firm and say, keep your hands off those trust funds. They do not belong to the Government. They belong to the American people. They are the ones who paid those taxes, and they were the ones who told it was going to be put in a trust fund. The word “trust” ought to mean something.

I will comment on another issue. This weekend I was enormously dismayed to see press reports in the New York Times and the Washington Post subject to this trust fund. That is not true. The fact is, it forces national savings if we have a fiscal policy that recognizes these trust funds for the purpose they were collected in the first instance.
leader in trying to convince countries not to build up their nuclear arsenals, to reduce rather than increase their nuclear arsenals. We ought to be the world’s leader in saying not only stop nuclear testing, which we did a long while ago, but we have to convince the countries, subscribing to the Comprehensive Nuclear Test-Ban Treaty. Regrettably, this Senate turned down that treaty almost two years ago. However we still need to be a leader to stop the spread of nuclear weapons. We need to be a leader in a way that helps persuade other countries not to build an offensive nuclear threat. Some people, including myself, think that is just daft for our country to say we would like to spend tens of billions of dollars—some say the current proposal would be about $50 billion, other people say it would be well over $100 billion—to build a national missile defense system and in order to do so we will say to China the way you go right ahead and build up your offensive nuclear capabilities.

What on Earth could we be thinking of? We need to push in the opposite direction. We need to say to China and Russia and others, which are part of the nuclear club in this world, that we want to build down, not up. We do not want to see an increase in offensive nuclear weapons.

That is exactly what many of us have feared, by the way. The discussion about abandoning the ABM Treaty, which has been the center pole of the tent for arms control and arms reductions, the abandonment of that which is being proposed by the White House and some of their friends in Congress, is a substantial retreat from this country’s responsibility to be a leader in trying to stop and reduce the threat of nuclear war.

Is it really going to provide more security and more safety for this world if the administration says we do not care about an ABM Treaty, we will just abandon it and not care about the consequences. Or if the administration says we do not care if our building a national missile defense system of some type if it leads Russia to stop cutting its nuclear forces and if it leads China to have an offensive nuclear weapons buildup. Does it matter to us? It sure does.

Since the dismantlement of the Soviet Union well over a decade ago now, there have been really just two major nuclear superpowers. There were two nuclear superpowers involved in the cold war, us and the Soviets. Now we alone and the country of Russia have very substantial nuclear capability. It is estimated there are over 30,000 nuclear weapons in the arsenal of both countries, 30,000 nuclear weapons. We need to be reducing the threat of nuclear war. We ought to be building down and reducing the stockpile of nuclear weapons. We ought not as a country be saying it does not matter much to us whether China builds up its offensive nuclear weapon capability. It sure ought to matter to us. It will be a significant part of our future if we allow that to happen.

I hope we can have an aggressive discussion on this subject in the coming months. We ought to care very much about whether the country of China is going to increase and build up its offensive nuclear capability. This country ought to care a great deal about that, and this country’s policy ought not be giving a green light to other countries to say we do not mind. We should not be saying: You let us build a national missile defense, and we will just say you go right ahead and increase your stockpile of nuclear weapons. That is a policy that will not create a safer world, in my judgment.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. REED). The roll. The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum be suspended.

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

The Senator from Nevada.

ORDER OF PROCEDURE

Mr. REED. Mr. President, I ask unanimous consent that the Senator from Illinois be recognized for up to 10 minutes as in morning business, and if the Republicans wish 10 minutes of morning business following, I have no objection to that.

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

The Senator from Illinois is recognized.

BUDGET SURPLUS

Mr. DURBIN. Mr. President, most of us are returning today for the first time since the August recess. It was a period of time when we had a chance to spend a little vacation time with our families, and I was happy to be part of that process and to be reunited with my extended family and have a great time. It was also a time to be back in our States to travel around, to listen and to hear what is on the minds of the people we represent, and for a few of us to have a few days to go overseas and to be part of the global dialog which comes with this job as much as our dialog with the people we represent.

In these past 4 weeks, we have been busy and most of us have enjoyed it, but now we are back to work. We come back to work with additional information and more views on the issues that we are about to debate. What a difference a month has made. Many of us did not believe in this short period of time that we would be in the position of fortune as we have seen occur with the recent report on the status of surpluses in our Federal budget. It was not that long ago we were deep in red ink in Washington with deficits in every direction. We saw ourselves building up a national debt to $5.7 trillion, a national mortgage which we still shoulder, a burden which we carry, and now our children and grandchildren are likely to carry as well.

The good news, of course, starting in 1999 we began to turn the corner on that debt with an expanding positive economy, with the creation of jobs and new businesses, profits to build up retirement accounts. People were making more money and paying taxes, providing more revenue to the government. We found ourselves in a surplus situation. We were exulting after so many years and years of deficits under President Reagan, President George Bush, and then for the first few years how quickly, and whether we would ever come out of that dark veil and now we are in a position to enjoy the surplus.

The President who was elected last November, President George Bush, said the surpluses give an opportunity to enact a massive tax cut, one of the largest tax cuts in our history. Many members of his party, as well as a few on this side of the aisle, joined with the President to enact this tax cut, believing that the surpluses were virtually as far as the eye could see. Why not take this extra money in Washington and send it back to the people of the United States? The logic was simple. It seemed so clear.

Some Members believed that caution was the guide to which we should turn. Instead of spending a possible surplus, we should wait to see if the American economy would recover strongly, and then we would generate a surplus, and before we committed the possible future surplus, we ought to take care, lest we find ourselves in a deficit situation.

We return in the first few days of September of the year 2001 to find President Bush’s tax cut, in addition to the state of the economy, which has cost the projected surplus which the President said we would have. We find ourselves knocking on the door, without that surplus, going back into, if not a deficit, the situation where we have to go to trust funds in order to pay for the ordinary expenses of Government. Which trust funds? The largest—Medicare and Social Security. In a short period of time—just a few months—with this new President we have gone from the euphoria of surpluses to now worrying over whether or not we are going to endanger the Social Security trust fund. It tells you we have come very far very fast.

The tax rebates that many people have received in the last few weeks of $300 and $600 are welcome to many families who need to buy supplies for kids to go back to school, a family meal, or clothing, or to pay off some of the debts they might have. It does not appear at this moment it will show any
great impact on the economy. A general tax cut that helps lower and middle-income families is one I have supported. I believe, as many do, that we should be very careful in how much of this projected surplus we dedicate to that tax cut until we are certain we have it in hand.

During the campaign, President Bush and many Members of Congress said that when we reached the tough times in the future, one area would be sacred: We would not reach into the Social Security trust fund to fund the ordinary expenses of Government. President Bush, much like his father, who said, "Read my lips, no new taxes," pronounced during the course of his campaign that as President he would not raid the Social Security trust fund. Now we find ourselves perilously close to that situation after just a few months into the new Presidency.

Many of the conservative Republican writers are saying: Why are you worried about a Social Security trust fund? It is not that important. I think we know better. Those who notice every time we receive a paycheck there is more and more money taken out for Social Security have asked some hard questions. What is this all about? Is it to shore up a surplus in Social Security to protect the future, the need for Social Security benefits for baby boomers and others. If we reach into that Social Security trust fund to take that money now, it could endanger the liquidity and solvency of Social Security in years to come. That is irresponsible. It is wrong. We shouldn't be in this predicament.

Many of the conservative writers who say not to worry about protecting the Social Security trust fund do not have much passion for Social Security anyway. These are the people who have criticized it in years gone by as a big government taking too much money, one that we ought to change so people could invest in the stock market without much concern about the impact on those who are relying on it. Some 40 million Americans rely on Social Security. It is a major source of income for many. We should not take it lightly.

We are faced with a predicament as we return: How will we meet the obligations of Government and the requirement of taking too much money, one that we ought to change so people could invest in the stock market without much concern about the impact on those who are relying on it. Some 40 million Americans rely on Social Security. It is a major source of income for many. We should not take it lightly.

When raisings Social Security and the Medicare trust fund? The President has said through his spokesman, Mitch Daniels of the Office of Management and Budget, that we have the second largest surplus in the history of the United States. He said that publicly and they have said it many times. It is part of the George W. Bush administration's "don't worry, be happy" refrain. I think Americans ought to think twice about the second largest surplus in our history is the Social Security trust fund surplus. It is money dedicated to Social Security. It is not the general revenue of this country to be spent on everything that we might like. It should be protected. The Republicans have come back and say: Wait a minute. In the deep dark days of the deficits, even Democratic Congresses spent the Social Security trust fund. They are saying: And I can say we did some very desperate things in those years when we were seeing multibillion-dollar deficits, things we vowed we would never do again when we got into the era of the surplus. We came together on a bipartisan basis with over 400 votes in the House, a substantial majority in the Senate, and vowed we would never touch the Social Security trust fund once we had surpluses again.

Here we are, just a few months into the new administration, facing that kind of pressure. How do we take care of our national needs, whether it is the Department of Defense saying they need more modern weaponry to protect the United States or whether it is the needs of public education? The President said he would be an education President; he would find a bipartisan way to deal with it. And now we have a bill languishing in the conference committee because we have not come up with the funds to pay for education. If we cannot come up with the funds to protect the one policy that is critical to the future of this country, we certainly should invest in it. But President Bush's decisions on tax cuts and other budget priorities have pushed us in a corner where precious few funds are available for the high priorities.

The same is true on prescription drugs under Medicare. Most promised we would work for a prescription drug benefit under Medicare—universal, voluntary—to help seniors pay for prescriptions, and now we find because of the Bush budget and the Bush tax cut that we have very few dollars available to even dedicate to a bipartisan national priority.

The same is true on energy policy. Just a few months ago, President Bush sent a message which said we ought to do something about our dependence on foreign energy sources, so let's invest more money in research to find alternative fuels, sustainable energy, ways to use coal in States such as Illinois in an environmentally responsible way. That takes money. We now turn to find that President Bush's budget and his tax policy have taken those funds off the table. The same thing is true when it comes to the new farm bill. We hoped to have a new farm bill this fall. I hope we can. I have seen in Illinois and across my State what has happened to the farm economy over the last 4 or 5 years. If we are to have a new farm bill and dedicate resources to it, the obvious question is: Where will they come from?

When we look at the state of the economy in America today, people are rightfully concerned. The President went to speak to members of labor unions yesterday to tell them he felt their pain, their worry, and their an-
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. Incorporation parts and components.
Sec. 205. Pension 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 status 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.
Sec. 302. Procedures for imposing controls.
Sec. 303. Criteria for foreign policy export controls.
Sec. 304. Presidential report before imposition of control.
Sec. 305. Imposition of controls.
Sec. 306. Deferral authority.
Sec. 307. Review, renewal, and termination.
Sec. 308. Termination of controls under this title.
Sec. 309. Compliance with international obligations.
Sec. 310. Designation of countries supporting international terrorism.

Sec. 311. Control instrument.

TITLE IV—PROCEDURES FOR EXPORT LICENSES AND INTERAGENCY DISPUTE RESOLUTION
Sec. 401. Export license procedures.
Sec. 402. Interagency dispute resolution process.

TITLE V—INTERNATIONAL ARRANGEMENTS; FOREIGN BOYCOTTS; SANCTIONS; AND ENFORCEMENT
Sec. 501. International arrangements.
Sec. 502. Foreign boycotts.
Sec. 503. Penalties.
Sec. 504. Missile proliferation control violations.
Sec. 505. Chemical and biological weapons proliferation sanctions.
Sec. 506. Enforcement.
Sec. 507. Administration procedure.

TITLE VI—EXPORT CONTROL AUTHORITY AND REGULATIONS
Sec. 601. Export control authority and regulations.
Sec. 602. Confidentiality of information.

TITLE VII—MISCELLANEOUS PROVISIONS
Sec. 701. Annual report.
Sec. 702. Technical and conforming amendments.
Sec. 703. Savings provisions.

SEC. 2. DEFINITIONS.
In this Act:
(1) AFFILIATE.—The term "affiliate" includes both governmental entities and commercial entities that are controlled in fact by the government of a country.
(2) CONTROL OR CONTROLLED.—The terms "control" and "controlled" mean any requirement, condition, authorization, or prohibition on the export or reexport of an item.
(3) CONTROL LIST.—The term "Control List" means the Commerce Control List established under title II.
(4) CONTROLLED COUNTRY.—The term "controlled country" means a country with respect to which exports are controlled under section 201 or 301.

(5) CONTROLLED ITEM.—The term "controlled item" means an item the export of which is controlled under this Act.
(6) COUNTRY.—The term "country" means a sovereign country or an autonomous customs territory.
(7) COUNTRY SUPPORTING INTERNATIONAL TERRORISM.—The term "country supporting international terrorism" means a country designated by the Secretary of State pursuant to section 310.
(8) DEPARTMENT.—The term "Department" means the Department of Commerce.
(9) EXPORT.—(A) The term "export" means—
(i) an actual shipment, transfer, or transmission of an item outside the United States;
(ii) a transfer to any person of an item either within the United States or outside of the United States with the knowledge or intent that the item will be shipped, transferred, or transmitted to an unauthorized recipient outside the United States; or
(iii) a transfer of an item in the United States to an embassy or affiliate of a country, which shall be considered an export to that country.
(B) The term includes a reexport.
(10) FOREIGN AVAILABILITY STATUS.—The term "foreign availability status" means the status described in section 211(d)(1).
(11) FOREIGN PERSON.—The term "foreign person" means—
(A) an individual who is not—
(i) a United States person;
(ii) an alien lawfully admitted for permanent residence to the United States; or
(iii) a protected individual as defined in section 241(a)(3); or
(B) any corporation, partnership, business association, society, trust, organization, or other nongovernmental entity created or organized under the laws of a foreign country or that has its principal place of business outside the United States; and
(C) any governmental entity of a foreign country.
(12) ITEM.—
(A) IN GENERAL.—The term "item" means any good, technology, or service.
(B) OTHER DEFINITIONS.—In this paragraph:
(i) GOOD.—The term "good" means any article, natural or manmade substance, material, supply or manufactured product, including inspection and test equipment, including source code, and excluding technical data.
(ii) TECHNOLOGY.—The term "technology" means specific information that is necessary for the development, production, or use of an item, and takes the form of technical data or technical assistance.
(iii) SERVICE.—The term "service" means any act of assistance, help or aid.
(13) MASS-MARKET STATUS.—The term "mass-market status" means the status described in section 211(d)(2).
(14) MULTILATERAL EXPORT CONTROL REGIME.—The term "multilateral export control regime" means an international agreement or arrangement among two or more countries, including the United States, of a purpose of which is to coordinate national export control policies of its members regarding certain items. The term includes regimes such as the Australia Group, the Wassenaar Arrangement, the Missile Technology Control Regime (MTCR), and the Nuclear Suppliers' Group Dual Use Arrangement.
(15) NATIONAL SECURITY CONTROL LIST.—The term "National Security Control List" means the list established under section 202(a).
(16) PERSON.—The term "person" includes—
(A) any individual, or partnership, corporation, business association, society, trust, organization, or any other group created or organized under the laws of a country; and
(B) any governmental entity, including any governmental entity operating as a business enterprise.
(17) REEXPORT.—The term "reexport" means the shipment, transfer, transshipment, or diversion of items from one foreign country to another.
(18) SECRETARY.—The term "Secretary" means the Secretary of Commerce.
(19) UNITED STATES.—The term "United States" means the States of the United States, the District of Columbia, and any commonwealth, territory, dependency, or possession of the United States, and includes the outer Continental Shelf, as defined in section 2(a) of the Outer Continental Shelf Lands Act (42 U.S.C. 1331(a)).
(20) UNITED STATES PERSON.—The term "United States person" means—
(A) any United States citizen, resident, or national (other than an individual resident outside the United States who is employed by a person other than a United States person);
(B) any domestic concern (including any permanent domestic establishment of any foreign concern); and
(C) any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern which is controlled in fact by such domestic concern, as determined under regulations prescribed by the Secretary.

TITLE I—GENERAL AUTHORITY

SEC. 101. COMMERCE CONTROL LIST.
(a) IN GENERAL.—Under such 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 requirement; and
(2) may require any type of 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 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 exporter file the Department advance notification of the intent to export in accordance with regulations prescribed by the Secretary.
(4) LICENSE EXCEPTION.—Authority to export an item on the Control List without prior license or notification in lieu of a license.
(c) 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 in order to replace service or replacement 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 enhance 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 technology does not exceed the minimum necessary to install, repair, maintain, inspect, operate, or use the item.

SEC. 102. REGULATIONS.—The Secretary may prescribe such regulations as are necessary to carry out the provisions of this Act.
SEC. 102. DELEGATION OF AUTHORITY.
(a) IN GENERAL.—Except as provided in subsection (b) and subject to the provisions of this Act, the President may delegate the power, author- ity, duty, and discretion conferred upon the President by this Act to such departments, agencies, and officials of the Government as the President considers appropriate.
(b) AUTHORITY TO DELEGATE.—The President may delegate the power, authority, duty, and discretion conferred upon 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 ad- vice and consent of the Senate.

SEC. 103. PUBLIC INFORMATION; CONSULTATION REQUIREMENTS.
(a) PUBLIC INFORMATION.—The Secretary shall keep the public fully informed of the policies and procedures of the United States government concerning export controls.
(b) CONSULTATION WITH PERSONS AFFECTED.—(1) The Secretary shall consult regularly with representatives of United States industry and Government officials, including officials of the Departments of Commerce, Defense, and Energy, the executive branch of the Government, and representatives of the business community on the export control policies and procedures of the United States government.

SEC. 104. RIGHT OF EXPORT.
No license or other authority 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 a representative of a US industry or agency of the United States, the Secretary may appoint export control advisory committees according to the terms described by the Secretary, to present information and make recommendations to the Secretary.
(b) Functions.—(1) In general.—Export control advisory committees that carry out their duties under this Act, shall provide advice and assistance to the Secretary, and to any other department, agency, or official of the Government carrying out functions under this Act, as to the adequacy of any such item to meet the national security interest of the United States, taking into account mass-market status, mass-market availability, ease of production, and other relevant factors.

TITLE II—NATIONAL SECURITY EXPORT CONTROLS

Sec. 201. AUTHORITY FOR NATIONAL SECURITY EXPORT CONTROLS.
(a) AUTHORITY.—(1) IN GENERAL.—In furtherance of the purposes set forth in subsection (b), the President may, in accordance with the provisions of this Act, prohibit, restrict, or require a license, or other authorization for the export of any item subject to the jurisdiction of the United States that the President determines, in consultation with the head of any other department or agency of the United States, contributes to the national security interest of the United States, taking into account mass-market status, mass-market availability, ease of production, and other relevant factors.
(b) CONTENTS.—The authority contained in this section shall be exercised by the Secretary, in consultation with the head of any other department or agency of the United States, to prevent the proliferation of weapons of mass destruction that could be used to threaten the national security interest of the United States, taking into account mass-market status, mass-market availability, ease of production, and other relevant factors.

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.

Sec. 203. CONTROLLED ITEMS.
(a) PROHIBITION ON CONTROLS.—No authority delegated to the President under this Act shall be used to prohibit, restrict, or require a license, or other authorization for the export of any item that the President determines, in consultation with the head of any other department or agency of the United States, contributes to the national security interest of the United States, taking into account mass-market status, mass-market availability, ease of production, and other relevant factors.

Sec. 204. REGULATIONS.
(a) IN GENERAL.—The Department of Commerce, in consultation with the Secretary of State, the head of any other department or agency of the United States, and the Committee on Foreign Relations of the Senate, shall promulgate such regulations as may be necessary to carry out the purposes of this Act.
(b) CONTENTS.—The regulations promulgated under this section shall include provisions to ensure that the regulatory requirements do not have a discriminatory effect on international trade or commerce.
(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) NATIONAL SECURITY CONTROL LIST.—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 Commerce Control List pursuant to subsection (b). The Secretary shall also revise the Committee of the Conference of the Committee on Foreign Relations, the Committee on the Judiciary, and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs, the Committee on the Judiciary, and the Committee on Appropriations of the House of Representatives to include the Committee of the Conference of the Committee on Foreign Relations, the Committee on the Judiciary, and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs, the Committee on the Judiciary, and the Committee on Appropriations of the House of Representatives.

SEC. 203. COUNTRY TIERS.

(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—

(1) establish and maintain a country tiering system in accordance with subsection (b); and

(b) 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.

(2) CONSULTATION.—The establishment and assignment of country tiers under this section shall be made after consultation with the Secretary, the Secretary of State, the intelligence agencies, and such other departments and agencies as the President considers appropriate.

(3) REDETERMINATION AND REVIEW OF ASSIGNMENTS.—The President may reestablish the assignments of a country to a particular tier at any time and shall review and, as the President considers appropriate, reassign country tiers on an ongoing basis. The Secretary shall provide notice of any changes in the country tier status and shall notify the Congress of the country tier status. The Secretary shall provide notice of any changes in the country tier status and shall notify the Congress of the country tier status. The Secretary shall provide notice of any changes in the country tier status and shall notify the Congress of the country tier status.

(4) EFFECTIVE DATE OF TIER ASSIGNMENT.—An assignment of a country to a particular tier shall take effect on the date on which notice of the assignment is published in the Federal Register.

(b) TIERS.—

(1) IN GENERAL.—The President shall establish a country tiering system consisting of not less than 3 tiers for purposes of this section.

(2) RANGE.—Countries that represent the lowest risk of diversion or misuse of an item on the National Security Control List shall be assigned to the lowest tier. Countries that represent the highest risk of diversion or misuse of an item on the National Security Control List shall be assigned to the highest tier.

(3) OTHER COUNTRIES.—Countries that fall between the lowest and highest risk to the national security interest of the United States with respect to the risk of diversion or misuse of an item on the National Security Control List shall be assigned to a tier other than the lowest or highest tier, based on the assessments required under subsection (c).

(c) ASSESSMENTS.—The President shall make an assessment of each country in assigning a country tier taking into consideration risk factors including the following:

(1) The present and potential relationship of the country with the United States.

(2) The country's capabilities regarding chemical, biological, and nuclear weapons and the country's membership in, and level of compliance with, relevant multilateral export control regimes.

(3) The country's membership in, and level of compliance with, relevant multilateral export control regimes.

(4) The country's membership in, and level of compliance with, relevant multilateral export control regimes.

(5) Whether the country, if a NATO or major non-NATO ally with whom the United States has entered into a bilateral arrangement as of January 1, 1986, controls exports in accordance with the criteria and standards of a multilateral export control regime as defined in section 214(b) of the Arms Export Control Act, and to deter acts of international terrorism, not included on the National Security Control List pursuant to the provisions of this Act.

(6) The country's other military capabilities and the potential threat posed by the country to the United States or its allies.

(7) The effectiveness of the country's export control system.

(8) A country's cooperation with United States export control enforcement and other efforts.

(9) The risk of export diversion by the country to a higher tier.

(10) The designation of the country as a country supporting international terrorism under section 219.

(d) APPLICATION.—The country tiering system shall be used in the determination of license requirements pursuant to section 210(a)(1).

SEC. 204. INCORPORATED PARTS AND COMPONENTS.

(a) EXPORT OF ITEMS CONTAINING CONTROLLED PARTS AND COMPONENTS.—Controls may not be imposed under this title or any other statute on an item solely because the item contains parts or components subject to export controls, unless the parts or components—

(1) are essential to the functioning of the item,

(2) are customarily included in sales of the item in countries other than controlled countries,

(3) comprise 25 percent or less of the total value of the item, unless the item itself, if exported, would by virtue of the functional characteristics of the item as a whole make a significant contribution to the military or proliferation potential of a controlled country or end user which would prove detrimental to the national security of the United States, or unless failure to control the item would be contrary to the provisions of section 202(c), section 201(d), or section 309 of this Act.

(b) REEXPORTS OF FOREIGN-MADE ITEMS INCORPORATING UNITED STATES CONTROLLED CONTENT.

(1) IN GENERAL.—No authority or permission may be required under this title to reexport to a country an item that is produced in a country other than the United States and incorporates parts or components regulated by 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, except that in the case of reexports of an item to a country designated as a country supporting international terrorism pursuant to section 218, controls may be maintained if the value of the controlled United States content of the item is 10 percent of the total value of the item.

(2) DEFINITION OF CONTROLLED UNITED STATES CONTENT.—For purposes of this section, the term “controlled United States content” of an item means those parts or components that—

(A) are subject to the jurisdiction of the United States;

(B) are incorporated into the item; and

(C) would, at the time of the reexport, require a license under section 212 or 213, or take action under section 216.

(3) EXCEPTIONS.—In determining the controlled United States content of an item, the Secretary may not take into account—

(A) any value attributable to foreign content;

(B) any value attributable to services provided by a foreign government or any foreign entity;

(C) any value attributable to foreign government or any foreign entity;

(D) any value attributable to foreign government or any foreign entity;

(E) any value attributable to foreign government or any foreign entity;

(F) any value attributable to foreign government or any foreign entity;

(G) any value attributable to foreign government or any foreign entity;

(H) any value attributable to foreign government or any foreign entity;

(I) any value attributable to foreign government or any foreign entity;

(J) any value attributable to foreign government or any foreign entity;

(K) any value attributable to foreign government or any foreign entity;

(L) any value attributable to foreign government or any foreign entity;

(M) any value attributable to foreign government or any foreign entity;

(N) any value attributable to foreign government or any foreign entity;

(O) any value attributable to foreign government or any foreign entity;

(P) any value attributable to foreign government or any foreign entity;

(Q) any value attributable to foreign government or any foreign entity;

(R) any value attributable to foreign government or any foreign entity;

(S) any value attributable to foreign government or any foreign entity;

(T) any value attributable to foreign government or any foreign entity;

(U) any value attributable to foreign government or any foreign entity;

(V) any value attributable to foreign government or any foreign entity;

(W) any value attributable to foreign government or any foreign entity;

(X) any value attributable to foreign government or any foreign entity;

(Y) any value attributable to foreign government or any foreign entity;

(Z) any value attributable to foreign government or any foreign entity.

(4) CRITERIA FOR DETERMINING FOREIGN AVAILABILITY AND MASS-MARKET STATUS.

(1) FOREIGN AVAILABILITY STATUS.—The Secretary shall determine foreign availability status under this subtitle, if the item is available in sufficient quantity so that the Secretary determines that a foreign availability status is appropriate.

(2) MASS-MARKET STATUS.—The Secretary shall determine mass-market status under this subtitle, if the Secretary determines that the item is available in sufficient quantity so that the Secretary determines that a mass-market status is appropriate.

(3) RESULTS OF DETERMINATION.—In any case in which the Secretary determines, in accordance with procedures and criteria which the Secretary shall by regulation establish, that an item described in subsection (a) has—

(1) a foreign availability status, or

(2) a mass-market status,

the Secretary shall notify the President (and other appropriate departments and agencies) and publish the notice of the determination in the Federal Register. The Secretary's determinations shall become final 30 days after the date on which the notice is published, the item shall be removed from the National Security Control List, and a license or other authorization shall not be required with respect to the item, unless the President makes a determination described in section 212 or 213, or takes action under section 309, with respect to the item in that 30-day period.

(4) CRITERIA FOR DETERMINING FOREIGN AVAILABILITY AND MASS-MARKET STATUS.

(1) FOREIGN AVAILABILITY STATUS.—The Secretary shall determine foreign availability status under this subtitle, if the item is available in sufficient quantity so that the Secretary determines that a foreign availability status is appropriate.

(2) MASS-MARKET STATUS.—The Secretary shall determine mass-market status under this subtitle, if the Secretary determines that the item is available in sufficient quantity so that the Secretary determines that a mass-market status is appropriate.

(3) Results of Determination.—In any case in which the Secretary determines, in accordance with procedures and criteria which the Secretary shall by regulation establish, that an item described in subsection (a) has—

(1) a foreign availability status, or

(2) a mass-market status,

the Secretary shall notify the President (and other appropriate departments and agencies) and publish the notice of the determination in the Federal Register. The Secretary's determinations shall become final 30 days after the date on which the notice is published, the item shall be removed from the National Security Control List, and a license or other authorization shall not be required with respect to the item, unless the President makes a determination described in section 212 or 213, or takes action under section 309, with respect to the item in that 30-day period.
(iv) The use for the item’s normal intended purpose without substantial and specialized service provided by the manufacturer, distributor, or other third party.

(2) DELEGATION 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.

(3) 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 take into consideration the uses, the properties, nature, and quality of the item.

(B) DIRECTLY COMPETITIVE ITEM.—

(i) IN GENERAL.—The determination of whether an item is a directly competitive item shall take into consideration the uses, the properties, nature, and quality of the item.

(ii) EXCEPTION.—An item is not a directly competitive 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 STATUS DETERMINATION.

(a) CRITERIA FOR PRESIDENTIAL SET-ASIDE.—

(i) GENERAL CRITERIA.—

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

(1) the item is available to any country for the purpose of commercial purposes and may be adapted for substantially the same uses;

(2) there is a high probability that the foreign availability of the item will be eliminated through international negotiations within a reasonable period of time taking into account the characteristics of the item, or

(3) 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.

(ii) EXCEPTION.—Not later than the date the President begins negotiations, the President shall notify in writing the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives; and the Federal Register.

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

(i) 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 actively pursue negotiations with the governments of the appropriate foreign countries for the purpose of eliminating such availability.

(ii) REPORT TO CONGRESS.—Not later than the date the President begins negotiations, the President shall notify in writing the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives that the President has begun such negotiations and why the President believes it is important to the national security that export controls on the item involved be terminated.

(c) PERIODIC REVIEW OF DETERMINATION.—The President shall review a determination described in subsection (a) at least every 6 months. Promptly after each review is completed, the President shall submit to the Committees on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives a report, including information on the training of employees of the Departments of Defense, State, Energy and other departments and agencies as appropriate.

(2) RESPONSIBILITIES.—The President shall be responsible for—

(A) establishing the 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 the item is in the national security interests of the United States.

(B) monitoring and evaluating worldwide technological developments in industry sectors critical to the national security interests of the United States.

(C) establishing the national security interests of the United States.

(D) the date the item in relation to another item is a substantially identical item and the item is substantially identical in its intrinsic or inherent characteristics, is substantially equivalent for substantially identical uses.

(2) EXPIRATION OF PRESIDENTIAL SET-ASIDE.—Upon the expiration of a Presidential set-aside under paragraph (3) with respect to an item, the Secretary shall not require a license or other authorization to export the item.

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

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

(i) IN GENERAL.—In any case in which an item is substantially equivalent for substantially identical uses.

(ii) REPORT TO CONGRESS.—Not later than the date the President begins negotiations, the President shall notify in writing the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives; and the Federal Register.

(c) PERIODIC REVIEW OF DETERMINATION.—The President shall review a determination described in subsection (a) at least every 6 months. Promptly after each review is completed, the President shall submit to the Committees on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives a report, including information on the training of employees of the Departments of Defense, State, Energy and other departments and agencies as appropriate.

TITLE III—FOREIGN POLICY EXPORT CONTROLS

SEC. 301. AUTHORITY FOR FOREIGN POLICY EXPORT CONTROLS.

(a) AUTHORITY.
SEC. 303. CRITERIA FOR FOREIGN POLICY EXPORT CONTROLS.

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

(a) REQUIREMENT.—Before imposing an export control, 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 if—

(1) the President determines that a deferral of the export control would be against the national interest of the United States; and

(2) the requirement is satisfied not later than 30 days for any interested person to submit comments on the export control proposed under this title.

(b) NOTICE.—

(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, other authorization, or other administrative action with respect to 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 Secretaries of State and other departments and agencies as the Secretary considers appropriate.

(b) PURPOSES.—The purposes of foreign policy export controls are the following:

(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 protect the international peace, security, 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 prevent 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 international terrorism.

(c) FOREIGN PRODUCTS.—No authority or permission may be required under this title to export to a country other than the United States incorporated parts or components that are subject to the jurisdiction of the United States, except that in the case of an item to a country designated as a country supporting international terrorism pursuant to section 310, controls may be maintained if the value of the controlled United States content is more than 10 percent of the value of the item.

(d) CONTRACT SURETY.—The President may not prohibit the export of any item under this title if that item is to be exported—

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

(2) 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 binding contract, agreement, commitment, license, 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. 304. PRESIDENTIAL REPORT BEFORE IMPOSITION OF CONTROL.

(a) REQUIREMENT.—Before imposing an export control, 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—

(1) any diplomatic and other steps that the United States has taken to accomplish 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 objectives 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) the likelihood that the proposed export control could lead to retaliation against United States interests;

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

(b) 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, national security, or national interest, 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 reliable technology.

SEC. 305. IMPOSITION OF CONTROLS.

The President may impose an export control under this title after the submission of the report required under section 304 and publication in the Federal Register of a notice of the imposition of the export control.

SEC. 306. DEFERRAL AUTHORITY.

(a) AUTHORITY.—The President may defer controls imposed under this Act and any other provision of law referred to in subsection (b)(2)(A) if—

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

(2) 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 not after the date on which the export control is imposed unless all requirements have been satisfied before the expiration of the 60-day period.

SEC. 307. REVIEW, RENEWAL, AND TERMINATION.

(a) GENERAL AND STANDARDS.

(1) IN GENERAL.—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 such date. For purposes of this section, the term ‘renewal year’ means 2003 and every 2 years thereafter.

(2) EXCEPTION.—This section shall not apply to an export control imposed under this title if—

(A) is required by law;

(B) is targeted against any country designated as a country supporting international terrorism pursuant to section 310; or

(C) has been in effect for less than 1 year as of February 1 of a renewal year.

SEC. 309. PUBLICATION OF REPORTS.

(a) REQUIREMENT.—Before renewing an export control imposed under this title, the President shall publish notice in the Federal Register of a report on each renewal of the export control.

(b) REPORT TO CONGRESS.—

(1) REQUIREMENT.—Before renewing an export control imposed under this title, the President shall submit to the Committees of Congress referred to in subsection (b)(2)(A) a report on each export control that the President intends to renew.

(c) 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) The purposes of the specific United States foreign policy objective that the 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 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.

(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).

(2) TERMINATION OF EXPORT CONTROL.—The President may terminate 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. 300. 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 the control has substantially achieved the objective for which it was imposed; and
(2) at any time any export control imposed under this title that is not required by law.

(b) EXCEPTION.—Paragraphs (1) and (2) of subsection (a) do not apply to any export control imposed pursuant to section 310.

(c) EFFECTIVE DATE OF TERMINATION.—The termination of an export control pursuant to this section shall take effect on the date notice of the termination is published in the Federal Register.

SEC. 301. CRIME CONTROL INSTRUMENTS.

(a) LICENSE REQUIRED.—Notwithstanding any other provision of this Act setting forth limitations on the authority to control exports and except as provided in section 304, the President may impose controls on exports to a particular country or countries—
(1) of items listed on the control list of a multilateral export control regime, as defined in section 214; or
(2) in order to fulfill obligations or commitments of the United States under resolutions of the United Nations and under treaties, or other international arrangements and arrangements, to which the United States is a party.

(b) NOTIFICATION.—The Secretary and the Senate shall notify the Committee on International Relations of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Committee on Foreign Relations of the Senate that an export control under this title is in effect.

(c) DETERMINATIONS REGARDING REPEATED SUPPORT.—Each determination of the Secretary of State under subsection (a)(1), including each determination in effect on the date of the enactment of the Anti-terrorism and Export Control Amendments Act of 1989, shall be published in the Federal Register.
(B) REFEEREE 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 inform the Secretary of the specific types of such applications that the department or agency does not wish to have referred to it.

(2) 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 may, in accordance with a request from either the head of a department or agency, refer a license application to the department or agency for review.

(2) RESPONSIBILITY OF REFERRAL DEPARTMENTS AND AGENCIES.—The Secretary of Defense, the Secretary of State, and the heads of other reviewing departments and agencies shall take all necessary actions in a prompt and responsible manner on an application.

(3) ADDITIONAL INFORMATION REQUESTS.—Each department or agency to which a license application is referred shall request such information from the applicant as may 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. The time that may elapse between the date the information is requested by that department or agency and the date the information is received by that department or agency shall be included in calculating the time periods prescribed in this title.

(4) TIME PERIOD FOR ACTION BY REFERRAL DEPARTMENTS AND AGENCIES.—Within 30 days after the Secretary receives a referral application, each department or agency to which such an application has been referred shall provide the Secretary with a recommendation either to approve the license or to deny the license. A recommendation that the Secretary deny a license shall include a statement of reasons for the recommendation and a description of the steps taken to provide the Secretary with a recommendation either to approve the license or to deny the license.

(5) OBLIGATIONS OF THE APPLICANT.—In general, the applicant shall provide all of the information required by this title, and shall include with the application any requests for assurances and any other information that may be required by the Secretary in accordance with section 401(e).

(6) EXCEPTIOIN.—Whenever a prelicense check described in paragraph (2) or assurances described in paragraph (3) are not requested within the time periods described in this subsection, then the time expended for such prelicense check or assurances shall be included in calculating the time periods prescribed in this title.

(7) C ONSULTATIONS.—Consultation with foreign governments, if such consultation is provided for by a relevant multilateral regime as a precondition for approving a license.

(f) APPEALS AND OTHER ACTIONS BY APPLICANTS.—

(1) IN GENERAL.—The Secretary shall establish appropriate procedures for an applicant to appeal the Secretary’s denial of an application or other administrative action under this Act.

(2) PROCEDURE FOR APPEAL.—If an application has been referred to another department or agency, the Secretary shall promptly notify the Secretary of Defense of the application, including appropriate revisions or conditions thereto, and other information that the Secretary considered in making the decision. The Secretary shall promptly notify the Secretary of Defense of the application, including appropriate revisions or conditions thereto, and other information that the Secretary considered in making the decision.
(1) or interagency dispute resolution process estab-
lished under this paragraph may be escu-
lated to the next higher level of review at the re-
quest of an official appointed by the President, by
and with the concurrence of the Senate, or an offi-
cer properly acting in such capacity, of a de-
partment or agency that participated in the in-
teragency committee or dispute resolution pro-
cess; and
(D) ensure that matters are resolved or re-
ferred to the President not later than 90 days
after the date the completed license application is
referred by the Secretary.
(c) Final Action.—(1) In General.—Once a final decision is made under subsection (b), the Secretary shall prompt-
ly—
(A) issue the license and ensure that all ap-
propriate personnel in the Department (includ-
ing the Office of Export Enforcement) are noti-
fied of all approved license applications; or
(B) notify the applicant of the intention to
deny the application.
(2) Minutes.—The interagency committee and
each level of the interagency dispute resolution
process shall keep reasonably detailed minutes
of all meetings of the interagency committee or
agency committee or before any other level of
the interagency dispute resolution process in
which members disagree, each member shall
clearly state the reasons for the member’s posi-
tion and the reasons shall be entered in the min-
utes.
TITLE V—INTERNATIONAL ARRANGE-
MENTS; FOREIGN BOYCOTTS; SAN-
CTIONS; ARMED FORCES
SEC. 501. INTERNATIONAL ARRANGE-
MENTS.
(a) Multilateral Export Control Re-
gimes.—
(1) Policy.—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 or maintain predictable and competitive
opportunities for United States exporters.
(2) Participation in Existing Regimes.—Con-
gress encourages the United States to continue
its active participation in and to strengthen ex-
isting multilateral export control regimes.
(3) Participation in New Regimes.—It is the
policy of the United States to participate in ad-
inctions to establish new export control regimes
that are consistent with the arrangements of that regime; and
(4) New Multilateral Export
Control Regimes.—Not later than Feb-
ruary 1 of each year, the President shall sub-
mit to the Committee on Banking, Housing, and
Urban Affairs of the Senate and the Committee on
International Relations of the House of Repre-
sentatives a report evaluating the effectiveness
of each multilateral export control regime, in-
cluding an assessment of the steps undertaken
pursuant to subsections (c) and (d), the report,
or any part of this report, may be submitted in
classified form to the extent the President con-
siders necessary.
(c) Standards for Multilateral Export
Control Regimes.—The President shall take
steps to establish the following features in any
multilateral export control regime that the United
States is participating or may partici-
pate:
(1) 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 mul-
tilateral export control regime.
(2) Effective Enforcement and Compli-
ance.—The regime promotes enforcement and
compliance with the regime’s rules and guide-
lines.
(3) Public Understanding.—The regime
makes an effort to enhance public under-
standing of the purpose and procedures of the
multilateral export control regime.
(4) Effective Implementation Pro-
dures.—The multilateral export control regime
has procedures for the uniform and consistent
interpretation and implementation of its rules and
guidelines.
(5) Enhanced Cooperation with Regime
Non-Members.—The President shall take
steps to—
(A) cooperate with governments outside the
regime to restrict the export of items controlled
by such regime; and
(B) establish an ongoing mechanism in the
regime to coordinate planning and implementation
of export control measures related to such co-
operation.
(6) Periodic High-Level Meet-
ings.—There are periodic high-level meet-
ings of the governments of members of the
multilateral export control regime for the
purpose of coordinating export control policies
and issuing policy guidance to members of the
regime.
(7) Common List of Controlled Items.—
There is agreement on a common list of items
controlled by the multilateral export control
regime.
(8) Regular Updates of Common List.—
There is a procedure for removing items from the
list of controlled items when the control of such
items no longer serves the objectives of the mem-
bers of the multilateral export control regime.
(9) Financial and Criminal Sanctions.—
There is agreement to prevent the export or diversion
of the most sensitive items to countries whose
activities are threatening to the national secu-
rity of the United States.
(10) Harmonization of License Appro-
val Procedures.—There is harmonization among
the members of the regime of their national ex-
port license approval procedures, practices, and
standards.
(11) Undercutting.—There is a limit with re-
spect to when members of a multilateral export
control regime—
(A) grant export licenses for any item that is
substantially identical to or directly competitive
with an item controlled pursuant to the regime,
where the United States has denied an export li-
ence for such item, or
(B) approve exports to a particular end user to
which the United States has denied export li-
ence for a similar item.
(12) Standards for National Export
Controls.—For each of the standards for national
export controls under the regime, together with all
publicly available understandings and aspects of the
agreement of the regime, and all changes there-
(1) To counteract restrictive trade practices or
boycotts fostered or imposed by foreign countries.
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 engaged in the export of any article, to furnish, to the extent of their knowledge and without the knowledge of any person who is a resident of a country friendly to the United States or against which any country in which the United States person is engaged is friendly to or against which any other country friendly to the United States or against any United States person

(b) Prohibitions and Exceptions.—

(1) Prohibitions.—In order to carry out the purposes set forth in subsection (a), the President shall issue regulations prohibiting any United States person, with respect to that person’s activities in the interstate or foreign commerce of the United States, from knowingly agreeing, or knowingly agreeing to take any of the following actions with intent to comply with, further, or support any boycott fostered or imposed by a foreign country against a country friendly to the United States or against any United States person

(2) Prohibitions and Exceptions.—

(a) Criminal Penalties—

(1) Violations by an Individual.—Any individual who willfully 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 $1,000,000, whichever is greater, imprisoned for not more than 10 years, or both, for each violation.

(2) Violations by a Person Other than an Individual.—Any person other than an individual who willfully 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 times the value of the exports involved or $1,000,000, whichever is greater, for each violation.

(b) Forfeiture of Property Interest and Proceeds.—

(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

(2) Antitrust and Civil Rights Laws Not Affected.—Nothing in this subsection may be construed to supersede or limit the operation of the antitrust or civil rights laws of the United States.

(c) Civil Penalties; Administrative Sanctions.—
S9028

CONGRESSIONAL RECORD—SENATE
September 4, 2001

(1) CIVIL PENALTIES.—The Secretary may impose a civil penalty of up to $500,000 for each violation of a provision of this Act or any regulation, license, or order issued under this Act. A civil penalty under this Act may be imposed 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 re-export United States-origin 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 PRACTICE.—The Secretary may exclude any person acting as an attorney, accountant, consultant, freight forwarder, or in any other representative capacity from participating before the Department with respect to a license application or any other matter under this Act.

(d) PAYMENT OF CIVIL PENALTIES.—

(1) PAYMENT AS CONDITION OF FURTHER EXPORT PRIVILEGES.—The payment of a civil penalty imposed under subsection (c) may be made a condition of the granting, restoration, or continuing validity 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 a payment of a penalty may be made such a 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 a period no longer than any probation period (which exceeds 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 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.

(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 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.

(B) STATUTE OF LIMITATIONS.—

(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 this section shall not be commenced more than 5 years after the date of the alleged violation or the date of discovery of the alleged violation.

(2) EXCEPTION.—

(A) TOLLING.—In any case in which a criminal indictment alleging a violation under subsection (a) is returned within the time limits prescribed by law for the institution of such action, the proceeding under this section shall, upon the return of the criminal indictment, be tolled against all persons named as a defendant.

(B) DURATION.—The tolling of the limitation provided for in subparagraph (A) as a result of a criminal indictment shall continue for a period of 6 months from the date on which the conviction of the defendant becomes final. If the indictment against the defendant is dismissed, or the criminal action has concluded.

(h) VIOLATIONS DEFINED BY REGULATION.—Nothing in this Act limits the authority of the Secretary to define by regulation violations under this Act.

(i) CONSTRUCTION.—Nothing in subsection (c), (d), (e), (f), or (g) affects 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.

(j) AUTHORITY.—Subject to paragraphs (3) through (7), if the President determines that a foreign person, after the date of enactment of this Act, knowingly—

(1) violates, attempts to engage in, conspires to or attempts to engage in, or if the President has made a determination with respect to any person related through affiliation to a foreign person, for a period of 2 years, licenses for the transfer to such foreign person of missile equipment, including equipment controlled under this Act.

(2) commits an act of proliferation control violations.

SEC. 504. MUSELLE PROLIFERATION CONTROL VIOLATIONS.

(a) VIOLATIONS BY UNITED STATES 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 Act, knowingly—

(ii) conspires to or attempts to engage in such export, transfer, or trade, or

(iii) facilitates such export, transfer, or trade by any other person, then the President shall impose the applicable sanctions described in subparagraph (B).

(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, the sanctions described in subparagraph (B) of section 38(a) of the Arms Export Control Act, 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, the sanctions described in subparagraph (B) of section 38(a) of the Arms Export Control Act, 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.

(2) DISCRETIONARY SANCTIONS.—In the case of any determination referred to in paragraph (1), the Secretary may pursue any other appropriate penalties under section 503.

(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 obtainable from any other foreign 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.—

(ii) if the President determines that a foreign person, after the date of enactment of this Act, knowingly—

(i) exports, transfers, or otherwise engages in the trade of any item on the MTCR Annex, in violation of the provisions of section 38 (22 U.S.C. 2778) or chapter 7 of the Arms Export Control Act, title II or III of this Act, or any regulations or orders issued under any such provision,

(ii) conspires to or attempts to engage in such export, transfer, or trade, or

(iii) facilitates such export, transfer, or trade by any other person, then the President shall impose the applicable sanctions described in subparagraph (B).

(B) SANCTIONS DESCRIBED.—The sanctions which apply to a foreign person under subparagraph (A) are the following:

(i) if the item involved in the export, transfer, or trade is within category I of the MTCR Annex, then the President shall deny to such foreign person, for a period of 2 years, licenses for the transfer of missile equipment, or technology controlled under this Act.

(ii) if the item involved in the export, transfer, or trade is within category II of the MTCR Annex, then the President shall deny to such foreign person, for a period of 2 years, licenses for the transfer of missile equipment, or technology controlled under this Act.
(2) INAPPLICABILITY WITH RESPECT TO MTCR ADHERENTS.—(Paragraph (1) does not apply with respect to—
(A) any export, transfer, or trading activity that is authorized by the laws of an MTCR adherent, if such authorization is not obtained by misrepresentation or fraud; or
(B) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose the sanctions; or
(C) to—
(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 available; or
(iv) information and technology essential to United States products or production.

(3) EFFECT OF ENFORCEMENT ACTIONS ON MTCR ADHERENTS.—Section 2 of the Agreement 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 an MTCR adherent, if such MTCR adherent is taking judicial or other enforcement action against that person with respect to such acts, or if 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 State and 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 a person to sanctions under this subsection, the President may waive the application of paragraph (1) to such person if the President determines that such waiver is essential to the national security of the United States.

(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 such person if the President 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—

(1) 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 such determination;
(2) permit Congress to consider any appropriate legislation to override the determination described in subparagraph (A); and
(3) report to Congress that—

(A) the product or service is essential to the national security of the United States;
(B) the sole source supplier of 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;
(C) exceptions.—The President shall not apply the sanction under this subsection prohibiting the importation of the products of a foreign person—

(i) in the case of procurement of defense articles or defense services—

(A) under existing contracts or subcontracts, including the exercise of options for production quantities that are tied to the fulfillment of requirements essential to the national security of the United States;
(B) if the President determines that the person to whom such request is made is a sole source supplier of the defense articles and services, that the defense articles or services are essential to the national security of the United States and that alternative sources are not readily or reasonably available; or
(ii) if the President determines that such articles or services are essential to the national security of the United States and that alternative sources are not readily or reasonably available; or

(iii) in the case of exportation of defense articles or defense services—

(A) to countries, projects, or entities receiving assistance to which the sanctions would be applied is a country that participates in the MTCR or that, pursuant to an international understanding to which the United States is a party, controls the production of equipment or technology in accordance with the criteria and standards set forth in the MTCR.
(B) 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 the production of equipment or technology in accordance with the criteria and standards set forth in the MTCR.

(C) MTCR ANNEX.—The term ‘‘MTCR Annex’’ means the Guidelines and Equipment and Technology Annex of the MTCR, and any amendments thereto.

(3) MISSILE 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 such entity.

(B) OTHERWISE ENGAGED IN THE TRADE OF.—The term ‘‘otherwise engaged in the trade of’’ means the Guidelines and Equipment and Technology Annex of the MTCR, and any amendments thereto.

(C) MTCR ANNEX.—The term ‘‘MTCR Annex’’ means the Guidelines and Equipment and Technology Annex of the MTCR, and any amendments thereto.

(D) MISSILE TECHNOLOGY CONTROL REGIME.—The term ‘‘Missile Technology Control Regime’’ or ‘‘MTCR’’ means the policy statement, between the United States, the United Kingdom, the Federal Republic of Germany, France, Italy, Canada, and Japan, announced in their respective associations on 19 February 1988, which was the basis for any determination under this subsection, and if that affiliate is controlled in fact by that foreign person.

(C) 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 the 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 delay imposition of sanctions pursuant to this section for not more than up to 90 days. After any such consultations, the President shall impose sanctions unless the President determines and certifies to Congress that the government has taken specific and appropriate action, or appropriate penalties, to terminate the involvement 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 if the President determines and certifies to Congress that the government is in the process of taking the actions described in the preceding sentence.

(3) REPORT TO CONGRESS.—The President shall report to Congress, not later than 90 days after making a determination under subsection (a)(2), on the status of consultation, or appropriate government under this subsection, and the basis for any determination under paragraph (2) of this subsection that such government has taken specific and appropriate action, or appropriate penalties, to terminate the involvement of the foreign person in the activities described in subsection (a)(1).

(4) SANCTIONS.—The sanctions imposed pursuant to subsection (a)(1) may be provided in paragraph (2) of this subsection, the following:

(A) PROCUREMENT SANCTION.—The United States Government shall not procure, enter into any contract for, provide, or make available—

(i) goods or services from any person described in subsection (a)(3).
B) IMPORT SANCTIONS.—The importation into the United States of products produced by any person described in subsection (a)(2) shall be prohibited.

C) 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 services—

(i) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy United States operational military requirements;

(ii) if the President determines that the person or entity to which the sanctions would otherwise apply is a sole source supplier of the defense articles or services, that the defense articles or services are essential, and that alternative sources are not readily or reasonably available;

(iii) if the President determines that such articles or services are essential to the national security under defense cooperation agreements;

(B) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose sanctions;

(C) to—

(i) spare parts,

(ii) component parts, but not finished products, essential to United States products or production, or

(iii) routine servicing and maintenance of products, to the extent that alternative sources are not readily or reasonably available;

(D) to information and technology essential to United States products or production; or

(E) to medical or other humanitarian items.

D) TERMINATION OF SANCTIONS.—The sanctions imposed pursuant to this section shall apply for a period of at least 12 months following the imposition of sanctions and shall cease to apply only if the President determines and certifies to the Congress that reliable information indicates that the foreign person with respect to which the determination was made under subsection (a)(1) has ceased to aid or abet any foreign government, project, or entity in its efforts to acquire chemical or biological weapons capability as described in that subsection.

E) WAIVER.—

(1) CRITERION FOR WAIVER.—The President may waive the application of any sanction imposed on any person pursuant to this section, after the end of the 12-month period beginning on the date on which that sanction was imposed on that person, if the President determines and certifies to Congress that such waiver is important to the national security interests of the United States.

(2) PROCEDURE FOR AND REPORT TO CONGRESS.—If the President decides to exercise the waiver authority provided in paragraph (1), the President shall so notify the Congress not less than 30 days before the waiver takes effect. Such notification shall include a report fully articulating the rationale and circumstances which led the President to exercise the waiver authority under this section.

(3) DEFINITION OF FOREIGN PERSON.—For the purposes of this section, the term ‘foreign person’ means—

(a) an individual who is not a citizen of the United States or an alien admitted for permanent residence to the United States; or

(b) a corporation, partnership, or other entity which is created or organized under the laws of a foreign country or which has its principal place of business outside the United States.

SEC. 506. ENFORCEMENT.

(a) AUTHORITY AND DESIGNATION.—

(1) POLICY GUIDANCE ON ENFORCEMENT.—The Secretary, in consultation with the Secretary of the Treasury and the heads of other departments and agencies designated by the President, as appropriate, shall be responsible for providing policy guidance on the enforcement of this Act.

(2) GENERAL AUTHORITIES.—

(A) EXERCISE OF AUTHORITY.—To the extent necessary or appropriate to the enforcement of this Act, officers and employees of the Department of the Treasury, officers and employees 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 Secretary, in consultation with the Secretary of Commerce, may—

(i) exercise the enforcement authority under this Act,

(ii) conduct such investigations as may be necessary or appropriate to the enforcement of this Act, and

(iii) enforce the provisions of this Act.

(B) 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 enforcement of this Act, to search, detain (after search), and seize items 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, pursuant to agreement or other arrangement with a foreign person, is authorized to perform enforcement activities.

(C) OTHER EMPLOYEES.—In carrying out enforcement authority under paragraph (3), the Secretary and employees of the Department designated by the Secretary may make investigations within the United States, and may conduct, outside the United States, pre-li- cense and post-shipment investigations of controlled items and investigations in the enforce- ment of section 502. The Secretary and officers and employees of the Department designated by the Secretary may make investigations at sea, detention (after search), and seize items at places within the United States other than ports referred to in subparagraph (B). The search, detention (after search), or seizure of items at the ports and places referred to in subparagraph (B) may be conducted by officers and employees of the Department only with the concurrence of the Commissioner of Customs or a person designated by the Commissioner.

(D) AGREEMENTS AND ARRANGEMENTS.—The Secretary and officers of Customs may enter into agreements and arrangements for the enforcement of this Act, including foreign inves- tigations and information exchange.

(E) SPECIFIC ACTIONS AND AGREEMENTS.—

(1) ACTIONS BY ANY DESIGNATED PERSONNEL.—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 duces tecum, require the appearance and testi- mony or to appear and produce books, records, and other writings, or both. In the case of contem- porary by, or refusal to obey a subpoena issued to, a foreign person, a district court of the United States, on request of the Attorney General and after notice to any such person and a hearing, shall have jurisdiction to issue an order requiring the appearance and testi- mony 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 by fine or imprisonment, or both. Any contempt order of such court may be enforced by the court where issued, as provided in this Act.

(2) IN GENERAL.—Any tangible items lawfully seized under subsection (a) by designated offi- cers or employees shall be subject to forfeiture to the United States.

(3) PROCEDURE.—A person in possession of such property and the proceeds from the sale thereof; shall have a right to a hearing and an opportunity to present evidence in his own behalf, and the Department shall inform such person of his right to be heard and to present evidence in his own behalf.

(F) OTHER ACTIONS.—The provisions of law relating to—

(A) the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws;

(B) the disposition of such property or the proceeds from the sale thereof;

(C) the remission or mitigation of such forfeiture; 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 consistent with this Act.

(3) FORFEITURES UNDER CUSTOMS LAWS.—Duties that are imposed upon a 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 by the Commissioner of Customs or any officer or employee of the United States Customs Service designated by the Commissioner), or, upon the request of the Secretary, by any other agency that has authority to manage and dispose of seized property.

(c) REFERRAL OF CASES.—All cases involving violations of this Act shall be referred to the Secretary for purposes of determining civil penalties for violations of this Act and for purposes of administering sanctions under section 503 or to the Attorney General for criminal action in accordance with this Act or to both the Secretary and the Attorney General.

(d) UNDERCOVER INVESTIGATIVE OPERATIONS.—

(1) 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, and to lease equipment, conveyances, and space within the United States, without regard to sections 1341 and 3324 of title 31, United States Code, the third sentence of the second graph under heading of “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. 645 and 646) sections (a) and (c), and section 305 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254 (a) and (c)), and section 305 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 255);

(B) funds made available for export enforcement under this Act may be used to establish or to acquire corporations or business entities as part of an undercover operation, and to operate such corporations or business entities on a commercial basis, without regard to sections 1341, 3324, and 9102 of title 31, United States Code;

(C) 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

(D) the proceeds from undercover operations may be used to offset necessary and reasonable expenses incurred in such operations without regard to the provisions of section 3302 of title 31, United States Code,

if the Director of OEE (or an officer or employee designated by the Director) certifies, in writing, that the use is authorized by subparagraphs (A), (B), (C), or (D) for which the funds would be used is necessary for the conduct of the undercover operation.

(2) DISPOSITION OF BUSINESS ENTITIES.—If a corporation or business entity established or acquired as part of an undercover operation has a net value of more than $250,000 and is to be liquidated or 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 of the OEE (or the Director’s designee) 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. Any property or equipment purchased pursuant to paragraph (1) may be used and disposed of in subsequent undercover operations under this section. When such property or equipment is no longer needed, it shall be considered surplus and disposed of as surplus property.

(3) DEPOSIT OF PROCEEDS.—As soon as the proceeds from an OEE undercover investigative operation with respect to which an action is authorized and carried out under this subsection are no longer needed for the conduct of such operation, the proceeds or the balance of the proceeds remaining at the time shall be deposited into the Treasury of the United States as miscellaneous receipts.

(4) AUDIT AND REPORT.—(A) 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 in writing to the Comptroller General. Not later than 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 submit annually to Congress a report, which may be included in the annual report under section 701, specifying the following information:

(i) The number of undercover investigative operations commenced in the 1-year period preceding the period for which such report is submitted.

(ii) The number of undercover investigative operations closed in the 1-year period preceding the period for which such report is submitted and, with respect to each such closed undercover operation, a description of the funds used, and any actions against 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 proceedings (other than appeals) pursuant to the investigation are concluded, or to the date of conviction for any civil violations of this Act, which are finally disposed of;

(B) the term “undercover investigative operation” and “undercover operation” mean any undercover investigative operation conducted by the OEE;

(C) the term “gross receipts” (excluding interest earned) exceed $25,000, or expenditures (other than expenditures for salaries of employees) exceed $75,000, and

(D) 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).

(5) WIRETAP.—(A) AUTHORITY.—The Secretary may authorize and conduct wiretaps, under the provisions of the Foreign Intelligence Surveillance Act of 1978, to detect the illegal transfer of high risk, dual-use goods and technologies.

(6) PROGRAM AUTHORIZATION.—There is authorized to be appropriated for the Department of Commerce $5,000,000 and such sums as may be necessary to hire 10 additional overseas investigators to be posted in the People’s Republic of China, the Republic of Korea, the People’s Republic of Hong Kong Special Administrative Region, the Republic of India, Singapore, Egypt, and Taiwan, or any other place the Secretary deems appropriate, for the purpose of verifying the end use of high-risk, dual-use technologies.

(7) UNRESTRICTED USE OF FUNDS.—It shall be unnecessary and unobstructed for the Department of Commerce to use the funds described in paragraph (6) and the proceeds from undercover investigative operations closed in the 1-year period preceding the period for which such report is submitted, to pay for the costs associated with the performance of undercover investigative operations.

(3) END-USE VERIFICATION.—

(a) Authorization.—There is authorized to be appropriated for Department of Commerce undercover investigative operations $4,500,000 and such sums as may be necessary to pay the reasonable costs of 50 additional overseas investigators to be posted in the People’s Republic of China, the Republic of Korea, the People’s Republic of Hong Kong Special Administrative Region, the Republic of India, Singapore, Egypt, and Taiwan, or any other place the Secretary deems appropriate, for the purpose of verifying the end use of high-risk, dual-use technologies.

(b) REQUIREMENTS.—The proceeds from undercover investigative operations shall be considered surplus and disposed of as surplus property.

(4) END-USE VERIFICATION.—

(a) Authorization.—There is authorized to be appropriated for Department of Commerce undercover investigative operations $4,500,000 and such sums as may be necessary to pay the reasonable costs of 50 additional overseas investigators to be posted in the People’s Republic of China, the Republic of Korea, the People’s Republic of Hong Kong Special Administrative Region, the Republic of India, Singapore, Egypt, and Taiwan, or any other place the Secretary deems appropriate, for the purpose of verifying the end use of high-risk, dual-use technologies.

(b) REQUIREMENTS.—The proceeds from undercover investigative operations shall be considered surplus and disposed of as surplus property.

(1) Section 9703(a) of title 31, United States Code (as added by Public Law 102–393) is
amended by striking "or the United States Coast Guard" and inserting "the United States Coast Guard, or the Bureau of Export Administration of the Department of Commerce.

(2) Section 907(c)(1)(B) of title 31, United States Code is amended (as added by Public Law 102–393)—

(A) by striking "or" at the end of subclause (I),

(B) by inserting "or" at the end of subclause (II); and

(C) by inserting at the end, the following new subclause (III):

"(III) a violation of the Export Administration Act of 1979, the Export Administration Act of 1964, or an amendment, license, or order issued under those Acts;".

(3) Section 9703(p)(1) of title 31, United States Code (as added by Public Law 102–393) is amended by adding, at the end the following:

"In addition, for purposes of this section, the Bureau of Export Administration of the Department of Commerce shall be considered to be a Department of the Treasury law enforcement organization.".

(o) AUTHORIZATION FOR LICENSE REVIEW OFFICERS.—

(1) IN GENERAL.—There is authorized to be appropriated to the Department of Commerce $2,000,000 to hire additional license review officers.

(2) TRAINING.—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.

(p) AUTHORIZATION.—

(1) IN GENERAL.—There are authorized to be appropriated to the Department of Commerce $73,000,000 for the fiscal year 2003, of which no less than $27,701,000 shall be used for compliance and enforcement activities; and

(2) LIMITATION.—There is authorized to be used for the fiscal year 2003, $73,000,000, of which no less than $28,399,000 shall be used for compliance and enforcement activities.

(q) AUTHORIZATION.—

(1) IN GENERAL.—There are authorized to be appropriated to the Department of Commerce $76,000,000 for the fiscal year 2005, of which no less than $29,392,000 shall be used for compliance and enforcement activities; and

(2) LIMITATION.—The authority granted by this Act shall terminate on September 30, 2004, unless the President carries out the following duties:

(A) Provides to Congress a detailed report on—

(i) the implementation and operation of this Act; and

(ii) the operation of United States export controls in general.

(B) Provides to Congress legislative reform proposals in connection with the report described in subparagraph (A); or

(c) CERTIFIES TO CONGRESS THAT NO LEGISLATIVE REFORMS ARE NEEDED IN CONJUNCTION WITH SUCH REPORT.

SECTION 507. ADMINISTRATIVE PROCEDURE.

(a) EXEMPTIONS FROM ADMINISTRATIVE PROCEEDINGS.—Any administrative sanction imposed under section 503 may be imposed only after notice and opportunity for an agency hearing on the record in accordance with the procedures contained in section 503.

(b) PROCEDURES RELATING TO CIVIL PENALTIES AND SANCTIONS.—

(1) ADMINISTRATIVE PROCEDURE.—Any administrative sanction imposed under section 503 may be imposed only after notice and opportunity for an agency hearing on the record in accordance with the procedures contained in section 503.

 SECTION 507. ADMINISTRATIVE PROCEDURE.

(a) EXEMPTIONS FROM ADMINISTRATIVE PROCEDURE.—The functions exercised under this Act are excluded from the operation of sections 551, 553 through 559, and 701 through 706 of title 5, United States Code.

(b) PROCEDURES RELATING TO CIVIL PENALTIES AND SANCTIONS.—

(1) ADMINISTRATIVE PROCEDURE.—Any administrative sanction imposed under section 503 may be imposed only after notice and opportunity for an agency hearing on the record in accordance with the procedures contained in section 503.

(2) AVAILABILITY OF CHARGING LETTER.—Any charging letter or other document initiating administrative proceedings for the imposition of any sanction(s) under section 503 shall be made available for public inspection and copying.

(3) COLLECTION.—If any person fails to pay a civil penalty imposed under section 503, the Secretary may ask the Attorney General to commence a civil action in an appropriate district court of the United States to recover the amount imposed (plus interest at current prevailing rates from the date of the final order). No such action may be commenced more than 5 years after the order imposing the civil penalty becomes final.

(4) IMPOSITION OF TEMPORARY DENIAL ORDERS.—

(1) GROUNDS FOR IMPOSITION.—In any case in which there is reasonable cause to believe that a person is engaged in, or is about to engage in, any act or practice which constitutes or would constitute a violation of this Act, or any regulation, order, or license issued under this Act, including any diversion of goods or technology from an end user, and in any case in which a criminal indictment has been returned against the person alleging a violation of this Act or any of the statutes listed in section 503, the Secretary may issue an order temporarily denying that person's United States export privileges (hereafter in this subsection referred to as a "temporary denial order"). A temporary denial order shall be effective for such period (not in excess of 180 days) as the Secretary specifies in the order, but may be renewed by the Secretary, for additional periods of not more than 180 days each.

(2) ADMINISTRATIVE APPEALS.—The person or persons subject to the issuance or renewal of a temporary denial order may appeal the issuance or renewal of the temporary denial order, supported by briefs and other material, to an administrative law judge, within 15 working days after the appeal is filed, issue a decision affirming, modifying, or vacating the temporary denial order. The temporary denial order shall be affirmed if it is shown that—

(A) there is reasonable cause to believe that the person subject to the order is engaged in, or is about to engage in, any act or practice which constitutes or would constitute a violation of this Act, or any regulation, order, or license issued under this Act; or

(B) a criminal indictment has been returned against the person subject to the order alleging a violation of this Act or any of the statutes listed in section 503.

The decision of the administrative law judge shall be final and not subject to review by the Secretary, unless provided in paragraph (3). The materials submitted to 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 affirming, in whole or in part, the 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, with 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 that the person subject to the order was engaged in or was about to engage in any act or practice that constitutes or would constitute a violation of this Act or any of the statutes listed in section 503. 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.

(c) LIMITATIONS ON REVIEW OF CLASSIFIED INFORMATION.—Any classified information that is included in the administrative record 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 VI—EXPORT CONTROL AUTHORITY AND REGULATIONS.

SECTION 601. 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) or agency of the United States, all power, authority, and discretion conferred by this Act shall be exercised by the Secretary.

(2) DELEGATION OF AUTHORITY.—In any case in which a criminal indictment has been returned against the person subject to the order, 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 and Commerce, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall assist the Secretary in carrying out the functions of the Department.

(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 of Commerce the following Assistant Secretaries of Commerce:

(A) An Assistant Secretary for Export Administration who shall be appointed by the President, and who shall assist the Secretary in carrying out the functions of the Department.

(B) An Assistant Secretary for Export Enforcement who shall be appointed by the President, and who shall assist the Secretary in carrying out the functions of the Department.

(c) ISSUANCE 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 to such department or agency as the President may designate.

(2) NOTIFICATION TO EXPORT CONTROLLERS.—The Secretary shall consult with the appropriate export control advisory committee
appointed under section 105(a) in formulating regulations under this title. The second sentence of this subsection does not require the concurrence or approval of any official, department, or agency, except the department or agency that 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 appropriate export control advisory committees appointed under section 105(a) in amending regulations issued under this Act.

SEC. 902. 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 502(c)(2) and by section 507(b)(2), information obtained under the Export Administration Act of 1979, or any predecessor statute, on or before June 30, 1980, with respect to the shipment or release for shipment, to the United States, of any item exported or intended for export, or to any location outside the United States or to any officer or employee of the General Accounting Office authorized by law to receive such information, shall be withheld from public disclosure and shall not be subject to disclosure under section 552 of title 5, United States Code, or to any officer or employee of the General Accounting Office authorized by law to receive such information, or to any officer or employee of the General Accounting Office authorized by law to receive such information, or to any officer or employee of the General Accounting Office authorized by law to receive such information.

(b) EXEMPTIONS FROM DISCLOSURE.—No officer or employee of the General Accounting Office shall disclose, except as otherwise provided by subsection (a), any information obtained in making the determination of the national interest.

(c) INFORMATION EXCHANGE.—Notwithstanding subsection (a), the Secretary and the Commissioner of Customs shall exchange licensing and enforcement information with each other as necessary to enforce the provisions of sections 716 of title 31, United States Code, and shall, in addition, be posted in the Office of the Secretary.

(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 or to any extent not authorized by law any information that—

(A) the officer or employee obtains in the course of any investigation, or

(B) is exempt from disclosure under this section.

(2) CRIMINAL PENALTIES.—Any such officer or employee who in good faith, in the course of any investigation, or in the course of any examination or investigation made by, or report or record made to, or filed with, such department or agency, or officer or employee of a department or agency thereof, shall be fined not more than $50,000, 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 or employment.

(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 duration of the fiscal year in which the violation occurs.

(4) a description of the progress made toward achieving the goals established for the Department of Commerce.

(5) an assessment of the costs of export controls.

(6) a description of the progress made toward achieving the goals established for the Department of Commerce.

(7) a description of the enforcement activities, violations, and sanctions imposed under this Act.

(8) a statistical summary of all applications and notifications, including—

(A) the number of applications and notifications pending review at the beginning of the fiscal year;

(B) the number of notifications returned and subject to full license procedure;

(C) the number of notifications with no action required.

(9) summary of export license data by export identification code and dollar value by country;

(10) an identification of processing time by—

(A) top 25 export identification codes;

(B) top 25 export identification codes;

(11) an assessment of the effectiveness of multilateral regimes, and a description of negotiations regarding export controls;

(12) a description of the significant differences between the export control requirements of the United States and those of other multilateral control regime members, and the specific differences between United States requirements and those of other significant supplier countries;

(13) an assessment of the costs of export controls;

(14) a description of the progress made toward achieving the goals established for the Department of Commerce.

(15) 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.

(c) FEDERAL REGISTER PUBLICATION REQUIREMENTS.—Whenever information under this Act is required to be published in the Federal Register, such information shall, in addition, be posted on the Department of Commerce or other appropriate government website.

SEC. 702. 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. 6212) is repealed.

(2) Section 251(d) of the Energy Policy and Conservation Act (42 U.S.C. 6211(d)) is repealed.

(c) ALASKA NATURAL GAS TRANSPORTATION ACT.—Section 12 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 1719) is repealed.

(d) MINERAL LEASING ACT.—Section 28(a) of the Mineral Leasing Act (30 U.S.C. 155(a)) is repealed.

(e) EXPORTS OF ALASKAN NORTH SLOPE OIL.—

Section 28(a) of the Mineral Leasing Act (30 U.S.C. 155(a)) is repealed.
(f) DISPOSITION OF CERTAIN NAVAL PETROLEUM RESERVE PRODUCTS.—Section 7403(c) of title 10, United States Code, is repealed.

(g) OUTER CONTINENTAL SHELF LANDS ACT.—Section 305(d)(4)(B) 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. 2725) is amended—

(A) in subsection (e) —

(i) in the first sentence, by striking “subsections (c), (d), and (e) of section 503 of the Export Administration Act of 2001” and inserting “subsection (a)”; and

(ii) in the second sentence, by striking “the Export Administration Act of 1979” and inserting “title II and title III of the Export Administration Act of 2001’’; and

(B) in subsection (g)(1)(A)(ii), by inserting “or section 503 of the Export Administration Act of 2001” after “1979’’.

(2) Section 39A(c) of the Arms Export Control Act (22 U.S.C. 2779a(c)) is amended—

(A) by striking “subsections (c), (d), and (e) of section 503, section 507(c), and subsections (a) and (b) of section 506, of the Export Administration Act of 2001’’; and

(B) by striking “11(c)” and inserting “503(c)”.

(3) Section 40(k) of the Arms Export Control Act (22 U.S.C. 2780(k)) is amended—

(A) by striking “11(c), 11(e), 11(g), and 12(a) of the Export Administration Act of 1979’’ and inserting “503(b), 503(c), 503(e), 506(a), and 506(b) of the Export Administration Act of 2001’’; and

(B) by striking “11(c)” and inserting “503(c)”.

(i) OTHER PROVISIONS OF LAW.—

(1) the Trading with the Enemy Act (50 U.S.C. App. 5(b)(4)) is amended by striking “section 5 of the Export Administration Act of 1979, or under section 6 of such Act” and inserting “section 5 of the Export Administration Act of 2001’’;

(2) Section 502B(a)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2304(a)(2)) is amended in the second sentence—

(A) by striking “Export Administration Act of 2001’’ and inserting “Export Administration Act of 2001’’; and

(B) by striking “Act of 1979’’ and inserting “Act of 2001’’.

(3) Section 140(a) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656(a)) is amended—

(A) in paragraph (1)(B), by inserting “or section 310 of the Export Administration Act of 2001’’ after “1979’’; and

(B) in paragraph (2), by inserting “or 310 of the Export Administration Act of 2001’’ after “6(j) of the Export Administration Act of 1979’’.

(4) Section 40(e)(1) of the State Department Basic Authorities Act of 1996 (22 U.S.C. 2772(e)) is amended by striking “section 6(j)(1) of the Export Administration Act of 1979’’ and inserting “section 310 of the Export Administration Act of 2001’’.


(9) Section 2332(a)(1) of title 18, United States Code, is amended by striking “section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405)” and inserting “section 310 of the Export Administration Act of 2001’’.


(12) Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking “section 11 (relating to violations of the Export Administration Act of 1979” and inserting “section 503 (relating to penalties of the Export Administration Act of 1979)”.

(13) Subsection (f) of section 491 and section 499 of the Forest Resources Conservation and Shortage Relief Act of 1990 (16 U.S.C. 2602(c) and 630) are repealed.


(15) Section 983(i)(2) title 18, United States Code (as added by Public Law 106-185), is amended—

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

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

and

(C) by inserting the following new subparagraph:

“(F) the Export Administration Act of 2001’’.

(i) CIVIL AIRCRAFT EQUIPMENT.—Notwithstanding any other provision of law, any product that—

(1) is standard equipment, certified by the Federal Aviation Administration, in civil aircraft, and

(2) is an integral part of such aircraft, shall be subject to export control only under this Act. Such product shall be subject to controls under section 310 of the Arms Export Control Act (22 U.S.C. 2778).

(k) REPEAL OF CERTAIN EXPORT CONTROLS.—


SEC. 703. SAVINGS PROVISIONS.

(a) In GENERAL.—Agreements, rules, regulations, orders, permits, determinations, licenses, or other forms of administrative action which have been made, issued, conducted, or allowed to become effective under—

(1) the Export Control Act of 1949, the Export Administration Act of 1969, the Export Administration Act of 1979, or the International Emergency Economic Powers Act which are enjoined, enjoined to continue or maintain and continue the Export Administration regulations, or

(2) those provisions of the Arms Export Control Act which are included by section 310 of the Arms Export Control Act which are enjoined or revoked under this Act or the Arms Export Control Act of 1979, or pending at the time this Act takes effect. Any such proceedings, and any action on such application, shall continue under such Act, as if that Act had not been repealed.

(b) ADMINISTRATIVE AND JUDICIAL PROCEEDINGS.—
Act, the so-called IEEPA. This is generally how we have been functioning throughout this decade with respect to export controls.

I believe strongly that Congress should put in place a permanent statutory framework for the imposition of export controls. They should not be imposed pursuant to an emergency economic authority of the President. It can be done that way. It has been done that way. That is the currently existing way. I don't think that is the most desirable way to proceed. It doesn't give you the most substantial statutory framework, obviously. It doesn't introduce an element of stability and permanency into the arrangements. In fact, I believe strongly that this legislation provides greater protection for national security and foreign policy concerns than is provided under IEEPA or provided under the previous Export Administration Act.

Just one example: The penalties that can be imposed under IEEPA for violations of export controls are significantly less than the penalties that are provided for in the legislation that is before us. Let me repeat that.

Under the arrangement in which the export control regime has been put in place by the President invoking of his economic emergency powers, the penalties for violation are substantially less than the penalties which we provide in this legislation. This legislation is a carefully balanced effort to provide the President authority to control exports for reasons of national security and foreign policy while also responding to the need of U.S. exporters to compete in the global marketplace.

I point out that effective competition by U.S. exporters in the global marketplace, which will strengthen their economic position—that is, the economic position of exporters—and thereby strengthen the economic position of the United States in the global marketplace, also has important national security and foreign policy implications for the United States. In the end, our national security and foreign policy strength rests in part on our economic strength. I think we need to keep that in mind as we consider this legislation.

In preparation for acting on this legislation, the Banking Committee this year held two hearings with representatives of industry groups and former Defense Department officials.

I might note that the committee held extensive hearings in the prior Congress with respect to this issue. So there has been a continual period now, over a number of years, of very careful examination of export controls and how to address this matter. Extensive consultation took place with representatives of the new administration, including the Commerce Department, the State Department, the intelligence agencies, and the National Security Council.

Prior to the markup of the legislation in the Banking Committee earlier this year, Dr. Rice, the Assistant to the President for National Security Affairs, sent a letter to the committee dated March 21 of this year, which I quoted. The Administration has carefully reviewed the current version of S. 149, the Export Administration Act of 2001, which provides authority for controlling exports of dual-use goods and technologies. As a result of its review, the Administration has proposed a number of changes to S. 149. The Secretary of State, Secretary of Defense, Secretary of Commerce, and these changes will strengthen the President's national security and foreign policy authorities to control dual-use exports in a balanced manner, which will permit U.S. companies to compete more effectively in the global market. With these changes, S. 149 represents a positive step towards the reform of the U.S. export control system supported by the President. If the Committee incorporates these changes into S. 149, the Administration will support the bill.

Mr. President, a major effort was made to work through the list of proposals that resulted in those proposals being incorporated into the bill during the Banking Committee's markup. As a consequence, in effect we met the standard that the administration set for us. They were incorporated in the markup.

The administration is supportive of this bill. It has expressed that support on more than one occasion. They have been in constant communication with us about this matter. We are obviously proceeding in accordance with our own judgment, but it also represents the judgment of the administration as well. In fact, in late March President Bush, in speaking to high-tech leaders in the White House, urged quick passage of the bill by the Senate. He reiterated his support in May in a speech he gave in Washington.

In April, the Office of Management and Budget submitted to the Congress a statement of administration policy on S. 149, which said in part:

The Administration supports S. 149, as reported by the Senate Banking Committee. The bill provides authority for controlling exports of dual-use goods and technologies. The Administration believes that S. 149 would allow the United States to successfully meet its national security and foreign policy objectives without impairing the ability of U.S. companies to compete effectively in the global marketplace. As reported, S. 149 includes a number of changes that the administration sought to strengthen the President’s national security and foreign policy authorities to control dual-use exports.

The Administration will continue to work with Congress to ensure that our national security needs are incorporated into a rational export control system.

Pay-As-You-Go Scoring

S. 149 would affect receipts and direct spending. Therefore, the PAYGO requirement of the omnibus Budget Reconciliation Act of 1990 applies to the PAYGO effect of this bill. Final scoring of this legislation may deviate from this estimate.

Mr. SARBANES. Mr. President, I commend Senator GRAMM, who was actually chairman of the committee at the time that we held a Markup forward. And I commend Senator ENZI and Senator JOHNSON, Senator ENZI and Senator JOHNSON, respectively, were the chairman and ranking member of the Subcommittee on International Trade and Finance of the Banking Committee in the last Congress. They carried forward their strong interest in this legislation in this Congress and have played an instrumental role in helping to shape the legislation. I thank them for their very dedicated efforts, and the efforts of their staff which contributed so much to developing a bipartisan consensus on this legislation.

Also, I acknowledge the significant contributions made by Senator BAYH and by Senator HAGEL, who are the chairman and ranking member of the International Trade and Finance Subcommittee in this Congress, for their contributions in moving the legislation forward this year.

The legislation generally tracks the authorities provided the President under the Export Administration Act which expired in 1990. However, a significant effort was made, with the assistance of the legislative council's office, to provide those authorities in a more clear and straightforward manner. We believe this will make the statute both easier for the executive branch agencies to administer and for exporters to comply with.

Finally, by a number of significant improvements to the EAA. I would like to mention 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 disputes while allowing all interested agencies a full opportunity to express their views. This was an important concern to the administration, to the national security community, and to industry. And I believe we have reached a reasonable resolution of this issue in the bill.

One of the things that industry was seeking was a process whereby they would get an ultimate decision. This bill sets out a process of interagency consultation that provides for moving it up to the next level, if there is no agreement, so that it keeps moving forth. In the end, it can reach the President for decision. But at least it works within a framework in which the industry knows that at the end they will get a decision; it will not simply disappear into the great void with no decision forthcoming.

We think this is a very reasonable way to structure the situation. I simply note that it is still reserved to the President, in the end, the ultimate authority to rule on the matter with respect to export controls.

As I mentioned earlier, the bill significantly increases both criminal and civil penalties for violations of the Export Administration Act, reflecting the seriousness of such violations.

The bill also provides new authority to the President to determine that a good has mass market status in the United States. And because it has mass market status— in other words, there is a set of criteria, but essentially generally available in the marketplace—it should be controlled. But the President retains authority to set aside a mass market determination if he determines that it would constitute a serious threat to national security and that controls would be likely to advance the national security interests of the United States.

We have tried to recognize changes that are taking place in the marketplace, to factor them into the thinking, but even so in the last analysis reserving to the President the authority to set aside a mass market determination. I think this is, again, another example of the concern of those of us who have helped to shape this legislation to make sure that we are able to protect national security and foreign policy interests. We are trying to, in effect, accommodate the market changes and the needs of our exporters in terms of participating effectively and competitively in the global marketplace but, at the same time, making sure the President retains the power and the authority that might be necessary, under certain circumstances, to protect our national security interests and our foreign policy interests.

As I have said, Senator Enzi, who has been a very thoughtful and dedicated exponent of this legislation—and in my perception has bent over backwards to try to accommodate concerns in shaping this legislation—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 legislation requires that there be at least three such tiers. The intent is to provide exporters a clear guide as to the licensing requirements of the export of a particular item to a particular country.

The bill would also require that any foreign company that declined a U.S. request for a postshipment verification of an export would be denied licenses for future exports. The President would have authority to deny licenses to affiliates of the company and to the country in which the company is located as well.

Overall, I believe this bill is a very balanced piece of work. As I mentioned at the outset, it commanded overwhelming bipartisan support in the Senate during the strong support of the administration. It is my belief it will receive broad bipartisan support in the full Senate.

In criticizing this bill when it was brought up in this Chamber in April, it was up for 1 day; we had 1 day of debate on the legislation—some of my colleagues registered objections. They thought that the bill tipped the balance towards meeting commercial needs versus national security needs, that it placed too much emphasis on the licensing requirements of the administration. It is my belief it will receive broad bipartisan support in the full Senate.

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I want to take a moment to respond to these assertions because I respectfully disagree with them. First of all, it is very important to note that the alternative to reauthorizing the Export Administration Act is the International Emergency Economic Powers Act.

As we indicated earlier, that is really not a satisfactory framework under which to operate.

This was made clear in letters that Dr. Rice, Assistant to the President for National Security, made to Senator Gramm and myself on August 2. In the course of that letter she stated:

I am pleased that the Senate plans to take up S. 149. Because the current Export Administration Act (EAA) will expire on August 20, 2001, the President is prepared to use the authorities provided to him under the International Emergency Economic Powers Act (IEEPA) to extend the existing dual-use export control program. As IEEPA authority has previously been used to administer our export control programs. Since a new EAA will provide us the strongest authority to administer dual-use export controls, particularly as related to enforcement, penalties for export control violations, and the protection of business proprietary information, we support swift enactment of S. 149.

I look forward to continuing to work with you on these important national security issues.

Sincerely,

CONDOLEENZZA RICE,
Assistant to the President for National Security Affairs.

Mr. SARBANES. Aside from the issue that the Export Administration Act is better than IEEPA, which I think is clear, let me address the assertions that S. 149 would weaken the national security protections in the previous Export Administration Act.

I believe quite strongly that just the opposite is the case, as witnessed by the support the administration and the national security community have extended to this legislation. We have already talked about the civil and criminal penalties for violations of the EAA. The penalties are stronger in this legislation, not only with respect to the existing ones in IEEPA but also with respect to the penalties in the previously existing Export Administration Act.

Let me mention some other provisions that significantly expand the President's authority to impose export controls on dual-use goods and technology in regard to the EAA.

Section 201(c) of the legislation states:

Notwithstanding any other provision of this title, controls may be imposed, based on the gravity or extent of an export of any item, that could contribute to the proliferation of weapons of mass destruction or the means to deliver them.

This authority did not exist in the EAA. It is the so-called enhanced proliferation controls authority which until now has been implemented through an executive order. This provision would give the President broad
statutory authority to impose controls on any export that could contribute to proliferation or delivery of weapons of mass destruction, if there was a concern about the end use or the end user of the export.

Section 201(d) of this legislation, the so-called enhanced controls provision, provides:

Notwithstanding any other provision of this title, the President may determine that applying the provisions of sections 204 or 211 with respect to an item on the National Security Control List would constitute a significant threat to the national security of the United States. The President may, by such item requires enhanced control.

It goes on to say:

If the President determines that enhanced control should apply to such item, the item may be excluded from the provisions of section 201, in whole or in part, until such time as the President shall determine that such enhanced control should no longer apply to such item.

Section 204 is a section on containing parts and components that says you can't put on controls if the parts and components are less than 25 percent of the total value of the export. The President will be given the power, in effect, to ignore that restriction and impose controls. Under the previous EAA, the President did not have the authority to set aside the parts and components or the foreign availability provisions, which is what 211 requires refers to. So this represents a very significant expansion of the President's export control authority.

We have had a lot of discussions about foreign availability, mass market provisions and the President's standards to set aside this authority. It should be clear that this broad basis power, separate and apart from the powers the President has in the foreign availability and mass market provisions themselves, is a very important addition to Presidential authority and one that is vital to our interest to the national security community.

Furthermore, the legislation provides that notwithstanding any other provisions of the act setting forth limitations on the authority to control exports, the President may impose controls listed on a control list of a multilateral export control regime.

This is a very broad authority for the President to set aside all the requirements of the EAA and impose controls on a export that is on a control list pursuant to an international agreement.

This is an important provision because export controls are most effective when they are implemented in concert with the controls of other supplier nations. One of the things we seek to do in this legislation is encourage the development of such multilateral export control regimes. Actually, the majority of items today subject to export controls in the U.S. are controlled by multilateral regimes through four multilateral export control regimes: the Wassenaar agreement, which relates to arms and dual-use items useful for conventional arms purposes; the nuclear suppliers group; the missile technology control regime; and the Australia group, which relates to items useful for chemical and biological weapons. These four regimes form the export controls, and they are obviously an important element for effective non-proliferation.

One of our objectives here, of course, is to work closely with others in further developing multilateral cooperation and the contribution of these regimes to the non-proliferation objectives.

Let me point out, we are constantly encouraging other countries to put in place a thoroughly considered, rational export control regime. We go to other countries and say: We need you to put this in place. We want you to join the multilateral regimes, and we want you to establish your own bilateral control systems so we can get a handle on this problem where we are very supportive of those efforts.

What position does it put our interlocutors and our negotiators in when they go to these countries and then they say, "You don't seem to have established your own regimes?" What is the U.S. regime?

It is another argument for putting this legislation into place so that the U.S. has a fully developed, rational, comprehensive framework dealing with export controls and then, in a sense, try to pull other countries towards it or in that direction in order to enhance the multilateral controls that exist worldwide.

Now one other point I want to underscore is, of course, the regime is designed to prevent exporters from moving out, moving overseas, exports with dual-use technology. When we make the judgment and go through this process, it has a negative effect on our national interests, and of course you are going to have people trying to get around this all the time—some few people.

We have enforcement provisions now that are much tougher. One of the things in this bill is a significant increase in the authorization levels for the Department of Commerce in a whole host of areas in order to try to tighten up the enforcement of this regime. In fact, we have a number of various provisions designed to strengthen our various export controls and to ensure that the resources the Department needs are available to it in order to carry out the provisions of the legislation.

Now most exporters want to comply with the regime. They are not out to try to send abroad technology that can be abused to the harm of American interests. A number of them invest significant amounts of money in trying to comply with the regime's reporting and recordkeeping requirements. So it is important to the export community to have a comprehensive, rational statutory framework. They know, then, what the rules of the game are. I think it encourages compliance; it draws, in a sense, on the business community to help implement this matter. So I think that also represents an important step.

Let me draw a conclusion by once again saying this is a balanced effort to address a complex area of national security concerns that also impact U.S. trade interests. We received just this morning a letter sent to Senator Daschle, the majority leader of the Senate, signed by Secretary of State Powell, Secretary of Defense Rumsfeld, and Secretary of Commerce Evans. Mr. President, I think this letter is of sufficient import that I am going ask unanimous consent it be printed in the RECORD.

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

Hon. Thomas A. Daschle,
Majority Leader, U.S. Senate,
Washington, DC.

DEAR SENATOR DASCHLE: We would like to bring to your attention proposed legislation that will be before you shortly for consideration: S. 149, the Export Administration Act of 2001. This bill addresses the need for export controls, which is very important to the President. He spoke definitively about reforming our export control policies and procedures during his campaign.

Earlier this year, our agencies conducted an intensive review of S. 149, as proposed by Senators Gramm, Enzi, Sarbanes, and John-
son. As a result of our review, we suggested to the Senate Banking Committee make a number of changes to the bill to strengthen the President's ability to control sensitive dual-use goods and technology. The Committee made the requested changes. Accordingly, we strongly support the bill as passed by the Senate Banking Committee.

S. 149 is an important step in our efforts to improve the effectiveness and efficiency of our export control system. S. 149 will provide the President with the authority and flexibility he needs to administer a stronger, updated export control system. The Administration will continue to review our policies and procedures in this area and consult with Congress as we identify any additional necessary changes.

President Bush strongly supports the bill as passed by the Senate Banking Committee and wants to move forward in this important area. We urge you to support S. 149 so that the President will be able to sign a new export control law soon.

Sincerely,

Colin L. Powell,
Secretary of State.
Donald H. Rumsfeld,
Secretary of Defense.
Donald L. Evans,
Secretary of Commerce.

Mr. SARBANES. Mr. President, as we move forward in the debate, I presum-
ably will have a chance to examine in greater detail all the provisions of the legis-
lation. I read the legislation again over the weekend, from start to finish. I must say to you, on this issue I have always been sensitive to the national security and foreign policy arguments. In the past, in considering this legislation, I have thought that some who sort of willy-nilly wanted to remove export controls. I think they have a very important role to play.
I think this legislation substantially strengthens the ability of the President and the administration to exercise export controls on behalf of national security and foreign policy interests. So I very much hope my colleagues will be supportive of this legislation as we move ahead.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. ENZI. Mr. President, I rise in support of S. 149, the Export Administration Act of 2001. Consideration and passage of this bill are essential for the advancement of our national security, our foreign policy, and our economic interests.

I am very excited that today is here. This is the culmination of a lot of effort on the part of Senator JOHNSON, myself, Senator SARBANES, and Senator GRAMM. Almost 3 years ago now, Senator JOHNSON and I, as chairman and ranking member of the International Finance Trade Subcommittee of the Banking Committee, were given the task of looking at the Export Administration Act to see if it could be renewed. It had expired in 1994, and there was recognition that there was a huge gap in our national security. That was brought to light a lot, of course, by the Cox commission, which looked at some of the ways China was stealing secrets from the United States. A very extensive document during the original part of the process was a top secret document, and later a public version was put out; it brought a lot of attention to the issue. There had been 12 previous attempts to renew the Export Administration Act. They had failed. Only one version in the House had even gotten out of committee.

It is an interesting bill because here in the Senate there are 100 Senators who are concerned about national security. There are also 100 Senators who are concerned about the economic interests of the United States. When a bill is balanced, it will have more than 50 percent in favor, but we have found that the way these coalitions merge, there are more than a majority in opposition to everything that has happened. We faced the unique challenge of trying to do what the other 12 bills had not been able to do. To do that, Senator JOHNSON and I went through a process and saw exactly how the whole process worked. We visited each stage of the licensing process. It occurs to me at this moment that there may be people who don’t understand the licensing process. There is a lot of confusion among people about the different licensing processes because there isn’t just one. We are only talking about the Export Administration Act.

The Export Administration Act is different from the Arms Export Control Act. It is a different way of what is controlled. The Arms Export Control Act, of course, handles defense articles and services. The Export Administration Act, on the other hand, handles dual-use products. That could be very confusing. Dual-use products are primarily not used for a military purpose but could have a military purpose. That is the main distinction between the Arms Export Control Act and the Export Administration Act. The move that these two acts is different because the State Department and the Defense Department, of course, have a much greater interest and need to control the defense articles and services. The Commerce Department has jurisdiction over dual-use products provided they are involved with the Department of Defense, the Department of State, and the security agencies, all of which have some voice in the licensing process.

One of the big changes in this bill is the way that licensing process happens so that each of those agencies has a little greater role in being able to object to a license. At any rate, the Republicans and the Democrats on the Banking Committee, the Subcommittee on Export Administration, went through a bipartisan process and worked together to reach a point of balance with a majority of the security folks who are interested in the bill and a majority of the economic interest folks who are interested in the bill. And there is an overlap. That is how it is possible to have a vast majority from both sides. I am pleased to have a bill before us today that, after a lot of changes, I think has reached that point.

I have to thank Senator SARBANES and Senator GRAMM for giving us the opportunity to pursue this. I know it is not the most exciting bill in the world. In fact, some people would say it is an accounting sort of thing, a boring sort of thing. But it is one of the most important bills that will pass. It is just very detailed. That makes it difficult to consider.

Over the last 3 years, a lot of people have looked at this, a lot of people have given suggestions and, in fact, the majority of the opposition have also provided the most opposition have also provided the most change. We have put in 59 changes based on their suggestions for how we needed to increase national security. We have been working with everyone. We are still willing to work with everyone. Of course, the latest one we worked with is the President. The President suggested 16 changes that are also included in the bill.

At this point, we appear to have a balance that still has a vast working majority to pass the bill and I think a bill that will provide national security. Of course, the best evidence that it will provide national security is the President himself. The President has strongly urged the Senate to pass it quickly. I have a chart of President Bush’s support:

In working with the Senate, we’re working to tighten control of sensitive technology products with unique military applications, and to provide economic change in world markets. I believe we’ve got a good bill, and I urge the Senate to pass it quickly.

That was March 28. Later:

During the campaign, I promised to lead an effort to reform our export control system, so that it safeguards genuine military technology while letting American companies sell the that are available. I’m pleased to report the Senate Banking Committee passed a revised EAA, which my administration strongly supports. It’s now time to pass it for the House, so I can sign it into law.

There have been numerous statements by the President. He has had an interest in this bill, clear back to when he was campaigning and this was part of his Web site. Since August 20, we have been operating the International Economic Emergency Powers Act, IEEPA, that was referred to by the chairman of the committee, Senator SARBANES, due to the expiration of the EAA. It is one of those temporary extensions we passed.

Operating EAA under IEEPA is unacceptable. IEEPA applies minimal penalties to exporters of unlicensed technologies and puts confidential business records of the business community at risk of exposure. I want to mention some of the changes in the differences between penalties because that is a big security portion of this bill.

Under criminal penalties, for companies that willfully violate under IEEPA, there is a penalty of $50,000 per violation. Under the old EAA of 1979, which has been extended a few times, there is a $1 million penalty, considerably greater than the $50,000 penalty, or five times the value of the imports, whichever is greater.

Under the bill we are considering, instead of even the $1 million fine under EAA, it will be $5 million per violation or 10 times the value of the exports, whichever is greater.

Persons who willfully violated under the IEEPA would have gotten a $30,000 penalty, or 10 years imprisonment or both. Under the EAA, they would get $250,000 or 10 years imprisonment or both. But under the bill we are considering at the present time, instead of the $250,000, it will be $1 million or 10 times the value of the exports, whichever is greater, or 10 years imprisonment, or both. We have considerably increased the penalties.

Under IEEPA, the penalties are almost the cost of doing business or perhaps less than that. Under the EAA, the amount of the violations has been bypassed by inflation, but that has been easily taken care of in this bill.

Under civil penalties, it is the same situation. Under IEEPA a civil penalty is $10,000, and under EAA a civil penalty is $100,000. Under this bill, a civil penalty will be $500,000.

The last major revision to the EAA came when the Soviet Union was still in existence and considered a threat to our national security. That revision of the EAA of 1979 occurred before the Berlin Wall came crumbling down and freedom was unleashed for the first time in almost a generation for millions of Europeans.
At that time, almost all of the new invention development was also Government funded. Today most of it is done by the private sector which is forging ahead without Government money involved. There is no need to postpone passage of this critical legislation.

The issues surrounding the reauthoriza-
tion of the EAA have been studied and studied and restudied. The Presi-
dent, Secretary Rumsfeld, Secretary Powell, Secretary Evans, and National Security Adviser Condoleezza Rice have endorsed this bipartisan and re-
sponsible legislation.

Here is one of the messages from Condoleezza Rice, National Security Adviser:

The Secretary of State, Secretary of De-
fense, Secretary of Commerce, and I agree that [S. 149 as reported] will strengthen the nation's security and foreign policy authorities to control dual-use ex-
ports in a balanced manner, which will per-
mit U.S. companies to compete more effec-
tively in the global marketplace. S. 149 re-
prents a positive step towards the reform of the U.S. export control system supported by the President.

In listening to the arguments of the critics of this reasonable bill, there seems to be a misunderstanding of what the current law is. If a compari-
sion of the 1979 EAA and S. 149 were made, one would find numerous simi-
larities, as were pointed out by Senator SARBANES, chairman of the committee.

In addition, one would find several new and enhanced national security control authorities included in S. 149 that allow the President to restrict the export of technologies critical to our national security.

Senator SARBANES has covered that in his remarks. Contrary to what the critics would have you believe, this bill is not a radical new approach to export controls or a radical departure from the current export control system. It updates and streamlines certain aspects of the act that are outdated or unnec-
essary but keeps the basic structure of the 1979 act.

There are reasons why this adminis-
tration's national security experts are uni-
formed in their support of S. 149. It builds upon the framework of the cur-
rent law, or the 1979 act, while modern-
izing, simplifying, and streamlining the act and export control processes, again involving all of the people who have been involved in it in the past in this process and the administration to come up with a bal-
anced proposal.

It requires a risk analysis of proposed exports and emphasizes transparency and accountabil-
ity to both the Congress and the Administration. With trans-
parency and accountability, we and the people trying to put products out will have a better opportunity to follow the process and stay within the law.

S. 149 embraces national security and foreign policy export controls even going well beyond the 1979 act in se-
vcral respects. For example, the bill grants to the President special control

The foreign policy export control author-
ities in title III are exercised by the Secretary of Commerce in con-
sultation with the Secretary of State. This is also identical to current law. In addition, the authority for the issuance of regulations is the same as the EAA of 1979.

The Banking Committee determined that a flexible but transparent process was essential to keep the export con-

The bill retains the Presidential set-aside authority in the case of foreign availability determina-
tion, section 212, as well as unlimited set-aside authority for mass market deter-
mation.

These are two determinations. For-
eign availability, of course, is if the same product of the same quality is available from other countries that can compete with our industry and do not have to follow the laws under some very careful criteria that has been outlined in the bill, then they have the right to export those prop-
erties. The President has the right to override it.

Mass market, of course, has already been explained as those items you can go to the store and buy at a relatively low price anywhere in the country, which makes any regulation over their export very difficult. A tourist coming to the country, can go to the store, pick up the item, put it in their suitcase, and take it home. If it is that widely available, then it is very difficult to control.

The purpose of our bill, of course, is to build a higher fence around fewer items and really concentrate on those things that can be controlled and need to be controlled and put more effort and resources into it. The general au-
thorities contained in the bill are entirely consistent with the cur-
rent law. The bill requires concurrence with the Secretary of Defense for iden-
tifying which items are to be included on the control list for national security purposes.

There are three stages to this. There is a control list which gives people an idea of what kinds of items need to be licensed. There is a country tiering system. This is the one that evaluates countries. Most of the countries are named specifically, but the Presi-
dent, in cooperation with the experts that he has, would rank these people through three tiers from bad to good, with a whole bunch in the middle, which all have different rights to access things on the control list based on their sensitivity. Then, of course, if it has to be licensed, it has to go through a licensing process.

So we are talking about concurrence of the Secretary of Defense for identifying items to be included on the control list for national security purposes, and this is consistent with current law.

The multilateral export controls need to be more emphasized. We used to have a process, a regime, called COCOM, and it was a mandatory group of our allies that under agreement would eliminate
exports on which they agreed across the board.

After the fall of the Berlin Wall, COCOM disappeared. We have a process called Wassenaar now, the Wassenaar Arrangement, which is more of a voluntarist than COCOM. Section 501 of this act urges the President to undertake efforts to strengthen or build upon multilateral export control regimes.

I had the distinct pleasure of serving as a cochair with Senator Bingaman and Senator Corzine on the congres- sionally mandated Study Group on Enhancing Multilateral Export Controls for U.S. National Security. The study group, with the assistance of the Stimson Center, came to the conclusion that re-form of the export control system is vital to U.S. national security objectives. Now we recommend that the U.S. should seek to improve the Wassenaar Arrangement with the long-term goal of merging existing multilateral regimes.

Additionally, the study group rec- ommended that the U.S. should reform its export control laws to build confidence and support among allies and friends for improving multilateral ex- port control regimes. The provisions in S. 149 are consistent with these recommendations and should help guide the administration as it seeks to strengthen the multilateral efforts and arrangements so we do not unnecessarily punish U.S. firms with unilateral controls.

Finally, and importantly, the bill greatly enhances enforcement. It sub- stantially increases criminal and civil penalties for violators, and I went through some of those differences between what happens with the Execu- tive order we are under now and the previous EAA of 1979 and the present one. It adds new resources for enforcement activities including an ad- ditional $50 million for end-use checks.

It strengthens postshipment verifications, checking to see if the product actually went where the product was supposed to go.

By targeting resources to exports in- volving the greatest risk rather than focusing solely on computers—there are other things out there that need to be checked on—this puts more money into the checking and targets those things that create the greatest risk to the U.S. as a whole.

The Banking Committee took a tough stand on violators of postshipment verifications. We do not believe we should reward those entities that deny postshipment verifications. Therefore, the bill requires the Secre- tary to deny licenses to end users that do not allow postshipment verification for a controlled item. That is pretty well nailed down with the company involved, any subsidiaries of the company. I think it keeps them from getting around any provision of the law.

It strengthens postshipment verification, which is something that needed to be done.

In conclusion, I offer a couple of quotes from a general and a former Na- tional Security Adviser, Brent Scow- croft. On June 8, 2001, when the Center for Strategic and International Studies publicly released its report on com- puter exports and national security, the Center’s Brent Scowcroft said that some seem chained to the same policies that are largely not useful, and that there is a natural bureaucratic tendency to cling to the current rules.

As we consider S. 149, I urge my col- leagues to be general Scowcroft’s comment and do the right thing and support passage of the Export Ad- ministration Act of 2001. Export control issues have been intensely re- viewed and all the results of the stud- ies come to the same conclusion. It is best for Congress to reauthorize the EAA now. The Senate should act now and pass this bill.

I express thanks to the chairman, Senator Sasser, and Senator Corzine. I serve on this, Sen- ator Johnson, and the new chairman and ranking member of the Sub- committee on International Trade and Finance, Senators BAYH and Hagel who have done a great job.

I would be remiss if I did not mention some of the staff people: Katherine McGuire; my legislative director, Amy Dunathan; the Banking Committee staff, Joel Oswald, who used to be on my staff. There was a 3-year time and there has been some transition. Paul Nash, Naomi Campbell, and Marty Gruenberg have done a tremendous job working around the clock in putting together this bill. They have been good at coordinating our efforts so we could get together with everybody.

As I mentioned, we are still willing to talk to anybody about any of the provisions but think that a bill has been put in place now that has some balance to it. Of course, 16 changes we have made on behalf of the President incor- porated a number of issues that some of the security chairmen had been con- cerned about. We think we have a bill that should and can be passed.

I yield the floor.

Mr. JOHNSON. Mr. President, I rise today in support of S. 149, the Export Administration Act of 2001. It is dif- ficult to overstate the urgency of reau- thorizing EAA, which expired on Au- gust 20. We are now operating under the International Emergency Eco- nomic Powers Act, an improvised ex- port control measure that has weak en- forcement powers and that has been challenged in the courts. President Bush and his national security team have repeatedly urged Congress to pass S. 149, and I rise today to urge my col- leagues to do just that.

S. 149 is both a national security and a trade bill. It is one of the best exam- ples that I have seen of a law that ac- counts for the vast geopolitical and commercial changes of the past decade and at the same time provides flexi- bility for the continued changes we must expect over the coming decades.

The Export Administration Act has seen no major revisions since 1985. Since that time, the Soviet Union has collapsed, the cold war has ended and a new world order, including new threats, have emerged. At the time the political landscape has changed dra- matically, so too has the commercial landscape. A global marketplace for goods, services and technology has de- veloped, and once unimaginable tech- nological advancements are now avail- able on a widespread scale. The high- tech sector is largely responsible for the remarkable change in our access to computers and the Internet, and we must take great care not to jeopardize that economic vitality.

I have spent the last few years work- ing on EAA with my colleagues across this aisle. When we started this effort, Senator Enzi and I were, respectively, the ranking member and chairman of the International Trade and Finance Subcommittee of the Banking Com- mittee. From the beginning, we have had full support of Senator Sasser, Senator Gramm, and I am hard pressed to recall a situation in my 15 years in Congress where a biparti- san team was completely cohesive. There is a reason why our team of unlikely bed- fellows has held together so well, and the reason is that S. 149 is a very good bill.

I believe in this bill. I believe it will help our nation. It will strengthen our national security. It will create an en- vironment that promotes further tech- nological advancement and fosters eco- nomic vitality. And it provides a struc- ture that can grow and change into the future.

S. 149 creates a new framework for export controls on dual-use items. By target- ing enforcement efforts on problem areas, this more focused approach is just good, common sense. S. 149 will make exporting other items much easier, make exporting other items much more difficult. As Representative Cox has said, “We ought not to have ex- port controls to pretend to make our- selves safe as a country. We ought to have export controls that make us safe.” At the same time, S. 149 will impose real costs and penalties on those who vio- late the law. Some violators will serve prison terms along with their hefty fines.

While no one has more respect than I do for the deliberative process that al- lowed the Senate to arrive at that thoughtful and responsible laws, I am struck by the irony of today’s debate. I under- stand that several of my distinguished colleagues will object to reauthoriza- tion of EAA on the grounds that S. 149 will somehow compromise our national security. They will urge us to delay passage of EAA in the interest of our national security. They will demand further study before we move forward.
with S. 149, which has nearly unanimously supported both industry and gov-
ernment, including the national security committee. I look forward to hearing from those colleagues because I am having some difficulty understand-
ning how delaying passage of EAA does harm to our national security.

Our national security, I must remind my colleagues that EAA has expired.

We are operating under IEEPA and will continue to do so until we enact S. 149. This is the real national security threat.

The argument that S. 149 comprom-
ises our national security is, I be-
lieve, based on a false premise. That premise is that national security and a
strong export economy are incompat-
ible. In fact, our national security de-
pends on a strong export economy and America's continued leadership in the
high tech field. I agree with the way Senator GRAMM framed the question last year:

Is our security tied to being the leader in technology, or is it tied to our ability to hold onto the technology we have and not share it with anybody?

Clearly, our security is tied to being the leader in technology, and security experts agree.

As Dr. Donald A. Hicks, former Under Secretary of Defense for Research &
Engineering and chairman of the De-
fense Science Board, Task Force on
Globalization and Security testified before the Banking Committee on Febru-
ary 14, 2001:

Today, the "U.S. defense industrial base" no longer exists in its Cold War form... DoD is relying increasingly on the U.S. commercial, advanced technology sector to push the technological envelope and enable the Department to "run faster" than its com-
petitors. DoD is not a large enough cus-
tomer, however, to keep the U.S. high-tech sector vibrant. Exports are now the key to growth and good health. ... If U.S. high-
tech exports are restricted in any significant man-
ner, it would have a stifling effect on the U.S. military's rate of technological advancement.

Without a vibrant high technology sector, our national security will suf-
fer. And without the ability to export dual-use items, the high tech sector will simply not be able to support our national security needs. We must not lose sight of this critical point.

This is not to say that we should never restrict exports of our goods, services or technologies. On the con-
trary. In fact, S. 149 is largely about estab-
lishing the most effective mecha-
nism for restricting the export of dual-
use items that pose a potential na-
national security or foreign policy threat.

Based on recommendations from experts, including the Cox Committee and the WMD Commission, S. 149 takes a risk-based approach to export control. This approach is sen-
sible, and allows resources to be used where they are most effective.

More specifically, S. 149 targets ex-
port controls on those items and des-
tinations that the U.S. determines to pose the greatest risk to national secu-

A useful way of thinking about the right approach was voiced by Dr. Hicks before our committee. He said the U.S. "must put up higher walls around a much smaller group of capabilities and tech-
nologies."

We on the Banking Committee iden-
tified two categories of exports whose control does little to enhance our na-
national security, and the control of which could in fact undermine our se-
curity interests by endangering Amer-
ica's technology leadership. We deter-
mind that it is best to heed the wise counsel of former Secretary of Defense and National Security Advisor Frank Carlucci that "we should do only that which has an effect, not that which simply makes us feel good. . . ."

Based on this principle, we concluded that there is little national security benefit derived from controlling U.S. items if substantially identical items can be acquired from foreign sources or if such items are produced and available for sale in large volume to mul-
tiple purchasers. For these reasons, we created the so-called "foreign avail-
able" and "mass market" exceptions to export controls.

Specifically, the foreign available ex-
ception acknowledges that unilateral control on items that are readily avail-
able from foreign sources are ineffec-
tive, and in fact may be counter-
productive. The Defense Science Board-
Task Force on Globalization and Secu-

Today, 99.4 percent of all export appli-
cations are approved. This leads me to believe that the current system is not ade-
quately, how modest, how unsatisfactory a
factor the penalties in as a cost of doing business. That is how inade-
equate, how modest, how unsatisfactory the current regime, both under the old 1949 act and under IEEPA are. A com-
pany that willfully violates export laws today is liable for a mere $20,000 per violation—chicken feed. Under S. 149, that company would pay a minimum penalty of $5 million per violation, and could owe significantly more. Individ-
uals who willfully violate the law will also owe a minimum penalty of $1 million and could serve up to a 10-year prison sentence. Civil penalties for any viola-
tion of export law range from $10,000 per violation under IEEPA to $500,000 per violation under S. 149.

My colleagues in both the Senate and the House, my colleagues, reau-
thorization of EAA is critical to our nation's interests.

We are now operating under a grossly inadequate emergency control system, IEEPA, and that situation will not change until the enactment of S. 149. Our situa-
tion is urgent. Under current law, ex-
porters face anemic penalties for viola-
tions, and in fact the entire structure

positional security or foreign policy
interest.

One other aspect of the bill worthy of note involves how risk management techniques can be used to target our export control resources. First, the bill's system builds in controls for technological and political change by imposing a risk analysis requirement on any new restrictions.

In addition, S. 149 establishes a country tiering system that assigns items and countries to tiers according to their potential threat to U.S. na-
national security. This flexibility to clas-
sify items and countries can better prod-
uct will be highly effective in targeting our efforts. In addition, a new Office of Technical Evaluation would be estab-
lished in the Department of Commerce to assess, evaluate and monitor techno-
dological advances and developments. And fi-
nally, S. 149 places a great emphasis on post-shipment verification resources of exports posing the greatest risk to U.S. national security.

As a final matter, I would like to dis-
cuss the role of penalties in S. 149. Under the 1979 act, and especially under IEEPA, which we currently oper-
ate under, penalties are modest from any perspective. In fact, penalties are modest enough that businesses intent on violating our export laws simply factor the penalties in as a cost of doing business. That is how inade-
equate, how modest, how unsatisfactory the current regime, both under the old 1949 act and under IEEPA are. A com-
pany that willfully violates export laws today is liable for a mere $20,000 per violation—chicken feed. Under S. 149, that company would pay a minimum penalty of $5 million per violation, and could owe significantly more. Individ-
uals who willfully violate the law will also owe a minimum penalty of $1 million and could serve up to a 10-year prison sentence. Civil penalties for any viola-
tion of export law range from $10,000 per violation under IEEPA to $500,000 per violation under S. 149.

My distinguished colleagues, reau-
thorization of EAA is critical to our nation's interests.

We are now operating under a grossly inadequate emergency control system, IEEPA, and that situation will not change until the enactment of S. 149. Our situa-
tion is urgent. Under current law, ex-
porters face anemic penalties for viola-
tions, and in fact the entire structure

...
is vulnerable to court challenge. Until we pass EAA, we do indeed face a national security crisis.

In addition, we must not lose sight of the impact our export control system on dual-use items could have on our high tech sector and the American economy that achieved unprecedented growth largely as a result of high tech innovations. In addition to creating wealth for our citizens, new technologies have enhanced our national security by giving us a competitive edge over our own security systems. The bill before us does nothing to compromise our security. On the contrary, S. 149 takes a common sense approach to export controls that significantly enhances our national security and economic vitality.

S. 149 is bipartisan, and has the strong support of the administration, the national security community, and business organizations.

This morning, our chairman, Chairman Voinovich, requested that I submit for the RECORD the most recent letter expressing support for the passage of this bill from President Bush, Secretary of Defense Rumsfeld, Secretary of State Powell, Secretary of Commerce Evans, and the National Security Adviser Condoleezza Rice previously indicated her support for this bill—not the concept but this bill.

I thank many of the extraordinary effort they have given to the creation of this legislation. This kind of legislation has the support of Republicans and Democrats. It passed the Senate Banking Committee on a vote of 19–1. It has the support of the administration as well as the Senate.

A lot of significant work ought to be credited to Marty Gruenberg of Senator SARBANES' staff; Amy Dunathan of Senator GRAMM's staff; Katherine McGuire of Senator ENZI's staff; Joel Oswald, Senator ENZI's former Banking Committee counsel; Shaw Nash, my former Banking Committee staffer; Naomi Campbell of my staff; and certainly Senator BAYH of Indiana and Senator HAGEL of Nebraska have made significant contributions as well to the furthering of this legislation.

This legislation has been reviewed by the Bush administration. They state in their letters there is intensive review of S. 149. They express their strong support. I express my strong support. It is my hope that this debate will proceed in an expedited fashion and that we will very quickly pass this legislation by the overwhelming bipartisan margin it deserves, and that it will go to the President who asked that it be presented to him for his signature.

I yield to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. THOMPSON. Mr. President, I would like to address S. 149. I believe my colleagues who have spoken are correct in that they have substantial support for this legislation. I do not doubt they have a majority of the Democrats and a majority of the Republicans. I do not doubt they have the support of the administration. My understanding was that the President made a campaign statement or commitment with regard to this issue during the last campaign. President Clinton made that commitment during his campaign for President.

The President had a group of high-tech executives to the White House, just as President Clinton did, to promote this bill. My colleagues are correct in that the President now supports essentially a continuation of the Clinton policy with regard to the liberalization or loosening of our export controls law. I disagreed with it when President Clinton was President. I disagree with it now.

While we need an Export Administration Act and while we need to take into consideration commercial circumstancs and conditions in the world, I think the balance between our national security interests and our commerce interests is not there.

This is not really a bill, as I think about it, that is supposed to balance as it should be. It is a very specific purpose. It is consistent with our export administration process that we have had for decades in this country. It is based on the notion that there are some items we need to try to keep out of the hands of some people for as long as we can. The most ardent proponents of liberalized trade restrictions, of course, would acknowledge that. We have the so-called rogue nations, and we have the so-called allies. We know that we should not let any of this high-tech stuff get through. If we were really in a world where the technology genie were totally out of the bottle, I suppose we would not bother ever making distinctions between really bad countries and pretty bad countries and friends because it would be out there for all to have. This is based on the proposition that is not the case, that there are some things controllable and that we should try to keep these things out of the hands of some entities and some countries for as long as we can.

When you look at the purpose of the act we are dealing with today, I think it correctly states that the purpose is about national security export controls, it is not about enhancing exports. In fact, you might say it is kind of anti-export. I think the norm is and should be that this country is for free trade. I certainly have tried to be one of those who, if I think the President ought to have trade promotion authority, I think we need to do more in that area. I think it is the basis for a large segment of our economic security and prosperity in this country.

We had a debate with regard to a section of NAFTA recently. I think most of us are very committed to the process. But the fact that we have an export administration process and an Export Control Act acknowledges the fact, that, be that as it may, there are some things that bring in extremely serious national security considerations.

I refer to S. 149. It says the purposes of this act are to restrict the export of items that would contribute to the military potential of countries so as to prove detrimental to the national security of the United States. It further says the purpose is to stem the proliferation of weapons of mass destruction. It doesn’t really talk about a balance of those grave and primary considerations that we all must acknowledge, are, more than anything else, against some commercial considerations. Here we are talking about what I think our total exports to these control countries, which are about 3 percent of our exports. So we are talking about a small fraction—3 percent of our exports as balanced against what I just described in the act.

I am not for some kind of equipoise, or some kind of a balance, when it comes to these things. We shouldn’t control things that are uncontrollable. We shouldn’t be foolish about it. But we are going to have to have a process that is not weighted or prejudiced in any way by those whose interest it is to get things out the door, whose interest is to export, whose interest is to come to the White House and come to Congress and get a whole lot more and more and more exports for economic reasons. You don’t have the average man on the street with a lobbying team coming up here saying be very, very careful about how you liberalize our export control laws because we are concerned about what is going on in the world in terms of proliferation.

The world has changed a lot. We should look at these matters from time to time to see whether or not we are operating in the right century. We don’t have the old Soviet Union anymore. We don’t have the threat that posed. But in its place are several new threats which, in many cases, are more dangerous than the ones we had.

We examine now, for the first time with the development of technology, weapons of mass destruction can now kill many, many more people than they otherwise could. There are ways of delivering weapons of mass destruction that did not exist a short time ago to countries such as the United States.

We have biological weapons that stagger the imagination with the description of the devastation that just a small amount of it can again, accompanying that with the means to deliver them, the means that did not exist a short time ago. That is the other side of the technological coin, the technology that has helped us in so many ways and has made the world a better place. That can wreak woe. Perhaps, there is nothing we can do about it. But in some cases, to some extent, there is something we can do about it.
Therein lies what we are trying to deal with here with regard to our export administration policy; that is, being very careful in making sure, with regard to the things we can have some control over, even if it is just to slow down the bad guys with our export policy in our national security ill, that it is a good thing to do. If we are not willing and committed to doing that, regardless of what it does to trade in a certain segment of exports, then we should not have an export policy at all; we should not have any export restrictions at all. I do not think we are there. I do not think that anyone would advocate that.

But it concerns me to hear that my colleagues think by passing this bill we are in some way enhancing our security. We are not. You can make a case that it is out of balance the other way, that we are trying to control things that are uncontrollable, and it is hurting our exports to the extent we need a new law. I disagree with that strongly, but you can make that case. But I do not think you can have your cake and eat it, too.

I do not think you can liberalize trade so people do not have to have licenses or have things that are dangerous stuff while at the same time claiming you are enhancing national security. It is just not the case. And it is not as if I have the answer as to where to draw the line. It is not as if my colleagues have the answer as to where to draw the line. Reasonable export controls that do not do any more harm than is necessary but protect us to the extent possible: It is very difficult to draw that line.

What is important is that we have a process because that line has to be drawn every day. There are thousands of applications—15,000 to 20,000 applications—for exports on an annual basis. We must have a very carefully thought-out process where respected people, in all objectivity, with requisite expertise, have an opportunity to pass on these things and make those judgments. That is what this is all about: whether or not we are setting up the right responsible framework, not to be so irresponsible that we shut things down, but, on the other hand, that we recognize that the world is a much more dangerous place, that countries have the ability to harm us and harm our allies directly, and countries indirectly, that we do this immediately, more so than ever before, and that we must do what is reasonably necessary to keep these things out of the hands—as the world’s leading manufacturer in the creative genie behind most of the advanced technology that is going on in the world in so many areas now, that we have a stewardship, we have a responsibility to use that in a proper and correct way.

As I said, it may be difficult to draw that line, but we must have a procedure, if it is to err, on the side of national security. Because even the bill, as drafted, points out that this is the purpose of the Export Administration Act. This is the fundamental purpose of an Export Administration Act. So does this act take into consideration sufficiently the matters of national security? And does it take into consideration sufficiently the matters of commerce?

If we are going to talk about balance, let’s talk for a minute about the side where we have our concern, the things that we are trying to address. In many different ways this is just a part of an overall process recognizing we live in a more dangerous world. But while realizing that genie is out of the bottle, we are trying to—through our policies, through our diplomacy, and through our policies—mitigate somewhat the danger that we see.

As I have stated, because of the proliferation of weapons of mass destruction, the world is a more dangerous place in many respects than ever before. Numerous reports have confirmed that a ballistic missile strike on the United States is not a distant but an imminent threat. The Rumsfeld report, published in July of 1998, concluded that emerging ballistic missile powers such as Iran and North Korea could strike the United States within 5 years of deciding to acquire missile capability.

Shortly after that, North Korea surprised our intelligence agencies by successfully launching a three-stage rocket over Japan, essentially confirming that they, along with Iraq, Syria, Libya, and others, can strike our allies and our troops stationed abroad today. In September of 1999, the national intelligence estimate of the ballistic missile threat concluded that the United States would “most likely” face ICBM threats from Russia, China, North Korea, and possibly from Iran and Iraq over the next 15 years, and that North Korea could deliver a light payload sufficient for a nuclear warhead and missiles capable of striking the United States right now. It has also said that some rogue states may have some ICBMs much sooner than previously thought, and those missiles would be more sophisticated and dangerous than previously estimated.

The classified briefings are even more disconcerting. Perhaps the most alarming report from these commissions and intelligence sources is that, desperately, the United States’ lax export controls are contributing to the proliferation of weapons of mass destruction by global bad actors—our own export policies. The Cox commission concluded that U.S. export control policies have facilitated, rather than impeded, China’s ability to acquire military-useful technology. The Rumsfeld commission has said the U.S. export control policies make it a major, albeit unintentional, contributor to the proliferation of ballistic missiles and associated weapons of mass destruction.

There you have it. I do not know how it can be stated much plainer than that and with more authority than that; that we have a serious problem on our hands and that our own policies are contributing to that problem.

Nowhere is it more clear than in the case of China, which is really the country that stands to benefit from changes to our export control laws the most, and, ironically, is also the country of greatest proliferation concern. China was described by the Rumsfeld commission as a significant proliferator of ballistic missiles, weapons of mass destruction, and enabling technologies. The PRC has sold missiles to Pakistan, missile parts to Libya, cruise missiles to Iran, and shared sensitive technologies with North Korea. All these actions have occurred despite the PRC’s public assurances and commitments to several international proliferation regimes.

Within the last few days, this Government sanctioned a Chinese company again for transferring missile components to Pakistan. Even more disturbing is that many of the items that China is proliferating to rogue nations around the world may have been legally acquired from the United States. The Cox commission notes that China has deliberately taken advantage of our lax export enforcement policies to further its proliferation efforts. China has illegally diverted or misused many sensitive dual-use technologies or items to further their military modernization. In January of 2000, the licensing threshold for high-performance computers was 2,000 MTOPS. In January of 2008, the licensing threshold was 75,000 MTOPS, a fortyfold increase in a 12-month period.

(Mr. NELSON of Nebraska assumed the chair.)

Mr. THOMPSON. As the Cox committee points out, no threat assessment was ever conducted. As we have seen the rapid decontrol of supercomputers in this country to countries such as China, under the notion that, while the threshold was 75,000 MTOPS, they will get it from somebody else anyway, the defense authorization bill in 1998 required that if we are going to do this rapid decontrol of our computers, that we do a national security assessment as a part of that, because the real bottom line is, we don’t know what the effects of this rapid decontrol are. We don’t know what the significance to national security is.

We operated for a long time under the notion that it was very important—and the Cox committee will bear this out—to try to keep the supercomputers at a certain level out of the hands of Russia and China and countries with which we use them for nuclear simulation, their stockpile enhancement programs, things of that nature. We have totally changed our view about that based on no study, based on anecdotal comments by people who come and testify before these committees who have a direct or indirect interest in companies or represent companies that are interested in
exporting in many cases—not all of them, but many—time after time. We have not really had any in-depth study or analysis by this Government as to what the effect of this substantial change in our policy is to our national security.

I am not saying I know the answer. I rest assured that no one else, even in this body, has the answer. It is extremely complex, but it is extremely important. I know of no other change of such importance in that short period of time that has undergone less assessment. That is one of the things we should address.

The PRC diverted and used these American supercomputers to improve their nuclear weapons. The Cox commission notes that in 1992, U.S. satellite manufacturers transferred missile design information to the PRC without obtaining the legally required license, and China used that information to improve the reliability of its rockets.

We are all familiar with the Hughes-Loral problem. I noticed the report in the Wall Street Journal the other day that Loral apparently is about to cut a deal with the State Department and Justice and still have permission to go ahead and launch Chinese rockets in the future, going back to their business. I will be interested in comparing the amount of that civil fine with the profit they make over the subcontracts and how they have in their deals with the Chinese.

In 1993, China diverted six high-precision machine tools it obtained from McDonnell-Douglas and used them to manufacture military aircraft and cruise missile components. Just months ago we learned that Chinese technicians were installing fiber optic cable for Iraqi air defense in violation of U.N. sanctions. This fiber optic system is based on U.S. technology sold to China.

According to published reports, we have discovered twice that companies in China were assisting Saddam Hussein with regard to his antiaircraft capability, which is what this fiber optic cable is used for; in order to help him shoot down our aircraft in the no-fly zone. There have been over 300 incidents where Saddam's troops have shot at our aircraft over that no-fly zone. I hope and pray they never hit one. I hope if they do, they don't discover that the technology used to shoot that airplane down did not originally emanate from the United States of America. I would not want to be the one to try to tell the mother of that pilot who was shot down: 'Ma'am, we are sorry about your son, but they probably could have gotten this ability from someone else if we hadn't given it to them.'

The Cox commission informs us that China pursues a deliberate policy of using commercial contacts to advance its efforts to obtain U.S. military technology. The commission states that China uses access to its markets to induce U.S. businesses to provide military-related technology and to lobby on behalf of liberalized export standards, a policy that has had significant success.

We see from the Rumsfeld report, the Deutch commission, the CIA and other reports, the nature of this threat and the fact that it is based on technology, in some cases where we are certainly the leader. We know that a lot of this proliferation activity from the U.S. appears to occur whether or not their assistance comes from China. We claim we need a missile defense system. I believe we do because of the threats these rogue nations present to us. They, in turn, are getting their capability in significant part from countries such as China and Russia. We simultaneously, with all of that liberalizing of our export laws, make it easier to sell high tech items and equipment to China and Russia. That does not make sense.

Where is the balance? What do we balance that against? What is the concern—that our export licensing procedure is too onerous? It is not like we are stopping these exports. As was said, 99 percent of them are approved. It is just the ones that are disapproved that are so important to our national security. It is not like we are trying to stop a great many exports because we are not. We are trying to have a procedure where we are more likely to not let something important slip through the cracks.

Let’s be clear about how much business is at stake. The total value of goods subject to export controls in 1998 was approximately $20 billion, less than 3 percent of U.S. exports. The fact that an item is controlled does not mean that it can’t be exported. It only means that it has to go through a review process. The overwhelming majority of them are approved.

But what this legislation does is take certain categories, incorporated parts, mass marketing, foreign availability, and says, with regard to those items, with regard to those matters, if someone within the bowels of the Department of Commerce essentially decides that they fit into these categories, you don’t have to have a license at all. You don’t have to go through that process. It decontrols those matters and takes them outside of the regulatory process altogether.

They say the President can stop it. We will talk about that in a minute.

First of all, let’s understand what we are doing here. In the past there was no such animal as the one I just described. In the past, foreign availability was legitimate as a consideration, and it ought to be. When the licensees looked at the matter, if there was foreign availability, that was something they could take into consideration in issuing the license. Now it is taken out of their hands. If someone in the evaluation team, decides that there is foreign availability, it doesn’t even come through the process anymore.

Mass marketing is a whole new concept. Mass marketing was not even used, that concept was not even used in prior administrations.

Now I am sad to say that the embedded component was, but it makes less sense. If you have a controlled item and it is put into an item that is bigger and worth more, that is not controlled, that makes the item that is controlled decontrolled. Of course, all an importer has to do, in some cases, is to buy the larger item and take out the item that perhaps he wants, which is the embedded part.

If it is significant from a national security standpoint before it goes into the larger item, it is significant from a national security standpoint after it is put into it. What does money have to do with it? What is the fact that it is or is not 25 percent of the price of a larger item? Of what significance is that? Especially from a national security standpoint. That makes no sense whatever.

So when we talk about building higher walls around fewer things, point out the higher walls to me. When we talk about making it more difficult to export some things, making it easier for some and harder for others, somebody point out to me the things that this bill makes it more difficult to export.

This legislation provides broad and sometimes exclusive authority to the Secretary of Commerce on important procedural issues such as commodity classifications, license and dispute referrals, license exemptions, and development of export administration regulations.

I have a lot of faith in our new Secretary of Commerce. I think he is a fine man, excellent choice, and is doing a great job. But the fact remains that the mission of the Department of Commerce is to promote exports. We used to criticize Secretary Ron Brown for his export policies and getting items changed from one list to another to make it easier to export, and things of that nature. The Commerce Department simply doesn’t have the personnel and expertise to protect national security. It should not have to. That is not their job. Somehow we have set it up this way.

We are letting the tail wag the dog. If national security concerns ought to be given adequate consideration in an export decision, the Departments of State and Defense must be given greater authority and a greater role in this process. This legislation doesn’t do that. Really, to the contrary, it increases the authority of the Department of Commerce.

I don’t go over the few things here, and keep in mind, first of all, the purposes of this bill, the stated purposes of this bill. I didn’t hear it discussed much
when we were talking about the details of it. I think it is probably the most important part:

To restrict the export of items that would contribute to the military potential of countries so as to prove detrimental to the national security of the United States.

And also:

To stem the proliferation of weapons of mass destruction.

That is the stated purpose. Whose job is it to do that? Well, we are going to give it to the guy who is in charge of commerce and trade, the Department of Commerce.

Look at some of these areas. The Secretaries of Commerce and Defense must concur in order to add items to the control list. While this is an improvement over the previous draft of S. 149, which left sole discretion to the Department of Commerce, S. 149 still gives the Department of Commerce a veto over the Department of Defense if the Secretary of Defense believes an item should be controlled on the national security control list.

Secondly, on commodity classification, the Secretary of Commerce has sole discretion over classifying items when exporters make commodity classification requests. These classifications will then become required license or not and are particularly critical for new technologies. Commerce must notify Defense, but it is not required to solicit any input.

What about the interagency dispute resolution? Well, S. 149 gives the Secretary of Commerce sole authority to select a chairperson of, and determine procedures for, the interagency committee to review license applications. The chairperson considers the positions of all the reviewing agencies but then makes the final decision on the license application. The only role of the Department of Defense is to provide a position, and additional levies of review are resolved by a majority vote.

What about foreign availability and mass marketing? The Secretary of Commerce has sole authority to determine whether items are foreign available or mass marketed. He must consult with other agencies, including the Department of Defense. Since items determined to be foreign available and mass marketed are automatically removed from the national control list and decontrolled, this authority to Commerce essentially creates a loophole—anything that leaves the Department of Defense’s veto over removing items from the national security control list.

What about issuing regulations? The Department of Commerce and the President have the authority to issue regulations. These regulations are submitted for review to any department or agency the President considers appropriate, but the legislation explicitly notes that the requirement to submit the regulations for review doesn’t require the occurrence or approval of any reviewing department.

Finally, the catch-all provision in S. 149 provides that unless otherwise re-
parties supporting it, that is a pretty fair indicator. I understand that. But for some time now, starting back a couple of years ago, the chairman of the Intelligence Committee, the chairman of the Foreign Relations Committee, the chairman of the Armed Services Committee, the chairman of the Governmental Affairs Committee, and the chairman of the Commerce Committee, along with Senator KYL, the Governmental Affairs Committee, the chairman of the Armed Services Committee, the chairman of the Governmental Affairs Committee, and the chairman of the Commerce Committee, along with Senator KYL, the chairman of the Armed Services Committee, the chairman of the Governmental Affairs Committee, and the chairman of the Commerce Committee, along with Senator KYL, the chairman of the Armed Services Committee, the chairman of the Governmental Affairs Committee, and the chairman of the Commerce Committee, along with Senator KYL, have tremendous foreign investment pressures that are being brought to bear and based on campaign commitments that were made. It is not in the best long-term interests of this Nation. I do not think any of us can say for sure to what extent it is not or in what way our security might be harmed, but we are concerned that the process is not properly weighted. We are concerned that if we are going to err, we err on the side of national security. We have an agreement, for example, with the country of China. What we are talking about is a procedure where, more likely than not, we can stop from making one substantial mistake. We should not back end load this process and put all that responsibility on the President, if he or his people are fortunate enough to catch something on which those who, with good intentions, just simply do not have the expertise to make a call.

That is what we are concerned about. So I hope in the rush to get this bill approved and passed, which will eventually happen, we will have an opportunity to get some fair considerations for some amendments. I would over haul this whole bill if it were left up to me, but I am just responding to the votes. I am not going to stand in the way any longer. We have held this up now for a couple of years, and we cannot do it any longer. The votes are too great, and I see that. We could not filibuster; we were forced to proceed. Surely we can consider some amendments that just as an example might give us a bit more time to an agency to review a complicated export request based on the potential impact of the product. Perhaps we have only 30 days. Thirty days is fine for most things, but they ought to be able to have 60 days, if they need it, for the complexity of the analysis or if the reviewing agency requires additional time based on the potential impact of export on national security, a bit of additional time under those circumstances.

I hope we consider an amendment requiring the Secretary of Commerce to refer commodity classification requests to the Secretary of Defense and the Secretary of State. The current draft of the bill requires the Secretary of Commerce to notify the Secretary of Defense of commodity classification requests, but there is no referral, and the Secretary of State is not even required to be notified.

That is a prudent addition, an improvement, and one that would have unanimous consent of all the reviewing agencies on a license application. The Cox committee recommended that. It can still be taken up and ultimately approved if need be, but if the Department of Defense, for example, objects and no one else does, or the CIA or whoever, should that not require their sign-off? As to postshipment verification, S. 149 says the Secretary of Commerce may deny licenses to countries that deny postshipment verification, although it says the Secretary shall deny licenses to particular end users. I suggest we add to that language that the Secretary of Commerce shall deny licenses to countries. Why do we mandate denying a license to an end user that will not let you verify it but leave it discretionary with the Secretary of Commerce to deny to a country that will not let you verify, when in many, if not all, of these cases it is a country policy?

We have an agreement, with the country of China. If we are being denied the right to go in and do our postshipment verification, it makes no sense to blame it on a company. It is the country that is denying us. So why should we make it mandatory on a company but discretionary with the country that is calling the shots?

As to foreign availability, the definition of “foreign availability” requires only that an item or substantially identical or directly competitive item be available to control countries from sources outside the United States in sufficient quantities at a price not rea sonably higher than domestic. This definition does not speak to relative quality. In other words, if it is out there, if other countries can supply it but if it is not the same quality as that of the United States, and it is potentially dangerous weapons, something that can potentially be used for military purposes to a country of some concern, would we not want to take into consideration the fact we are liberalizing or loosening our standards because they have access to a similar item even though it is not of the same quality as our item? We ought to consider that carefully.

The deemed export issue, the definition of “exports” in S. 149 includes transfers of items out of the country or transfers of items within the country with the knowledge and intent that a person will take the item out of the country, but it does not cover any transfer of technology to a foreign national.

I have had a concept of deemed exports in this country for a long time, and that is if you give a foreign national the same kind of controlled information that is sent abroad, it ought to operate under the same rules if it is the same information because of the potentiality of it getting back, and we know that happens.

Under the current definition of the statute, the Secretary of Commerce has discretion over whether to control deemed exports. I do not think the Secretary of Commerce ought to have that discretion.

Now my concern here is that there has been pressure from the business community to eliminate the deemed export requirement altogether, and S. 149 includes language stating it is the committee’s understanding that the administration will be reviewing the deemed export process with a view toward clarifying its application. I do not have any idea what that means. What I think is being done by the administration to work to get rid of this sucker, but we need a deemed export rule and we need it to be mandatory.
September 4, 2001

CONGRESSIONAL RECORD — SENATE

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We had hearings and heard countless hours of testimony about what was happening in our National Laboratories when we were concerned about the information was getting out, and we saw the thousands of hours and thousands of people who were coming in from other countries who had access to information. Private industry was doing much better than the Government, but our own Government people were not submitting the necessary documentation for deemed exports to tell our foreign experts, the technology; it benefits our own economy; we need that interplay. But it is common sense to protect yourself a little bit. We need to do that.

There are others we might consider, but those are some I hope within the next couple of days we have the opportunity considered in some detail with an idea toward tightening it up some, and making it so when we leave this, having passed it, we have not unwittingly done something that made it more difficult in the operation of this process. It all sounds pristine when we describe it.

It goes here and here and here, and then someone has this right and the other fellow has the other right and these thousands of things that come rushing through, but in actual application it is quite a different story. That is not the scheme of the legislation.

I point out to my colleague we are looking now on the export community, in effect, to become an active partner in trying to maintain the controls and support the regime. The freight forwarders are an integral aspect of the export process. This provision is important. We go on to $1.5 million to hire new investigators to be posted abroad in order to verify the end use of high-risk dual-use technology; $5 million for the end-use verification program. That is in addition to the authorization I was just talking about. The station overseas investigators. There is $5 million for upgrading the computer licensing and enforcement system within the Department of Commerce; $2 million for additional license review officers, and $2 million to train license review officers, auditors, and investigators. That is a total of $22 million in additional enforcement programs. It significantly boosts the budget by about 50 percent. We are talking about a 50-percent increase in the commitment of resources.

I yield the floor.

THE PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBADES. Mr. President, I will take a few moments to make a brief response to my able colleague from Tennessee. I know the distinguished Senator from Wyoming also wants to speak.

Much of what was contained in my colleague’s statement I agree with regarding concerns and how to address them. I think there are basic differences of perception of this bill and what it does. As I said at the outset, I am frank to say I think the bill provides greater protection for national security and foreign policy interests than either the previous Export Administration Act or the regime in place under IEEPA.

In my opening statement I didn’t have the material at hand and I made reference to the significant improvement in the commitment of resources for enforcement which is extremely important in any regime. You can have a nice paper regime, but you do not have the resources for enforcement it does not have any reality. I will go through those quickly.

Beginning on page 296, we have a number of provisions of additional resources for enforcement programs. I want those in the RECORD because I think they are important: $3.5 million additional authorization to the Department of Commerce to hire 28 additional employees to assist U.S. freight forwarders in developing and implementing on a voluntary basis, a “best practices” program to ensure that exports of controlled items are undertaken in compliance with this act.

We are signed now on the export community, in effect, to become an active partner in trying to maintain the controls and support the regime. The freight forwarders are an integral aspect of the export process. This provision would be very important.

If they all agree it will be issued; if they all agree it will be issued, if they all agree it will be issued, if they all agree it will be issued; if they all agree it will be issued, if they all agree it will be issued, if they all agree it will be issued, if they all agree it will be issued, if they all agree it will be issued, if they all agree it will be issued, if they all agree it will be issued; if they all agree it will be issued, if they all agree it will be issued, if they all agree it will be issued, if they all agree it will be issued.

What do you do if they differ? If they differ and you require unanimity for issuing the license, in effect, it is blocked at that level. What this arrangement provides is that you can continue to move forward, but an appeal can be taken to the next level and to the level beyond that and eventually to the President for a determination. I think that is a much fairer process. It is a more transparent process and that means the exporters at least will get a decision and will not simply disappear into the great void where they are left without any decision.

Much of what has motivated the business community is the argument that “we need to know, we need a judgment.” If we can’t do the license, let us know we cannot do the license within a limited period of time and we will go on about our business in other ways. If we can do the license, let us know within a period so we are in the bidding or competitive process in terms of trying to land this contract.

I don’t think we can go from the majority requirement to us being right where we are. One of the old problems we have confronted is an impediment and a burden on trade without making a contribution to national security that can’t be achieved according to the procedures in this legislation. It is not as if we say if there is a majority decision at the lowest level, that decides the matter. That only begins the process and the Department that has been outvoted can appeal the matter and take it up the line. It seems to me that is a much more sensible way in which to proceed. I think one of the things this bill provides to industry, which I think they
are reasonable in seeking, is a defined process within a limited time period that in the end gives them an answer, yes or no. But it gives them an answer.

That is an improvement over current arrangements where they may well be simply sitting there with problems. It is reasonable to expect the Government decisionmakers and the Government process to work in such a way that in the end they get a decision.

One of the premises on tightening up is that if you have foreign availability or mass market, that you are not contributing in any significant way to stemming the spread of technology by inhibiting it because it is available from other sources generally available. So it seems sensible to try to take those goods and services out of the surveillance as a starter. We do not do that anywhere near completely because in both instances we provide authorities whereby that can be suspended.

The reason we have the double President's authority for example, on foreign availability—is the part in the foreign availability section is designed to get the executive to try to negotiate and arrive at a multilateral restraint. This technology is available, foreign availability, so it could be acquired through comparable technology. If that is so, we are saying to the President: You should try to see if you can negotiate an agreement. We have the three 6-month periods, the 18-month period, in which, in effect, that authority, in effect, comes to an end. But we have the general catch-all authority which enables the President to, in effect, limit or control it or prohibit it on the basis of the general authority.

The mass marketing does not have that. He can keep rolling that over, if he chooses. But, in any event, he has this reserve power under the enhanced control that enables him to deal with parts of packages. It enables him to deal with foreign availability. It enables him to deal with mass marketing in which, in effect, a very, very broad authority and power has been committed to the President. That is one of the reasons it seems to me clear that the administration and the various officials are supportive of this legislation.

We are trying to improve the process, provide some certainty in how it works, make sure the private sector gets answers, and at the same time, reserve to the President the ultimate authority to make control decisions based on national security and foreign policy interests. So I think the basic scheme, the basic arrangement is one that, in fact, works, has been adequately with national security and foreign policy interests than either the existing regime under IEEPA or the previous Export Administration Act.

Mr. THOMPSON. Will the Senator yield?

Mr. SARBANES. Surely.

Mr. THOMPSON. I would appreciate a clarification on comparing the Presidential set-aside on foreign availability with the enhanced controls; the former section, section 212, and enhanced controls is under 201.

I will ask a question in a moment. I know the Senator knows that under section 211, if he determines that failing to control an item would constitute a threat to the national security, the President can set aside the Secretary's determination of foreign availability. Then it requires the President to negotiate an agreement, to the Secretary has described. It requires the President to notify Congress that he has begun such negotiations. The President shall review a determination at least every 6 months and notify the committees. Then, 18 months after the date, the determination is made; if the President has been unable to achieve an agreement to eliminate foreign availability with these other countries he is negotiating with within the 18 months, then the set-aside is lifted. But when you combine over here to enhanced controls, it seems to give the President broad authority to lift the application of provisions of, in this case, foreign availability.

I take it from what the Senator said a moment ago he thinks with enhanced controls the President would still be required to enter into the negotiations with foreign countries, for example. And, if so, which of these other provisions of section 211, if the agreement—presumably the cutoff would not apply, the 18-month cutoff.

I am a little curious, if the President has enhanced controls, you would think that would obviate all of these other reporting conditions and negotiation requirements and things of that nature because that 18-month requirement certainly would be obviated, and it would make the requirements under the set-aside unnecessary. Mr. SARBANES. Will the Senator yield or give me his view on that? There is a lot of legislation here. I have referred to it once. We will have an opportunity to discuss it.

Mr. SARBANES. I understand exactly what the Senator is referring to. The Presidential set-aside of foreign availability status determination, which is section 212, is designed to encourage the President, in a foreign availability issue, to achieve, if possible, a multilateral agreement, if so, the enhanced controls refer to 212. If the President determines that applying the provisions of section 204 or 211—

Section 204 is the parts and components section. "Incorporated Parts and Components," is section 204. Section 211 is, of course, the "Foreign Availability and Mass-Market Status" section—

the President may determine that applying the provisions of sections 204 or 211 with respect to an item on the National Security list would create a significant threat to the national security of the United States and that such item requires enhanced controls. The President's enhanced controls should apply to such item, the item may be excluded from the provisions of section 204, section 211, or both until such time as the President shall determine that such enhanced control should no longer apply to such item. The President may not delegate the authority provided for in this section.

That is a pretty far-reaching authority. We seek the President's determination on that. Then the only report is, the President shall promptly report any determination described in paragraph 1 along with specific reasons for the determination to the Banking Committee in the Senate and the International Relations Committee in the House.

Mr. THOMPSON. Will the Senator yield for a moment?

Mr. SARBANES. Surely.

Mr. THOMPSON. Will the Senator yield?

Mr. SARBANES. Sure.

Mr. SARBANES. I understand that the Senate was reading under enhanced control that it refers to control 204, incorporated parts, 211, which has to do with the determination of foreign availability along with mass marketing. But it does not refer to 212. Enhanced control does not refer to 212; it refers to 211, which has to do with making the determination of foreign availability, but it does not refer to 212, which has to do with Presidential set-aside. It enables the President to lift the application under 211 foreign availability, and section 213 defines how the President can set aside mass market status determinations, both of which are in section 211. So 211 sets out these things, and then 212 and 213 provide the Presidential carve-out from the requirements of 211. This isn't relevant. The President invokes section 201(d) because 201(d) in effect negates section 211. So there is no reason to go to the carve-outs in 212 or 213. The President doesn't have to invoke 201(d). And he can do the carve-outs according to 212 and 213, depending on whether it is foreign availability or mass market.

Mr. THOMPSON. I see what the Senator is saying. If you are assuming that the determination made by the Secretary of foreign availability and the President's decision to set that aside would have significance, I am wondering whether or not there could be a situation where that would not be the case, that a determination could be
made of foreign availability by the Secretary. The President doesn’t have anything to do with that. Then at a later date the President makes a determination that this is not working out very well and he wants to use his enhanced authority. But enhanced authority today refers to 212, which gives him the right to set aside which foreign availability would subsume.

Mr. SARBANES. No. I don’t want to bring in 201(d) under 212 or 213 because 201(d) is over and above 212 and 213. This is a tremendous authority to do so. It belongs to the President. It is over and above. If you subsumed them under, then you would be creating problems.

Mr. THOMPSON. That gets to my second point, if I may. I go back to my original question. If that is the case, then why is the section under 212—the set-aside that has to do with the President’s actions in the case of set-aside, which has to do with pursuing negotiations with foreign governments, notifying the citizens of that negotiation, the notification of Presidential set-aside—if the President did in fact decide to use his enhanced control authority, why would any of that be applicable? Certainly the exploration of the Presidential set-aside would not be applicable. Or would it?

Mr. SARBANES. Why do you have it at all? It is a reasonable question. Here is the answer as I perceive it. You are trying to set up a framework and a regime in the way of proceeding. As a general proposition, for the sake of transparency, for rationality, for understanding in the export community what is being done, the sort of standard way of proceeding, so to speak, on both foreign availability and mass marketing would be to follow the procedures in 212 and 213 which have been worked out and are designed, as I said, certainly in the case of foreign availability, to accomplish the objective of trying to develop multilateral negotiations.

So this is the process you set out to be followed. Conceivably, that is the process which, generally speaking, the executive branch would pursue. But in a sense, in an abundance of caution, with respect to national security and foreign policy interests, we give the enhanced control power to the President contained in 201(d). There he doesn’t have to go through these notices. He doesn’t have to go through these procedures. He is not bound into a time-frame.

But you don’t simply do that. If you just did that and nothing else, you would have, in a sense, sort of a process without any sort of standards or review.

We have a process of standards and review. But then we go on to say, as I said, with an abundance of caution, that in any event the President can exercise the 201(d) authority. That is essentially to take care of the argument—actually, I think the Senator used the phrase earlier in his statement about unintended consequences.

This is really to foreclose any unintended consequences in sections 212 and 213 by giving the President this broad authority contained in 201(d) on enhanced controls.

Mr. THOMPSON. I think that if you are getting down to is that if a foreign availability determination has been made, the President has the discretion of operating under 211, going through the notice requirements, going through the consultation requirements, and going through the negotiation with the foreign government—Mr. SARBANES. It is 212.

Mr. THOMPSON. Yes. Mr. SARBANES. It is not 211?

Mr. THOMPSON. That is correct. But he may not proceed linearly. When a determination is made of foreign availability, if he at the outset wants to use his enhanced control authority under 201, he may do that. Then none of the provisions having to do with 212 would apply. Would that be consistent?

Mr. SARBANES. Yes. The President could do that. Generally speaking, the President would use 212 and 213 in addressing foreign availability and mass marketing, because that is the process, as I spelled out, that has certain benefits the flexibility. But he would not have to do that. He could invoke 201(d). That is why I said earlier in my opening statement that I thought this legislation gave very significant authorities to the President to make decisions about national security and foreign policy interests, and it is one of the reasons that I think the administration, after very careful review of this legislation, is so supportive of it.

Mr. THOMPSON. I thank the Senator.

Mr. SARBANES. I yield the floor.

The PRESIDING OFFICER (Mrs. CLINTON). The Senator from Wyoming.

Mr. ENZI. Madam President, I will make brief comments while my colleagues are preparing to speak.

I am pleased we have had the opening statements that we have had so far, and particularly I am pleased with this colloquy we have just had which shows that we have built some supreme authority into the Presidential position that gives the President the right to trump the other provisions that are in the bill but that still puts a process in place which we hope will be followed because foreign availability will definitely bite us if we do not work with other countries to control it.

Mr. SARBANES. Right.

Mr. ENZI. That is why we are concentrating on the multilateral control as opposed to the way we have been doing it which is the unilateral control. Unilateral control does not work. Every report shows that.

I also thank the Senator from Tennessee for his comments about the commission that was chaired by Mr. Rumsfeld and while those things have concluded to—and I would confirm—that Mr. Rumsfeld has on weapons of mass destruction. Of course, one of the reasons that I am very willing to point that out is to reemphasize the letter that we had printed in the Record this morning from the Secretary of State, Colin Powell, the Secretary of Defense, Donald Rumsfeld, and the Secretary of Commerce, Donald Evans, which today, and I believe to us, that shows the support of these three Secretaries for S. 149. It isn’t a hedged support; it is a very specific support. We appreciate the expertise of Mr. Rumsfeld in the area of weapons of mass destruction and, while these dual-use items, he gives the same level of credence to our bill as to his report.

Another fine line that needs to be pointed out is that in our bill one of the things we did not do was turn the process over to the bureaucrats. We turned the process over to the elected officials. We went to the power at the top. The reason we did that is because there is a tendency among bureaucrats to pigeonhole things, to avoid decisions and it avoids decisions. That is why we put some of the time limits that are in here in here. But there is, at any step of the process, the capability of stopping the whole process. And that is also built in this bill.

Mr. THOMPSON. Would the Senator yield for a moment?

Mr. ENZI. Yes.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. THOMPSON. I am supposed to be a witness in the Judiciary Committee. I wonder if I could be allowed to lay down an amendment before I leave the Chamber.

Mr. ENZI. I appreciate that. I was hoping we would get to amendments. I yield for that purpose.

AMENDMENT NO. 1481

Mr. THOMPSON. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. THOMPSON] proposes an amendment numbered 1481.

Mr. THOMPSON. I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To modify the exceptions for required time periods)

On page 222 strike lines 16 through 18, and insert the following:

(A) AGREEMENT OF THE APPLICANT; COMPLEXITY OF ANALYSIS; NATIONAL SECURITY IMPACT.

(B) AGREEMENT OF THE APPLICANT.—Delays upon which the Secretary and the applicant mutually agree.

(C) COMPLEXITY OF ANALYSIS.—The reviewing department or agency requires more time due to the complexity of the analysis, if the additional time is not more than 60 days.

(D) NATIONAL SECURITY IMPACT.—The reviewing department or agency requires additional time because of the potential impact
on the national security of foreign policy interests of the United States, if the additional time is not more than 60 days.

Mr. THOMPSON. Madam President, the amendment I have offered makes a small but significant change in the license application review process.

This amendment allows executive branch agencies such as the Department of Defense or the Department of State that are reviewing licensing applications to extend the time available for 60 days to review the license if the analysis involved in reviewing the license is complex or based on the potential impact of the export on the national security or foreign policy interests of the United States. This amendment should not be controversial. The amendment is simple and easy to understand and, in my view, it is very hard to oppose. For example, if the Department of Defense is reviewing a license application that includes the extension of the export of dual-use technologies, it could be able to get additional time if the analysis is complex or if the export presents particularly sensitive national security concerns.

This change is small but very important. The House International Relations Committee accepted this amendment unanimously by voice vote in its recent markup of the Export Administration Act of 2001. And this amendment reflects a recommendation made by the Cox commission on U.S. National Security and Military/Commercial Concerns with the People’s Republic of China. The Cox commission concluded that U.S. export control policies and practices have “facilitated the PRC's efforts to obtain militarily useful technology.” One of the issues the Cox commission discussed was the fact that in 1999, the U.S. controlled dual-use technologies that are controlled under our export control process, it should be able to get additional time if the analysis is complex or if the export presents particularly sensitive national security concerns.

The commission said that these new deadlines placed national security agencies out of the way. The commission said that these new deadlines placed national security agencies under “significant time pressures.” It concluded that the time allowed for completion of licenses was “not always sufficient for the Department of Defense to determine whether a license should be granted, or if conditions should be imposed.” The Cox commission recommended:

With respect to those controlled technologies and items that are of greatest national security concern, current licensing procedures should be modified ... to provide lifelong when deemed necessary by any reviewing Executive department or agency on national security grounds.

The current version of the legislation contains strict time restrictions. Reviewing agencies, such as the Department of Defense, the Department of State, or the Department of Energy, have 30 calendar days to provide a recommendation to the Department of Commerce. If they do not provide a recommendation within 30 days, the applicant can indicate that they wish to do so. I just wanted to set out the procedure.

Mr. THOMPSON. Madam President, I ask my colleagues also that if, by chance, after reviewing this, we could come to an agreement on this amendment, I will tell the leadership that we would have another amendment which we could vote on at 5 o'clock. So, we would still have a vote at 5 o'clock, as the leadership wishes.

Mr. SARBANES. Does the Senator from Tennessee have a total list of amendments he is thinking of offering so we can put these amendments in context? That helps to make a judgment as to whether we are simply unraveling carpet step by step or whether there is a finite picture we can look at to make some determination.

Mr. HELMS. It is so ordered. The Senator from North Carolina has the floor.

Mr. HELMS. Madam President, I ask unanimous consent that it be in order to S. 149, the pending Export Administration Act of 2001.

Mr. HELMS. Madam President, I ask unanimous consent that at a time after some minutes of this bill I be recognized to be heard for 30 minutes on this bill.

Mr. HELMS. Madam President, I ask unanimous consent that it be in order for me to deliver my remarks seated at my desk.

Mr. THOMPSON. Yes.

Mr. SARBANES. A number of Members have gotten in touch with us and have indicated they wish to do so. I just wanted to set out the procedure.

Mr. THOMPSON. Mr. President, I ask my colleagues also that if, by chance, after reviewing this, we could come to an agreement on this amendment, I will tell the leadership that we would have another amendment which we could vote on at 5 o'clock. So, we would still have a vote at 5 o’clock, as the leadership wishes.

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Mr. HELMS. It is so ordered. The Senator from North Carolina has the floor.

Mr. HELMS. Madam President, I ask unanimous consent that it be in order for me to deliver my remarks seated at my desk.

The PRESIDING OFFICER. The Senator from North Carolina has the floor.

Mr. HELMS. Madam President, I ask unanimous consent that it be in order for me to deliver my remarks seated at my desk.

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

Mr. HELMS. Madam President, I feel obliged to voice my strong opposition to S. 149, the pending Export Administration Act of 2001.

I do this because this bill does not protect the national security of the American people. It does not control the export of our most sensitive dual-use technologies. It does not promote U.S. foreign policy.

Instead, this is an indiscriminate trade promotion bill, and I am obliged to state that I am troubled by the fact that this bill, S. 149, was written in fact by theBush administration to maximize future sales to Communist China, and to other such countries that represent the highest risk of technology diversion and proliferation.

Make no mistake about it, this legislation will enable dangerous regimes around the world to arm themselves through the use of the best dual-use technology America has to offer.
This bill’s sponsors argue that because the cold war is over, the world is a much safer place and that we need to rid ourselves of outdated export controls that inhibit trade and harm the economy. These Pollyannas could not be more mistaken.

As the ranking Republican on the Foreign Relations Committee, I feel obliged to make clear that I hold a very different view. It is a view based on years of experience in foreign policy and national security matters, and sharpened by ongoing intelligence assessments. My view is shared by the other ranking members of the national security committees of the Senate, that is why we have joined together in opposing this legislation.

The fact is, despite the fall of the Soviet Union, the world is actually a far more complicated and dangerous place due to the proliferation of weapons of mass destruction and ballistic missiles. During the past 30 years alone, the number of countries pursuing nuclear weapons programs has doubled, the number of countries pursuing ballistic missile programs has tripled, and more than 50 countries are working to develop nuclear weapons. State sponsors of terrorism, have offensive biological and chemical weapons programs.

Even worse, this activity is being fueled by Russia and Communist China, two members of the United Nations Security Council who are illicitly selling to rogue countries the dual-use technologies so critical to their weapons of mass destruction and missile programs.

For years, some other Senators and I have cautioned the Senate about these growing threats; we have argued forcefully for a national missile defense system to make the United States less vulnerable to an attack itself. But missile defense cannot alone keep us safe. What we desperately need, and don’t have, is a comprehensive strategy that ranges from a stringent export control system to rigorous espionage and technology—which was prohibited in export administration regulations that is why we have joined together in opposing this legislation.

In the past year and a half alone, Communist China illegally used U.S. supercomputers to improve its nuclear weapons. And just a few months ago, we learned that Chinese technicians were installing fiber optic cable for Iraq’s air defenses, a clear violation of UN sanctions. Worse yet, this assistance and technology—which was provided to Chinese companies by American businesses firms when the previous administration mistakenly decontrolled this equipment—must emphasize “over”—the objections of the National Security Agency in 1994—has been of great help to Saddam Hussein in his quest to shoot down American pilots.

Seven months ago, a CIA report made clear that China continues “to take a very narrow interpretation of their non-proliferation commitments with the United States.” Just recently, we learned that the Communist Chinese government is continuing to ship missile parts, and components to Pakistan despite Beijing’s pledge in November 2000 to stop all such transfers and set up an export control system.

Consistent with this bill by the Senate sends all of the wrong signals, wrong messages, to China. It reminds Beijing that the United States is all too willing to place profit before principles.

Let me address some of the major elements of this legislation that have convinced me that its passage will seriously jeopardize the national security of the United States.

To begin, no one—and I repeat no one—has conducted a thorough national security risk assessment to determine the possible impact of this bill’s sweeping changes on our national security. Rather, many have blindly accepted the anecdotes and assertions of industry as the basis for changes in the bill.

Second, this bill does not adequately cover “deemed exports,” more commonly understood as the transfers of sensitive technology from one person to another within the United States. Under this bill, the information and know-how passed to visiting scientists and others does not appear to be illegal.

Third, this bill creates a new licensing exemption category called mass marketed items, which allows companies to produce their products off of the control lists, notwithstanding the sensor is sensitive. If an item is widely available in the United States, the bill’s authors argue that it shouldn’t be controlled.

Fourth, when coupled with a new definition of foreign availability that for sale by claiming that they are needed as spare parts for medical equipment; this is what Iraq tried as recently as 1998.

Fifth, despite the fact that the purposes of the EAA is to safeguard our nation’s security, the various advisory committees and consultative requirements placed on the administration in the bill do not require that national security concerns be included, while labor organizations and the business community are clearly mentioned.

Sixth, this legislation prohibits export controls on sensitive equipment if they are incorporated into more expensive commercial items or if the controlled item in shipping overseas for final assembly. In other words, despite the national security importance of an item, whether or not it’s controlled depends on some degree on its relative monetary value and where it is produced. So if a special airborne navigation or radar system requires a license when exported individually, a license would be a much safer place and that we need to rid ourselves of outdated export controls that inhibit trade and harm the economy. These Pollyannas could not be more mistaken.

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Fifth, despite the fact that the purposes of the EAA is to safeguard our nation’s security, the various advisory committees and consultative requirements placed on the administration in the bill do not require that national security concerns be included, while labor organizations and the business community are clearly mentioned.

Sixth, this legislation prohibits export controls on sensitive equipment if they are incorporated into more expensive commercial items or if the controlled item in shipping overseas for final assembly. In other words, despite the national security importance of an item, whether or not it’s controlled depends on some degree on its relative monetary value and where it is produced. So if a special airborne navigation or radar system requires a license when exported individually, a license would be
made considerable changes to the bill that address many of the concerns my colleagues and others have raised in the past. For example, the Banking Committee will argue that: Penalties for violations of this Act have not been raised in order to punish violators and deter others. While this is true, this bill also raises the evidentiary standard for illicit transfers. Moreover, raising penalties doesn’t make much difference when fewer items are being controlled, or when enforcement procedures—such as the mandatory conduct of post-shipment verifications on high-performance computers—are stripped from the law.

An Executive order will be issued to cover deemed exports, give the Department of Defense more visibility and a larger role in the commodity classification process, and strengthen the voice and role of other agencies. However, to date, a draft of the Executive order has yet to be provided for review. But the significance of these measures, doesn’t it make sense to make these changes part of the law?

It doesn’t make sense to control mass marketed items that can be purchased at Radio Shack and carried out of the country. The problem with this argument is that if items were controlled, they wouldn’t be available for purchase at Radio Shack. But beyond that, acquiring widely available items illegally denies end-users the parts, maintenance, and servicing agreements essential to their long-term operation. Since most licenses are approved anyway, requiring a licensing only harms U.S. companies by slowing them down. The fact is, DoD and the intelligence community benefit greatly from the opportunity to look at and understand complex dual-use items before they are shipped abroad, and the licensing data provides an important audit trail that is useful for conducting cumulative effects analyses and other follow-ups. This bill addresses all of the major findings and recommendations of the Cox commission report. Upon closer examination, many of the Cox commission’s conclusions are not addressed, but are simply explained away. For example, the Cox commission recommended that the government conduct a comprehensive review of the national implications of exporting high-performance computers to the PRC, yet S. 149 does away with that requirement. The Cox commission also recommended that current licensing procedures be modified to provide longer review periods when deemed necessary by any reviewing department or agency on national security grounds, and require a consensus by all reviewing departments and agencies for license approval. Unfortunately, S. 149 also fails to fully adopt these proposals as well.

The Wassenaar arrangement is a weak multilateral regime that fails to control many dual-use items to the advantage of our European partners. It is true that Wassenaar is an inadequate agreement, but it is also true that the U.S. government has contributed to its weakness by making changes to our export control laws that seemed to undercut our Wassenaar partners. But rather than decontrol, we should follow up on President Bush’s statement that we need a stronger regime—closer to what we had under COCOM—to prevent the proliferation of sensitive dual-use items to rogue states. The United States is giving up its leadership role on this issue and walking away from years of progress in the export control and nonproliferation field.

Finally, some have argued that failure to pass S. 149 will result in economic harm to our country and the loss of thousands of U.S. jobs. These claims ignore the fact that, according to the Congressional Research Service, controlled exports represented less than 2 percent of total U.S. exports in 1998. And since over 80 percent of all licenses are approved, only a few billion dollars in sales were lost due to denied licenses—an extremely low percentage of the United States’ $10 trillion GDP. These numbers also demonstrate that while exports are being controlled—and mainly to embargoed countries or those at high risk of diversion, such as China—American firms are not losing out to foreign competition. Industry has not wanted the U.S. government reviewing the export of sensitive dual-use items, even if it is for national security purposes. If current licensing procedures are cumbersome for business, then the solution is to improve the efficiency and operations of the export process, not decontrol sensitive items simply to avoid the process altogether.

Despite all of these dubious arguments by the drafters and supporters of this legislation, S. 149 is its fundamental refusal to recognize that sometimes the United States must go it alone to make a point. The structure of S. 149 fails to take into account the ability of the U.S. to lead other nations by demonstrating self-restraint and a commitment to principle. It restricts the U.S. ability to control exports unless other nations are already doing likewise, or can be guaranteed to do the same in the near term. I do not believe in the contrived arguments of those who say if you can’t beat them, join them. Industry reasons that if America cannot stop rogue states from acquiring weapons of mass destruction, then why should we be ceding market share to our competitors? They say that the United States cannot stop dictators or communist governments from denying their people certain basic rights and freedoms, so why not conduct business as usual with them?

Well, that is not the American way. Americans do not support profit at any price, especially if that price is our national security or our moral dignity. The American people will not support the prospect of fueling our economy by selling sensitive technologies to tyrants and potential adversaries. This is what we witnessed in the eight years of the Clinton-Gore administration, and it is time for this type of nonsense to stop.

We don’t need another eight years of intelligence reports that are leaked to the press, outlining in great detail how America is using new technology to improve its armed forces; how Russian and Communist Chinese entities are transferring American technology to rogue states around the world; how American security, interests and our allies have been jeopardized, and how it is completely legal thanks to the Export Administration Act of 2001.

Rather, the Senate should follow the wisdom and course of the House International Relations Committee. Under the leadership of Chairman Henry Hyde and Tom Lantos, the HIRC was able to pass, with overwhelming bipartisan support, numerous amendments—similar to the ones my colleagues and I will offer this week—that put national security back into this legislation.

While the United States does need a new Export Administration Act, the bill should protect our national security, not jeopardize it at the expense of marginal increases in trade. The bill should give every government department a role commensurate with its expertise and responsibilities. And the bill should send the right message to our allies, friends and potential adversaries.

I will offer this week—that put national security back into this legislation.
of us who have concerns about the legislation need not be concerned. The Senator from Wyoming made the further point that in this case we didn’t want to turn this matter over to the bureaucrats so we gave the authority directly to the President. I appreciate the sentiment behind those vows. There is a problem with them however. That is, the President, with all of his other responsibilities, can’t be expected to exercise this authority without the help of the so-called bureaucrats, without the help of a staff.

I have in my hand just a partial list of the commerce control list items. It specifically says at the top: This index is not an exhaustive list of the controlled items.

I haven’t bothered to count these. There are hundreds and hundreds of items. I don’t know how many pages. It is single spaced, and there must be 60 or 80 items per page and probably 20, 30, 40 pages of an awful lot of items that could be the subject of the export regulations that are the subject of this bill. It would be impossible for the President to devote to the list and intelligently deal with it. In fact, it would be bad public policy for us to require that the President be the only person permitted to exercise the authority. Yet that is exactly what this proposed legislation does.

A provision of the section being discussed that was not quoted occurs on page 184 of the printed version of S. 149. At the end of the section on enhanced controls, it reads as follows:

The President may not delegate the authority provided for in this subsection.

Well, usually we provide that the President may delegate responsibility because, frankly, he has better things to do than be a staffer going through all of these items with the background to know whether or not some of them should be taken off the list or not. It is simply unrealistic to expect any President, despite a President’s intelligence and willingness to get into the details, to be able to exercise that authority with the limitation here. That is the primary reason for our concern.

We appreciate the fact that the President has a waiver authority. But in most cases the President’s waiver authority can be realistically administered and utilized. I think it is unrealistic to expect the President to be able to do that in this case.

Out of the possible amendments, I advise the Senator from Maryland, I will present—if not I, another Member will—is an amendment to try to solve this particular problem and conform this provision of the bill more to the type of ordinary authority that generally speaks to this issue of the Export Control Administration reauthorization.

I also want to speak specifically to the amendment offered by the Senator from Tennessee before we have a vote on that amendment. Given the fact that there are a couple of other Senators prepared to make remarks at this time, I am willing to stand back and let them have their remarks, and then I will come and make mine later.

If there is anything I have just said that is subject to correction, I would be happy to stand for any questioning with respect to it. But perhaps we will have an opportunity to debate that at the time I offer an amendment, unless there is a possibility we might work that out between the proponents and opponents of the legislation in the meantime.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Madam President, I say very briefly to my distinguished colleague from Arizona, this is quite a broad subject we are providing to the executive branch. I think it is reasonable to expect the decision will be made by the President. That does not mean the President has to staff his own decision. It will obviously be staffed for him. But the determination to provide the enhanced controls ought to be a Presidential determination.

We do not expect that is going to be before him very often, but when that sort of issue arises, it seems to us it is reasonable that the President should make that judgment.

One of the difficulties we have been experiencing all along is the way the export control regime gets bound up down the line and the decisions never go to the top to be made in those instances in which there are differences of opinion. In most instances, you have unanimity below either for the license or against the license. That is over and done with. But in those instances in which there is not, I think the President is going to exercise his sweeping authority, we do not think it is unreasonable to expect a determination to be the President’s.

I am very frank to say, I do not know to whom you would otherwise delegate it, since he represents the ultimate arbiter amongst the departments and agencies, and I do not see any way you can give that role to anybody else because anybody else would be out of one or another of a lot of another, one or another of the departments or agencies. You are not, as it were, above it making this separate and independent determination which the President will make.

The other point I want to note is that the President and his team support this legislation, so they obviously do not see in it the kind of extended practical problems which the Senator has—presumably they do not see that in the bill; otherwise, they not only would not have supported it, but they have been very strong in their support. It is fair to say that their support is anything but pro forma. It is very active and very vital, and they have gone over this legislation very carefully over an extended period of time and reached the judgment they are very much behind it. That is, of course, what they urged on the Senate, including, of course, the receipt this morning—I do not know if the Senator has an opportunity to see it—a letter from Secretary Powell, Secretary Rumsfeld, and Secretary Evans in very strong support of the legislation.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Madam President, I say to the Senator from Maryland, yes, I have seen the letter. I agree with him the support is much more than pro forma; it is sincere and thought-out support. I do not know how many pages of this very complex legislation there are. There are numerous areas that represent room for improvement, and support for any legislation generally does not obviate the possibility of improvements and compromises.

I hope, as this debate goes forward, we might consider the possibility that in this particular area a mechanism be found to provide for a waiver that is more realistic in its ability to be practically used than to require the President, not delegated to anyone else, as being the only person who could grant such a waiver.

We will talk more about that later. The Senator from Virginia is here, and I do not want to impinge upon his time, perhaps we can work that out. If we cannot, perhaps we will need to offer an amendment.

I thank the Senator.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ALLEN. Madam President, I am pleased to rise in support of S. 149, the Export Administration Act of 2001. Back on June 28, 2001, I joined my colleagues of the Republican Senate high-tech task force, Senators ALLARD, BENNETT, BROWNBACK, BURNS, GRASSLEY, HATCH, and HUTCHINSON, in sending a letter to majority leader TOM DASCHLE urging him to bring S. 149 to the Senate floor as early as possible. I am grateful to the majority leader for heeding our request and permitting the Senate to consider this very important legislation.

I ask unanimous consent that the letter my colleagues and I sent to Senator DASCHLE be printed in the RECORD.

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

HIGH TECH TASK FORCE, JUNE 28, 2001, Hon. TOM DASCHLE, Senate Majority Leader, The Capitol, Washington, DC.

Dear Mr. Leader: As members of the Senate Republican High Tech Task Force, we write to ask you to schedule floor consideration of S. 149, the Export Administration Act of 2001 (“EAA”), as the next piece of business on the Senate floor following conclusion of the pending health care bill. Passage of this bipartisan bill would be a welcome sign of your willingness to pursue a bipartisan agenda.
As you know, Senators Gramm and Enzi have worked diligently to craft the broadly-supported pending EAA bill which was reported out of the Banking Committee by a 19-1 vote. The Bush Administration deserves great credit for weighing in to support this critical piece of legislation. President Bush himself last month stated publicly that he hopes the Congress will send the him the EAA bill for his signature.

The proposed EAA legislation represents a logical improvement over the outdated EAA Act passed in 1979 and the current patchwork of executive orders regulating export controls issued under the International Emergency Economic Powers Act. The bill dramatically addresses our national security needs by increasing penalties, focusing attention on truly sensitive items, and granting the President new authority in cases involving national security and terrorism. At the same time, the legislation will remove punitive regulatory controls on mass market and foreign availability technology products that have hindered the competitiveness of our technology industries. Study after study have concluded that the present system of export controls has the unenviable distinction of harming private enterprise without enhancing security.

At a time when our technology industries are seeing declining sales, it is imperative that we move unnecessary and ineffective barriers to exports that will keep technology jobs in this country.

The extension of the 1979 EAA Act will expire on August 20, 2001. Given this bill’s strong bipartisan support, we believe it could be quickly considered and passed by the full Senate, thereby minimizing the interruption of the Senate schedule for other business. Therefore, we look forward to your prompt scheduling of floor action on this important legislation.

Sincerely,

Sam Brownback, George Allen, Chuck Grassley, Kay Bailey Hutchison, Robert F. Bennett, Orrin Hatch, Conrad Burns, Wayne Allard.

Mr. ALLEN. Madam President, I congratulate Senator GRAMM, Senator ENZI, and Senator SARABANES who have worked diligently to craft this broadly supported measure. President Bush and his team deserve a great deal of credit for weighing in, in support of this legislation.

This bill represents a logical improvement over the outdated Export Administration Act that was passed in 1979 and the current patchwork of Executive orders regulating export controls issued under the International Emergency Economic Powers Act. S. 149 dramatically enhances our national security needs by increasing penalties, by focusing attention on truly sensitive items, and granting the President new control authority in cases involving national security and terrorists.

At the same time, this legislation will permit pursuit of security, punitive regulatory controls on mass market and readily available foreign technology products that have hindered the competitiveness of U.S. technology industries.

Many studies have concluded that the present system of export controls has the unenviable distinction of harming American private enterprise without enhancing our security. At a time when our technology industries are seeing declining sales—and, indeed, the technology sector of our economy is in a recession—it is imperative that the Congress remove unnecessary and ineffective barriers to exports and, by doing so, help keep technology jobs in our country.

Current U.S. policy on export controls is harming good paying jobs for Americans, and it is time that Congress acts to remedy this situation.

Existing export controls which aim to keep technology in the hands of potential U.S. adversaries do not work given the technological and global realities of the 21st century. These policies must be reformed. One may ask why. There are five main reasons. No. 1, they are outdated; No. 2, they are ineffective; No. 3, they are unrealistic; No. 4, they are potentially dangerous; and No. 5, these current laws are bad economics.

Let me expand on that and actually cite some studies that point out the inefficiencies and ineffectiveness of these current laws.

They are outdated: The current policy was formulated during the cold war when we had a very clear adversary. The U.S.S.R. which at the time were the size of a dorm room.

Today’s international makeup is much more vague. Our potential adversaries or enemies are not as easily identified, and computers are now the largest type of computer that are controlled. There are some computers, such as Zybernaut’s Mobile Assistant, which you can wear on your belt. They weigh a couple of pounds at most.

The export controls we have now are ineffective. Access to high-performance computing capability cannot be restricted. Almost anyone, whether they are in Vienna or Venezuela or Virginia, can download computing power off the Internet or link lower level computers together to perform certain calculations.

These current laws are unrealistic. The United States cannot attempt to control access to computer hardware or components when foreign competitors are producing the same types of technology as domestic firms.

In today’s global economy, the United States no longer has a clear monopoly on technological innovation. These rules are potentially dangerous. If you tried to control access to computers and computer hardware that is readily available worldwide, we are diverting resources from policing the truly sensitive capabilities. All the while, our military is way behind the curve when it comes to taking advantage of the latest technologies we are trying to restrict.

Finally, these current laws are just bad economics. As high-tech industry suffers a dramatic downturn, we are limiting their access to the fastest growing markets in the world. In the new global economy, being first to market is a critical advantage. Currently our companies are not on a level playing field. This hurts their ability to make inroads into millions of potential new customers, not to mention reducing how much U.S. firms can spend on continued R&D, or research and development, to maintain our competitive and innovative leadership.

I say to my colleagues in the Senate, the time is right to modernize and reform export controls. Leading members of the Senate Banking Committee have worked closely to develop a thoughtful, reasonable approach to U.S. national security and economic interests. There is broad bipartisan support for reform, including among the national security establishment.

President Bush and his national security advisers, including Secretary of State Colin Powell, and Condoleezza Rice, Commerce Secretary Don Evans, Defense Secretary Donald Rumsfeld, former President Clinton, four former Secretaries of Defense, the Pentagon, the Defense Science Board, and the General Accounting Office, Democrats and Republicans alike, have all drawn the same conclusions: The current system is broken.

For example, under the current law, the President is required to use an outmoded standard called MTOPS, millions of theoretical operations per second, to measure computer performance and set export control thresholds based on country tiers.

The report on “Computer Exports and National Security in the Global Era” issued by the Center for Strategic and International Studies reflects the widespread consensus amongst those in the U.S. defense and security communities that MTOPS-based computer hardware controls are “ineffective given the global diffusion of information technology and rapid increases in performance.”

The report explains, for example, with so many U.S. computer systems are currently subject to controls based on their MTOPS ratings, the equivalent computing power can be easily achieved by clustering several widely available low-level systems.

A recent report from the Department of Defense itself also concludes, “MTOPS has lost its effectiveness as a control measure due to rapid technological advances.” The General Accounting Office’s report to the Senate Armed Services Committee similarly concludes that the MTOPS standard is outdated and invalid and the current export control system for high-performance computers which focuses on controlling individual machines is ineffective because it cannot prevent countries of concern from linking or clustering many lower performance uncontrolled computers to collectively perform at higher levels than current export controls allow.

The Defense Science Board echoes this recent analysis, warning that “clinging to a failing policy of export controls has undesirable consequences beyond self-delusion.”
Finally, a multilateral export control study recently released by the security-minded Harry Stimson Center reflects the overall consensus view that:

[The system of controlling the export of militarily sensitive goods is increasingly at odds with an increasingly fast-paced world. The system is characterized by rapid technological innovation, the globalization of business and the internationalization of the industrial base, including that of defense companies. Although efforts have been made to adapt Cold War processes and regulations to changed circumstances, the current approach to controlling militarily relevant trade no longer keeps pace with changing international conditions and often falls short of adequately protecting U.S. national security interests.]

In effect, the Center for Strategic and International Studies, the Department of Defense, the General Accounting Office, and the Defense Science Board all agree that while the most advanced stand-alone high-performance computers may be controllable, high-performance computers are not controllable by the U.S. government, by struggling to control the uncontrollable, the Federal Government is diverting our attention away from the export of truly sensitive technologies. By keeping ineffective export controls in place, the Federal Government is restricting the acceptance and fostering the future research and development efforts upon which U.S. technological and military supremacy demands and depends.

For the U.S. computer industry to maintain its preeminence in innovation and business, we must promote policies that encourage investment in R&D, not hinder it. S. 149 represents a solid stride toward an export control system that effectively balances our Nation’s economic and national security interests.

As it relates to computer exports, this bill removes the MTOPS regulatory straitjacket and empowers the President, the Secretary of Commerce, and the Secretary of Defense to review the national security control lists and determine both what computers should be controlled and how they may be controlled. The bill does not alter the way in which computer exports are currently controlled, but it eliminates existing regulations. Rather, it simply gives the President, the Secretary of Commerce, and the Secretary of Defense the flexibility to reassess the effectiveness of these controls in the future, taking into account all relevant risk assessment factors including the factors affecting an item’s controllability, such as foreign availability and mass market status, as well as other relevant factors such as, in the case of computers, whether the capability or performance provided by the item can be effectively restricted.

Passage of S. 149 does not in any way equal decontrol of computer hardware sales. Many levels of restrictions will still exist to protect U.S. national security interests if the EAA becomes law, such as rogue country embargoes. Those rogue country embargoes will remain in place, and user restrictions will be imposed in government to prevent specific sale of computing technology to certain organizations or individuals, and protections over highly specialized military hardware and software applications will still exist.

The success of export control efforts depends on the enforcement of the law, with meaningful punishment of violators. For many potential violators, the monetary penalties associated with the current Export Administration Act pose no compelling deterrent. The Weapons of Mass Destruction Commission noted that under current law, “an export control violator could view the risk and burden of penalty for a violation as low enough to merely be a cost of doing business, to be balanced against the gain received from an illegal transaction."

The Cox committee recommended that particular attention be given to reestablishing higher penalties for export control violations. Toward that end, S. 149 significantly enhances criminal and civil penalties for export control violations.

Section 503 of the bill imposes a criminal fine of up to 10 times the value of the exports or $1 million for each violation, whichever is greater, for willfully violating or willfully conspiring to violate the provisions of S. 149 or any regulation issued under it. In addition, individuals may be imprisoned for a period of up to 10 years, and companies can be fined up to 10 times the value of the export, or $5 million, whichever is greater, for each violation.

Additionally, the Secretary of Commerce may impose on a violator, in addition to criminal penalties, a maximum civil fine of $500,000 for each export control violation. This bill gives the Secretary of Commerce the discretion he or she needs to take into account the aggravating and mitigating factors that may be present in any given case.

Finally, the Government will be able to focus its resources on those critical technologies it must protect, rather than wasting time and money on the futile exercise of attempting to control access to commodity computing power and technology.

I say to Members of the Senate, Senators ENZI, GRAMM, and SARBANES have worked diligently in crafting an outstanding bill. The passage of S. 149 is important to the future of national security and economic interests of the people of the United States of America. I thank Members for their efforts and urge support of S. 149.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I held in August, in Reno, NV, a high-tech townhall meeting. I have held a num-

ber in Nevada. Although we do not manufacture a lot of computers and computer equipment in Nevada, we have a high-tech industry. There is no issue more important to them than passing this legislation. If it is important to people in this high-tech industry in Nevada, it is also important in the high-tech industry around the country. I have had numerous calls over the last year and a half from companies around America indicating the importance of this legislation. It is hard to tell you how many times we did something about this.

I applaud and commend Senators SARBANES and GRAMM, the chairman and ranking member of the committee of jurisdiction, for their advocacy for the last many months on this issue. Of course, members of the committee, Senators ENZI and JOHNSON, have worked extremely hard and have done exemplary work in helping move the legislation.

I strongly support passage of S. 149. This bill is a product of many years of hard work. A number of people have worked on this. I worked with my friend, Senator BENNETT of Utah, on the appropriations level making sure, especially last year, we had some legislation connecting to export controls here in the U.S. This represents a well-crafted, appropriate balance between a more modern, effective export control system and the U.S. national security interests.

I talked about this high-tech meeting held in Reno at the University of Nevada. It was a hearing to determine what is going on in Nevada and around the country with the high-tech industry. It is very clear at this time in the history of the United States there is hemorrhaging taking place. There are many examples. We have a high-tech company on the front page of the Reno paper today trying to maintain their listing with NASDAQ. One year ago their stock was about $35 a share; it is now at 40 cents a share. There are many other examples of this. This is a high-tech company mentioned on the front page of the Gazette Journal today. There are companies such as this all over America.

We as a country need to maintain our competitive edge. If this legislation does not pass, this equipment will be manufactured somewhere else using non-Americans and it will be the same product. We need to do it here. That is what this is all about. You can talk about what percentage moves through and how little it matters. It is something we need to do. Many business coalitions, including the Computer Systems Policy Project, the Business Roundtable, the American Electronics Association, the Electronics Industry Association, the Association of Manufacturing Technology, and the Computer Coalition of Responsible Exports are supportive of S. 149. Among the members are Apple, AT&T, Boeing, Compaq, Dell, Microsoft, Intel, SGI, Sun Microsystems, Unisys, and United Technology. These are extremely important businesses in America. They
are important employers in America. They are important on a worldwide scene. That they are joining with us in maintaining how important it is to pass this legislation says a lot.

I throw a bouquet to the Bush administration. Two of their top Cabinet officers write a letter saying how important this legislation is. It is important. We heard from the Secretary of State, the Secretary of Defense, and the Secretary of Commerce indicating this legislation is critically important. This is bipartisan legislation.

Having worked this floor the past couple years or more, I have never seen a piece of legislation with so much support held up by so few people. Everybody wants this to pass. But in the Senate, it is difficult to get this to the point where it will pass. And it will pass. It will. It is hard to find someone who, not to have the temperature, the history of export controls in the United States is broken and needs to be fixed. We cannot continue with what we now have.

We have four former Secretaries of Defense who support this legislation. The Pentagon supports this legislation. The Defense Science Board and General Accounting Office, Democrats and Republicans alike, have drawn the same conclusion: Existing export controls aimed at keeping computing power out of the hands of U.S. adversaries has not worked and must be reformed.

Why? No. 1, what we have is outdated. Everyone knows how rapidly the computing is changing. In the Clark County Courthouse in Las Vegas, NV, one floor was dedicated to taking care of the computer needs of Clark County. That same work can be done in a very small office now, not one whole floor. We must have the temperature system of export controls in the United States is broken and needs to be fixed. We cannot continue with what we now have.

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The current law is unrealistic. The current law requires the President to use MTOPS to measure computer performance and set computer thresholds based on country tiers. What does this mean?

A recent report on “Computer Exports and National Security in the Global Era” issued by the Center for Strategic and International Studies, CSIS, reflects the widespread consensus among those in the U.S. defense and security community that MTOPS-based computer hardware controls are “ineffective given the global diffusion of information technology and rapid increases in performance.” The report continues and explains that while various U.S. computer systems are currently subject to controls based on their MTOPS rating, the equivalent computing power can be easily achieved by clustering several widely available low-level systems: Radio Shack.

The conclusion of the CSIS report could not be more clear. No. 1, MTOPS are a useless measure of performance; No. 2, MTOPS cannot currently measure performance of current microprocessors or sources of supercomputing like clustering; and third, this makes MTOPS-based hardware controls irrelevant. The best choice is to eliminate MTOPS.

Finally, it is just bad economics to keep the present law in force. As the high-tech industry suffers a dramatic downshift, we are limiting their access to the fastest growing consumer markets in the world. In the new global economy, being first to market is a critical advantage. Currently our companies are in a playing field. The computer made in France can get there much quicker than a computer made in the United States. This hurts our companies’ ability to make inroads with millions of potential new customers, not to mention how much U.S. firms can spend on continued R&D, research and development, to maintain our competitive and innovative leadership.

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Finally, in this regard the Defense Science Board echoes this same analysis, warning that “clinging to a failing policy of export controls has undesirable consequences beyond self-delusion.”

We could go on literally all afternoon, reading from reports and studies, scientific analysis that says the present system is worthless, it is broken; all it does is hurt our economy. It doesn’t do anything to protect our security. In effect, the Department of Defense, the General Accounting Office, the Defense Science Board, the Center for Strategic International Studies, and a multitude of other entities and organizations all agree that while the most advanced stand-alone high-performance computers may be controllable, high-performance computing is not.

By struggling to control the uncontrollable, we are diverting our attention from the export of truly sensitive capabilities. By keeping ineffective export controls in place, we are unnecessarily restricting U.S. industry’s access to computers that are used around the world. In the process, we create an unlevel playing field for U.S. companies and we stifle future R&D efforts on which U.S. technological and military supremacy depends.

Does this all mean? Should we throw away any attempt to control technology and “sell, sell, sell”? Of course not. We must develop a new,
more effective system that better balances our economic priorities with national security interests. S.149 represents a critical step forward toward this very worthwhile goal. As it relates to computer exports, the bill removes the Roadmap and empowers the President of the United States, the Secretary of Commerce, and his Secretary of Defense to review the National Security Control List and determine both what computers should be controlled and how they may be controlled.

This bill does not eliminate controls. It just sets up a modern standard of controlling what we are going to do with exporting computers. This bill does not—and I think we need to be very clear on this point—alter the way in which computer exports are currently controlled under existing regulations. Rather, it simply gives the President, the Secretary of Commerce, and the Secretary of Defense the flexibility to reassess the effectiveness of these controls in the future, taking into account all relevant risk assessment factors, including the factors affecting an item’s controllability, such as foreign availability, mass market status, as well as other relevant factors such as, in the case of computers, whether the capability of performance provided by that item can be effectively restricted.

The chairman of the Banking Committee, Senator SARBANS, I think has done an excellent job explaining this today. We have a lot of very talented people in the Senate. But as far as your basic intelligence and someone who understands what goes on around here, there is no one I have more confidence in than the Senator from Maryland. He is a Rhodes scholar in more than name only. He is somebody who is truly very intelligent. And when he said today—I talked to him before he came to the floor and he said that he went on the floor—he read this bill from cover to cover, that says a lot. This is a heavy piece of legislation. This is a bill that would take a long afternoon of reading if it could be done. It is about 350 pages long. If you wanted to have somebody who knew the bill better than he—and I don’t know who that would be—to give him a test on it, either essay or multiple choice, he would pass it with a great score.

He explained on several occasions today, this bill is going to improve the security of this country and allow our commercial interests to be more competitive. I think it is important we keep that in mind. Two considerations: Our security is going to be maintained, and we are going to be able to be commercially more effective than we have been. We are going to continue leading the world in selling these computers that our scientists have developed.

The bill we are considering takes all of these challenges into account and will allow the United States to move forward and formulate an export control policy that recognizes the technological, trade, and political realities of the 21st century. In so doing, this bill will effectively promote U.S. economic and national security interests, a goal we should all agree is important.

It is no coincidence that companies will be able to sell willy-nilly to anyone who comes calling in search of, for example, a submarine detection system. This legislation applies several levels of restrictions to protect our national security interests, including, but not limited to, total embargoes on shipping products to rogue nations such as Iran and Iraq at the present time; end-user restrictions that identify specifically who in certain countries the United States can and cannot sell to; and, finally, controls over the most critical technologies, highly specialized, military-designed software and hardware applications.

That is pretty strong. By focusing our resources in these areas, we are going to get the time and money on trying to control commercial computing power, the government will be able to better keep the most critical applications out of the wrong hands.

I want to stress to my colleagues that the import control reform is widely supported.

To quote an esteemed member of our country’s National Security community, former National Security Advisor Brent Scowcroft: "It’s a whole new world. And I think it’s past time we respond to that world. The genesis of invention and innovation used to be the military-industrial complex but the government doesn’t control technology the way it used to."

The bill we are considering takes all of these challenges into account and will allow the United States to move forward and formulate an export control policy that recognizes the technological, trade, and political realities of the 21st century. I say again that the Department of Defense, the General Accounting Office, the Defense Science Board and the Center for Strategic and International Studies have all concluded that MTOPS is an ‘outdated and invalid’ metric and that the current system is ineffective. Repeal of the National Defense Authorization Act language would give the President the flexibility to develop a more modern and effective system.

This is a good bill for Nevada. It is a good bill for the country. It is a good bill for the world. I urge my colleagues to follow the lead of the managers of this bill, the Senator from Maryland and the Senator from Wyoming, and move forward. Defeat the amendments that will be offered by just a small number of Members. Defeat them overwhelmingly. This is important legislation. We need to send a message to the world that we mean business in maintaining our superiority in the production of computers.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I rise in opposition to the amendment to S. 149 proposed by the Senator from Tennessee. This amendment contains substantial changes that will not only upset the delicate balance of control between the agencies established in S. 149, but it will create a licensing, classification and regulatory process and further fuel the turf battles between agencies.

This amendment would allow a reviewing agency to stop the clock during the licensing application process with "due to the complexity of the analysis" or "because of the potential impact on the national security or foreign policy interests of the United States." Simply put, it would unnecessarily delay licensing decisions and, ultimately, reduce the competitiveness of U.S. exports.

This amendment is unneeded at best and harmful to national security and the economy at worst. The danger of this amendment lies in that it would enable a single agency to delay the approval of a license indefinitely due to the "complexity of the analysis." Used effectively as a delay tactic, a reviewing agency could bury an application in the "complex analysis required bin and walk away for 2 months. The natural bureaucratic tendency to avoid risk would cause unprocessed license applications to languish for days weeks or even months without any action. This extended delay would not only greatly increase the overall processing time, but it would bring the entire process to a grinding halt and destroy an exporter’s ability to meet market demand quickly and efficiently. Furthermore, at this point, the exporter is in limbo, as she or he neither has the approval needed to move forward or the denial needed to make improvements.

One exception would allow for 60 days, but there are two exceptions in here. So it can be read that an agency would get 120 days by utilizing the two exceptions one right after the other.

Although proponents argue that this amendment would ensure ample time for the Department of Defense, the Department of State or other reviewing agencies to conduct their investigations, it is, in reality, a solution in search of a problem. Never has there been a case where the Departments of State and Defense have not had enough time to adequately review a license application. In fact, Fiscal Year 2000 data from the Department of Commerce indicates that the average time for the review of a license by the Department of Defense was only 13 days. The Department of Energy averaged 22 days, while the State Department averaged 9 days. All three agencies demonstrated that the 30 days currently permitted to review a license is more than adequate. Even those lose theorems when faced with uncertainty about delivery times. This amendment could place all export licenses in virtual limbo for five
I thank the President. I yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRASS. Mr. President, I apologize to my colleagues for being late; I was delayed due to my trip to the State. I wanted to come over today both to oppose the amendment that is before us and to speak on behalf of the bill itself. Let me do those in reverse order.

First of all, my colleagues can be proud of the fact that the bill before us today is truly bipartisan, and I want to congratulate Senator SARBANES for his leadership on this bill, both as chairman of the Banking Committee now and as ranking member when the bill was originally written. I also want to thank Senator JOHNSON and Senator ENZI for their leadership on this bill.

This bill tries to deal with an inherent conflict that we face as a nation. On the one hand, we want to be the greatest technological giant in the world. We want to dominate the world in producing everything that embodies new technology because the country that controls technology ultimately dominates the world economically, politically, and the brightest future. So, we have not only a goal but a passion to see that when new tools are produced, when new technology is implemented in the marketplace, that it is American technology, implemented on our terms.

We are the most technologically and scientifically friendly society in history, which is one of the reasons we are the greatest country in the history of the world. This bill is very much about that, it is also about our other objective, which is to try to see, to the maximum extent we can, that new technology does not get into the hands of those who would use it to harm America or her interests and to engage in terrorist activities around the world. And that is the inherent conflict between these two goals.

What this bill is trying to do is to find a way to deal with this inherent conflict. I personally believe, after having now spent some 2½ years working on this bill, that we have come to a good solution. We have come as close as you can come to reconciling these differences. Let me try to explain how.

I know some of our colleagues are concerned that the administration has not been as forthcoming as we would have liked in trying to promote American sales of technologically advanced products. I believe, upon close scrutiny of this bill, objective observers will conclude that charge is not true. This bill tries to recognize something that we do not like to admit but that everybody has to admit is true: if a technology is generally available, if you can buy it all over the market; if you can buy it all over the world, it is too late to try to prevent it. So we propose building a higher wall around a smaller number of items. That is the logic of this bill. It is a very simple logic.

The second component of the bill recognizes that it is very difficult to prove somebody knowingly sold or transferred technology that is protected. And since it is very difficult to prove that—very difficult to catch bad actors—we want the penalties to be extraordinarily stiff. Penalties in current law are so small as to be irrelevant to a modern corporate entity.

Our penalties, which can run into the tens of billions of dollars, can, for repeat offenses and a pattern of behavior, result in imprisonment or life imprisonment or penalties that affect anybody’s behavior.

So we build a higher wall around a smaller number of items. We recognize it is certain that you can go into any Radio Shack and buy a computer that is more powerful than the most powerful computer that existed in the world when I was a college professor.

I remember running multiple regressions which people now run on calculators. I had these punchcards that had all this data—more precious than life, valuable, if they can get approval by a higher entity or someone with a little intelligence, result in imprisonment or life imprisonment. Our penalties, which can run into the tens and hundreds of millions of dollars, can, for repeat offenses and a pattern of behavior, result in imprisonment or life imprisonment or penalties that affect anybody’s behavior.

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Obviously modern technology can be put to defense use. But the point is, if our purpose is just to feel good, then we could do a lot of different things. But in writing this bill, we want to have a meaningful impact in the law. So for technologies that are readily available, that can be purchased anywhere, we decided to take them off the list of restricted export items.

We have put together a system where the security agencies have the strongest voice they have ever had in the process. We have put together a procedure whereby an agency that has doubt can buck the decision up to a higher level, if they can get approval by a Senate-confirmed person in their department.

It makes it easier to say no. We give the President an all-encompassing power: if the President of the United States, having reviewed all the data,
concludes that the sale of an item represents a national security threat, no matter whether it is mass marketed or anything else, then the President can intervene and say no. Now, the President himself has to do it. This cannot be delegated to anyone else, removing the President’s responsibility to answer whether it is wise or promotes the public interest. That is the basic structure of this bill.

This bill is strongly supported by the administration. It is supported by the Secretary of Defense. It embeds the recommendations of the Cox Commission, whose key recommendation was that Congress quit trying to do things that only make it look as if it is concerned about national security, and instead focus on national security. We have done that.

Some of our colleagues have concerns. I am hopeful, perhaps as early as in the morning, that I will get a chance to sit down with them to see whether, even if we can improve the law, we might work something out that could give them greater confidence in what we are doing. But regardless, we have a good bill. It is a bill the country needs, and it is important.

Let me add, my trusty staff has just passed me a note reminding me that we made no less than 59 changes in trying to deal with the concerns some of our colleagues raised in the last Congress. It is not as if the chairman of the Banking Committee, Senator SARBANES, and I have been deaf in terms of listening to their concerns. We have listened to them, and we have responded. We have made 59 changes in the bill and worked with the previous administration. And when the new administration came, we gave the bill to them, and they made suggested changes which we made. So, I think we have tried to work with everybody. But the point is, we are not through working. If we can improve the bill, we want to do so.

Let me address a central point, though. I think it is important that people understand the logic of the bill. I then want to talk very briefly about the Thompson amendment. Ultimately, you have to ask yourself a question: Is America’s security enhanced by our being the dominant economic power in the world that generates the great bulk of modern technology and that implements it first? Can we produce the technology and put it to work and produce products here, they will produce them elsewhere. The net result is that we will have less control than we do now.

Ultimately, the security of America is based on our ability to produce new technology, not on the technology that exists today. It is based on the technology we are going to generate in the future and that we are going to implement before anyone else. The only way we can keep that system intact is by allowing American industry to use modern technology.

Mr. GRAMM. The Thompson amendment on its face looks desirable. But in reality, it assaults a system that we have put into place that forces a decision. Let’s say I am Texas Instruments, and I want to export technology. I have to file an application. Now, if I can mass market something that is readily available or if we find that the technology is going to be mass marketed in the future, then all of those factors can come into play in making the export decision. But if at any point in the process an official believes there is a national security concern, then all he has to do is say no.

The only thing that any one person on the whole panel representing all of these national security agencies—the Department of Defense, the Department of State, the Department of Commerce—has to do to stop the process is to utter the magic word “no.” And when they say no, the process is stopped, and the decision can be appealed to the next highest level—all the way to the President. The person who will have to answer for the decision is the President. The person who will have to answer to the public for the decision is the President. What does that do? It guarantees that the agency representatives are not going to make this decision to circumvent the process for a light or transient reason. But if the President believes, based on the best advice he is given, that the product should not be exported, then the decision is made and it is not exported.

I do believe we have put together a good system of checks and balances. The Thompson amendment makes it too easy to bail out of the system. An agency representative can always say no if he objects, but what he cannot do is cause delay after delay. That is what we are trying to deal with here, and I hope my colleagues will vote no on the Thompson amendment.

Let me repeat, since I see that our distinguished colleague has come to the Chamber, I am hopeful we can get this done perhaps in the morning, with those who still have concerns about the bill to see if there is anything we can do to deal with those concerns. I know some suggestion has been made that we might have a blue ribbon panel to evaluate the entire process. I haven’t talked to Chairman SARBANES in any detail about that. But I think that is something we would be willing to look at as an addition to what we are doing.

What we want to do is pass a good bill that I believe America needs.
Mr. SARBANES. Mr. President, I take this opportunity while Senator GRAMM is still with us on the floor to depart from the debate on S. 149 for a moment and say a few words about my very able and distinguished colleague who earlier this afternoon told us that he will not be seeking re-election next year in 2002. I think that comes as a surprise to many of us. We heard the stories, but no one ever assumed they would amount to anything. All of a sudden, they have.

I just want to say a few words about our working relationship and also, of course, to wish Senator GRAMM the very best. I know that this decision was influenced by his desire, in a sense, to begin a new career and by some family considerations. Of course, I respect those. Obviously his presence here in the Senate—a very strong presence, I might observe—will be missed post-2002 or post-January 3, 2003.

Just as we are co-managing this reauthorization of the Export Administration Act today, I think we have accomplished a great deal working together in our respective roles on the Senate Banking, Housing, and Urban Affairs Committee.

Senator GRAMM was Chairman of the Committee from January 1999 to June 2001. I have to say that virtually every major piece of legislation that came out of our Committee came out either unanimously or very close to it with one exception. We had a big dust-up, as it were, over the financial services modernization bill, essentially over the CRA provisions.

We subsequently worked it out with the Administration and the bill finally passed on the Senate floor in November of 1999 by a vote of 90–8. In the end, we found our way through and reached an understanding and an accommodation.

I want to acknowledge Senator GRAMM for his leadership during his chairmanship on the following bills: the Competitive Market Supervision Act, the International Monetary Stability Act, the Manufactured Housing Improvement Act, and the Public Utility Holding Company Act. In the area of housing and urban affairs, we have passed into law elderly housing legislation; reforms to the rural housing program; and reforms to the Native American housing program. This year we passed Market-to-Market reform and reauthorization legislation through the Committee. The President also signed into law the Iran-Libya Sanctions Extension Act on August 3, 2001. I think the Committee has had a very good track record under his leadership in the last Congress and at the beginning of this Congress.

I also want to acknowledge that without Senator GRAMM’s active leadership on the Export Administration Act, we actually would not be on the floor today. I also look forward to working closely with him on the reauthorization of the Export-Import Bank and the Defense Production Act.

I have to say we are going to miss Senator GRAMM. I think that is obvious. I want to say that despite what the President wanted to report about our working relationship, I think we have had a very positive and constructive relationship. It happens that we differ from time to time on an issue—but what is this place about if it doesn’t allow room for differences? Yet as I indicated, in virtually every instance we were able to accommodate those differences, work through them in a rational fashion, and reach good decisions on behalf of the public.

I know of the determination and commitment with which Senator GRAMM has represented the people of Texas as one of their two U.S. Senators in this body. I know of his own very strong commitment to a peaceful and prosperous America, and his keen interest in economic policy. We have had a lot of very good discussions in the Committee on that very subject. I didn’t want the occasion of his announcement earlier this afternoon to pass without taking the floor and making a few comments. I look forward to continuing to work very closely and cooperatively with Senator GRAMM over the balance of this year and all of next year. I hope we can continue to cooperate together and do good things for the country. I say this to my colleague with all respect and affection. I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, let me first say that I appreciate Senator SARBANES’ remarks. When your mama says something nice about you, people expect it. I do think Senator SARBANES is correct, and I don’t think I will do him any harm in Maryland by saying that he and I differ on a lot of subjects. In fact, it might well help him politically by saying that. But when we ended up working together on the Teutop—Senator SARBANES as a Democrat and me as a Republican—everybody assumed that people who differed on as many issues as we differed on would never get anything done. I appreciate very much his kind comments, and I appreciate his pointing out the plain truth, which is that we have gotten a near record amount done. We have achieved that by recognizing that under our system you get things done by working with people instead of running over people. I have been chairman for SARBANES has been chairman, and I assume he will be chairman for the remainder of my time, but you never know. Maybe Senator REID will have a change of heart and decide to come join us.

Who knows?

In any case, I am very proud of our record, and I am very proud to have Senator SARBANES’ friendship. Thank you.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, if I may take a minute, I have been fortunate in the last 3 years or so to spend most of my time here on the floor. Every time Senator GRAMM of Texas comes to the floor I always anticipate a good experience. I may not agree with what he is saying, but nobody is more in tune with the subject matter and more entertaining than Senator GRAMM.

I have worked on committees with Senator GRAMM. He served in the House, as I did, and we have served in the Senate together. We have never worked on committees together, as you do a lot of times, where you really get to know people. People have gotten to know PHIL GRAMM by virtue of the fact that I have such great respect for what he says. I, like Senator SARBANES, don’t agree all the time with what he says, but I have to tell you I have great appreciation for the way Senator GRAMM says it and the fact that he is a man of conviction. He talks about what he believes in the way it should be.

He is a person who get an education not in an easy fashion. Senator GRAMM may not want a lot of people to know, but I have heard him saying this, so I am not speaking out of school. He had some learning disabilities. Yet he turned out to be one of the finest scholars Texas had and one of the finest scholars the Senate has ever had. He is a Ph.D., a professor.

I am going to enjoy very much the next 18 months with Senator GRAMM, as I have the prior 19 years or so I have spent in Washington, but there will never be another PHIL GRAMM. He is one of a kind. He has really dedicated his life to public service, for which I have no doubt the State of Texas is a better place.

PHIL GRAMM is virtually unbeatable in Texas. It is bad news for the people of the State of Texas that he is leaving. The good news for us in Washington is that he is leaving and we are going to have an opportunity to take the Senate in a very different way with Senator GRAMM here. We know it is an uphill battle he left there.

I wish words could connote the warm feeling that I have for PHIL GRAMM. I just think the world of him. I like him a lot. He is a fine person, and I hope his family is proud of him and also the people of Texas, as they should be.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. THOMPSON. Mr. President, I suppose I am going to say something nice about Senator GRAMM. In all honesty, I have a tremendous amount of admiration for Senator GRAMM, and it was with great sadness that I learned a short time ago he decided not to run again. Regardless of what anybody else does have, I think this institution needs a PHIL GRAMM. The institution is going to have to come up with another one now, it looks like. But the institution has been better for his having been here.

I know of no one who has more intellectual honesty and who is more fearless in the pursuit of the things in which he believes. More often than not,
they are the things in which I believe. But that is almost beside the point. I want to express publicly to him my tremendous admiration for him and for the service he has rendered the State of Texas and our country.

I will yield to anyone else at any time. I want to speak to this subject. But if not, I will continue on with the business at hand. I believe Senator Enzi wants to speak.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ENZI. Mr. President, it is with a lot of regret and sadness that I learned of this decision this afternoon. I came to the Senate just 4½ years ago, which would be about the equivalent of the college degree.

During that time, I have gotten to study under Phil Gramm. There have been a lot of times that I really thought I ought to be paying him tuition. It has been a tremendous educational process. If we could just get him to not try to argue; we would welcome the Senator with open arms. We would love to have him there and, of course, we are looking forward to the game against his alma mater, Texas A&M, the team the Senator follows in and day out, and we are looking forward to a good contest.

I thank the Senator for all of the instruction that he has given, for the education he has provided for America. I have appreciated the stands he has taken and the ferocity with which he has taken them. Thanks again for the education.

Mr. GRAMM. Thank you, Mike.

Mr. REID. Mr. President, I ask unanimous consent that the Senate vote in relation to the Thompson amendment No. 1481 at 5:15 p.m. today, with no second-degree amendments in order to the Thompson amendment; that prior to the vote there be 4 minutes for debate equally divided in the usual form, with no other intervening action or debate.

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

Mr. THOMPSON. So we will vote at 5:15 on this amendment that we are discussing right now.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. THOMPSON. Mr. President, I will address the issue concerning the amendment I have submitted having to do with the amount of time agencies would have to consider a license application. This amendment provides additional exceptions from acquired time periods for processing license applications if the reviewing agency requires more time due to the complexity of the analysis or if the reviewing agency requires more time based on the potential impact of the export on national security or foreign policy interests of the United States. It limits any additional time to not more than 60 days.

In other words, what this amendment does—first of all, as it is currently drafted, it gives an agency 30 days to look over this license application and to consider whether or not it wants to go along with it or try to oppose it. If the agency is not heard from within 30 days, then it is deemed the agency waives its rights and the agency approves it.

What this amendment does is it takes a particular set of circumstances where there are national security implications; in other words, the Department of Defense takes a look at something and says: Perhaps this is a very complex application, and it very well may have national security implications. We simply cannot get this done in 30 days. We need additional time.

As to the Cox Commission, I hope my friends who are sponsoring this legislation will not choose the Cox Commission. We need to recommend additional time based on the complexity of the application or if the reviewing agency requires more time due to the complexity of the application.

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available. Mass marketing: Somebody within the bowels of the Department of Commerce decides it is mass marketed so all of that goes out the door. Embedded components: If something is regulated and considered to be sensitive because it can be used for military purposes, it is regulated, you have to have a license. But if somebody puts it in a bigger component, you do not have to have a license for it or the bigger component if the bigger component is worth more than 75 percent of the total value of what is being shipped. It makes no sense at all. It makes no national security sense. It might make economic sense for some folks. But all that is by the board. We passed that. We will do that and tell the President, catch him if you can, fixing it so the President can’t delegate any of this. The President has to make the determination that he wants to come in with oversight action that will go against this entire regulatory process when we have thousands of these applications a year. We are not going to be able to do anything with that. The train left the station. I can count votes.

Apparently, we have decided in this Nation to turn a blind eye to the proliferation activities in this world, to the fact that we are now subject to being hit from some of the smaller rogue nations, countries that are starving their own people to death, putting their national defense capability, to now hit us, our allies, or our troops in the field, and we are opening the door wider to send stuff to countries that are supplying the rogue nations. We have apparently made that decision.

For goodness’ sake, can’t we give the Department of Defense a little more time when they are asking us to hold up a little bit and make sure we are not hurting our country? Do we have to draw the additional line in the sand for that kind of consideration? If we can’t do this, we might as well fold up our tent and do anything that exporters want to do. I don’t see why we ought to have an export process anymore. It clearly will not be designed to protect this country, which was its original design.

I hope history does not prove this is an even more unwise decision than I fear it might be. The cold war certainly is over. In a country, it is even more vulnerable than ever to our own technology. Most of it we are not dealing with today. We are not dealing with nontechnology matters. We are dealing with limited items in a very narrow regulatory process. We approve 98 percent of them anyway, even in the regulatory process. The average time it takes is 40 days. We can’t stop and take a deep breath long enough to make sure we are not hurting our country, when it takes 40 days on average to get this done? And the overwhelming majority are already approved.

We need to reauthorize the Export Administration Act. We need to tighten it up, instead of loosening it. But that will not happen. It will be loosened. I ask, can’t we at least consider the agencies involved, as the Cox commission suggested?

It has been said if there is a national security concern, we can raise it later in the review process. If the Department of Defense has not had time to adequately investigate the matter, it is already in the interagency review process and they will not have the information on which to base an objection. It would be essential that we along so fast we ensure the Department of Defense or the affected agency does not have sufficient time to make an objection, had they known the full extent of the nature of the export and perhaps the end user and how it would be used and the potential uses for it?

We may have to go down this road, but we don’t have to get in the jet-stream. We don’t have to do it with blinders. I suggest this is a minimalist amendment which would be to provide additional time to benefit the process and to show the world we are not so intent on trade and money that we will not even take modest measures to make sure we are not making a mistake with regard to something important to our country.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. While the parties have been speaking, and when we in the White House see how difficult the time schedule in the S. 149 bill would be to meet, I have been told there is no problem meeting those time schedules, that the agencies can do that; the agencies have done that; that the records show they have been able to meet those time deadlines, and the administration is opposed to this amendment.

This amendment allows the reviewing agency to stop the clock during the interagency review process. One of our difficulties in arriving at a bill has been to eliminate turf battles. The agencies are working very cooperatively, but there is the potential of who will be in charge of what and how long the delay and who can cause them, which changes the balance between the agencies. This bill has that balance between agencies.

The agencies agree—and there will be a letter on everyone’s desk—that they are now working on a bill that would give you a disapproval right now unless you can provide additional time or information. That same process is an effective way of stopping the clock, provided the application doesn’t have to go back to ground zero when it comes back in again. That is a mechanism that has been used.

This amendment unravels the discipline of the system that has been set out. With its capability of escalating things to the President, there is a recognition that this can take a lot more time. That is how the time element was addressed under the recommendations we had from the different commissions.

A key recommendation of the various commissions that study our export system is to increase the discipline in the export system. Without deadlines, discipline disappears. Without discipline, the system is unworkable. An undisciplined system is the system that foreign governments, then, of course, we allow for congressional notification. That is then by the board. We have apparently made that decision.

I yield the floor.

The CONGRESSIONAL RECORD — SENATE September 4, 2001

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This amendment allows the reviewing agency to stop the clock during the interagency review process. One of our difficulties in arriving at a bill has been to eliminate turf battles. The agencies are working very cooperatively, but there is the potential of who will be in charge of what and how long the delay and who can cause them, which changes the balance between the agencies. This bill has that balance between agencies.

The agencies agree—and there will be a letter on everyone’s desk—that they are now working on a bill that would give you a disapproval right now unless you can provide additional time or information. That same process is an effective way of stopping the clock, provided the application doesn’t have to go back to ground zero when it comes back in again. That is a mechanism that has been used.

This amendment unravels the discipline of the system that has been set out. With its capability of escalating things to the President, there is a recognition that this can take a lot more time. That is how the time element was addressed under the recommendations we had from the different commissions.

A key recommendation of the various commissions that study our export system is to increase the discipline in the export system. Without deadlines, discipline disappears. Without discipline, the system is unworkable. An undisciplined system is the system that foreign governments, then, of course, we allow for congressional notification. That is then by the board. We have apparently made that decision.

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predictability, and certainty. We did that, plus building into the system this system of referrals, that easier process of resolving interagency disputes or interagency concerns, the ability to escalate in the process. So that got built into the same time, then went beyond that point which answers some of those concerns. S. 149 does not classify items as being “of greatest national security concern” or “of lesser national security concern.” It sets up a risk-based system that allows the administration to make such determinations within the bill’s guidelines. Based on past experience and demonstrated agency data, both the administration and the bill’s sponsors believe that S. 149’s system, by setting mandatory time periods with the existing “stop the clock” exceptions, is the most effective framework for operating export controls. For that reason, the bill does not include that particular and specific aspect of the current regulations.

This amendment, although it is portrayed as simple and common sense, undoes the key element of the discipline in S. 149. It would result in an application system that is bogged down by reactive politics, a system in which delays are the rule rather than the exception. It is not a simple or technical change but would undo the careful balance of the bill. I have mentioned what can be a tendency. What we tried to do with the bill was escalate the decisions up to the higher levels of government rather than have the decisions made at the bureaucratic level. We have tried to eliminate, as much as possible, the process in which delays are the rule rather than the exception. This is one of those opportunities to pigeonhole things for predictability, and certainty. This was the recommendation of the Cox committee report in 1999, when it indicated that the existing 30-day limit for departmental license review may be inadequate for complex requests that could have a lasting national security impact. The recommendation before us allows only for extensions on a limited basis, and we think that it would be appropriate, for, for example, the Defense Department, should it deem it necessary to have a little more time to get into the bill as a possibility. That is what Senator THOMPSON has sought to accomplish through his amendment. It seems to me to be eminently reasonable. Therefore, I urge my colleagues to support this very reasonable amendment.

The primary argument I have heard about it relates to a political matter; that is, that the White House supports the legislation. We have been advised that the White House supports the legislation without change. I want to comment on that moment.

My friends on the Democratic side of the aisle, the Senator from Maryland, for example, by everything I said earlier, wanted to be sure I was aware of the administration’s support. Indeed, I was. I would like to make this offer to any of my Democratic colleagues. I will support this legislation because the baseline that the administration supports it if my Democratic colleagues will commit to me today that they will do the same for legislation that the administration supports.

In other words, if I can get a letter from the Secretary of Defense or the Secretary of Commerce or the Secretary of State on a matter that will come before the Senate in the future, since they regard the administration so highly with respect to the EAA and that this legislation should be adopted without change, then it seems to me, unless they are picking and choosing which opinion of the administration they regard as highly, they should also regard highly the other matters of the administration and be equally willing to support those positions.

I am sure that as Senators we all like to pick and choose the things on which we agree and don’t agree with any administration. I am a Republican. I happen to have a disagreement with the administration now and then—not very often; in fact, very seldom. On this matter I do have some disagreement.

I think it is not a sufficient argument in and of itself to say that because the administration supports something, therefore we should vote for it and then turn around on a subsequent matter which the administration strongly supports and vote against them. I suspect that my Democratic friends more often than not will find themselves in that position in the future.

Mr. SARBANES. Will the Senator yield?

Mr. KYL. I am delighted to yield to the Senator from Maryland.
to complete the review, not to be told: Sorry, the clock ran out; if you could not get it done in 30 days, no matter how complicated, no matter how important the national security interest, the export is allowed.

This is the problem with taking an approach that if the administration supports the bill, it can't be changed in any respect.

There are some things about this bill that should be changed. Representatives in the administration have made it clear to the Senator from Tennessee and myself and others that they recognize there will have to be implementation of this legislation by executive order. Some of the concerns we have expressed, they assured us, would be dealt with in this executive order in some way or other. I have absolute confidence in the administration with respect to that. Obviously, they have not issued any executive order yet. It would be premature to do so.

But failing to understand what specific things might be addressed, we think it is important to try to fix those problems now, and one of the problems deals with this question of possibly needing a little more time. I just ask my colleagues, what could be lost, what could be wrong with having a department — let's say the Department of Defense, if it says it needs more time — get a little more time? This is too serious to put an arbitrary 30-day clock on and say: You take 30 days, national security be damned; the 30 days run out, and the export is allowed to go forward. This is the problem with this strict provision in the law with no ability to move out of it.

That is why the Thompson amendment makes sense. That is why I hope my colleagues support the Thompson amendment. It is specifically recommended by the Cox Commission report. I believe — and I ask my colleagues from my recollection of what I heard earlier, the House committee reported this out with unanimous consent.

Mr. KYL. Very similar thereto. There you have it. It seems to me we are already making changes to the legislation. We should not be so hidebound to every specific jot and tittle in a bill. It is simple and straightforward. It seems to me that for us to just say, no, there is going to be no extra time, no matter how complex the issue or how strongly the Department of Defense may want it, they are not going to get any more time, is not wise public policymaking. I urge my colleagues to support the Thompson amendment.

The PRESIDING OFFICER. Senator from Tennessee.

Mr. THOMPSON. What was the unanimous consent with regard to the provision of time right before the vote?

The PRESIDING OFFICER. Four minutes evenly divided prior to the vote.

Mr. THOMPSON. All right. That was my understanding; 2 minutes per side.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. SARBANES. Mr. President, I want to take advantage of these few minutes to address a couple of the points the Senator from Arizona raised.

First of all, in fiscal year 2000, the data indicates that the average time for the review of a license by the Department of Defense was 13 days. The Department of Energy averaged 22 days. The State Department averaged 9 days. The 30-day time period that is in the bill is identical to the current practice under the Executive Order. The amendment would add an additional 60 days in each of two separate circumstances.

Of course, one of the things we were trying to do here was to set up a process whereby applicants could get a definitive decision within a defined timeframe. Now there are provisions in the bill to stop the running of a clock, a couple of which directly go to the end user issue which the Senator from Arizona raised, as requiring further time to ascertain the end user issue.

There are these exceptions that stop the clock, as it were, on the time period that is involved in the reliability of the end user in one instance and additional time to secure the government-to-government assurances regarding end item use. So the very concern that the Senator raised is actually addressed in the legislation in terms of stopping the clock and providing extra time.

I think it is important to underscore that one of the things we were trying to provide to the exporters, which we think is important, was that they could get an answer within a defined period of time. Often they are more concerned in some instances in getting an answer. They need to know, yes or no. They are often competing in an environment in which they have to find out whether they can move forward or not. A department having difficulty with the application can simply say: We think it should be denied. Of course, if they say that, you can then start the interagency appeal process which extends over a sustained period of time.

So we think the framework that is in the legislation really adequately addresses these concerns. It does represent a balance, and, as I indicated earlier, we are giving quite extensive powers to the executive branch in here.

One of the things the business community was concerned to get was a framework with some discipline in it into which they could get an answer. If you are left hanging, you don't know what to do.

So given the provisions for stopping the clock that are in there, we think to add another 60 days on top of this period would extend the process to such an extent that the exporters really could not function in the real world.

Now if the time period was taking a lot longer to get agency response, we could be sensitive to that argument. But that is not the case. In any event, the very people who are concerned with making this work, upon whom the burden would fall, have indicated that they find the time periods that are in this quite acceptable and, in fact, are in opposition to the proposed amendment. They are the very ones who would have to make the process work. So I think that is also an important consideration to take into account.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. THOMPSON. Mr. President, this amendment does nothing to lessen the certainty for the exporters. Under the old law, it is 30 days the agencies have. Under the new law, it will be 30 days. The only difference is that in the case of potential national security, an agency would have additional time. The agency doesn't have to take that time. If the average time for these licenses, as the Senator described, was 13 days, it certainly doesn't sound like that bureaucratic mess we heard described earlier.

The PRESIDING OFFICER. I remind the Senator that we are now under controlled time.

Mr. THOMPSON. I will use my 2 minutes. It doesn't sound like that bureaucratic mess we had earlier. These 14-day cases are streamlined where there is no controversy. We are trying to deal with a situation where national security might be involved. You don't know whether or not you want to object, if you are an agency, until you get into it.

I have heard it referred to again that the agencies apparently do not want this, and it may be politically incor- rect for me to say this, but it is quite obvious the administration has passed the word they want this bill passed without amendments, even to the point where they do not want agencies to be given the opportunity to ask for another 60 days, even a matter of national security. I think that is extremely unfortunate.

It is surprising to me, but apparently that is the case. However, it does not make it right.
I ask my colleagues, in light of the proliferation concerns that this country has, in light of the developing technology, the fact that it is being proliferated around the world and posing a danger to us, that certainly in this export licensing process we can afford to give as much as the Department of Defense, a little additional time if they have a national security concern.

It is not going to put anybody out of business, and it is not going to hurt the overall export process. And what if it does if we are saving something from being exported that otherwise should not be? It is a very simple matter to dispose of, but it is a very important matter to get right.

I yield the floor.

Mr. GRAMM. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I have no question about the sincerity of Senator THOMPSON’s amendment. He has worked with us on this bill, and against us to some extent. We have made 59 changes in the bill to accommodate Senator THOMPSON and people who share his concern, but let me explain to my colleagues why this amendment is not good.

We have established a system that for the first time is giving the security agencies a voice in this process. We have included the system so one member of the panel, from any one agency, can vote no, and the process at that point is denied and it has to be appealed to a higher level.

It is not like the old system, where the person from the Department of Defense could express concern but they could be overridden. Under the current system, you just have to have one person say no and the process either ends or it is bumped up to the next level.

Finally, we give the President a new national security power that says no matter what the circumstances are, no matter whether a product is mass marketed or not, no matter whether a terrorist group or a terrorist nation or a would-be adversary could get the product, you cannot, from any other source, if the President believes it threatens national security, it is stopped.

What this amendment would do basically terminate the effectiveness to the system by saying that at any point anybody believes there is complexity in the analysis or there is a potential impact on national security or foreign policy interest, they could indefinitely delay. What we want is a decision. Remember, the reviewing officers have to do this as the process moves on, and let them vote yes or no. That is what the process is about.

I urge my colleagues to defeat this amendment.

I move to table the amendment, and I ask for two yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.
of deals are being restructured. HUD reports that the program has saved the federal government about $500 million on a present value basis to date.

The legislation we have before us includes a series of purposes designed to reiterate Congress’ emphasis on adequate rehabilitation and reserves in order to meet ongoing affordability commitments. Similarly, we want to make sure that expenses are properly calculated. We chose not to burden the program with an overly prescriptive set of directives regarding these matters. Nonetheless, we expect HUD and the Office to bear these purposes very much in mind as they administer the program.

The bill reauthorizes grants to tenant and non-profit groups to help residents participate in the Mark-to-Market process. It calls for independent rent determinations and a determination whether a property should go through the restructuring process, a simple rent reduction, or a straightforward contract renewal. This independent assessment will be used to set rents for vouchers, should the owner choose to opt out of the program. Owners will continue to have the right to appeal the rent set by the independent review. The bill also expands the flexibility of the Department to approve market rent exceptions where necessary.

The bill gives the Secretary flexibility to reduce the 25 percent owner rehabilitation contribution for the cost of significant additions to a project that are required by HUD. This was done in response to a reasonable equity argument made by the owners.

Finally, in consultation with HUD and a number of owners, we include changes that will expedite refinancing of the mortgages and lengthen the term of the new first mortgages. We also make adjustments that will allow the size of the second mortgages to be larger, thereby reducing the potential for cancellation of indebtedness income rulings by the IRS with their attendant tax penalties. Taken together, these changes will allow the underwriting to provide for more rehabilitation, reduce the amount of claims taken against the FHA fund, and increase the collection of the mortgages, thereby saving the taxpayer additional funds on top of the rent savings.

We take HUD’s suggestion and put the Director of OMHAR under the authority of the FHA Commissioner, as did the Financial Services Committee. We keep the provision in current law that establishes higher compensation for OMHAR employees because we want to retain the highly skilled staff. A significant part of the reason for retaining this legislation so expeditiously is that we want to signal that staff that it is our intention to keep them on board and on the job.

The legislation extends the life of both the program and the Office for 5 years. I understand that HUD requested a 3 year extension only. However, data from the GAO indicates that there will still be a significant, if declining, stream of expiring contracts that would alter the goal of real authorisation. Frankly, I see no reason to revisit this issue a third time. I would strongly prefer to make sure this is the last time we have to act on this issue. Of course, as we move forward, I would expect to continue to discuss these and other matters, both with the administration and with the House.

In closing, this legislation has broad bipartisan support. My colleagues and I tried to be responsive to the administration and other stakeholders, while ensuring that we maintain a highly skilled staff at the Department. I am hopeful that we can move this legislation quickly through the process.

SUPPORT FOR FULL FUNDING OF THE NATIONAL GUARD

Mr. GRASSLEY. Madam President, I rise to express my strong support for the National Guard’s counterdrug mission. I am concerned that the proposed Department of Defense, DoD, funding for the National Guard’s FY-2002 Counterdrug Program, State Plans, is not sufficient to ensure the continuance of this valuable service to law enforcement and local communities, and request that the funding be increased $40.7 million, from the President’s $154.3 million request, to a total of $195 million.

The National Guard’s Adjutant Generals, from the various States, have indicated to the National Guard Bureau, that without a minimum of $195 million budgeted for this program, large personnel layoffs may occur. My staff has heard reports that one State may have to downsize by as much as one-third their personnel. Over ninety percent of the National Guard’s counterdrug program costs are personnel-based, and as such, it is extremely sensitive to variations in funding, taking years to recover from any reduction in trained and experienced personnel. These reductions affect supported agencies, including the Customs Service, DEA, U.S. Border Patrol, FBI, HIDTAs, scores of State and local law enforcement agencies, and community based organizations.

I am also concerned about the apparent lack of emphasis, and even distancing of itself, by the Department of Defense, on the counterdrug mission, especially in a year of discussions of increased DoD funding for other military mission areas. I sense this repeatedly in insufficient funding for the National Guard and other critical counterdrug mission areas, and believe this would be a poor policy decision and a poor indication of the nation’s priorities.

I urge my colleagues and the Department of Defense to give serious consideration to the National Guard program and its contribution to our national drug control strategy.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Madam President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of this year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred January 28, 1998 in Webster, MA. A gay man was allegedly attacked by two men, one of whom he met through a gay chat room on the Internet. The men also used anti-gay epithets. William “Billy” Peters was arrested in the incident.

I believe that government’s first duty is defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation, we can change hearts and minds as well.

ADDITIONAL STATEMENTS

NAGORNO KARABAGH’S INDEPENDENCE DAY

- Mr. JOHNSON. Mr. President, I rise today to recognize September 2, 2001, as the 10th anniversary of Nagorno Karabagh’s declaration of independence. Born from the disintegration of the Soviet Union in the late 1980s, the Republic of Nagorno Karabagh has faced incredible odds over the past decade in its struggle for self-determination, independence, peace, and stability.

Many Americans know very little about Nagorno Karabagh. However, the region is culturally rich and historically significant as a bridge between Eastern and Western societies. Armenians have been a distinct political entity in Artsakh—the traditional Armenian name for the Republic of Nagorno Karabagh—since the 2nd Century B.C. Christianity in the region grew and strengthened following the construction of the historic Monastery in Amares. A.D. The Monastery was destroyed by invaders and rebuilt, the Monastery in Amaras currently stands as a symbol of faith and perseverance for Armenians.

The Soviet Union’s oppression of independence in the region began in the 1920s as Nagorno Karabagh and its predominantly Armenian population were attached to Azerbaijan. Most recently, Armenians in Nagorno Karabagh struggled to fight the rise of Islamic fundamentalism in the Caucasus region.

Finally, on September 2, 1991, the Armenians of Nagorno Karabagh declared
their independence and survived a three-year war with Azerbaijan to create legitimate government institutions. Residents of Nagorno Karabagh have participated in national elections for parliament and president since then.

Many challenges face the Republic of Nagorno Karabagh and Armenians in the region. I applaud efforts undertaken this year to bring together Armenia and Azerbaijan in Key West, Florida, to discuss a peaceful end to the Nagorno Karabagh conflict. As Secretary of State Powell noted, “achieving a durable and mutually acceptable resolution to Armenia’s conflict with Azerbaijan over Nagorno Karabagh is key to several US interests.” In addition to helping to restore stability in the Caucasus region, a lasting peace agreement would allow Armenia to improve its relations with Turkey and focus much of its economic resources on internal development and social improvements.

As a member of the Senate Foreign Operations Appropriations Subcommittee, I will continue to work to secure funding to support a settlement of the Nagorno Karabagh conflict. These dollars are critical to the peace process and to post-settlement reconstruction in Azerbaijan and Armenia as part of a coordinated international donor effort.

Again, I commend the Armenians of the Republic of Nagorno Karabagh for their courage and perseverance on this anniversary of their independence. I look forward to years of peace and economic vitality in the region.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

Under the authority of the order of the Senate of January 3, 2001, the Secretary of the Senate, on August 8, 2001, during the recess of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bills:

H.R. 95. An act to amend title 5, United States Code, to provide that the mandatory separation age for Federal firefighters be made the same as the age that applies with respect to Federal law enforcement personnel.

H.R. 271. An act to direct the Secretary of the Interior to convey a former Bureau of Land Management administrative site to the city of Carson City, Nevada, for use as a senior center.

H.R. 504. An act to designate the facility of the United States Postal Service located at 5927 Southwest 70th Street in Miami, Florida, as the “Arjoly Williams Scrivens Post Office.”

H.R. 427. An act to provide further protections for the watershed of the Little Sandy River as part of the Bull Run Watershed Management Unit, Oregon, and for other purposes.

H.R. 558. An act to designate the Federal building and United States courthouse located at 504 West Hamilton Street, in Altoona, Pennsylvania, as the “Edward N. Cahn Federal Building and United States Courthouse.”

H.R. 821. An act to designate the facility of the United States Postal Service located at 1030 South Church Street in Asheboro, North Carolina, as the “W. Joe Trogdon Post Office Building.”

H.R. 988. An act to designate the United States courthouse located at 40 Centre Street in New York, New York, as the “Thurgood Marshall United States Courthouse.”

H.R. 1181. An act to designate the facility of the United States Postal Service located at 113 South Main Street in Sylvania, Georgia, as the “G. Elliot Hagan Post Office Building.”

H.R. 1753. An act to designate the facility of the United States Postal Service located at 419 Rutherford Avenue, N.W., in Roanoke, Virginia, as the “M. Caldwell Butler Post Office Building.”

H.R. 2943. An act to designate the facility of the United States Postal Service located at 2719 South Webster Street in Kokomo, Indiana, as the “Elwood Haynes ‘Bud’ Hillis Post Office Building.”

H.R. 2233. An act to respond to the continuing economic crisis adversely affecting American agricultural producers.

Under the authority of the order of the Senate of January 3, 2001, the enrolled bills were signed by the President pro tempore (Mr. BYRD) on August 8, 2001.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

H.R. 4. An act to enhance energy conservation, research and development and to provide for security and diversity in the energy supply for the American people, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–3289. A communication from the Deputy Assistant Secretary, Office of Workforce Security, Department of Labor, transmitting, pursuant to law, the report of a rule entitled “Labor Certification Process for the Permanent Employment of Aliens in the United States: Refiling of Applications” (RUN-2000–AB32) received on August 7, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–3290. A communication from the Under Secretary for Health, Department of Veterans Affairs, transmitting, a report relative to the impacts of recent and ongoing research; to the Committee on Veterans’ Affairs.

EC–3291. A communication from the Director of the Administrative Office of the United States Courts, transmitting, pursuant to law, a report and corpus death penalty petitions for the period beginning July 1, 2001 through June 30, 2001; to the Committee on the Judiciary.

EC–3292. A communication from the Acting Assistant Attorney General for Administration, Justice Management Division, Department of Justice, transmitting, pursuant to law, the report of a rule entitled “Nationalwide Joint Automated Booking System” (DOJ-005) received on August 9, 2001; to the Committee on the Judiciary.

EC–3293. A communication from the Administrator of the General Service Administration, transmitting, pursuant to law, a report relative to the Federal Employees Clean Air Incentives Act for Fiscal Years 2000 and 2001; to the Committee on Governmental Affairs.

EC–3294. A communication from the Executive Director of the Committee for Purchase from People Who Are Blind or Severely Disabled, transmitting, pursuant to law, the report of additions to a list received on August 8, 2001; to the Committee on Governmental Affairs.

EC–3295. A communication from the Director of Employee Benefits, AgriBank, transmitting, pursuant to law, the annual report disclosing the financial condition of the Retirement Plan for the Employees of the Southeast Farm Credit District and the audited financial statements for Fiscal Year 2000; to the Committee on Governmental Affairs.

EC–3296. A communication from the Assistant Secretary for Health Affairs, Department of Defense, transmitting, pursuant to law, a report relative to the Anti-Deficiency Act; to the Committee on Appropriations.

EC–3297. A communication from the Acting Director of the Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled “Indiana Regulatory Program” (IN–151–FOR) received on August 10, 2001; to the Committee on Energy and Natural Resources.

EC–3298. A communication from the Acting Director of the Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled “Arkansas Regulatory Program” (AR–098–FOR) received on August 10, 2001; to the Committee on Energy and Natural Resources.

EC–3299. A communication from the Group Vice President, Structured and Trade Finance, Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to a transaction involving U.S. exports to the Republic of Korea; to the Committee on Banking, Housing, and Urban Affairs.

EC–3300. A communication from the Acting Director of the Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled “Pennsylvania Regulatory Program” (PA–133–FOR) received on August 10, 2001; to the Committee on Energy and Natural Resources.

EC–3301. A communication from the Chairman and President of the Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to a transaction involving U.S. exports to the Republic of Korea; to the Committee on Banking, Housing, and Urban Affairs.

EC–3302. A communication from the Director of the Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to a transaction involving U.S.
exports to the Republic of Korea; to the Committee on Banking, Housing, and Urban Affairs.

EC-3303. A communication from the General Counsel of the Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled “Changes in Flood Elevation Determinations” (66 FR 39112) received on August 7, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC-3305. A communication from the Acting Chairman of the Securities and Exchange Commission, transmitting, pursuant to law, the Annual Report of the Securities Investor Protection Corporation for Fiscal Year 2000; to the Committee on Banking, Housing, and Urban Affairs.

EC-3308. A communication from the General Counsel of the Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled “Final Flood Elevation Determinations” (66 FR 30928–937) received on August 7, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC-3315. A communication from the Acting Chairman of the Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled “Implementa tion of Public Law 105–34, Section 1417, Related to the Use of Additional Ameliorating Material in Certain Wines” (RIN1512–AB78) received on August 7, 2001; to the Committee on Finance.

EC-3316. 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 “Liquors and Articles From Puerto Rico and the Virgin Islands. Recodification of Regulations” (RIN1512–AC40) received on August 7, 2001; to the Committee on Finance.

EC-3317. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on the Medicare Ambulance Service Demonstration; to the Committee on Finance.

EC-3318. 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 “July–September 2001 Bond Factor Amounts” (Rev. Rul. 2001–37) received on August 8, 2001; to the Committee on Finance.

EC-3319. 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 “Pursuit of Employer Plans Determination Letter Program” (Ann. 2001–83) received on August 9, 2001; to the Committee on Finance.

EC-3320. 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 “Mesa Oil Inc. v. United States” (RIN1512–AC69) received on August 9, 2001; to the Committee on Finance.

EC-3321. 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 “Liquors and Articles From Puerto Rico and the Virgin Islands. Recodification of Regulations” (RIN1512–AC40) received on August 7, 2001; to the Committee on Finance.

EC-3322. 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 “Deposits of Excise Taxes” (RIN1514–AX11) received on August 9, 2001; to the Committee on Finance.

EC-3323. 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 “Modification of Tax Shelter Rules II” (RIN1545–BA04) received on August 3, 2001; to the Committee on Finance.

EC-3324. 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 “Manufacture of Tobacco Products and Cigarette Paper and Tubes—Revenue Ruling” (RIN1512–AC39) received on August 7, 2001; to the Committee on Finance.

EC-3325. 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 “Liquors and Articles From Puerto Rico and the Virgin Islands. Recodification of Regulations” (RIN1512–AC40) received on August 7, 2001; to the Committee on Finance.

EC-3326. A communication from the Acting Chairman of the Securities and Exchange Commission, transmitting, pursuant to law, the report of the discontinuation of service in acting role for the position of Director of Defense Research and Engineering, received on August 7, 2001; to the Committee on Armed Services.

EC-3327. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of the discontinuation of service in acting role for the position of Assistant Secretary for International Security Affairs, received on August 7, 2001; to the Committee on Armed Services.

EC-3328. A communication from the Alternate Liaison Officer, Office of the Secretary, Department of Defense, transmitting, pursuant to law, the report of a rule entitled “Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); TRICARE Prime Enrollment” (RIN0762–AA39) received on August 13, 2001; to the Committee on Armed Services.

EC-3329. A communication from the Alternate Liaison Officer, Office of the Secretary, Department of Defense, transmitting, pursuant to law, the report of a rule entitled “Liquors and Articles From Puerto Rico and the Virgin Islands. Recodification of Regulations” (RIN1512–AC40) received on August 7, 2001; to the Committee on Armed Services.

EC-3330. A communication from the Alternate Liaison Officer, Office of the Secretary, Department of Defense, transmitting, pursuant to law, the report of a rule entitled “Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Nonavailability Statement Requir"...
Arms Export Control Act, the report of a certification of a proposed license for the export of major defense equipment sold under contract in the amount of $14,600,000 or more to Australia; to the Committee on Foreign Relations.

EC-3336. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a proposed license for the export of defense articles or services sold commercially under contract in the amount of $50,000,000 or more to the United Kingdom and Saudi Arabia; to the Committee on Foreign Relations.

EC-3337. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a proposed license for the export of defense articles or services sold commercially under contract in the amount of $50,000,000 or more to Belgium; to the Committee on Foreign Relations.

EC-3338. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a proposed license for the export of defense articles or services sold commercially under contract in the amount of $50,000,000 or more to Canada; to the Committee on Foreign Relations.

EC-3339. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a proposed license for the export of defense articles or services sold commercially under contract in the amount of $50,000,000 or more to Italy; to the Committee on Foreign Relations.

EC-3340. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a proposed license for the export of defense articles or services sold commercially under contract in the amount of $50,000,000 or more to Austria; to the Committee on Foreign Relations.

EC-3341. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a proposed license for the export of defense articles or services sold commercially under contract in the amount of $50,000,000 or more to France; to the Committee on Foreign Relations.

EC-3342. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a proposed license for the export of defense articles or services sold commercially under contract in the amount of $50,000,000 or more to Guinea; to the Committee on Foreign Relations.

EC-3343. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a proposed license for the export of defense articles or services sold commercially under contract in the amount of $50,000,000 or more to Israel; to the Committee on Foreign Relations.

EC-3344. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a proposed license for the export of defense articles or services sold commercially under contract in the amount of $50,000,000 or more to Japan; to the Committee on Foreign Relations.

EC-3345. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a proposed license for the export of defense articles or services sold commercially under contract in the amount of $50,000,000 or more to Belgium; to the Committee on Foreign Relations.

EC-3346. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a proposed license for the export of defense articles or services sold commercially under contract in the amount of $50,000,000 or more to Japan; to the Committee on Foreign Relations.

EC-3347. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a proposed license for the export of defense articles or services sold commercially under contract in the amount of $50,000,000 or more to Japan; to the Committee on Foreign Relations.

EC-3348. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a proposed license for the export of defense articles or services sold commercially under contract in the amount of $50,000,000 or more to Belgium; to the Committee on Foreign Relations.

EC-3349. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a proposed license for the export of defense articles or services sold commercially under contract in the amount of $50,000,000 or more to Italy; to the Committee on Foreign Relations.

EC-3350. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a proposed license for the export of defense articles or services sold commercially under contract in the amount of $50,000,000 or more to Austria; to the Committee on Foreign Relations.

EC-3351. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a proposed license for the export of defense articles or services sold commercially under contract in the amount of $50,000,000 or more to Canada; to the Committee on Foreign Relations.

EC-3352. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a proposed license for the export of defense articles or services sold commercially under contract in the amount of $50,000,000 or more to Israel; to the Committee on Foreign Relations.

EC-3353. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, the report of the intent to oblige funds for purposes of Nonproliferation and Disarmament Activities; to the Committee on Foreign Relations.

EC-3354. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of Foreign Military Financing with Egypt; to the Committee on Foreign Relations.

EC-3355. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of the Arts and Antiquities Agreement, other than treaties; to the Committee on Foreign Relations.

EC-3356. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled “Veterinary Services User Fees; Fees for Permit Applications” (Doc. No. 99–609–2) received on August 7, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3357. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled “Asian Longhorned Beetle; Additions to Quarantine Prohibitions Because of Bovine Spongiform Encephalopathy” (Doc. No. 00–121–1) received on August 10, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3358. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Bifenazate; Pesticide Tolerances for Emergency Exemptions” (FRL6793–2) received on August 8, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3359. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “2-Propenoic Acid, Polymer with 2-Propenamide, Sodium Salt; Tolerance Exemptions” (FRL6794–7) received on August 14, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3360. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “2-Propenoic Acid, Polymer with 2-Propenamide, Sodium Salt; Tolerance Exemptions” (FRL6794–8) received on August 14, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3361. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “B–D Glucuronidase from E.Coli and Genetic Material Necessary for its Production; Plant Pesticide Inert Ingredient; Exemption from the Requirement of a Tolerances” (FRL6792–8) received on August 14, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3362. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Bifenazate; Pesticide Tolerances for Emergency Exemptions” (FRL6769–3) received on August 14, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3363. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Bifenazate; Pesticide Tolerances for Emergency Exemptions” (FRL6793–5) received on August 14, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3364. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Implementation Guidance for the Stage I Disinfectants/Disinfection By Product Rule”; to the Committee on Environment and Public Works.

EC-3365. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Implementation Guidance for the Interim Enhanced Surface Water Treatment Rule”; to
the Committee on Environment and Public Works.

EC–3367. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, a report entitled “Lead Awareness (Educational) Outreach for Native American Tribes; Notice of Availability; Formal Announcement; Committee on Environment and Public Works.

EC–3388. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, a report entitled “Baseline Assessment of Existing Exposure and Baseline Assessment of Lead Poisoning Risk Among Native American Children; Notice of Availability”; to the Committee on Environment and Public Works.

EC–3389. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, a report entitled “Revision to the California State Implementation Plan for Fish and Wildlife Conservation; Notice of Availability”; to the Committee on Environment and Public Works.

EC–3370. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, a report entitled “Guidance: Coordinating CSG Long-Term Planning with Water Quality Standards Reviews”; to the Committee on Environment and Public Works.

EC–3371. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, a report entitled “Amendment of Environmental Protection Agency regulations (40 CFR part 60, subpart D-C (Source Specific Standards for Electric Utility Steam Generating Units))” (FRL7033–8) received on August 14, 2001; to the Committee on Environment and Public Works.

EC–3372. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, a report entitled “Final Authorization of State Hazardous Waste Management Program Revisions”; to the Committee on Environment and Public Works.

EC–3373. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, a report entitled “Approval and Promulgation of State Implementation Plans; Wisconsin” (FRL7029–9) received on August 14, 2001; to the Committee on Environment and Public Works.

EC–3374. A communication from the Special Assistant to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled “Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Bordelonville, LA)” (Doc. No. 91–68) received on August 7, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3375. A communication from the Special Assistant to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled “Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Browning, Montana)” (Doc. No. 91–14) received on August 7, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3376. A communication from the Special Assistant to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled “Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Burnet, Texas)” (Doc. No. 91–35) received on August 7, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3377. A communication from the Special Assistant to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled “Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Boulder, Colorado)” (Doc. No. 91–12) received on August 7, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3378. A communication from the Special Assistant to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled “Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Blankenship, North Carolina)” (Doc. No. 91–36) received on August 7, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3379. A communication from the Special Assistant to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled “Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Brentwood, Tennessee)” (Doc. No. 91–9) received on August 7, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3380. A communication from the Special Assistant to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled “Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Breckenridge, Colorado)” (Doc. No. 91–21) received on August 7, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3381. A communication from the Special Assistant to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled “Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Bremerton, Washington)” (Doc. No. 91–37) received on August 7, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3382. A communication from the Special Assistant to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled “Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Bremerton, Washington)” (Doc. No. 91–38) received on August 7, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3383. A communication from the Special Assistant to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled “Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Bremerton, Washington)” (Doc. No. 91–39) received on August 7, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3384. A communication from the Special Assistant to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled “Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Bremerton, Washington)” (Doc. No. 91–40) received on August 7, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3385. A communication from the Special Assistant to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled “Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Bremerton, Washington)” (Doc. No. 91–41) received on August 7, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3386. A communication from the Special Assistant to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled “Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Bremerton, Washington)” (Doc. No. 91–42) received on August 7, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3387. A communication from the Acting Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Suspected Forced or Indentured Child Labor” (48 CFR 1822) received on August 7, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3388. A communication from the Acting Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Investigations of Suspected Forced or Indentured Child Labor” (48 CFR 1822) received on August 7, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3389. A communication from the Acting Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Investigations of Suspected Forced or Indentured Child Labor” (48 CFR 1822) received on August 7, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3390. A communication from the Acting Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Investigations of Suspected Forced or Indentured Child Labor” (48 CFR 1822) received on August 7, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3391. A communication from the Acting Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Investigations of Suspected Forced or Indentured Child Labor” (48 CFR 1822) received on August 7, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3392. A communication from the Acting Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Investigations of Suspected Forced or Indentured Child Labor” (48 CFR 1822) received on August 7, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3393. A communication from the Acting Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Investigations of Suspected Forced or Indentured Child Labor” (48 CFR 1822) received on August 7, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3394. A communication from the Acting Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Investigations of Suspected Forced or Indentured Child Labor” (48 CFR 1822) received on August 7, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3395. A communication from the Acting Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Investigations of Suspected Forced or Indentured Child Labor” (48 CFR 1822) received on August 7, 2001; to the Committee on Commerce, Science, and Transportation.
Airbus Model A330–301, 321, 322, 341, and 342


EC–3414. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Boeing Model 767–200, 300, 300F and 400ER Series Airplanes Equipped with GE Model CF6 Engines” ((RIN2120–AA64)(2001–0419)) received on August 14, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3415. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: BAE Systems Limited Model Avro 146 RJ Series Airplanes” ((RIN2120–AA64)(2001–0431)) received on August 14, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3416. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Fokker Model F27 Mark 050 Series Airplanes” ((RIN2120–AA64)(2001–0420)) received on August 14, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3417. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Fokker Model F27 Mark 050 Series Airplanes” ((RIN2120–AA64)(2001–0420)) received on August 14, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3418. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Raytheon Model Hawker 800XP Series Airplanes and Model Hawker 800 Airplanes” ((RIN2120–AA64)(2001–0413)) received on August 14, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3419. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Fokker Model F27 Mark 050 Series Airplanes” ((RIN2120–AA64)(2001–0420)) received on August 14, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3421. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: BAE Systems Limited Model Avro 146 RJ Series Airplanes” ((RIN2120–AA64)(2001–0431)) received on August 14, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3422. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Fokker Model F27 Mark 050 Series Airplanes” ((RIN2120–AA64)(2001–0420)) received on August 14, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3423. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Boeing Model 767–200, 300, 300F and 400ER Series Airplanes Equipped with GE Model CF6 Engines” ((RIN2120–AA64)(2001–0419)) received on August 14, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3424. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: BAE Systems Limited Model Avro 146 RJ Series Airplanes” ((RIN2120–AA64)(2001–0431)) received on August 14, 2001; to the Committee on Commerce, Science, and Transportation.
transmitting, pursuant to law, the report of a rule entitled “Establish Class E Airspace: Kane, PA” ((RIN2120–AA66)(2001–0120)) received on August 14, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3432. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Establishment of Class D and Class E Airspace; Gainesville, GA” ((RIN2120–AA66)(2001–0126)) received on August 14, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3432. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Amendment of Class D and Class E Airspace; Greensburg, PA” ((RIN2120–AA66)(2001–0127)) received on August 14, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3432. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: General Electric Company CF6–50 Turbofan Engines; request for comments” ((RIN2120–AA64)(2001–0089)) received on August 14, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3433. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Airbus Model A310 Series Airplanes” ((RIN2120–AA64)(2001–0088)) received on August 14, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3434. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Boeing Model 767–300 Series Airplanes” ((RIN2120–AA64)(2001–0090)) received on August 14, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3435. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Boeing Model 777 Series Airplanes” ((RIN2120–AA64)(2001–0092)) received on August 14, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3436. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: General Electric Company CF6–56 Turbofan Engines” ((RIN2120–AA64)(2001–0082)) received on August 14, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3438. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: General Electric Company CF6–50 Turbofan Engines” ((RIN2120–AA64)(2001–0089)) received on August 14, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3441. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Pratt and Whitney JT9D Serials Engines” ((RIN2120–AA64)(2001–0091)) received on August 14, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3442. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Boeing Model 777–300 Series Airplanes” ((RIN2120–AA64)(2001–0090)) received on August 14, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3443. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Boeing Model 787 Series Airplanes” ((RIN2120–AA64)(2001–0091)) received on August 14, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3444. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Pratt and Whitney JT9D–3 and –7 Series Engines” ((RIN2120–AA64)(2001–0082)) received on August 14, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3445. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Boeing Model 747 Series Airplanes Powered by Pratt and Whitney JT9D–3 and –7 Series Engines” ((RIN2120–AA64)(2001–0092)) received on August 14, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3446. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: General Electric Company CF6–50 Turbofan Engines” ((RIN2120–AA64)(2001–0089)) received on August 14, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3447. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: General Electric Company CF6–50 Turbofan Engines” ((RIN2120–AA64)(2001–0089)) received on August 14, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3448. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: General Electric Company CF6–50 Turbofan Engines” ((RIN2120–AA64)(2001–0089)) received on August 14, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3449. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: General Electric Company CF6–50 Turbofan Engines” ((RIN2120–AA64)(2001–0089)) received on August 14, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3450. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: General Electric Company CF6–50 Turbofan Engines” ((RIN2120–AA64)(2001–0089)) received on August 14, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3451. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: General Electric Company CF6–50 Turbofan Engines” ((RIN2120–AA64)(2001–0089)) received on August 14, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3452. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: General Electric Company CF6–50 Turbofan Engines” ((RIN2120–AA64)(2001–0089)) received on August 14, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3453. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: General Electric Company CF6–50 Turbofan Engines” ((RIN2120–AA64)(2001–0089)) received on August 14, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3454. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: General Electric Company CF6–50 Turbofan Engines” ((RIN2120–AA64)(2001–0089)) received on August 14, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3455. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: General Electric Company CF6–50 Turbofan Engines” ((RIN2120–AA64)(2001–0089)) received on August 14, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3456. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: General Electric Company CF6–50 Turbofan Engines” ((RIN2120–AA64)(2001–0089)) received on August 14, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3457. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: General Electric Company CF6–50 Turbofan Engines” ((RIN2120–AA64)(2001–0089)) received on August 14, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3458. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: General Electric Company CF6–50 Turbofan Engines” ((RIN2120–AA64)(2001–0089)) received on August 14, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3459. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: General Electric Company CF6–50 Turbofan Engines” ((RIN2120–AA64)(2001–0089)) received on August 14, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3460. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Learjet Model 55 Series Airplanes and Model 60 Airplanes” ((RIN2120–AA64)(2001–0090)) received on August 14, 2001; to the Committee on Commerce, Science, and Transportation.
AA64(2001–0399)) received on September 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3450. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: McDonnell Douglas Model DC 10–10, 15, 30, 30F, MD 10, 10F and MD 10SF Series” ((RIN2120–AA64(2001–0387))) received on September 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3459. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Amendment to Class E airspace: Seneca Falls, NY; correction” ((RIN2120–AA64(2001–0392))) received on September 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3460. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Learjet Model 23, 24, 25, 28, 29, 31, 35, 36, and 38 Series Airplanes” ((RIN2120–AA64(2001–0388))) received on September 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3461. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Dornier Model 328–100 Series Airplanes; Modif- ied by Supplemental Type Certificate S0018SE” ((RIN2120–AA64(2001–0396))) received on September 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3462. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: McDonnell Douglas Model DC 9 92 Series Airplanes; Additional Transporthelicopter Certificates of Airworthiness” ((RIN2120–AA64(2001–0373))) received on September 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3463. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Empress Brasileira de Aeronautica SA Model EMB 135 and 145 Series Airplanes” ((RIN2120–AA64(2001–0371))) received on September 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3464. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Learjet Model 23, 24, 25, 28, 29, 31, 35, 36, and 38 Series Airplanes” ((RIN2120–AA64(2001–0380))) received on September 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3465. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Boeing Model 747–100 and 200 Series Airplanes” ((RIN2120–AA64(2001–0389))) received on September 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3466. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: McDonnell Douglas Model MD 90–27, 28, and 30 Series Airplanes” ((RIN2120–AA64(2001–0390))) received on September 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3470. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Exemption of Public Vessels Equipped with Electronic Charting and Navigation Systems from Paper Chart Requirements” ((RIN2115–AE47)(2001–0002)) received on September 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3471. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Drawbridge Regulations; English Kills and their tributaries, NY” ((RIN2115–AE47)(2001–0002)) received on September 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3472. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Great Lakes Pilotage Rates” ((RIN2115–AF99(2001–0001)) received on September 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3474. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Drawbridge Regulations; Chelsea River, MA” ((RIN2115–AF99(2001–0001)) received on September 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3475. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Army Air National Guard”; ((RIN2120–AA64(2001–0381)) received on September 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3476. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Drawbridge Regulations; Umatilla River, OR; Argyle Channel, WA” ((RIN2120–AF75(2001–0003)) received on September 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC–3477. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Army Air National Guard”; ((RIN2120–AA64(2001–0382)) received on September 4, 2001; to the Committee on Commerce, Science, and Transportation.
EC–3485. A communication from the President of the United States (referred on September 4, 2001), transmitting, consistent with the War Powers Act, a report relative to East Timor, to the Committee on Foreign Relations.

REPORTS OF COMMITTEES RECEIVED DURING RECESS

Under the authority of the order of the Senate of July 30, 2001, the following reports of committees were submitted on August 28, 2001:

By Mr. LEAHY, from the Special Committee on Aging:
Report to accompany S. 1099, a bill to increase the criminal penalties for assaulting or threatening Federal judges, their family members, and other public servants, and for other purposes. (Rept. No. 107–53).

By Mr. KERRY, from the Committee on Small Business and Entrepreneurship, without amendment:
S. 856: A bill to reauthorize the Small Business Technology Transfer Program, and for other purposes. (Rept. No. 107–54).

By Mr. INOUYE, from the Committee on Indian Affairs, with amendments:

By Mr. Harkin, from the Committee on Finance, with an amendment in the nature of a substitute:

EC–348. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Drawbridge Regulations: PGA Boulevard Bridge (ICW), West Palm Beach, FL.” ((RIN2115–AA7)(2001–0050)) received on September 4, 2001, to the Committee on Commerce, Science, and Transportation.

EC–3479. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Safety/Security Regulations: PAGA Boulevard Bridge (ICW), West Palm Beach, FL.” ((RIN2115–AA7)(2001–0054)) received on September 4, 2001, to the Committee on Commerce, Science, and Transportation.

EC–3480. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Safety/Security Zone Regulations: Bay City Relay For Life Fireworks, Saginaw River, MI.” ((RIN2115–AA7)(2001–0051)) received on September 4, 2001, to the Committee on Commerce, Science, and Transportation.

EC–3481. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Drawbridge Regulations: Japanese Fisheries High School Training Vessel EHIME MARU Relocation and Crew Member Recovery, Pacific Ocean Coast Guard, Department of Transportation, HI.” ((RIN2115–AA7)(2001–0049)) received on September 4, 2001, to the Committee on Commerce, Science, and Transportation.


The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:
Col. John W. Handy, 0000, to be General.

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:
Maj. Gen. Teed M. Moseley, 0000, to be Lieutenant General.

The following named officers for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 601:
Brig. Gen. Eldon A. Bargewell, 0000, to be Major General.
Brig. Gen. David W. Barno, 0000, to be Major General.
Brig. Gen. John R. Batiste, 0000, to be Major General.
Brig. Gen. Peter W. Chiarelli, 0000, to be Major General.
Brig. Gen. Claude V. Christianson, 0000, to be Major General.
Brig. Gen. Robert T. Dall, 0000, to be Major General.
Brig. Gen. Robert H. Griffin, 0000, to be Major General.
Brig. Gen. John W. Holly, 0000, to be Major General.
Brig. Gen. David H. Huntoon, Jr., 0000, to be Major General.
Brig. Gen. James F. Amos, 0000, to be Major General.
Brig. Gen. Marilyn A. Quagliotti, 0000, to be Major General.
Brig. Gen. James F. Flock, 0000, to be Brigadier General.
Brig. Gen. Frances C. Wilson, 0000, to be Major General.

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

The following named officer for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:
Brig. Gen. Lester Martinez-Lopez, 0000, to be Major General.

The following named officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:
Col. Dawn R. Horn, 0000, to be Brigadier General.

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:
Lt. Gen. Kevin F. Byrnes, 0000, to be Lieutenant General.

The following named officers for appointment in the United States Coast Guard to the grade indicated under title 14, U.S.C., section 271:
Rear Adm. (lh) James C. Olson, 0000, to be Rear Admiral.
Rear Adm. (lh) James W. Underwood, 0000, to be Rear Admiral.
Rear Adm. (lh) Ralph D. Utley, 0000, to be Rear Admiral.
Rear Adm. (lh) Kenneth T. Venuto, 0000, to be Rear Admiral.

The following named officers for appointment in the United States Marine Corps to the grade indicated under title 10, U.S.C., section 601:
Brig. Gen. James F. Amos, 0000, to be Major General.
Brig. Gen. Timothy E. Donovan, 0000, to be Major General.
Brig. Gen. James F. Wilson, 0000, to be Major General.

The following named officer for appointment in the United States Marine Corps Reserve to the grade indicated under title 10, U.S.C., section 12203:
Brig. Gen. John W. Bergman, 0000, to be major general.

The following named officers for appointment in the United States Marine Corps to the grade indicated under title 10, U.S.C., section 624:
Col. Ronald S. Coleman, 0000, to be Brigadier General.
Col. James F. Fleck, 0000, to be Brigadier General.
Col. Kenneth J. Glueck, Jr., 0000, to be Brigadier General.
Col. Dennis J. Hejlik, 0000, to be Brigadier General.
Col. Carl B. Jensen, 0000, to be Brigadier General.
Col. Robert B. Neller, 0000, to be Brigadier General.
Col. John M. Paxton, Jr., 0000, to be Brigadier General.
CONGRESSIONAL RECORD — SENATE
September 4, 2001

Col. Edward G. Usher III, 0000, to be Brigadier General.

The following named officers for appointment in the United States Marine Corps Reserve to the grade indicated under title 10, U.S.C., section 12303:

Capt. Robert D. Jenkins III, 0000, to be Rear Admiral.(Lower Half).

Capt. Thomas J. Kilcline Jr., 0000, to be Rear Admiral.(Lower Half).

Robert A. Brenenik in the Air Force to be Colonel.

28 nominations in the Army received by the Senate beginning with Roger L. Armatstead and ending with Carl S. Young, Jr. 4 nominations in the Army received by the Senate beginning with Donald W. Dawson, III and ending with Daniel F. Lee.

Curtis W. Marsh in the Marine Corps to be Colonel.

ADDITIONAL COSPONSORS

S. 29
At the request of Mr. BOND, the name of the Senator from Tennessee (Mr. FRIST) was added as a cosponsor 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. 88
At the request of Mr. ROCKEFELLER, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 88, 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.

S. 135
At the request of Mrs. FEINSTEIN, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 135, a bill to amend title XVIII of the Social Security Act to improve payments for direct graduate medical education under the medicare program.

S. 145
At the request of Mr. THURMOND, the names of the Senator from New Jersey (Mr. TORRICELLI) and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of S. 145, a bill to amend title 10, United States Code, to increase the basic annuity that is provided to parity with other surviving spouses and surviving spouses who are at least 62 years of age, and for other purposes.

S. 170
At the request of Mr. REID, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 170, a bill to amend title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive both military retired pay by reason of their years of military service and disability compensation from the Department of Veterans Affairs for their disability.

S. 177
At the request of Mr. AKARA, the names of the Senator from Washington (Mrs. MURRAY) and the Senator from Montana (Mr. BURNS) were added as cosponsors of S. 177, a bill to amend the provisions of title 39, United States Code, relating to the manner in which pay policies and schedules and fringe benefit programs for postmasters are established.

S. 318
At the request of Mr. DASCHLE, the names of the Senator from North Dakota (Mr. DORGAN) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 318, a bill to prohibit discrimination on the basis of genetic information with respect to health insurance.

S. 345
At the request of Mr. ALLARD, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 345, a bill to amend the Animal Welfare Act to strike the limitation that permits interstate movement of live birds, for the purpose of fighting, to States in which animal fighting is lawful.

S. 392
At the request of Mr. SARBANES, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 392, a bill to grant a Federal Charter to Korean War Veterans Association, Incorporated, and for other purposes.

S. 503
At the request of Mr. REID, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 503, a bill to amend the Safe Water Act to provide grants to small public drinking water system.

S. 543
At the request of Mr. WELLSTONE, the names of the Senator from Connecticut (Mr. LIEBERMAN), the Senator from California (Mrs. BOXER), and the Senator from South Dakota (Mr. DASCHLE) were added as cosponsors of S. 543, a bill to provide for equal coverage of mental health benefits with respect to health insurance coverage unless comparable limitations are imposed on medical and surgical benefits.

S. 582
At the request of Mr. CONRAD, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 582, a bill to eliminate the Act establishing the Health Service Act and title XVIII of the Social Security Act to sustain access to vital emergency medical services in rural areas.

S. 611
At the request of Ms. MIKULSKI, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 611, a bill to amend title II of the Social Security Act to provide that the reduction in social security benefits which are required in the case of spouses and surviving spouses who are also receiving certain Government pensions shall be equal to the amount by which two-thirds of the total amount of the combined monthly benefit (before reduction) and monthly pension exceeds $1,200, adjusted for inflation.

S. 659
At the request of Mr. CRAPO, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 659, a bill to amend title XVIII of the
Social Security Act to adjust the labor costs relating to items and services furnished in a geographically reclassified hospital for which reimbursement under the medicare program is provided on a prospective basis.

At the request of Mr. WELLSTONE, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 690, a bill to amend title XVIII of the Social Security Act to expand and improve coverage of mental health services under the medicare program.

At the request of Mr. BROWNBACK, the names of the Senator from Florida (Mr. NELSON) and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of S. 829, a bill to establish the National Museum of African American History and Culture within the Smithsonian Institution.

At the request of Mr. HUTCHINSON, the name of the Senator from New Hampshire (Mr. SMITH) was added as a cosponsor of S. 858, a bill to amend title I of the Employee Retirement Income Security Act of 1974 to improve access and choice for entrepreneurs with small business with respect to medical care for their employees.

At the request of Mr. REID, the names of the Senator from Washington (Ms. CANTWELL) and the Senator from Arizona (Mr. KYL) were added as cosponsors of S. 899, a bill to amend the Public Health Service Act to provide for a national media campaign to reduce and prevent underage drinking in the United States.

At the request of Mr. SMITH of New Hampshire, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 900, a bill to amend the Pittman-Robertson Wildlife Restoration Act to improve the provisions relating to wildlife conservation and restoration programs, and for other purposes.

At the request of Mr. BINGAMAN, the names of the Senator from Hawaii (Mr. INOUYE) and the Senator from Texas (Mrs. HUTCHISON) were added as cosponsors of S. 909, a bill to amend title 10, United States Code, to provide for a Korea Defense Service Medal to be issued to members of the Armed Forces who participated in operations in Korea after the end of the Korean War.

At the request of Mrs. HUTCHISON, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 1009, a bill to amend the United States Code, to improve benefits for Filipino veterans of World War II, and for other purposes.

At the request of Mr. FEINGOLD, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 1041, a bill to establish a program for an information clearinghouse to increase public access to declassification in schools.

At the request of Mr. INOUYE, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 1092, a bill to amend title 38, United States Code, to improve benefits for Vietnam veterans.

At the request of Mr. HATCH, the names of the Senator from Hawaii (Mr. INOUYE) and the Senator from Maryland (Ms. MURRHY) were added as cosponsors of S. 1066, a bill to amend title XVIII of the Social Security Act to establish procedures for determining payment amounts for new clinical diagnostic laboratory tests for which payment is made under the medicare program.

At the request of Mr. MCCAIN, the names of the Senator from Washington (Mrs. MURRAY) and the Senator from Nevada (Mr. REID) were added as cosponsors of S. 1125, a bill to conserve global bear populations by prohibiting the importation, exportation, and interstate trade of bear viscera and items, products, or substances containing, or labeled or advertised as containing, bear viscera, and for other purposes.

At the request of Mr. CRAPO, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 1132, a bill to amend the Federal Food, Drug, and Cosmetic Act relating to the distribution chain of prescription drugs.

At the request of Mr. HATCH, the names of the Senator from Delaware (Mr. BIDEN) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of S. 1140, a bill to amend chapter 1 of title 9, United States Code, to provide for greater fairness in the arbitration process relating to motor vehicle franchise contracts.

At the request of Mr. CORZINE, the name of the Senator from Pennsylvania (Mr. SANTORUN) was added as a cosponsor of S. 1163, a bill to increase the mortgage loan limits under the National Housing Act for multifamily housing mortgage insurance.

At the request of Mr. FEINGOLD, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 1169, a bill to streamline the regulatory processes applicable to home health agencies under the medicare program under title XVIII of the Social Security Act and the medicaid program under title XIX of such Act, and for other purposes.

At the request of Mr. DOMENICI, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 1186, a bill to provide a budgetary mechanism to ensure that funds will be available to satisfy the Federal Government’s responsibilities with respect to negotiated settlements of disputes related to Indian water rights claims and Indian land claims.

At the request of Mr. VOINOVICH, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 1206, a bill to reauthorize the Appalachian Regional Development Act of 1965, and for other purposes.

At the request of Mr. SANTORUN, his name was added as a cosponsor of S. 1226, a bill to require the display of the POW/MIA flag at the World War II memorial, the Korean War Veterans Memorial, and the Vietnam Veterans Memorial.

At the request of Mr. MCCONNELL, the names of the Senator from Kentucky (Mr. BUNNING) and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of S. 1232, a bill to provide for the effective punishment of online child molesters, and for other purposes.

At the request of Mrs. FEINSTEIN, the names of the Senator from North Dakota (Mr. DORGAN) and the Senator from Kentucky (Mr. MCCONNELL) were added as cosponsors of S. 1256, a bill to provide for the reauthorization of the breast cancer research special postage stamp, and for other purposes.

At the request of Mr. DORGAN, the names of the Senator from Illinois (Mr. DURBin) and the Senator from New York (Mrs. CLINTON) were added as cosponsors of S. 1258, a bill to improve academic and social outcomes for teenage youth.

At the request of Mrs. CLINTON, the names of the Senator from Maine (Ms. COLLINS) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. 1278, a bill to amend the Internal Revenue Code of 1986 to allow a United States independent film and television production wage credit.

At the request of Mr. KENNEDY, the name of the Senator from Missouri (Mrs. CARNahan) was added as a cosponsor of S. 1284, a bill to prohibit employment discrimination on the basis of sexual orientation.
At the request of Mr. LEAHY, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 1311, a bill to amend the Immigration and Nationality Act to reaffirm the United States historic commitment to protecting refugees who are fleeing persecution or torture.

S. RES. 121

At the request of Mr. KERRY, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. Res. 121, a resolution expressing the sense regarding the policy of the United States at the 33rd Annual Meeting of the International Whaling Commission.

S. RES. 139

At the request of Mr. GRASSLEY, the names of the Senator from Oklahoma (Mr. INHOFE) and the Senator from Kentucky (Mr. BUNNING) were added as cosponsors of S. Res. 139, a resolution designating September 24, 2001, as “Family Day—A Day to Eat Dinner with Your Children.”

At the request of Mr. BIDEN, the names of the Senator from Connecticut (Mr. LIEBERMAN), the Senator from New York (Mrs. CLINTON), the Senator from Vermont (Mr. JEFFORDS), the Senator from Michigan (Mr. LEVIN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Florida (Mr. GRAHAM), and the Senator from Georgia (Mr. CLELAND) were added as cosponsors of S. Res. 139, supra.

S. CON. RES. 44

At the request of Mr. FITZGERALD, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. Con. Res. 44, a concurrent resolution expressing the sense of the Congress regarding National Pearl Harbor Remembrance Day.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRASSLEY (for himself and Mr. FEINGOLD):

S. 1397. A bill to ensure availability of the mail to transmit shipments of day-old poultry; to the Committee on Governmental Affairs.

Mr. GRASSLEY. Madam President, I rise today to introduce legislation that will ensure the continued availability of the U.S. mail for the shipment of day-old poultry. For decades, America’s hatcheries and family farmers have relied on the United States Postal Service to safely and efficiently deliver live, day-old poultry. However, Northwest Airlines, the last contractor to provide the service to the Postal Service in the Midwest recently decided to discontinue the shipment of live poultry as of September 1.

The decision by the air carriers to stop working with the Postal Service has placed the economic vitality of many communities and the livelihoods of many of my constituents in serious jeopardy. In fact, hundreds of Iowans are employed in Iowa hatcheries which supply day-old birds to family farmers and hobbyists. For example, the McMurray Hatchery in Webster City, IA, has shipped day-old chicks and other poultry to customers in all parts of the United States for over 60 years. The hatchery employs up to seventy people in season and is a major contributor to the region’s economy. Ninety-five percent of the hatchery’s orders are shipped through the mail, and carried by Northwest. Without the ability to deliver their product to their customers, however, the McMurray Hatchery would likely be put out of business.

In the community of Rudd, the Hoover Hatchery employs thirty people. The Welp Hatchery in Bancroft employs fifty people. For these small, rural communities, each with fewer than a thousand people, loss of these hatcheries would be devastating.

The legislation I introduce today would protect these hatcheries and the economies of Webster City, Rudd, Bancroft, and communities like them across the country. My legislation would not only require the Postal Service to provide the service to the Postal Service to safely and efficiently deliver live poultry, and other live animals that are also allowed by the carrier’s cargo service. In addition, my legislation would permit the Postal Service to assess a reasonable postage surcharge on shipments of live poultry to compensate carriers for any necessary additional expenses associated with the handling of live animals.

Most importantly, my legislation would ensure that the commitment of the United States Postal Service to deliver all of the mail, without discrimination, would not be broken. Therefore, I urge my Senate colleagues to support this legislation and to uphold our obligation to America’s hatcheries and family farmers.

By Mrs. FEINSTEIN (for herself, Mr. SHELBY, Mr. CORZINE, Mr. KYL, and Mr. GRASSLEY):

S. 1399. A bill to prevent identity theft, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mrs. FEINSTEIN. Madam President, I rise to introduce the Identity Theft Prevention Act of 2001 along with Senator Shelby, Senator Corzine, Senator Kyl, and Senator Grassley.

The legislation I introduce today is to require credit bureaus and banks to take precautions against identity theft and to assist identity theft victims in restoring their good name.

What is identity theft? Identity theft occurs when someone uses another person’s Social Security number, birth date, driver’s license number, or other identifying information to obtain credit cards, car loans, phone plans or other services in the victim’s name. The crime literally assumes the identity of the victim for illicit gain.

Identity theft is one of the fastest growing crimes in the new economy. The Federal Bureau of Investigation estimates 350,000 cases of identity theft occur annually.

If recent trends continue, reports of identity theft to the Federal Trade Commission will double between 2000 and 2001, to over 60,000 cases.

Fully 40 percent of all consumer fraud complaints received by the FTC in the first three months of 2001 involved identity theft.

I will consider some of the following cases: my constituent, Kim Bradbury of Castro Valley, reported that an identity thief obtained a credit card in her name through the Internet in just 10 seconds. The false application only had her Social Security number and birth date correct.

A man’s drivers license was stolen at a night club in Florida. The thief opened a checking account in the man’s name at multiple banks and used the accounts to engage in financial fraud. The police, in pursuit of the identity thief, mistakenly arrested the victim five times for crimes committed by the identity thief. One of the arrests caused him to miss his honeymoon.

Three youths robbed a young woman on a San Francisco MUNI bus. The thieves stole her driver’s license and Social Security card.

While the victim was traveling over the Christmas holiday, the thieves represented themselves as her and drained her bank accounts, and applied for cell phones and credit cards in her name.

This bill attempts to stem the tide of identity theft by requiring credit bureaus, and other financial institutions to take some practical steps to protect sensitive personal information.

1. The Identity Theft Prevention Act of 2001 would require all new credit card machines to truncate credit card numbers on a customer receipt. Thus, when a store gives a customer a receipt from a credit card purchase, only the last five digits of the credit card number will show. This provides identity thieves with credit card numbers by retrieving discarded receipts. Existing machines would have to be reprogrammed to truncate credit card numbers on receipts by 2006. Given that most credit machines have a working life of approximately five years, this reprogramming requirement will put a minimal burden on businesses.

2. The bill requires a credit card company to notify consumers when an adverse credit report occurs. A credit card is requested on an existing credit account within 30 days of an address change request.

3. The bill would require credit bureaus to alert credit issuers of discrepancies between the consumer’s address in the consumer’s file with the address in the consumer’s application for credit. Thus, credit card issuers would be alerted to possible fraud.

4. This bill codifies the industry practice of placing fraud alerts on a consumer file. This gives the Federal Trade Commission the authority to impose fines against credit issuers that ignore the alert.
Too many credit card issuers are granting new cards without adequately verifying the identity of the applicant. Putting some teeth into fraud alerts will curb irresponsible granting of credit.

I am pleased to report that the FTC, empowered by last year’s identity theft bill, has drafted this model form.

The new form will be launched in the next several weeks, and will be accepted by the three major credit bureaus as well as several major financial institutions. It will reduce substantially the paperwork burden on identity theft victims who otherwise would have to file literally dozens of reports of fraud.

The simple, concrete proposals of this legislation are necessary because financial institutions are the stewards of personal financial data. They have unique access and control over the most sensitive personal information like one’s bank account balance or one’s Social Security number. With this unique access comes a responsibility.

Some may question why Congress needs to impose tighter information practices on banks and credit bureaus to address the identity theft crisis. After all, it is true that banks are on the hook for any personal credit losses over $50 due to fraud.

Presumably, if banks were losing excessive amounts of money due to identity theft, they would tighten their information practices. However, the problems that face identity theft victims are independent of market forces.

So much of identity theft victims’ suffering comes from sources other than credit card losses.

For example, the criminals often face extreme difficulties clearing their damaged credit, or even a criminal record, caused by the thief. The typical victim of identity theft spends over 175 hours over two years to clear his name.

This legislation has earned the widespread support from a number of consumer and victims groups including the Identity Theft Resources Center, the Privacy Rights Clearinghouse, Consumers Union, U.S. PIRG, and Consumers Union of America.

The Identity Theft Prevention Act of 2001 requires financial institutions to take some simple precautions to prevent identity fraud and protect a person’s good name.

Verifying a credit applicant’s address by complying with “fraud alerts”, notifying credit card holders of unusual requests for new cards, and truncating credit numbers on receipts are all measures that will it make harder for criminals to engage in identity fraud.

It is appropriate and necessary for financial institutions to take these steps. These companies have a responsibility to prevent fraudsters from using their services to harm the good name of other citizens. Moreover, in this complex, information-driven society, consumers simply can’t protect their good name on their own.

Mr. SHELBY, Madam President, I am pleased to join Senator FEINSTEIN in introducing the “Identity Theft Prevention Act of 2001.”

Unfortunately, with the growth of electronic commerce, there has been a corresponding growth in the number of identity thefts. Identity theft is now the fastest growing crime in the United States. Over the last few years, identity thieves have stolen billions of dollars from hundreds of thousands of people.

The difficulties for victims of identity theft do not simply end after the crime that has been committed. It can take years and considerable effort for victims to clear their names, reestablish their credit histories and get the money they lost back. In some cases, the crime never ends: stolen personal information is used repeatedly by numerous thieves placing individuals in an endless cycle of victimization.

The “Identity Theft Prevention Act of 2001” intends to take a first step towards combating this devastating crime. The legislation requires new, common sense measures such as: notifying a credit card holder of a request for an additional card or request to change an address; requiring consumer approval prior to the issuance of credit; and truncation of credit card account numbers on print-out receipts. These provisions are intended to reduce the opportunities of thieves to obtain the consumer data they use to commit fraud in the first place.

Additionally, in an effort to ease the considerable burdens the crime places on its victims, the bill makes it easier for consumers to report fraud and for them to quickly restore their credit history after they have been targeted.

The seriousness of the crime of identity theft has already been well documented in economic terms: hundreds of thousands of people have lost billions of dollars. However, the crime causes additional losses that far exceed the economic ones. An identity theft victim can lose his or her hard-earned good name and reputation in a matter of seconds. I believe Senator FEINSTEIN’s bill will help prevent such assaults and will help those who are victimized restore their credit record and their reputation more quickly. I am pleased to be an original cosponsor of this bill.

By Mr. KENNEDY:

S. 1402. A bill to amend title 10, United States Code, to fully integrate the beneficiaries of the Individual Case Management Program into the TRICARE program; to provide long-term health care benefits under the TRICARE program and otherwise to improve the benefits provided under the TRICARE program, and for other purposes; to the Committee on Armed Services.

Mr. KENNEDY. Madam President, today, I am introducing legislation to ensure that disabled family members of our active duty military have greater access to the health care they deserve.

Early last year, a young man in the United States Air Force drove over 12 hours with his wife and disabled 4 year old daughter to testify about how important it was to make Medicaid more accessible. Why? Because the military health care system does not provide for his daughter’s needs, and Medicaid does. But, in order to continue her eligibility for Medicaid, this service member could not accept his promotion to the next rank.

No member of the Armed Forces, who risk their lives for our country should ever be put in a position of having to decide between health care for their disabled child and doing their job for our country. Nor should these families have to rely on Medicaid to find health care that works. This bill corrects the injustices these families have suffered.

The TRICARE Modernization Act integrates services for disabled dependents into the basic military benefit program, so that no medically necessary services can be denied. It allows disabled dependents to receive care that is necessary to maintain their functions and prevent further deterioration of their disability. It provides skilled nursing care as long as is necessary, and is coordinated with Medicare. And, it authorizes respite care, hearing aids, and other therapies to help a disabled person stay or become independent.

We know how far we have come in the ongoing battle over many decades to guarantee that disabled people have the independence they need to be participating members of their communities. Our military families with disabled dependents should not be denied that opportunity.

Enactment of this legislation is one of the most significant steps we can take in this Congress. It offers a new and better life to large numbers of military families. It gives servicemen and women, and their disabled family members, the health care they need. And, most important for active duty military members and their families, it ensures that disability need no longer end the American dream.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1481. Mr. THOMPSON proposed an amendment to the bill S. 149, to provide authority to control exports, and for other purposes.

SA 1482. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, supra; which was ordered to lie on the table.

SA 1483. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, supra; which was ordered to lie on the table.

SA 1484. Mr. HELMS submitted an amendment intended to be proposed by him to the
bill S. 149, supra; which was ordered to lie on the table.

SA 1485. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, supra; which was ordered to lie on the table.

SA 1486. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, supra; which was ordered to lie on the table.

SA 1487. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, supra; which was ordered to lie on the table.

SA 1488. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, supra; which was ordered to lie on the table.

SA 1489. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, supra; which was ordered to lie on the table.

SA 1490. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, supra; which was ordered to lie on the table.

SA 1491. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, supra; which was ordered to lie on the table.

SA 1492. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, supra; which was ordered to lie on the table.

SA 1493. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, supra; which was ordered to lie on the table.

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SA 1498. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, supra; which was ordered to lie on the table.

SA 1499. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, supra; which was ordered to lie on the table.

SA 1500. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, supra; which was ordered to lie on the table.

SA 1501. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, supra; which was ordered to lie on the table.

SA 1502. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, supra; which was ordered to lie on the table.

SA 1503. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, supra; which was ordered to lie on the table.

SA 1504. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, supra; which was ordered to lie on the table.

SA 1505. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, supra; which was ordered to lie on the table.

SA 1506. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, supra; which was ordered to lie on the table.

SA 1507. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, supra; which was ordered to lie on the table.

SA 1508. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, supra; which was ordered to lie on the table.

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SA 1510. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, supra; which was ordered to lie on the table.

SA 1511. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, supra; which was ordered to lie on the table.

SA 1512. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, supra; which was ordered to lie on the table.

SA 1513. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, supra; which was ordered to lie on the table.

SA 1514. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, supra; which was ordered to lie on the table.

SA 1515. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, supra; which was ordered to lie on the table.

SA 1516. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, supra; which was ordered to lie on the table.

SA 1517. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, supra; which was ordered to lie on the table.

SA 1518. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, supra; which was ordered to lie on the table.

SA 1519. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, supra; which was ordered to lie on the table.

SA 1520. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, supra; which was ordered to lie on the table.

SA 1521. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, supra; which was ordered to lie on the table.

SA 1522. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, supra; which was ordered to lie on the table.

SA 1523. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, supra; which was ordered to lie on the table.

SA 1524. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, supra; which was ordered to lie on the table.

SA 1525. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, supra; which was ordered to lie on the table.

SA 1526. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 1481. Mr. THOMPSON proposed an amendment to the bill S. 149, to pro- vide authority to control exports, and for other purposes; as follows:

On page 232, strike lines 16 through 18, and insert the following:

(1) AGREEMENT OF THE APPLICANT; COMPLEXITY OF ANALYSIS; NATIONAL SECURITY IMPACT.—

(A) AGREEMENT OF THE APPLICANT.—Delay 30 days in which the Secretary and the applicant mutually agree.

(B) COMPLEXITY OF ANALYSIS.—The review- ing department or agency requires more time due to the complexity of the analysis, if the additional time is not more than 60 days.

(C) NATIONAL SECURITY IMPACT.—The re- viewing department or agency requires addi- tional time because of the potential impact on the national security or foreign policy in- terests of the United States, if the additional time is not more than 60 days.

SA 1482. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, to provide au- thority to control exports, and for other purposes; which was ordered to lie on the table; as follows:

On page 216, beginning with line 4, strike all through line 7, and insert the following:

(c) EFFECTIVE DATE OF TERMINATION.—The termination of an export control pursuant to this section shall take effect 30 days after the President has consulted with the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives on the foreign policy implications of such termi- nation. Notice of the termination shall be published in the Federal Register.

SA 1483. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, to provide au- thority to control exports, and for other purposes; which was ordered to lie on the table; as follows:

On page 210, beginning on line 13, strike all through line 20, and insert the following:

(1) CONSULTATION; REPORT.—The President shall consult with the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on International Relations of the House of Representatives, re- garding any export control proposed under this title. The Secretary of State shall submit a report to the Committee on Foreign Rela- tions of the Senate and the Committee on International Relations of the House of Rep- resentatives describing efforts to achieve or increase multilateral cooperation on the issues or problems underlying the proposed export control.

SA 1484. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, to provide au- thority to control exports, and for other purposes; which was ordered to lie on the table; as follows:

On page 207, line 3, strike “in consultation with” and insert “with the concurrence of”.

SA 1485. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, to provide au- thority to control exports, and for other purposes; which was ordered to lie on the table; as follows:

On page 198, line 1, after the period insert the following: “The Secretary shall provide notice to Congress whenever the country tiers are reassigned.”.

SA 1486. Mr. HELMS submitted an amendment intended to be proposed by
him to the bill S. 149, to provide authority to control exports, and for other purposes; which was ordered to lie on the table; as follows:

On page 193, line 11, after “determine” insert “., with the concurrence of the Secretaries of State, Defense, and Energy.”

SA 1487. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, to provide authority to control exports, and for other purposes; which was ordered to lie on the table; as follows:

On page 218, line 6, strike “on the date” and all that follows through “Register” on line 9, and insert the following: “30 days after the President has consulted with the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives regarding any export control proposed under this title. The Secretary of State shall submit a report to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives describing efforts to achieve or increase multilateral cooperation on the issues or problems underlying the proposed export control.”

SA 1488. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, to provide authority to control exports, and for other purposes; which was ordered to lie on the table; as follows:

On page 188, line 3, after “Senate” insert “., the Committee on Foreign Relations of the Senate.”

SA 1489. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, to provide authority to control exports, and for other purposes; which was ordered to lie on the table; as follows:

On page 210, beginning on line 13, strike all through line 20, and insert the following:

(1) CONSULTATION; REPORT.—The President shall consult with the Committee on Foreign Relations and 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. The Secretary of State shall submit a report to the Committees on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives describing efforts to achieve or increase multilateral cooperation on the issues or problems underlying the proposed export control.

SA 1490. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, to provide authority to control exports, and for other purposes; which was ordered to lie on the table; as follows:

On page on line 13, strike all through line 20, and insert the following:

(1) REQUIREMENT.—The President shall consult with the Committees on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives regarding any export control proposed under this title. The Secretary of State shall report separately to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives, reports describing efforts to achieve or increase multilateral cooperation on the issues or problems underlying the proposed export control.

SA 1491. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, to provide authority to control exports, and for other purposes; which was ordered to lie on the table; as follows:

On page 318, between lines 12 and 13, insert the following:

SEC. 702. CONGRESSIONAL NOTIFICATION.

(a) IN GENERAL.—The President shall promptly notify the appropriate committees of Congress whenever an actual or alleged violation of this act is likely to cause harm or damage to United States national security interests.

(b) EXCEPTIONS.—In subsection (a) shall not apply if the President determines that notification of the appropriate committees of Congress under such subsection is likely to result in an ongoing criminal investigation. If the President makes such a determination, the President shall provide written notification of such determination to the Speaker of the House of Representatives, the majority leader of the House of Representatives, the minority leader of the House of Representatives, and the minority leader of the Senate. The notification shall include a justification for the determination.

SA 1492. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, to provide authority to control exports, and for other purposes; which was ordered to lie on the table; as follows:

On page 325, beginning with line 6, strike all through line 14 and insert the following:

(1) COVERED COUNTRY.—

(i) IN GENERAL.—The term “covered country” means any country explicitly identified by the Director of Central Intelligence as a recipient, source, or supplier of dual-use and other technology in the most recent report required under section 721 of the Intelligence Authorization Act for Fiscal Year 1997 (or any successor report on the export of technology by foreign countries of dual-use and other technology useful for the development or production of weapons of mass destruction). Any country that was identified in a report required under such section 721, but is not identified in subsequent reports, shall continue to be considered a covered country for purposes of this title unless it is not identified in the report for 5 consecutive years.
SA 1494. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, to provide authority to control exports, and for other purposes; which was ordered to lie on the table; as follows:

On page 209, beginning on line 1, strike all through line 9, and insert the following:

(a) there is a threat to a foreign policy interest of the United States and
(b) the prohibition of exports under each binding contract, agreement, commitment, license, or authorization will be instrumental in remedying the situation posing the threat.

SA 1495. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, to provide authority to control exports, and for other purposes; which was ordered to lie on the table; as follows:

On page 176, beginning on line 7, strike all through line 11, and insert the following:

(1) The Secretary determines that such license is required to export such parts;
(2) The Secretary of State and the Secretary of Defense determine that such service or parts should be controlled for national security or foreign policy reasons under this Act; or
(3) the after-market service or replacement parts would materially enhance the capability of an item which was the basis for the item being controlled.

SA 1496. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, to provide authority to control exports, and for other purposes; which was ordered to lie on the table; as follows:

On page 255, beginning with line 12, strike all through page 257, line 13, and insert the following:

(a) 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, or with respect to any property that may be subject to forfeiture under this Act, shall be fined not more than $50,000, or imprisoned for not more than 10 years, or both, for each violation.

(b) Any of that person’s property constituting, derived from, or proceeds obtained directly or indirectly as a result of any violation; and
(c) 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;

SA 1497. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, to provide authority to control exports, and for other purposes; which was ordered to lie on the table; as follows:

On page 176, beginning on line 7, strike all through line 11, and insert the following:

(1) The Secretary determines that such license is required to export such parts;
(2) the Secretary of Defense determine that such service or parts should be controlled for national security or foreign policy reasons under this Act; or
(3) the after-market service or replacement parts would materially enhance the capability of an item which was the basis for the item being controlled.

SA 1498. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, to provide authority to control exports, and for other purposes; which was ordered to lie on the table; as follows:

On page 222, after line 4, insert the following:

SEC. 311. DESIGNATION OF COUNTRIES IDENTIFIED AS KEY PROLIFERATOR STATES.

A license shall be required under this Act to export an item to any country that has been identified by the Director of Central Intelligence as a source or supplier of dual-use and other technologies in the most recent report to the President of the Intelligence Authorization Act for Fiscal Year 1997 (or any successor report regarding the acquisition by foreign countries of dual-use and other technologies that can be used for the development or production of weapons of mass destruction).

SA 1499. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, to provide authority to control exports, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 177, line 22, strike all through page 178, line 21 and insert the following:

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 substantial segment of any industry which produces any items subject to export controls under this Act or being considered for such controls, the Secretary may appoint export control advisory committees with respect to such items.

(b) INTRAGENCY DISPUTE RESOLUTION PROCESSES.

(1) INITIAL RESOLUTION.—The duties described in this subsection shall rotate each year among the Secretaries of Defense, State, and Commerce. The appropriate Secretary shall appoint, select the chairperson of, and determine procedures for an interagency committee to review initially all license applications described in subsection (a) with respect to which the Department of Commerce and any of the referral departments and agencies are not in agreement.

(c) Any decision shall be made by committee on the license application, including appropriate revisions or conditions thereto.
SA 1502. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, to provide authority to control exports, and for other purposes; which was ordered to lie on the table; as follows:

On page 186, after line 25, insert the following:

(d) REMOVAL FROM NATIONAL SECURITY CONTROL LIST.—If the Secretary of Commerce, with the concurrence of the Secretaries of Defense and in consultation with the Secretary of Energy and the Director of Central Intelligence, determines an item no longer warrants export control, the item shall be removed from the National Security Control List.

(e) COMMENT AND REVIEW BY DEFENSE, STATE, AND ENERGY.—The Secretaries of Defense, State, and Energy may review and identify, on a continuing basis, items which should be considered for the National Security Control List, and initiate action for the consideration of the items identified.

SA 1503. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, to provide authority to control exports, and for other purposes; which was ordered to lie on the table; as follows:

On page 214, line 23, strike “2” and insert “4”.

SA 1504. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, to provide authority to control exports, and for other purposes; which was ordered to lie on the table; as follows:

On page 203, beginning with line 6, strike all through page 204, line 6, and insert the following:

(1) ESTABLISHMENT OF OFFICE.—The Secretary of Defense shall establish in the Department of Defense an Office of Technology Evaluation (in this section referred to as the ‘Office’), which shall be under the direction of the Secretary of Defense, the Secretary of State, the Secretary of Energy and the Director of Central Intelligence, determines an item no longer warrants export control, the item shall be removed from the National Security Control List.

(2) STAFF.—

(A) IN GENERAL.—The Secretary of Defense shall establish in the Department of Defense an Office of Technology Evaluation (in this section referred to as the ‘Office’), which shall be under the direction of the Secretary of Defense, the Secretary of State, the Secretary of Energy and the Director of Central Intelligence, determines an item no longer warrants export control, the item shall be removed from the National Security Control List.

(b) DETAILERS.—In addition to employees of the Department of Defense, the Secretary may accept on nonreimbursable detail to the Office, employees of the Department of Commerce, State, and Energy and other departments and agencies as appropriate.

SA 1505. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, to provide authority to control exports, and for other purposes; which was ordered to lie on the table; as follows:

On page 298, line 15, after the period, insert the following: “The computer system shall be fully capable of completing, in a timely and comprehensive manner, a cumulative effect analysis of controlled items that are approved or not approved for export. The analysis shall include a determination of how such items could collectively enhance a country’s military modernization or contribute to the proliferation of weapons of mass destruction, ballistic missiles, and advanced conventional weapons.”

SA 1506. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, to provide authority to control exports, and for other purposes; which was ordered to lie on the table; as follows:

On page 312, line 9, strike all through page 313, line 3, and insert the following:

(3) AVAILABILITY TO CONGRESS.

(A) IN GENERAL.—Any information obtained at any time under this title or under any predecessor Act regarding the control of exports, including any report or license application required under this title, shall be made available to any Member, committee, or subcommittee of Congress of appropriate jurisdiction. The chair or ranking minority member of such committee or subcommittee.

(b) PROHIBITION ON FURTHER DISCLOSURE.

No committee or subcommittee of Congress shall disclose any information obtained under this Act or any predecessor Act regarding the control of exports which is submitted on a confidential basis to Congress under subparagraph (A), unless (i) the full committee to which the information is made available determines that the withholding of the information is contrary to the national interest; or (ii) the information is disclosed—

(I) to a third party that is not in commercial competition with an entity identified in the information; and

(II) for the purpose of conducting a national security analysis, risk assessment, or cumulative effects analysis of the items identified in the information; and

(iii) a determination to protect all licensing information from release is entered into by the third party.

SA 1507. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, to provide authority to control exports, and for other purposes; which was ordered to lie on the table; as follows:

On page 201, line 20, strike “constitutes a serious threat” and insert “could constitute a threat”.

SA 1508. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, to provide authority to control exports, and for other purposes; which was ordered to lie on the table; as follows:

On page 198, line 2, strike “constitutes” and insert “could constitute”.

SA 1509. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, to provide authority to control exports, and for other purposes; which was ordered to lie on the table; as follows:

On page 183, line 20, strike “would constitute a significant threat” and insert “could constitute a threat”.

SA 1510. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, to provide authority to control exports, and for other purposes; which was ordered to lie on the table; as follows:

On page 207, beginning with line 20, strike all through page 208, line 4.

SA 1511. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, to provide authority to control exports, and for other purposes; which was ordered to lie on the table; as follows:

On page 219, lines 7 and 8, strike “significant”.

SA 1512. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, to provide authority to control exports, and for other purposes; which was ordered to lie on the table; as follows:

On page 190, between lines 14 and 15, insert the following:

(i) The extent to which a country, pursuant to its national legislation, controls exports consistent with the criteria and standards of relevant multilateral export control regimes.

(ii) United States controls on the item have been imposed under section 309.

SA 1513. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, to provide authority to control exports, and for other purposes; which was ordered to lie on the table; as follows:

On page 198, beginning on line 1, strike all through line 14, and insert the following:

“(i) that the absence of export controls with respect to an item could prove detrimental to the national security of the United States or result in a failure by the United States to adhere to its obligations or commitments under an international agreement or arrangement; or

(ii) United States controls on the item have been imposed under section 309.”

SA 1514. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, to provide authority to control exports, and for other purposes; which was ordered to lie on the table; as follows:

On page 207, between lines 19 and 20, insert the following:

(4) To use export controls to deter and punish illicit acts of narcotic and psychotropic drug trafficking and production, and to encourage countries to take immediate steps to prevent the use of their country to aid, encourage, or give sanctuary to those persons involved in acts of illicit narcotic and psychotropic drug trafficking.

SA 1515. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, to provide authority to control exports, and for other purposes; which was ordered to lie on the table; as follows:

On page 218, beginning on line 11, strike “and except as provided in section 304.”

SA 1516. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 149, to provide authority to control exports, and for other purposes; which was ordered to lie on the table; as follows:

On page 324, beginning on line 21, strike all through page 325, line 5.
authority for committees to meet

SUBCOMMITTEE ON ADMINISTRATIVE OVERSIGHT AND THE COURTS

Mr. SARBANES. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on Administrative Oversight and the Courts be authorized to meet and conduct a hearing on Tuesday, September 4, 2001, at 2 p.m. in Dirksen 226.

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

PRIVILEGES OF THE FLOOR

Mr. ENZI. Mr. President, I ask unanimous consent that Cara Calvin, a new legislative assistant on my staff, be given floor privileges during the remainder of this debate.

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

TITLE AMENDMENT TO S. 491

Mr. REID. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 10 a.m. tomorrow, Wednesday, September 5. I further ask unanimous consent that on Wednesday, immediately following the prayer and the pledge, the Journal of the Senate be announced.

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

ORDERS FOR WEDNESDAY, SEPTEMBER 5, 2001

Mr. REID. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 10 a.m. tomorrow, Wednesday, September 5. I further ask unanimous consent that on Wednesday, immediately following the prayer and the pledge, the Journal of the Senate be announced.

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

PROGRAM

Mr. REID. Madam President, tomorrow the Senate, as indicated, will convene at 10 in the morning. There will be no morning business. The Senate will recess tomorrow, on Wednesday, which is different to the usual Tuesday recesses, from 12:30 to 2:15 for our weekly party conferences.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. REID. Madam President, if there is no further business to come before
the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:07 p.m., adjourned until Wednesday, September 5, 2001, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate September 4, 2001:

DEPARTMENT OF COMMERCE

Phillip Bond, of Virginia, to be Under Secretary of Commerce for Technology, VICK CHERYL SHAYERS, RESIDENT COMMISSIONER OF THE UNITED STATES INTERIOR

ARMS OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF TAJIKISTAN

Laurie A. Kennedy, of New York, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Tajikistan.

Kevin Joseph Guise, of Maryland, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Turkmenistan.

Pamela Hyde Smith, of Washington, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Namibia.

Ronald Weiser, of Michigan, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the SLOVAK REPUBLIC.

DEPARTMENT OF DEFENSE

The following named officer for appointment as the Judge Advocate General, United States Army under Title 10, U.S.C., section 624:

LT. GEN. CHARLES F. WALD, 0000

For appointment to the grade indicated in the reserve of the Army under Title 10, U.S.C., sections 12203 and 12211:

RANDY J. SMEENS, 0000

To be colonel

CHRISTOPHER P. AIKEN, 0000

To be colonel

RICHARD W. BRITTON, 0000

To be colonel

VERN L. BOWYER, 0000

To be colonel

SUSAN D. CHACON, 0000

To be colonel

RICKI L. GARRETT, 0000

To be colonel

CHRISTOPHER B. HAYES, 0000

To be colonel

DAVID B. HUTCHENS, 0000

To be colonel

ROBERT D. MCKITRICK II, 0000

To be colonel

BRIG. GEN. THOMAS J. RODG, 0000

The following named Army National Guard of the United States officer for appointment to the grade indicated under Title 10, U.S.C., section 624:

JOHN P. ANCONA, 0000

To be major general

BRIG. GEN. MICHAEL J. MARCAND, 0000

The following named officer for appointment as the Judge Advocate General, United States Army and for appointment to the grade indicated under Title 10, U.S.C., section 307:

BRIG. GEN. MICHAEL J. MARCAND, 0000

The following named officer for appointment as the Judge Advocate General, United States Army and for appointment to the grade indicated under Title 10, U.S.C., section 307:

BRIG. GEN. MICHAEL J. MARCAND, 0000

To be major general

BRIG. GEN. THOMAS J. RODG, 0000

The following named Army National Guard of the United States officer for appointment to the grade indicated in the reserve of the Army under Title 10, U.S.C., sections 12203 and 12211:

To be major general

CHRISTOPHER P. AIKEN, 0000

To be colonel

RICHARD W. BRITTON, 0000

To be colonel

VERN L. BOWYER, 0000

To be colonel

SUSAN D. CHACON, 0000

To be colonel

RICKI L. GARRETT, 0000

To be colonel

CHRISTOPHER B. HAYES, 0000

To be colonel

ROBERT D. MCKITRICK II, 0000

To be colonel

BRIG. GEN. THOMAS J. RODG, 0000

To be major general

BRIG. GEN. MICHAEL J. MARCAND, 0000

The following named officer for appointment as the Judge Advocate General, United States Army and for appointment to the grade indicated under Title 10, U.S.C., section 307:

BRIG. GEN. MICHAEL J. MARCAND, 0000

The following named officer for appointment as the Judge Advocate General, United States Army and for appointment to the grade indicated under Title 10, U.S.C., section 307:

BRIG. GEN. MICHAEL J. MARCAND, 0000

To be major general

BRIG. GEN. THOMAS J. RODG, 0000

The following named Army National Guard of the United States officer for appointment to the grade indicated in the reserve of the Army under Title 10, U.S.C., sections 12203 and 12211:

To be major general

CHRISTOPHER P. AIKEN, 0000

To be colonel

RICHARD W. BRITTON, 0000

To be colonel

VERN L. BOWYER, 0000

To be colonel

SUSAN D. CHACON, 0000

To be colonel

RICKI L. GARRETT, 0000

To be colonel

CHRISTOPHER B. HAYES, 0000

To be colonel

ROBERT D. MCKITRICK II, 0000

To be colonel

BRIG. GEN. THOMAS J. RODG, 0000

To be major general

BRIG. GEN. MICHAEL J. MARCAND, 0000

The following named officer for appointment as the Judge Advocate General, United States Army and for appointment to the grade indicated under Title 10, U.S.C., section 307:

BRIG. GEN. MICHAEL J. MARCAND, 0000

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BRIG. GEN. MICHAEL J. MARCAND, 0000

To be major general

BRIG. GEN. THOMAS J. RODG, 0000

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To be major general

CHRISTOPHER P. AIKEN, 0000

To be colonel

RICHARD W. BRITTON, 0000

To be colonel

VERN L. BOWYER, 0000

To be colonel

SUSAN D. CHACON, 0000

To be colonel

RICKI L. GARRETT, 0000

To be colonel

CHRISTOPHER B. HAYES, 0000

To be colonel

ROBERT D. MCKITRICK II, 0000

To be colonel

BRIG. GEN. THOMAS J. RODG, 0000

To be major general

BRIG. GEN. MICHAEL J. MARCAND, 0000

The following named officer for appointment as the Judge Advocate General, United States Army and for appointment to the grade indicated under Title 10, U.S.C., section 307:

BRIG. GEN. MICHAEL J. MARCAND, 0000

The following named officer for appointment as the Judge Advocate General, United States Army and for appointment to the grade indicated under Title 10, U.S.C., section 307:
CONGRESSIONAL RECORD — SENATE

September 4, 2001

S9087

JOHN J RYAN, 0000
SARAH D RYAN, 0000
THOMAS J RYAN, 0000
ELISSA B RYMAN, 0000
SARA J SALTZBERG, 0000
ENNIS G SAMPSON, 0000
MICHAEL J SAMSON, 0000
PHILLIP R SANACERI, 0000
BRENT W SANEERLING, 0000
MARY J SANDERS, 0000
RODNEY L. SANDERS, 0000
SCOTT T SANDERS, 0000
STEVEN N SANDOM, 0000
TOMAS N SANTA, JI, 0000
NIRVA M SANTANA, 0000
PAUL S. SARDOGIA, III, 0000
KEIS J SAUR, 0000
M. SAUS, 0000
ANGELA B. SAWARDS, 0000
ASSANATU I SAVAGE, 0000
GINA SAVON, 0000
LIE A SAVO, 0000
KIMBERLY SASAWATSE, 0000
FRISCELLA SCANLON, 0000
JOSEPH R SCHAEFFER, 0000
VINCENT P SCHAVO, 0000
ANDREW W. SCHMID, 0000
LEONARD C SCHILLING, 0000
KRISTINA A SCHLEBUET, 0000
CHRISTPHORUS SCHMITZ, 0000
SERGEANT OF THE ARMY, VICE JOSEPH W. DELANEY.
CLYDE ARLIE WHEELER, JR.
ERAL AGRICULTURAL MORTGAGE CORPORATION, VICE BOARD OF DIRECTORS OF THE FEDERAL AGRICULTURAL COMMODITY CREDIT CORPORATION, VICE KARL N. TAGGART, RESIGNED.
AGRICULTURE, VICE CHRISTOPHER A. MCLEAN, RETIRER, RURAL UTILITIES SERVICE, DEPARTMENT OF.
E. WOTEKI, RESIGNED.
OF AGRICULTURE FOR FOOD SAFETY, VICE CATHERINE E. WALTERS.
OF AGRICULTURE FOR RURAL DEVELOPMENT, VICE JILL L. LONG, RESIGNED.
URAL RESOURCES AND ENVIRONMENT, VICE JAMES R. LYONS.
TO BE UNDER SECRETARY OF AGRICULTURE FOR NATURAL RESOURCES AND ENVIRONMENT, VICE JAMES R. LYONS.
MARK EDWARD RHY, OF THE DISTRICT OF COLUMBIA, TO BE UNDER SECRETARY OF AGRICULTURE FOR RURAL DEVELOPMENT, VICE JILL L. LONG, RESIGNED.
ELSA A. MURANO, OF TEXAS, TO BE UNDER SECRETARY OF AGRICULTURE FOR FOOD SAFETY, VICE CATHERINE E. WALTERS.
HILDA GAY LIRD, OF KENTUCKY, TO BE ADMINISTRATOR, RURAL UTILITIES SERVICE, DEPARTMENT OF AGRICULTURE, VICE CHRISTOPHER A. MCLEAN, RESIGNED.
MARK EDWARD RHY, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMODITY CREDIT CORPORATION, VICE JILL L. LONG, RESIGNED.
MARK EDWARD RHY, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE FEDERAL AGRICULTURAL MORTGAGE CORPORATION, VICE GORDON CLYDE COTTER, RESIGNED.
FRACE TRUCILLO DANIEL, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE FEDERAL AGRICULTURAL MORTGAGE CORPORATION, VICE GORDON CLYDE COTTER, RESIGNED.

MARK E. RYAN, OF connecticut, TO BE AN ASSISTANT SECRETARY OF THE AIR FORCE, VICE LAWRENCE J. DELAHAY.

MARK E. RYAN, OF connecticut, TO BE AN ASSISTANT SECRETARY OF THE AIR FORCE, VICE LAWRENCE J. DELAHAY.
DEPARTMENT OF HEALTH AND HUMAN SERVICES

JANET HALL, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF HEALTH AND HUMAN SERVICES, VICE JOHN JOHNSON, TERM EXPIRING DECEMBER 31, 2007.

SOCIAL SECURITY ADMINISTRATION

JO ANNE BARNES, OF DELAWARE, TO BE A COMMISSIONER OF SOCIAL SECURITY FOR THE TERM EXPIRING JANUARY 31, 2007, VICE KENNETH F. APPELL, TERM EXPIRING.

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

KEN R. HILL, OF MASSACHUSETTS, TO BE AN ASSISTANT SECRETARY OF STATE, EDUCATIONAL AND CULTURAL AFFAIRS, ENVIRONMENTAL, AND SCIENTIFIC AFFAIRS, VICE KENNETH L. BURTON, EXPIRING.

DEPARTMENT OF STATE

PATRICIA D. STACY, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF STATE, INTERNATIONAL ORGANIZATIONS AFFAIRS, VICE ELYSE WOLF, EXPIRING.

DEPARTMENT OF STATE

JOHN F. TURNER, OF WYOMING, TO BE AN ASSISTANT SECRETARY OF STATE, INTERNATIONAL VIETNAM AFFAIRS, VICE KENNETH C. RUSSELL, EXPIRING.

INTERNATIONAL JOINT COMMISSION, UNITED STATES AND CANADA

DENNIS R. SCHROCK, OF MICHIGAN, TO BE A MEMBER OF THE INTERNATIONAL JOINT COMMISSION, CLASS OF 2006, VICE MARK W. OLSON, TERM EXPIRING.

DEPARTMENT OF TRANSPORTATION

KIRK VAN TINE, OF VIRGINIA, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF TRANSPORTATION, VICE NANCY C. MCFADDEN.

DEPARTMENT OF TRANSPORTATION

EILEN G. ENGLEMAN, OF FLORIDA, TO BE ADMINISTRATOR OF THE FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION, VICE ROBERT J. KEELER, TERM EXPIRING.

DEPARTMENT OF TRANSPORTATION

JOSEPH M. CLAFTON, OF NORTH CAROLINA, TO BE ADMINISTRATOR OF THE FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION, VICE MARK W. OLSON, EXPIRING.

DEPARTMENT OF THE INTERIOR

JEFFREY L. JABBERT, OF PENNSYLVANIA, TO BE DIRECTOR OF THE OFFICE OF THOUSAND ISLANDS COOPERATION AND ENQUIRY, VICE KATHLEEN M. KARPAN, EXPIRING.

DEPARTMENT OF THE INTERIOR

MARIAN BLAKELY, OF MISSISSIPPI, TO BE CHAIRMAN OF THE NATIONAL TRANSPORTATION SAFETY BOARD, A TERM EXPIRING DECEMBER 31, 2005, VICE JOHN E. HALL, TERM EXPIRING.

DELTA REGIONAL AUTHORITY

P.H. JOHNSEN, OF KANSAS, TO BE A FEDERAL CO-CHAIRPERSON, DELTA REGIONAL AUTHORITY, VICE JAMES W. JENKINS, TERM EXPIRING.

ENVIRONMENTAL PROTECTION AGENCY

MARIANNE LAMONT ROBINSON, OF VIRGINIA, TO BE AN ASSISTANT ADMINISTRATOR, OFFICE OF SOLID WASTE, ENVIRONMENTAL PROTECTION AGENCY, VICE TIMOTHY FIELDS, EXPIRING.

ENVIRONMENTAL PROTECTION AGENCY

DONALD R. SCHIRLIEGUS, OF OHIO, TO BE AN ASSISTANT ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY, VICE STEVEN ALAN HERMAN, EXPIRING.

DEPARTMENT OF TRANSPORTATION

MARY E. PETERS, OF ARIZONA, TO BE ADMINISTRATOR OF THE BUREAU OF RECLAMATION, DEPARTMENT OF THE INTERIOR, VICE KENNETH R. WYLIE, EXPIRING.

MISSISSIPPI RIVER COMMISSION

BRIAN R. WERNER, OF ARKANSAS, TO BE A MEMBER OF THE MISSISSIPPI RIVER COMMISSION, UNDER THE PROVISIONS OF SECTION 105 OF THE MISSISSIPPI RIVER COMMISSION, VICE RICHARD W. BOYD, EXPIRING.

MISSISSIPPI RIVER COMMISSION

M. KEVIN KLEIN, OF MARYLAND, TO BE A MEMBER OF THE MISSISSIPPI RIVER COMMISSION, UNDER THE PROVISIONS OF SECTION 105 OF THE MISSISSIPPI RIVER COMMISSION, VICE ANTHONY J. STRICKER, EXPIRING.

NUCLEAR REGULATORY COMMISSION


DEPARTMENT OF THE TREASURY

B. JOHN WILLIAMS, JR., OF VIRGINIA, TO BE CHIEF COUNSEL FOR THE INTERNAL REVENUE SERVICE AND AN ASSISTANT GENERAL COUNSEL IN THE DEPARTMENT OF THE TREASURY, VICE STUART L. BROWN, RESIGNED, ROBERT C. BONNER, OF CALIFORNIA, TO BE CHIEF COUNSEL FOR THE INTERNAL REVENUE SERVICE, VICE RAYMOND E. KLEIN, RESIGNED.

DEPARTMENT OF THE TREASURY

W. MARCO SANCHEZ, OF NEW MEXICO, TO BE DEPUTY COMMISSIONER FOR FINANCIAL REPORTING AND EXCHANGE, VICE JAMES R. SULLIVAN, RESIGNED.

DEPARTMENT OF THE TREASURY

SUSAN SCHMIDT BIES, OF TINNESSEE, TO BE A MEMBER OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM, VICE DONALD W. DORMAN, RESIGNED.

DEPARTMENT OF THE TREASURY

WILLIAM A. STRICKER, OF NEW YORK, TO BE FISCAL DIRECTOR OF THE DEPARTMENT OF THE TREASURY, VICE GREGORY W. HANSON, RESIGNED.

DEPARTMENT OF THE TREASURY

KATHY QUISENBERRY, OF WASHINGTON, D.C., TO BE A MEMBER OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM, VICE HEATHER K. BURKE, RESIGNED.

DEPARTMENT OF THE TREASURY

KATHLEEN M. O'CONNOR, OF PENNSYLVANIA, TO BE COMMISSIONER FOR THE DEPARTMENT OF THE TREASURY, VICE W. BRIAN HAMMONS, RESIGNED.

MINISTERS-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF ROMANIA.

MINISTERS-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF BELGIUM.

MINISTERS-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF BOLIVIA.

MINISTERS-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF CAMBODIA.

MINISTERS-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF BANGLADESH.

MINISTERS-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF NEPAL.

MINISTERS-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF SUDAN.

MINISTERS-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF IRAQ.

MINISTERS-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF VIETNAM.

MINISTERS-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF KOREA.

MINISTERS-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF PHILOS.

MINISTERS-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF AFGHANISTAN.

MINISTERS-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF INDIA.

MINISTERS-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF BURMA.

MINISTERS-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF THAILAND.

MINISTERS-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF JAPAN.

MINISTERS-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF CHINA.

MINISTERS-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF SOUTH KOREA.

MINISTERS-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF KOREA.

MINISTERS-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF SRI LANKA.

MINISTERS-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF THAILAND.

MINISTERS-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF VIETNAM.

MINISTERS-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF KOREA.

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MINISTERS-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF KOREA.

MINISTERS-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF JAPAN.
edith brown clement, of louisiana, to be united states circuit judge for the fifth circuit, vic i john m. jones, jr., of mississippi.
richard r. clifton, of hawaii, to be united states circuit judge for the ninth circuit, vic i thomas g._PHIL examining
jeffrey r. hoyt, of maine, to be united states circuit judge for the district of maine, vic i cynthia howard, of virginia.
mary jo h. robc Compact
edward j. moody, of texas, to be united states circuit judge for the eastern district of texas, vic i stephen c. bradly, of north carolina.
charles t. lehman, of delaware, to be united_states circuit judge_for the district of delaware, vic i sarah l. dimitrakopoulou, of new york.
jeffrey r. hoyt, of new hampshire, to be united_states circuit judge_for the district of new hampshire, vic i stephen r. shouldva, of new hampshire.
harri_x g. hartz, of new mexico, to be united_states circuit judge_for the district of new mexico, vic i alison duncan, of colorado.
caroline k. kuhl, of california, to be united_states circuit judge_for the ninth circuit, vic i jamie d. bender, of washington.
michael p. mills, of mississippi, to be united_states circuit judge_for the southern district of mississippi, vic i charles r. leggett, of mississippi.
paul l. bricken, of california, to be united_states circuit judge_for the northern district of california, vic i victor j. venizelos, of california.
jeffrey r. hoyt, of new york, to be united_states circuit judge_for the southern district of new york, vic i paul gregory, of new jersey.
mary elena estrada, of texas, to be united_states circuit judge_for the southern district of texas, vic i wilfredo garcia, of texas.
liam m. mcgrane, of new york, to be united_states circuit judge_for the southern district of new york, vic i john minor, jr., of new york.
harry m. bhuta, of new york, to be united_states circuit judge_for the eastern district of new york, vic i barry sears, of new york.
charles t. lehman, of delaware, to be united_states circuit judge_for the district of delaware, vic i sarah l. dimitrakopoulou, of new york.
william j. miskelly, jr., of florida, to be united_states circuit judge_for the northern district of florida, vic i margaret chang, of south carolina.
mary elena estrada, of texas, to be united_states circuit judge_for the southern district of texas, vic i wilfredo garcia, of texas.
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HIGHLIGHTS

See Résumé of Congressional Activity.

Senate

Chamber Action

Routine Proceedings, pages S9011–S9089

Measures Introduced: Eight bills were introduced, as follows: S. 1394–1401.

Measures Reported:

Reported on Tuesday, August 28, during the adjournment:

Report to accompany S. 1099, to increase the criminal penalties for assaulting or threatening Federal judges, their family members, and other public servants. (S. Rept. No. 107–53)

S. 856, to reauthorize the Small Business Technology Transfer Program. (S. Rept. No. 107–54)


S. 87, to amend the Native Hawaiian Health Care Improvement Act to revise and extend such Act, with amendments. (S. Rept. No. 107–56)

Reported today:

S. 1398, making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 2002. (S. Rept. No. 107–57)


S. 643, to implement the agreement establishing a United States-Jordan free trade area, with an amendment in the nature of a substitute. (S. Rept. No. 107–59)

S. 1401, to authorize appropriations for the Department of State and for United States international broadcasting activities for fiscal years 2002 and 2003. (S. Rept. No. 107–60)

Export Administration Act: Senate began consideration of S. 149, to provide authority to control exports, taking action on the following amendment proposed thereto:

Rejected:

Thompson Amendment No. 1481, to modify the exceptions from required time periods. (By 74 yeas to 19 nays (Vote No. 274), Senate tabled the amendment.)

Pages S9049–65

Denver Water Reuse Project—Title Amendment Modified: By unanimous consent, Senate modified the committee reported title amendment to S. 491, to authorize the Secretary of the Interior, pursuant to the provisions of the Reclamation Wastewater and Groundwater to participate in the design, planning, and construction of the Denver Water Reuse project (passed on August 3, 2001).

Pages S9084

Nominations Received: Senate received the following nominations.

Roy L. Austin, of Pennsylvania, to be Ambassador to Trinidad and Tobago.

Phillip Bond, of Virginia, to be Under Secretary of Commerce for Technology.

Raymond F. Burghardt, of Florida, to be Ambassador to the Socialist Republic of Vietnam.

Franklin Pierce Huddle, Jr., of California, to be Ambassador to the Republic of Tajikistan.

Laura E. Kennedy, of New York, to be Ambassador to Turkmenistan.

Harold Craig Manson, of California, to be Assistant Secretary for Fish and Wildlife.

Kevin Joseph McGuire, of Maryland, to be Ambassador to the Republic of Namibia.

Pamela Hyde Smith, of Washington, to be Ambassador to the Republic of Moldova.

Ronald Weiser, of Michigan, to be Ambassador to the Slovak Republic.

Eduardo Aguirre, Jr., of Texas, to be First Vice President of the Export-Import Bank of the United States.

George L. Argyros, Sr., of California, to be Ambassador to Spain, and to serve concurrently and
without additional compensation as Ambassador to Andorra.

M. Christina Armijo, of New Mexico, to be United States District Judge for the District of New Mexico.

Brig. Gen. Edwin J. Arnold, Jr., United States Army, to be a Member and President of the Mississippi River Commission.

Jo Anne Barnhart, of Delaware, to be Commissioner of Social Security.

John D. Bates, of Maryland, to be United States District Judge for the District of Columbia.

Charlotte L. Beers, of Texas, to be Under Secretary of State for Public Diplomacy.

Susan Schmidt Bies, of Tennessee, to be a Member of the Board of Governors of the Federal Reserve System.

Marion Blakey, of Mississippi, to be a Member of the National Transportation Safety Board.

Marion Blakey, of Mississippi, to be Chairman of the National Transportation Safety Board.

J. Richard Blankenship, of Florida, to be Ambassador to the Commonwealth of The Bahamas.

Lawrence J. Block, of Virginia, to be a Judge of the United States Court of Federal Claims.

Robert C. Bonner, of California, to be Commissioner of Customs.

Karon O. Bowdre, of Alabama, to be United States District Judge for the Northern District of Alabama.

Terrence W. Boyle, of North Carolina, to be United States Circuit Judge for the Fourth Circuit.

Linton F. Brooks, of Virginia, to be Deputy Administrator for Defense Nuclear Nonproliferation, National Nuclear Security Administration.

Susan W. Brooks, of Indiana, to be United States Attorney for the Southern District of Indiana.

John L. Brownlee, of Virginia, to be United States Attorney for the Western District of Virginia.

David L. Bunning, of Kentucky, to be United States District Judge for the Eastern District of Kentucky.

Timothy Mark Burgess, of Alaska, to be United States Attorney for the District of Alaska.

Scott M. Burns, of Utah, to be Deputy Director for State and Local Affairs, Office of National Drug Control Policy.

Jay S. Bybee, of Nevada, to be an Assistant Attorney General.

Karen K. Caldwell, of Kentucky, to be United States District Judge for the Eastern District of Kentucky.

Laurie Smith Camp, of Nebraska, to be United States District Judge for the District of Nebraska.

Leura Garrett Canary, of Alabama, to be United States Attorney for the Middle District of Alabama.

Brian E. Carlson, of Virginia, to be Ambassador to the Republic of Latvia.

Paul G. Cassell, of Utah, to be United States District Judge for the District of Utah.

Paul K. Charlton, of Arizona, to be United States Attorney for the District of Arizona.

Margaret M. Chiara, of Michigan, to be United States Attorney for the Western District of Michigan.

Joseph M. Clapp, of North Carolina, to be Administrator of the Federal Motor Carrier Safety Administration.

Edith Brown Clement, of Louisiana, to be United States Circuit Judge for the Fifth Circuit.

Richard R. Clifton, of Hawaii, to be United States Circuit Judge for the Ninth Circuit.

Bruce Cole, of Indiana, to be Chairperson of the National Endowment for the Humanities.

Colm F. Connolly, of Delaware, to be United States Attorney for the District of Delaware.

Robert J. Conrad, Jr., of North Carolina, to be United States Attorney for the Western District of North Carolina.

Deborah L. Cook, of Ohio, to be United States Circuit Judge for the Sixth Circuit.

Fred L. Dailey, of Ohio, to be a Member of the Board of Directors of the Federal Agricultural Mortgage Corporation.

Grace Trujillo Daniel, of California, to be a Member of the Board of Directors of the Federal Agricultural Mortgage Corporation.

Deborah J. Daniels, of Indiana, to be an Assistant Attorney General.

John J. Danilovich, of California, to be Ambassador to the Republic of Costa Rica.

Joseph M. DeThomas, of Pennsylvania, to be Ambassador to the Republic of Estonia.

Nils J. Diaz, of Florida, to be a Member of the Nuclear Regulatory Commission.

Kenneth M. Donohue, Sr., of Virginia, to be Inspector General, Department of Housing and Urban Development.

Thomas C. Dorr, of Iowa, to be Under Secretary of Agriculture for Rural Development.

Thomas C. Dorr, of Iowa, to be a Member of the Board of Directors of the Commodity Credit Corporation.

Claire V. Eagan, of Oklahoma, to be United States District Judge for the Northern District of Oklahoma.

Kurt D. Engelhardt, of Louisiana, to be United States District Judge for the Eastern District of Louisiana.

Ellen G. Engleman, of Indiana., to be Administrator of the Research and Special Programs Administration, Department of Transportation.
Miguel A. Estrada, of Virginia, to be United States Circuit Judge for the District of Columbia Circuit.

J. Robert Flores, of Virginia, to be Administrator of the Office of Juvenile Justice and Delinquency Prevention.

Sharee M. Freeman, of Virginia, to be Director, Community Relations Service.

Stephen P. Friot, of Oklahoma, to be United States District Judge for the Western District of Oklahoma.

Thomas C. Gean, of Arkansas, to be United States Attorney for the Western District of Arkansas.

James Gilleran, of California, to be Director of the Office of Thrift Supervision.

John W. Gillis, of California, to be Director of the Office for Victims of Crime.

Callie V. Granade, of Alabama, to be United States District Judge for the Southern District of Alabama.

Todd Peterson Graves, of Missouri, to be United States Attorney for the Western District of Missouri.

James Ming Greenlee, of Mississippi, to be United States Attorney for the Northern District of Mississippi.

James E. Gritzner, of Iowa, to be United States District Judge for the Southern District of Iowa.

Raymond W. Gruender, of Missouri, to be United States Attorney for the Eastern District of Missouri.

Janet Hale, of Virginia, to be an Assistant Secretary of Health and Human Services.

Terrell Lee Harris, of Tennessee, to be United States Attorney for the Western District of Tennessee.

Patricia de Stacy Harrison, of Virginia, to be Assistant Secretary of State for Educational and Cultural Affairs.

Harris L. Hartz, of New Mexico, to be United States Circuit Judge for the Tenth Circuit.

Joe L. Heaton, of Oklahoma, to be United States District Judge for the Western District of Oklahoma.

Michael G. Heavican, of Nebraska, to be United States Attorney for the District of Nebraska.

Thomas B. Heffelfinger, of Minnesota, to be United States Attorney for the District of Minnesota.

Hans H. Hertell, of Puerto Rico, to be Ambassador to the Dominican Republic.

Larry R. Hicks, of Nevada, to be United States District Judge for the District of Nevada.

Kent R. Hill, of Massachusetts, to be an Assistant Administrator of the United States Agency for International Development.

Marianne Lamont Horinko, of Virginia, to be Assistant Administrator, Office of Solid Waste, Environmental Protection Agency.

Marian Blank Horn, of Maryland, to be a Judge of the United States Court of Federal Claims.

Jeffrey R. Howard, of New Hampshire, to be United States Circuit Judge for the First Circuit.

John L. Howard, of Illinois, to be Chairman of the Special Panel on Appeals.

Roscoe Conklin Howard, Jr., of the District of Columbia, to be United States attorney for the District of Columbia.

David Claudio Iglesias, of New Mexico, to be United States Attorney for the District of New Mexico.

Jeffrey D. Jarrett, of Pennsylvania, to be Director of the Office of Surface Mining Reclamation and Enforcement.

P.H. Johnson, of Mississippi, to be Federal Cochairperson, Delta Regional Authority.

William P. Johnson, of New Mexico, to be United States District Judge for the District of New Mexico.

Brian Jones, of California, to be General Counsel, Department of Education.

Frederico Juarbe, Jr., of Virginia, to be Assistant Secretary of Labor for Veterans' Employment and Training.

Patrick Francis Kennedy, of Illinois, to be Representative of the United States of America to the United Nations for U.N. Management and Reform, with the rank of Ambassador.

Carolyn B. Kuhl, of California, to be United States Circuit Judge for the Ninth Circuit.

Charles W. Larson, Sr., of Iowa, to be United States Attorney for the Northern District of Iowa.

Hilda Gay Legg, of Kentucky, to be Administrator, Rural Utilities Service, Department of Agriculture.

Leslie Lenkowsky, of Indiana, to be Chief Executive Officer of the Corporation for National and Community Service.

Charles F. Lettow, of Virginia, to be a Judge of the United States Court of Federal Claims.

Michael E. Malinowski, of the District of Columbia, to be Ambassador to the Kingdom of Nepal.

Harry Sandlin Mattice, Jr., of Tennessee, to be United States Attorney for the Eastern District of Tennessee.

Robert Garner McCampbell, of Oklahoma, to be United States Attorney for the Western District of Oklahoma.

Michael W. McConnell, of Utah, to be United States Circuit Judge for the Tenth Circuit.

Jackson McDonald, of Florida, to be Ambassador to the Republic of The Gambia.

Bonnie McElveen-Hunter, of North Carolina, to be Ambassador to the Republic of Finland.
Paul J. McNulty, of Virginia, to be United States Attorney for the Eastern District of Virginia.

Matthew Hansen Mead, of Wyoming, to be United States Attorney for the District of Wyoming.

Patrick Leo Meehan, of Pennsylvania, to be United States Attorney for the Eastern District of Pennsylvania.

Michael J. Melloy, of Iowa, to be United States Circuit Judge for the Eighth Circuit.

William Walter Mercer, of Montana, to be United States Attorney for the District of Montana.

Michael P. Mills, of Mississippi, to be United States District Judge for the Northern District of Mississippi.

Michael W. Mosman, of Oregon, to be United States Attorney for the District of Oregon.

Thomas E. Moss, of Idaho, to be United States Attorney for the District of Idaho.

Elsa A. Murano, of Texas, to be Under Secretary of Agriculture for Food Safety.

Richard R. Nedelkoff, of Texas, to be Director of the Bureau of Justice Assistance.


Ronald E. Neumann, of Virginia, to be Ambassador to the Republic of Bahrain.

Terrence L. O'Brien, of Wyoming, to be United States Circuit Judge for the Tenth Circuit.

Joan E. Ohl, of West Virginia, to be Commissioner on Children, Youth, and Families, Department of Health and Human Services.

Mark W. Olson, of Minnesota, to be a Member of the Board of Governors of the Federal Reserve System.

John Malcolm Ordway, of California, to be Ambassador to the Republic of Armenia.

Priscilla Richman Owen, of Texas, to be United States Circuit Judge for the Fifth Circuit.

John N. Palmer, of Mississippi, to be Ambassador to the Republic of Portugal.

Barrington D. Parker, of Connecticut, to be United States Circuit Judge for the Second Circuit.

Michael Parker, of Mississippi, to be an Assistant Secretary of the Army.

James H. Payne, of Oklahoma, to be United States District Judge for the Northern, Eastern and Western Districts of Oklahoma.

Stephen Beville Pence, of Kentucky, to be United States Attorney for the Western District of Kentucky.

Mary E. Peters, of Arizona, to be Administrator of the Federal Highway Administration.

Charles W. Pickering, Sr., of Mississippi, to be United States Circuit Judge for the Fifth Circuit.

Sharon Prost, of the District of Columbia, to be United States Circuit Judge for the Federal Circuit.

Danny C. Reeves, of Kentucky, to be United States District Judge for the Eastern District of Kentucky.

Otto J. Reich, of Virginia, to be an Assistant Secretary of State for Western Hemisphere Affairs.

Arlene Render, of Virginia, to be Ambassador to the Republic of Cote d’Ivoire.

Mark Edward Rey, of the District of Columbia, to be Under Secretary of Agriculture for Natural Resources and Environment.

Mark Edward Rey, of the District of Columbia, to be a Member of the Board of Directors of the Commodity Credit Corporation.

John G. Roberts, Jr., of Maryland, to be United States Circuit Judge for the District of Columbia Circuit.

James Edward Rogan, of California, to be Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

Marvin R. Sambur, of Indiana, to be an Assistant Secretary of the Air Force.

Thomas L. Sansonetti, of Wyoming, to be an Assistant Attorney General.

Eugene Scalia, of Virginia, to be Solicitor for the Department of Labor.

Joseph E. Schmitz, of Maryland, to be Inspector General, Department of Defense.

Dennis L. Schornack, of Michigan, to be Commissioner on the part of the United States on the International Joint Commission, United States and Canada.

Donald R. Schregardus, of Ohio, to be an Assistant Administrator of the Environmental Protection Agency.

Mattie R. Sharpless, of North Carolina, to be Ambassador to the Central African Republic.

Dennis W. Shedd, of South Carolina, to be United States Circuit Judge for the Fourth Circuit.

Lavenski R. Smith, of Arkansas, to be United States Circuit Judge for the Eighth Circuit.

Brig. Gen. Carl A. Strock, United States Army, to be a Member of the Mississippi River Commission.
Michael J. Sullivan, of Massachusetts, to be United States Attorney for the District of Massachusetts.

John W. Suthers, of Colorado, to be United States Attorney for the District of Colorado.

Jeffrey S. Sutton, of Ohio, to be United States Circuit Judge for the Sixth Circuit.

Mauricio J. Tamargo, of Florida, to be Chairman of the Foreign Claims Settlement Commission of the United States.

J. Strom Thurmond, Jr., of South Carolina, to be United States Attorney for the District of South Carolina.

John F. Turner, of Wyoming, to be Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs.

Timothy M. Tymkovich, of Colorado, to be United States Circuit Judge for the Tenth Circuit.

Joseph S. Van Bokkelen, of Indiana, to be United States Attorney for the Northern District of Indiana.

Gregory F. Van Tatenhove, of Kentucky, to be United States Attorney for the Eastern District of Kentucky.

Kirk Van Tine, of Virginia, to be General Counsel of the Department of Transportation.

Odessa F. Vincent, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia.

Anna Mills S. Wagoner, of North Carolina, to be United States Attorney for the Middle District of North Carolina.

Marcelle M. Wahba, of California, to be Ambassador to the United Arab Emirates.

R. Barrie Walkley, of California, to be Ambassador to the Republic of Guinea.

John P. Walters, of Michigan, to be Director of National Drug Control Policy.


B. John Williams, Jr., of Virginia, to be Chief Counsel for the Internal Revenue Service and an Assistant General Counsel in the Department of the Treasury.

Mary Ellen Coster Williams, of Maryland, to be a Judge of the United States Court of Federal Claims.

Terry L. Wooten, of South Carolina, to be United States District Judge for the District of South Carolina.

1 Air Force nomination in the rank of general.

6 Army nominations in the rank of general.

Routine lists in the Navy, Marine Corps, and Army.

Executive Communications: Pages S9085–89

Messages From the House: Page S9067

Measures Placed on Calendar: Page S9067

Statements on Introduced Bills: Pages S9078–79

Additional Cosponsors: Pages S9076–78

Amendments Submitted: Pages S9079–84

Additional Statements: Pages S9066–67

Authority for Committees: Page S9084

Privilege of the Floor: Page S9084

Record Votes: One record vote was taken today. (Total—274) Page S9065

Adjournment: Senate met at 10 a.m. and adjourned at 6:07 p.m., until 10 a.m., on Wednesday, September 5, 2001. (For Senate’s program, see the remarks of the Acting Majority Leader in today’s Record on page S9084.)

Committee Meetings

(Committees not listed did not meet)

U.S. ECONOMY

Committee on the Budget: Committee concluded hearings to examine the current economic and budget situation facing the United States, focusing on the recent Congressional Budget Office report, “The Budget and Economic Outlook: An Update”, after receiving testimony from Dan L. Crippen, Director, Congressional Budget Office.

NOMINATION AND CONFIRMATION PROCESS

Committee on the Judiciary: Subcommittee on Administrative Oversight and the Courts resumed hearings to examine the Senate’s role in and the criteria that should be applied with regard to the judicial nomination and confirmation process, receiving testimony from Senator Thompson; former Senator Paul Simon; Sanford Levinson, University of Texas Law School, Austin; Ronald D. Rotunda, University of Illinois College of Law, Champaign; Judith Resnik, Yale University Law School, New Haven, Connecticut; and Douglas W. Kmiec, Catholic University of America Columbus School of Law, and Mark Tushnet, Georgetown University Law Center, both of Washington, D.C.

Hearings recessed subject to call.

NOMINATIONS

Committee on the Judiciary: On Wednesday, August 22, committee concluded hearings on the nominations of Reggie B. Walton, to be United States District Judge for the District of Columbia, and Richard R. Nedelkoff, of Texas, to be Director of the Bureau of Justice Assistance, Department of Justice,
after the nominees testified and answered questions in their own behalf. Mr. Walton was introduced by District of Columbia Delegate Eleanor Holmes Norton.

NOMINATIONS

Committee on the Judiciary: On Monday, August 27, Committee concluded hearings on the nominations of Sharon Prost, of the District of Columbia, to be United States Circuit Judge for the Federal Circuit, and Terry L. Wooten, to be United States District Judge for the District of South Carolina, after the nominees testified and answered questions in their own behalf. Ms. Prost was introduced by District of Columbia Delegate Eleanor Holmes Norton, and Mr. Wooten was introduced by Senator Thurmond.

House of Representatives

Chamber Action

The House was not in session today. It will convene on Wednesday, September 5 at 2 p.m.

Committee Meetings

No Committee meetings were held.

NEW PUBLIC LAWS

(For last listing of Public Laws, see DAILY DIGEST of July 27, 2001, p. D793)


H.R. 93, to amend title 5, United States Code, to provide that the mandatory separation age for Federal firefighters be made the same as the age that applies with respect to Federal law enforcement officers. Signed on August 20, 2001. (Public Law 107–27)

H.R. 271, to direct the Secretary of the Interior to convey a former Bureau of Land Management administrative site to the city of Carson City, Nevada, for use as a senior center. Signed on August 20, 2001. (Public Law 107–28)

H.R. 364, to designate the facility of the United States Postal Service located at 5927 Southwest 70th Street in Miami, Florida, as the “Marjory Williams Scrivens Post Office”. Signed on August 20, 2001. (Public Law 107–29)

H.R. 427, to provide further protections for the watershed of the Little Sandy River as part of the Bull Run Watershed Management Unit, Oregon. Signed on August 20, 2001. (Public Law 107–30)


H.R. 821, to designate the facility of the United States Postal Service located at 1030 South Church Street in Asheboro, North Carolina, as the “W. Joe Trogdon Post Office Building”. Signed on August 20, 2001. (Public Law 107–32)

H.R. 988, to designate the United States courthouse located at 40 Centre Street in New York, New York, as the “Thurgood Marshall United States Courthouse”. Signed on August 20, 2001. (Public Law 107–33)

H.R. 1183, to designate the United States Postal Service located at 113 South Main Street in Sylvania, Georgia, as the “G. Elliot Hagan Post Office Building”. Signed on August 20, 2001. (Public Law 107–34)

H.R. 1753, to designate the facility of the United States Postal Service located at 419 Rutherford Avenue, N.E., in Roanoke, Virginia, as the “M. Caldwell Butler Post Office Building”. Signed on August 20, 2001. (Public Law 107–35)

CONGRESSIONAL PROGRAM AHEAD

Week of September 5 through September 8, 2001

Senate Chamber

On Wednesday, Senate will continue consideration of S. 149, Export Administration Act.

During the balance of the week, Senate expects to resume consideration of S. 149, Export Administration Act, and consider any other cleared legislative and executive business, including appropriation bills when available.

Senate Committees

(Committee meetings are open unless otherwise indicated)

Committee on Appropriations: September 5, Subcommittee on Defense, to hold hearings on the budget overview for fiscal year 2002 for the military, 10 a.m., SD–192.

Committee on Armed Services: September 5, Subcommittee on Airland, closed business meeting to mark up those provisions, which fall within the jurisdiction of the subcommittee, of proposed legislation authorizing appropriations for fiscal year 2002 for military activities of the Department of Defense, 9 a.m., SR–222.

September 5, Subcommittee on Readiness and Management Support, closed business meeting to mark up those provisions, which fall within the jurisdiction of the subcommittee, of proposed legislation authorizing appropriations for fiscal year 2002 for military activities of the Department of Defense, 10 a.m., SR–232A.

September 5, Subcommittee on Personnel, closed business meeting to mark up those provisions, which fall within the jurisdiction of the subcommittee, of proposed legislation authorizing appropriations for fiscal year 2002 for military activities of the Department of Defense, 11 a.m., SR–222.

September 5, Subcommittee on SeaPower, closed business meeting to mark up those provisions, which fall within the jurisdiction of the subcommittee, of proposed legislation authorizing appropriations for fiscal year 2002 for military activities of the Department of Defense, 3 p.m., SR–232A.

September 5, Subcommittee on Emerging Threats and Capabilities, closed business meeting to mark up those provisions, which fall within the jurisdiction of the subcommittee, of proposed legislation authorizing appropriations for fiscal year 2002 for military activities of the Department of Defense, 4:30 p.m., SR–222.

September 5, Subcommittee on Strategic, closed business meeting to mark up those provisions, which fall within the jurisdiction of the subcommittee, of proposed legislation authorizing appropriations for fiscal year 2002 for military activities of the Department of Defense, 5:30 p.m., SR–232A.

September 5, Full Committee, closed business meeting to mark up proposed legislation authorizing appropriations for fiscal year 2002 for military activities of the Department of Defense, 7 p.m., SR–222.

September 6, Full Committee, closed business meeting to continue to mark up proposed legislation authorizing appropriations for fiscal year 2002 for military activities of the Department of Defense, 9:30 a.m., SR–222.

September 7, Full Committee, closed business meeting to continue markup on proposed legislation authorizing appropriations for fiscal year 2002 for military activities of the Department of Defense, 9:30 a.m., SR–222.

Committee on the Budget: September 6, to hold hearings to examine the Office of Management and Budget’s mid-session review and the budget and economic outlook, 9:30 a.m., SH–216.

Committee on Commerce, Science, and Transportation: September 5, Subcommittee on Consumer Affairs, Foreign Commerce, and Tourism, to hold hearings to examine the comparative pricing of prescription drugs in the United States and Canada and how that pricing effects consumers, 9 a.m., SR–253.

September 6, Subcommittee on Science, Technology, and Space, to hold hearings to examine the safety of Space Shuttle missions, 2:30 p.m., SR–253.

Committee on Foreign Relations: September 5, to hold hearings to examine the threat of and the U.S. response to bioterrorism and strengthening the domestic and international capability to prevent and defend against intentional and natural infectious disease outbreaks, 10 a.m., SD–419.

Committee on Health, Education, Labor, and Pensions: September 5, to hold hearings to examine stem cell research issues, 9:30 a.m., SD–106.

September 6, Full Committee, to hold hearings on the nomination of Brian Jones, of California, to be General Counsel, Department of Education, 10 a.m., SD–430.

September 7, Subcommittee on Children and Families, to hold hearings to examine the national health crisis regarding teen and young adult suicide issues, 9:30 a.m., SD–430.

Select Committee on Intelligence: September 5, to hold hearings to examine the fiscal year 2002 Intelligence Authorization Bill, focusing on information leak provisions, 3:30 p.m., SH–216.

September 6, Full Committee, closed business meeting to mark up the fiscal year 2002 Intelligence Authorization Bill, 9:30 a.m., SH–219.

Committee on the Judiciary: September 5, to hold oversight hearings to examine activities of the Department of Justice, focusing on management of tobacco litigation, 2:30 p.m., SD–226.

September 6, Full Committee, business meeting to consider pending calendar business, 10 a.m., SD–226.

September 7, Full Committee, to hold hearings to examine the historical opportunity for U.S.-Mexico migration discussions, 10 a.m., SD–226.

House Chamber

Wednesday, Consideration of Suspensions: H.R. 2291, Drug-Free Communities Support Program Reauthorization Act; H. Res. 202, Encouraging a Summer Emergency Blood Donor Season; H.R. 2510, Defense Production Act Amendments of 2001; H.R. 1866, to clarify the basis for granting requests for reexamination of patents; H.R. 1886, appeals by

Thursday and Friday, Joint Meeting with the Senate to receive His Excellency, Vicente Fox, President of the United Mexican States on Thursday at 11:00 a.m. Consideration of the following measures: H.J. Res. 51, Extension of Nondiscriminatory Treatment to the Products of Vietnam; H.R. 2368, Vietnam Human Rights Act; and motion to go to conference on S. 180, Sudan Peace Act.

House Committees

Committee on Appropriations, September 6, Subcommittee on the District of Columbia, to mark up appropriations for fiscal year 2002, 2 p.m., H–140 Capitol.

September 6, Subcommittee on Military Construction, to mark up appropriations for fiscal year 2002, 3:30 p.m., B–300 Rayburn.

Committee on the Budget, September 5, hearing on Mid-Session Review and Update of the Budget and Economic Outlook, 10 a.m., 210 Cannon.

Committee on Education and the Workforce, September 6, Subcommittee on Employer-Employee Relations, hearing on “Genetic Non-Discrimination: Implications for Employer Provided Health Care Plans,” 2 p.m., 2175 Rayburn.

Committee on Energy and Commerce, September 6, Subcommittee on Energy and Air Quality, hearing on the reauthorization of the Price-Anderson Act, 2 p.m., 2322 Rayburn.

September 7, Subcommittee on Telecommunications and the Internet, hearing entitled “Area Code Exhaustion: Management of Our Nation’s Telephone Numbers,” 9:30 a.m., 2123 Rayburn.

Committee on Financial Services, September 6, Subcommittee on Financial Institutions and Consumer Credit, to mark up H.R. 1701, Consumer Rental Purchase Agreement Act, 10 a.m., 2128 Rayburn.

Committee on Government Reform, September 6, Subcommittee on Technology and Procurement Policy, hearing on “Toward a Telework-Friendly Government Workplace: An Update on Public and Private Approaches to Telecommuting,” 9:30 a.m., 2154 Rayburn.

Committee on International Relations, September 6, to mark up H.R. 2646, Agricultural Act of 2001, 1 p.m., 2172 Rayburn.

Committee on the Judiciary, September 6, Subcommittee on the Constitution, hearing on H.R. 476, Child Custody Protection Act, 10 a.m., 2257 Rayburn.

Committee on Resources, September 6, Subcommittee on Energy and Mineral Resources, oversight hearing on “The Orderly Development of Coalbed Methane Resources from Public Lands,” 10 a.m., 1324 Longworth.

Committee on Science, September 6, Subcommittee on Research, hearing on NSF’s Major Research Facilities: Planning and Management Issues, 10 a.m., 2318 Rayburn.

Committee on Small Business, September 6, hearing on the Department of Defense’s procurement policies, 10 a.m., 2360 Rayburn.

Committee on Transportation and Infrastructure, September 6, Subcommittee on Economic Development, Public Buildings and Emergency Management, hearing on H.R. 307, Federal Protection Service Reform Act, 10 a.m., 2253 Rayburn.

Committee on Veterans’ Affairs, September 6, Subcommittee on Health, hearing on the following bills: H.R. 2792, Disabled Veterans Service Dog and Health Care Improvement Act of 2001; H.R. 1435, Veterans’ Emergency Telephone Service Act of 2001; and H.R. 1136, to amend title 38, United States Code, to require Department of Veterans Affairs pharmacies to dispense medication to veterans for prescriptions written by private practitioners, 2 p.m., 334 Cannon.

Permanent Select Committee on Intelligence, September 7, executive, hearing on Fiscal Year 2002–TIARA/JMIP Budget, 10 a.m., H–405 Capitol.

Joint Meetings

Commission on Security and Cooperation in Europe: September 5, to hold hearings to examine international efforts to deploy civilian police contingents in post-conflict OSCE regions, and to monitor and train local police for effectiveness in keeping with democratic standards, focusing on the efforts of the Organization for Security and Cooperation in Europe (OSCE) and the United Nations, 10 a.m., SR–385.

September 7, Full Committee, to hold a joint briefing to examine research data on domestic violence and the extent to which governments, particularly law enforcement authorities, have fulfilled their responsibilities to protect individuals from such abuse, focusing on U.S. models for providing services to victims of domestic violence, including the response of faith-based communities, 10:30 a.m., 2200, Rayburn Building.

Joint Economic Committee: September 7, to hold hearings to examine the employment-unemployment situation for August, 9:30 a.m., 1334, Longworth Building.
Résumé of Congressional Activity

FIRST SESSION OF THE ONE HUNDRED SEVENTH CONGRESS

The first table gives a comprehensive résumé of all legislative business transacted by the Senate and House. The second table accounts for all nominations submitted to the Senate by the President for Senate confirmation.

### DATA ON LEGISLATIVE ACTIVITY

**January 3 through August 31, 2001**

<table>
<thead>
<tr>
<th>Category</th>
<th>Senate</th>
<th>House</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Days in session</td>
<td>111</td>
<td>86</td>
<td></td>
</tr>
<tr>
<td>Time in session</td>
<td>813 hrs., 45′</td>
<td>550 hrs., 14′</td>
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</tr>
<tr>
<td>Congressional Record:</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Pages of proceedings</td>
<td>9,010</td>
<td>5,341</td>
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<tr>
<td>Extensions of Remarks</td>
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<td>1,569</td>
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<tr>
<td>Public bills enacted into law</td>
<td>8</td>
<td>28</td>
<td>36</td>
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<tr>
<td>Private bills enacted into law</td>
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<td></td>
<td>1</td>
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<tr>
<td>Bills in conference</td>
<td>5</td>
<td>6</td>
<td></td>
</tr>
<tr>
<td>Measures passed, total</td>
<td>211</td>
<td>292</td>
<td>503</td>
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<tr>
<td>Senate bills</td>
<td>41</td>
<td>9</td>
<td></td>
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<tr>
<td>House bills</td>
<td>34</td>
<td>114</td>
<td></td>
</tr>
<tr>
<td>Senate joint resolutions</td>
<td>1</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>House joint resolutions</td>
<td>2</td>
<td>3</td>
<td></td>
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<tr>
<td>Senate concurrent resolutions</td>
<td>22</td>
<td>3</td>
<td></td>
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<tr>
<td>House concurrent resolutions</td>
<td>24</td>
<td>49</td>
<td></td>
</tr>
<tr>
<td>Simple resolutions</td>
<td>87</td>
<td>113</td>
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<tr>
<td>Measures reported, total</td>
<td>125</td>
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<td>308</td>
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<td>Senate bills</td>
<td>66</td>
<td>2</td>
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<td>House bills</td>
<td>11</td>
<td>111</td>
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<td>Senate joint resolutions</td>
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<td>House joint resolutions</td>
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<tr>
<td>Senate concurrent resolutions</td>
<td>11</td>
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<tr>
<td>House concurrent resolutions</td>
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<td>10</td>
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<tr>
<td>Simple resolutions</td>
<td>34</td>
<td>36</td>
<td></td>
</tr>
<tr>
<td>Special reports</td>
<td>16</td>
<td>6</td>
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<tr>
<td>Conference reports</td>
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<td>4</td>
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<tr>
<td>Measures pending on calendar</td>
<td>64</td>
<td>38</td>
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<tr>
<td>Measures introduced, total</td>
<td>1,628</td>
<td>3,337</td>
<td>4,965</td>
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<tr>
<td>Bills</td>
<td>1,385</td>
<td>2,831</td>
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<td>Joint resolutions</td>
<td>21</td>
<td>59</td>
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<tr>
<td>Concurrent resolutions</td>
<td>65</td>
<td>215</td>
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<tr>
<td>Simple resolutions</td>
<td>157</td>
<td>232</td>
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<tr>
<td>Quorum calls</td>
<td>3</td>
<td>3</td>
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<tr>
<td>Yea-and-nay votes</td>
<td>273</td>
<td>183</td>
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<tr>
<td>Recorded votes</td>
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<td>146</td>
<td></td>
</tr>
<tr>
<td>Bills vetoed</td>
<td></td>
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</tr>
<tr>
<td>Vetoes overridden</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*These figures include all measures reported, even if there was no accompanying report. A total of 56 reports have been filed in the Senate, a total of 193 reports have been filed in the House.

### DISPOSITION OF EXECUTIVE NOMINATIONS

**January 3 through August 31, 2001**

<table>
<thead>
<tr>
<th>Category</th>
<th>Senate</th>
<th>House</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Civilian Nominations, totaling 690, disposed of as follows:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Confirmed</td>
<td>501</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Unconfirmed</td>
<td>162</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Withdrawn</td>
<td>65</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Returned to White House</td>
<td>162</td>
<td></td>
<td></td>
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<tr>
<td>Other Civilian Nominations, totaling 1,617, disposed of as follows:</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Confirmed</td>
<td>1,115</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Unconfirmed</td>
<td>251</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Returned to White House</td>
<td>251</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Air Force Nominations, totaling 4,636, disposed of as follows:</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Confirmed</td>
<td>4,544</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Unconfirmed</td>
<td>46</td>
<td></td>
<td>46</td>
</tr>
<tr>
<td>Returned to White House</td>
<td>46</td>
<td></td>
<td></td>
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<tr>
<td>Army Nominations, totaling 4,457, disposed of as follows:</td>
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<td></td>
</tr>
<tr>
<td>Confirmed</td>
<td>4,241</td>
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<td></td>
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<tr>
<td>Unconfirmed</td>
<td>108</td>
<td></td>
<td>108</td>
</tr>
<tr>
<td>Returned to White House</td>
<td>108</td>
<td></td>
<td></td>
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<tr>
<td>Navy Nominations, totaling 3,297, disposed of as follows:</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Confirmed</td>
<td>3,239</td>
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<td></td>
</tr>
<tr>
<td>Unconfirmed</td>
<td>29</td>
<td></td>
<td>29</td>
</tr>
<tr>
<td>Returned to White House</td>
<td>29</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Marine Corps Nominations, totaling 3,609, disposed of as follows:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Confirmed</td>
<td>3,567</td>
<td></td>
<td></td>
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<tr>
<td>Unconfirmed</td>
<td>21</td>
<td></td>
<td>21</td>
</tr>
<tr>
<td>Returned to White House</td>
<td>21</td>
<td></td>
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</table>

<table>
<thead>
<tr>
<th>Summary</th>
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<tbody>
<tr>
<td>Total Nominations carried over from the First Session</td>
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<tr>
<td>Total Nominations Received this Session</td>
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</tr>
<tr>
<td>Total Confirmed</td>
<td>17,007</td>
</tr>
<tr>
<td>Total Unconfirmed</td>
<td>617</td>
</tr>
<tr>
<td>Total Withdrawn</td>
<td>65</td>
</tr>
<tr>
<td>Total Returned to the White House</td>
<td>617</td>
</tr>
</tbody>
</table>
Next Meeting of the SENATE
10 a.m., Wednesday, September 5

Program for Wednesday: Senate will resume consideration of S. 149, Export Administration Act.
(Senate will recess from 12:30 p.m. until 2:15 p.m. for their respective party conferences.)

Senate Chamber

Next Meeting of the HOUSE OF REPRESENTATIVES
2 p.m., Wednesday, September 5

Program for Wednesday: Consideration of Suspensions:
1. H.R. 2291, Drug-Free Communities Support Program Reauthorization Act;
2. H. Res. 202, Encouraging a Summer Emergency Blood Donor Season;
4. H.R. 1866, to clarify the basis for granting requests for reexamination of patents;
5. H.R. 1886, appeals by third-parties in certain patent reexamination proceedings; and

House Chamber