The Senate met at 9:30 a.m. and was called to order by the Honorable Jack Reed, a Senator from the State of Rhode Island.

PRAYER
The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:
Almighty God, Sovereign of this Nation, Lord of this Senate and source of strength for leaders, we turn to You for guidance for the intensely busy weeks ahead in this fall session. As we convene, it is difficult not to consider every issue in terms of the forthcoming elections. Our party differences often are sharply focused. And yet, the agenda before the Senate is made up of crucial matters for the good of America. Enable the Senators to think creatively, to speak clearly, and to vote with conviction. May they seek Your will, stay open to each other, and give our Nation an example of how leaders can be decisive without being divisive.

This morning we lift up to You the family of Senator Joe Biden whose father, Joseph R. Biden, Sr., passed away yesterday. Comfort them with Your peace that passes understanding as they walk through this difficult time. Watch over the entire Senate family and surround us with Your protections. You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE
The Honorable Jack Reed 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.

APPPOINTMENT OF ACTING PRESIDENT PRO TEMPORE
The Presiding Officer. The clerk will please read a communication to the Senate from the President pro tempore (Mr. Byrd).
The legislative clerk read the following letter:
U.S. Senate,
President pro tempore,
To the Senate:
Under the provisions of rule 1, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable Jack Reed, a Senator from the State of Rhode Island, to perform the duties of the Chair.
Robert C. Byrd,
President pro tempore.

RECOGNITION OF THE ACTING PRESIDENT PRO TEMPORE
The President pro tempore. The Senator from Nevada.

PROGRAM
Mr. Reid. Mr. President, good morning. I welcome back every one of our very competent staff which has been away for 30 days.

Mr. President, this morning we are going to begin consideration of the homeland security legislation, H.R. 5005, with 7 hours of debate on the motion. The time will be divided between Senators Lieberman and Thompson, and in opposition that time will be controlled by Senator Byrd.

At 12:30 today, we will proceed to executive session to vote on the confirmation of a judicial nomination.

Following that vote, the Senate will recess until 2:15, as we do each Tuesday for party conferences. Debate on the motion will resume at 2:15.

All Senators should be alerted that in addition to the vote on the judicial nomination at 12:30 today, the Senate will vote on the motion to proceed to H.R. 5005 upon the expiration or yielding back of all time—somewhere around 6:15 this afternoon.

Today, we have a motion to proceed, as I have indicated. Tomorrow, we have the morning devoted to the Interior appropriations bill starting at 9:30. Then we will move again to homeland security.

Tomorrow evening at 6 o’clock, Vice President Mondale will be here for the Leader Lecture Series.

It will be a relatively short day tomorrow.

Then on Thursday, we will have full debate, which will include work on the Interior appropriations bill. We hope we can complete the Interior appropriations bill this week.

Hopefully, with permission of the minority, we can move to another appropriations bill.

We have one additional bill which the House passed, Treasury-Postal Service appropriations. That is something we have to do. There is a lot of work to do. Thursday will be our last legislative workday this week because Congress is going to New York on Friday.

As the leader announced, on each Monday there will be votes—some as early as noon. One week from Monday is a Jewish holiday. It is my understanding we will not work that day. At least that is the indication I got a
The legislative clerk proceeded to call the roll.

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

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

The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, let me beg the Senator's forgiveness. Before he begins, I would like to ask this earlier rather than later. May I ask a question with respect to the amendment?

Mr. LIEBERMAN. Of course.

Mr. BYRD. Is the amendment that the distinguished Senator will offer as a substitute the amendment I have seen? Is that the amendment?

Mr. LIEBERMAN. In responding to the Senator from West Virginia, that is indeed the amendment. What is before the Senate now, as the Senator from Connecticut has said, is the House-passed bill. It is my intention, assuming the motion to proceed passes today, to offer as a substitute the legislation that was adopted by the Senate Governmental Affairs Committee in July, which has been distributed to the Senator from West Virginia and others.

Mr. BYRD. May I ask the distinguished Senator, with great respect, does he have any suggestion as to how we will handle the time on quorum calls?

Mr. LIEBERMAN. I appreciate the question. It was my hope we could agree that the time on the quorum calls be subtracted equally from each side. Is that agreeable to the Senator from West Virginia?

Mr. BYRD. I hope it would not be. Once I begin, I don't plan to have any quorum calls. Yet, of course, at times it becomes necessary. When I do ask for a quorum call, I will expect that to be taken out of my time. I would not want to divide the time equally on quorum calls. I say with great respect.

Mr. LIEBERMAN. The Senator has that privilege, and I have no desire to limit debate. So let us just agree that quorum calls will remove time from the side that asks for the quorum call.

Mr. BYRD. Very well. I have one further question. In closing the debate, does the Senator have any particular way he wishes to proceed? I believe he would want to close the debate. If my manager of the bill, and that we not confine our closing arguments to a half hour. We can work that out ourselves and take longer than that. That is fine.

Mr. LIEBERMAN. Once again, Mr. President, that suggestion is agreeable to me. Debate, as the Senator from West Virginia knows, is limited to 3½ hours on each side. But some of this will depend on how many colleagues come to the floor to speak. Let us work together. I agree that we don't have to limit the time in which we go to closing arguments to the last half hour. We can work that out ourselves and take longer than that. That is fine.

Mr. BYRD. May I say I thank the distinguished Senator, the manager of the bill. I have only the very highest degree of respect for him, and I have only the highest degree of respect for the committee, and for his counterpart—if I may use that word—a very respected Senator, the Senator from Tennessee. I have great respect, and anything I say during this debate will be only with the desire in mind to contribute something that will reflect well upon this Senate in the days and years to come.

I have every belief that the Senator from Connecticut and the Senator from Tennessee approach the matter in the same spirit. I thank the Senators for your forbearance.

Mr. LIEBERMAN. Mr. President, I thank the Senator from West Virginia for his graciousness. Of course, Senator THOMPSON and I return the respect the Senator kindly offered to us. This is a very significant debate. It goes to the heart of the security of the American people today, post September 11, and it is also, by my calculation, the largest reorganization of the Federal Government since the late 1940s. Therefore, the time of debate, the time the Senator from West Virginia intends to engage is very much in the public interest. I look forward to it.

Mr. BYRD. Mr. President, I thank the Senator.

September 11 is now one of the darkest days in American history because of the almost 3,000 innocent lives that were taken and because of the way in which the American people were jarred from the dream that we would experience a time of extended peace after our victory in the cold war. The attacks made against us on September 11 were not just vicious in their inhumanity and in the lives that were taken in...
tragic consequences, but also in the assault made by the terrorists on our very way of life, on our values.

We are a nation whose founders stated right in the original American document, the Declaration of Independence, that every citizen has the right to life, liberty, and the pursuit of happiness, and that right is the endowment of our Creator. Yet we were attacked on September 11 by a group that claimed to be acting in the name of God. Yet they took out buildings full of thousands of people without regard to the lives of those people, killing them only because they were Americans, acting in the name of God to kill almost 3,000 children of God—diverse and varied in age and demographics, as the American people are.

It is in that sense that I view September 11 as an attack on our way of life. It is why we have pulled together after that as united people to resist, to strike back at those who struck us at first, through our courageous and skillful military achieving a great victory in Afghanistan. We must continue, since Afghanistan was only the first battle in the war against terrorism, to search out and capture or destroy all the enemies that remain in this unprecedented war, unprecedented in so many ways because we cannot see the enemy on a battlefield, they are not on ships at sea, but they are out there living in the shadows, preparing to strike us again.

What this proposal is about, stated in the most direct way, is to diminish, hopefully eliminate, the vulnerabilities of which the terrorists took advantage to strike at us on September 11, so that they will never again be able to do that.

I am not one who views another September 11-type attack as inevitable. We are the strongest nation in the history of the world, militarily and economically. We are united by our common values. We are a patriotic and innovative people, and if we marshal these strengths, we can make another September 11-type attack impossible, and that is the aim of the legislation our committee puts before the Senate today.

The urgent purpose of all three versions of homeland security that are in the discussion now—and I am speaking of the proposal by President Bush, the proposal by the House, and the one endorsed by the Governmental Affairs Committee of the Senate—is to meet the urgent post-September 11 security challenge we face, which is unprecedented, by consolidating the disparate Federal agencies and offices that deal with homeland security into a single Cabinet department under a strong, accountable Secretary.

In one sense, one might say the problem with the Federal Government's organization today with regard to homeland security is that a lot of people are involved in homeland security but nobody is in charge. The mission of this new Department that all three proposals would create is to spearhead the Federal Government's defense of the American people against terrorism on our home soil, working particularly with States, counties, cities, towns, and Native American tribes across the country and working with the private sector to improve preparedness and response capabilities.

As the 1-year anniversary of September 11 approaches, the reconstruction of the Pentagon is almost complete, the flights in Pennsylvania have resumed, but not like any other field, and plans for the redevelopment of the World Trade Center site are already being actively discussed. But the reality is that the vulnerabilities the terrorists exploited on September 11 in America's homeland defense structure still exist. We are still at risk, and that is why we must urgently proceed to discuss, debate, and then adopt legislation creating a Department of Homeland Security.

The dark day of September 11 and the future it foretold are seared in our minds and our hearts. We must never stop feeling anger and outrage about what our enemies did to us. We must never stop mourning the 3,000 lives we lost, must never stop honoring the legacy they left. We must never stop supporting the families whose loved ones were the first casualties of the war on terrorism. And we must never stop treasuring the freedoms and the opportunities that make this Nation truly the light it is to so many people around the world.

The single most important action we can take now as individuals and as a nation, in addition to continuing the military phase of the offensive war against terrorism, is to channel our sorrow, our outrage, our unity, our anxiety, and our pride into building better defenses at home.

This legislation is not a single magic bullet answer to our homeland security challenges—much more work needs to be done—but I am convinced it is a strong and necessary first step. It will provide the structure that can deliver the defense the American people deserve.

I thank President Bush for embracing the creation of a Department of Homeland Security and for the diligence with which he and his staff have worked through the details with members of the Senate, with Members of the House, and with Members of the House. Amendments always highlight differences, but the reality is that President Bush and the majority of members of the Governmental Affairs Committee who reported out the legislation are in agreement on more than 90 percent of what this legislation provides. We stand broadly on common ground, even as we debate some of the remaining differences between us.

I also want to thank my colleagues in this Chamber for their contributions and cooperation across party lines for the building of this proposal. We have come a long way, and we must get to the end in this session. I particularly want to thank my ranking member, Senator THOMPSON, for his characteristic constructive and thoughtful contributions to this proposal, even when we have been in dissent. The least we can do for the American people and for Senator Thompson is to pass this legislation while he is still a Senator, before he retires.

The President and Congress and the American people have made real progress since September 11. A successful war on terrorism in Afghanistan, creating the Office of Homeland Security, passing the USA Patriot Act, creating a Transportation Security Administration, beginning to reform the FBI—those are just a few of the significant steps we have taken forward together.

Federal employees are working very hard at their assigned tasks and working increasingly in cooperation with our State and local colleagues to keep the American people safe. We have to speak frankly about this as we begin the consideration of this legislation.

Our progress will hit a wall—in effect it has—if we do not reform the Federal Government's homeland security capability because the game we have made in keeping America safe since September 11 have been, and will continue to be, in some sense despite the system, not because of it.

The system, the organization, is dispersed and it is dysfunctional. It needs to become coherent and consolidated, coordinated, to rise to the complex challenge of defeating 21st century terrorism in our homeland.

The 18 hearings we on the Governmental Affairs Committee have held since September 11 on this matter, and countless other hearings by so many other committees, have made the scope and depth of this disorganization and dysfunction clear.

As the 1-year anniversary of September 11 approaches, the reconstruction of the Pentagon is almost complete, the flights in Pennsylvania have resumed, but not like any other field, and plans for the redevelopment of the World Trade Center site are already being actively discussed. But the reality is that the vulnerabilities the terrorists exploited on September 11 in America's homeland defense structure still exist. We are still at risk, and that is why we must urgently proceed to discuss, debate, and then adopt legislation creating a Department of Homeland Security.

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the first time, must be able to look to a single Federal agency that will take the lead in the homeland fight against terrorism and to hold that agency accountable for accomplishing what is Government’s first responsibility, and that is to provide, as the Constitution says, for defense. That means the defense of the American people at home.

The Department we will create will be led by a Presidentially appointed, Senate-confirmed Secretary. It would be comprised of six directorates that, taken together, would accomplish its missions and goals. Let me briefly describe them now.

First is intelligence. I put that first intentionally because we cannot prevent attacks, nor can we adequately prepare to protect ourselves or respond if we cannot first detect the danger. This legislation would establish a strong intelligence division to receive all terrorism-related intelligence from Federal, State, and local authorities from human intelligence and signal intelligence; from closed and open sources; from the FBI and the CIA, including foreign intelligence analysis from the Director of Central Intelligence’s Counterterrorism Center. Then it would have the authority to fuse that all in a single place. This would be the one place—which does not exist in our Government now—where all the proverbial dots could be connected to thwart the attacks before they should have been together. That is what this division of intelligence would do.

The second, critical infrastructure: We can expect terrorists to try to hurt us by destroying our infrastructure. What do we mean by that? Well, our water and agricultural delivery systems, our energy grids, our information technology networks, our transportation systems, our ports and airports, and more. Eighty-five percent of our infrastructure is actually owned and operated by the private sector. That is the nervous system of our society, Infrastructure, is the primary target. Indeed, attacks by weapons of mass destruction have up until now been designed largely to destroy people, not to damage our infrastructure. In fact, of the September 11 attacks on September 11 were not against infrastructure in the way in which that term has normally been meant. They were against the World Trade Center and the Pentagon. But infrastructure is a big, vulnerable, and complex target.

Today, responsibility for working with the private sector to safeguard it is spread thin throughout the Federal bureaucracy. This directorate would mesh critical infrastructure protection programs now residing in five different Federal agencies, including the Department of Energy, the Department of Commerce, and the General Services Administration.

Third is a border and transportation protection directorate. Every potential source of danger that is not already inside our country must come in through our ports or airports or over our borders. Once danger gets inside, it is too late. So to be effective, interdict, interrupt, and intercept terrorists and the weapons of toxic materials or mass destruction they seek to smuggle in, this directorate would bring together our Customs Service, the border quarantine inspectors of the Animal and Plant Health Inspection Service of the Department of Agriculture, the recently created Transportation Security Administration, and the Federal Law Enforcement Training Center.

The Coast Guard will also be transferred to the new Department reporting directly to the Director of Homeland Security and will work closely with all other authorities on our waterways, in our ports, and at our borders.

Fourth is science and technology. Now terrorists will try to turn chemistry, biology, and technology against us in untraditional and inhospitable ways. So we are challenged to marshal our superior technological talents to preempt them and protect our people.

This science and technology directorate is intended to leverage America’s advantage on this front, creating a lean entity to manage and coordinate innovative homeland security research and development and to spearhead rapid technology transaction and deployment. It will be led by an array of mechanisms to catalyze and harness the enormous scientific and technological potential residing within our Government, within our private sector, and within our university communities.

One of the key features of this directorate will be a homeland security version of the Defense Advanced Research Projects Agency, DARPA, which has sparked the development of Revolutionary Warfighting Tools for our military throughout the cold war and now into the post-cold-war world, the very tools and systems and weapons that enabled our courageous and skillful fighting forces to terrify and confuse the Taliban in Afghanistan so brilliantly and to cut the al-Qa’ida network.

Of course, DARPA has also spun off from its technologies to create some of the most remarkable commercial and civil technologies that characterize our age, including the Internet.

It is our hope and prayer that this new Department, which we would like to call SARPA, the Security Advanced Research Projects Agency, will do the same for our homeland security and for our economy.

Fifth, emergency preparedness and response: After September 11, we all have an obligation to think about and to prepare ourselves for the unthink-able, including attacks with chemical, biological, radiological, and nuclear weapons at home. This directorate with the Federal Emergency Management Agency at its core will combine and integrate the strengths of a number of Federal agencies and offices responsible for dispensing critical vaccines and medicines for training local and State officials in emergency readiness, and for reacting to and helping the American people recover from the attacks that we hope and pray and will work to deter, but we must be ready to respond.

Six is immigration. America’s positive fundamental heritage of immigration, central to our character as a country of opportunity, responsibility and community, must be honored. But at the same time, after September 11 we have to look with new clarity and intensity at illegal immi-gration as well as how to better screen those who come to this country legally and may stay beyond the time allowed.

Our proposal brings the troubled Immigration and Naturalization Service into the Department of Homeland Security and places those functions in a separate division within it. Then, to undo internal conflicts in the agency and give each set of functions the concerted attention it deserves, we propose to split the directorate into two
distinct but closely linked bureaus as called for in the bipartisan INS restructure plan of our colleagues, Senator KENNEDY and Senator BROWNBACK. This is a long overdue major reorganization of a very troubled agency.

We also request that the Secretary establish a border security working group comprised of himself, working with the Under Secretary for Border and Transportation Security and the Under Secretary for Immigration Affairs. Our goal is to make passage more efficient and orderly for most people and goods crossing the border while at the same time raising our capacity to identify and stop dangerous people and things from entering America.

These are the six core directorates which we see as six spokes of the wheel. Where they meet at the axis is where our security at home comes together.

There are a few important pieces of this legislation to describe additionally. As we need to keep reiterating, this is not solely a Federal responsibility or a Federal fight in the war against terrorism. It is a national responsibility and a national fight, with the front lines being drawn in our cities, towns, and communities across America. One need only look at the long list of fallen heroes of September 11 to understand that. That is why we in Washington must do a far better job of creating and sustaining potent partnerships with States and localities which will be facilitated. I am confident, through the new Department. We are creating an Office of State and Local Government Coordination. This office is designed to assess and advocate for the resources needed by State and local governments all across the country.

In fact, there is separate legislation, quite appropriate, recommending the creation of a homeland security block grant. The initial amount proposed is $3.5 billion for fiscal year 2003. I know from having spoken to the Presiding Officer, speaking to the local responders and first preventers, they are already spending significant funds to carry out the wider range of homeland security responsibilities they have. This is a national problem, and they are playing a large role in responding. We have to give them the resources, the funds, to make that possible. In fact, to meet the pressing need for more firefighters and first responders in our communities, our legislation includes an amendment offered by Senators CARNAHAN and COLLINS that points Federal assistance to local communities nationwide, patterned on the very successful COPS program adopted during the Clinton administration. This program for firefighters would enable the hiring of as many as 10,000 additional firefighters per year.

The Office of State and Local Government Coordination would also be strengthened with the help of an amendment offered by Senators CARPER and COLLINS providing a number of new mechanisms, including the creation of liaison positions in each State in the country, a liaison with the new Department of Homeland Security to ensure close and constant coordination between the Federal Government and the first responders, first preventers, who are our principal partners in this solemn task.

Recognizing the need to ensure that fundamental American freedoms are not curbed as we build a more secure society, our legislation also creates positions of civil rights officer and privacy officer. The independent civil rights officer will be appointed by the inspector general within the new Department. Those positions will provide the Secretary valuable guidance to help craft effective policies and practices that don’t compromise individual rights, and ensure there is an effective avenue for receiving complaints and investigating them.

Outside of this Department, within the White House, the amendment would create another entity, a National Office for Combating Terrorism. Here, I want to give substantial credit to the Senator from Florida, Mr. GRAHAM, who has worked very hard with Members of both parties, in this Chamber and the other body, to fashion this proposal.

We cannot fail to recognize that the fight against terrorism is, by definition, larger than what will be done by this new Department of Homeland Security. It will involve our military and our intelligence agencies, our diplomatic services, our law enforcement agencies, our international economic agencies, and many others. It seems to me and the committee that it is therefore still necessary to have a policy architect in the White House who can design and build the overarching antiterrorism strategy for and with the President, and to coordinate the implementation of that strategy that will necessarily go beyond the Department of Homeland Security.

The director of this office will work, of course, with the Homeland Security Secretary to develop the national strategy for combating terrorism and the homeland security response. With budget certification authority, the director of this White House office will be able to make sure all the budgets that make up our antiterrorism national strategy fit together smoothly. And because of the critical nature of this job, according to our legislation, the director would be confirmed by the Senate, making him or her accountable to the Congress and to the people of the United States.

That is an overview of our legislation as will be contained in the amendment I look forward to putting before the Senate this evening, after, hopefully, we have adopted the motion to proceed. I am proud that on the guts, on the fundamentals, of this proposal we in the Senate are near unified on this attempted reorganization in very modern context, what our Founders described as “a more perfect Union.”

Winston Churchill once said: A pessimist sees the difficulty in every opportunity; an optimist sees the opportunity in every difficulty.

I think only a big pessimist would see the difficulty in the opportunity this Department would create to secure our people and our homeland. We have the opportunity to do something optimistic and I think realistic answer to the homeland security challenges we face—seeing opportunity, not difficulty. As we go forward with amendments and discussion and votes on the remaining differences, I hope and believe that optimism will prevail and constructive action will result. Together, united across party lines, as it has been over and over again throughout history, our great country, which today faces a challenge that is unprecedented, will give the response we are called on to give—which is equally unprecedented.

I yield the floor.

The PRESIDING OFFICER (Mr. BAYH). The Senator from Tennessee.

Mr. THOMPSON. Mr. President, it is inexplicable that today, in the midst of the most significant reorganization of the most significant executive branch in over 50 years. Not since the creation of the Department of Defense and the creation of the national intelligence apparatus by the National Security Act of 1947 has the Senate considered such a massive restructuring of Federal agencies.

Just as World War II and the start of the cold war demonstrated the need to reorganize our defense and intelligence establishment, the terrorist attacks of September 11 demonstrate the need to reorganize our homeland security establishment to address the threat of terrorism and other types of asymmetric warfare against our country and against our people.

I start by acknowledging and thanking Senator LIEBERMAN, the manager of the bill, for his leadership on this issue. He was an early supporter of legislation to reorganize the executive branch to confront emerging threats against our country. He recognized that needed to be done and has worked hard to get us to the point where we are today.

While we have some disagreements in some important areas, in the end we both believe that the creation of a new Department of Homeland Security is needed to make this country safe. Our Nation and the Senate also owe a debt of gratitude to the Members of the Hart-Rudman and Gilmore Commissions. Recommendations from both commissions have contributed greatly to our efforts. Indeed, the proposal before us owes much to the insight and thoughtful recommendations of our former colleagues, Senators Gary Hart and Warren Rudman.

This legislation is one of the centerpiece of our country’s homeland security strategy. Whatever we do here will have lasting effects on our Nation. It will certainly outlive us. We should not shy away from the fact that
while some bureaucracies will be reduced and eliminated, we will be creating a large new bureaucracy with new leadership, a new mission, and a new culture. However, even advocates of smaller Government realize it is a mission that is vital to the security of this Nation, that is the most important reponsibility of this or any other governement and one of the basic responsibilities outlined for the National Government by the framers of our Constitution. That is what we are about today.

I think it is appropriate perhaps to take a moment to reflect on how we got here. It is obvious to all that in the last several years we have undergone a revolution in the world in terms of the advances of modern technology. The same thing has happened with regard to transportation. We have also seen the emerging of a brand of religious radicalism that has infected certain parts of our world. We have seen the merging of those factors together now so that a small band of people, a small group of people, or even individuals on the other side of the world can wreak tremendous damage to our homeland.

It is a different world we live in today, and we must have different means of dealing with it. We have seen attacks on us over the last several years that have become more and more indicative of the kind of world we can expect in the future. The Khobar Towers in the Arabian Gulf Trade Center bombing, our embassies have been attacked, the USS Cole has been attacked. There have been other attempts that have failed because of the intelligence we were able to obtain. Attacks have been thwarted.

We have seen over the last five years, through our committee hearings and through reports of the GAO and other governmental entities, a rising pattern of capabilities, in terms not only of terrorist and narcotics threats, but also in terms of ability to deliver weapons of mass destruction, to develop those weapons of mass destruction, and to have the missile capability and other capabilities of delivering those for thousands and thousands of miles.

We have seen intelligence reports reminding us from time to time that this is what is going on out there. We have not paid as much attention to this as we should have. When we look back with the vision we have now and see the attacks that have come upon us around the world, attacks on our interests and our people, coupled with the intelligence information we were getting here in our own Congress, we should have been able to see, as some of us have seen, that there was a developing pattern out there that needed to be addressed by the Congress.

One of the good things that comes from such a tragedy under which we are now laboring is that it does finally focus our attention and allows us to do some things we should have done some time ago. It is a terrible price to pay in order to get us here, but we are here now and we should take advantage of that opportunity.

How do we react to something like September 11? We react by coming together. With this President, we react by being strong militarily and having the kind of leadership that we have to carry out the necessary operations overseas. We are doing that. The President said in the very beginning that it was going to be a long, tough road. It is going to be. It doesn't take a whole lot of effort for people to rally right after an attack. But it is going to take something special from the American people to have the stick-to-itiveness, and to have the stamina it is going to take, over a long period of time, for us to do what we are in the midst of doing now militarily.

We also react by changing our priorities. We cannot continue, in the Congress of the United States, in terms of the budget for defense, to act as if these are normal times. We cannot have guns and butter at all times. We cannot have our cake and eat it, too. We have to prioritize now to deal with this threat that we have to our Nation. We have to think about other things we can do. The one we are dealing with here today, this week, and days hereafter, and that is addressing and improving the institutions we have in our Government to deal with such matters and specifically the new threat we face.

We have seen—Senator LIEBERMAN and I—especially in the Governmental Affairs Committee over the last several years, an increasing array of problems that our Government has. There have been problems in management. There have been problems in trying to develop information technology that the private sector already has up and running. We have spent billions and billions of dollars and still have difficulty in getting that right and integrating those systems into our governmental operations.

We have financial management difficulties. We literally cannot pass an audit as a Government. We lose things. The President's approach would set up a strike force to look at all of this, that the 22 agencies needed to be pulled together into one cohesive entity that could work to make our country safer.

Certainly, there are very important aspects that we will not get all of them. Senator LIEBERMAN has done that.

But border security, for example, has never made any sense when we have people crossing borders, when goods cross the borders, and when plant life crosses the borders—all of which can be dangerous to the American people. They can cross them by water, they can cross the borders by air, they can cross the borders by highways. All of those things are just different aspects of the same problem. It has to be done essentially with border security. It has never made any sense to have all of this dispersed throughout Government.

What the President does and what the committee bill does is to pull those in. We have different ways of doing it. We will have an opportunity to discuss those in more detail as we proceed, but it gets its arms around the border security problem.

A lot of experts will say if you can do much better on the border problem, you can do better in the intelligence area, then you have gone a long way toward solving the problem.

In the intelligence area, the President's approach is to have an intelligence entity that will allow us to protect our infrastructure. As you know, our infrastructure is elaborate, far-flung, and complex. Almost all of it is in private hands. It is an extremely difficult problem to address and to get our arms around and to protect. We can never be totally protected at all times in all ways. It is going to require a great deal of attention and expenditure in order to protect those infrastructures.

We are going to have to address the vulnerabilities that we have. The President's approach would set up a system to assess those vulnerabilities in order to protect those infrastructures. The committee's approach is a broader approach. We will have an opportunity to discuss that.
I have concern about this broader approach because I don't think we can address the difficulties with the intelligence community in this bill and give it to a sub-Cabinet officer to have authority to pull all the dots together and all the things that need to be done in the community. What we have seen, goodmess knows, over the last several months and few years the difficulties we have in those areas of collecting intelligence, analyzing intelligence, and disseminating intelligence properly. One of the most important areas is that of intelligence, and the intelligence entity to assist it to do what we need the right people in the right place to do with those matters. We need to address that. Various agencies and the GAO came to us. The IRS came to us. The FAA came to us. The Transportation Security Administration came to us. They all came to us and said: Look, we have some serious overlaps or we have special problems and we need some additional tools to deal with that. We need the right people in the right place to deal with those matters. In every one of those instances which I mentioned, Congress gave it to them. Congress gave them additional flexibility that is not within the body of title V because we perceived those needs to be exactly as they were described to us.

Now we are pulling 22 agencies together—some of them, quite frankly, already dysfunctional—and giving out these new responsibilities. We talk about how important it is to the new Department. My question is, if we are going to give these flexibilities to these other agencies, my goodness, why not this one, of all agencies or all departments? The President's national security authority must be preserved. We have significant differences of view whether the traditional authority that Presidents have had since President Jimmy Carter in the national security area in terms of the justifiable need to activate collective bargaining agreements with particular entities at particular times, for good reason. Presidents have used this authority judiciously. As far as I know, there has never really been a problem with it. This bill, as written, would take a step backwards from that authority of the President. I don't think it is fair in these times, of all times, to do that.

On the issue of the White House staff, should we force on the President a Senate-confirmed person in that position when he says he is creating a new Department and a new Secretary with all of this elaborate mechanism, and he wants his personal person—some people make the analogy with the National Security Council, for example, that it is not Senate confirmed—inside the White House? I assume, as Mr. Ridge is doing today, should we not give the President that? I believe so, after a sound intelligence approach, as I mentioned earlier, with not too many directorates, and not making this more elaborate and complex than we should.

Those are issues that we have. I think they are legitimate. I think they are important. They will be the subject of amendments as we proceed. But, again, we do not want to look at a glass that is almost full and say that it is almost empty, because it is not. We agree on many, many important fundamental aspects. I think it is our job to get about the consideration of it, and to improve it, to discuss these important issues and differences that we have, and come to a conclusion that is going to achieve what we are all striving for: that is, a safer United States of America.

Mr. President, I yield the floor.

Mr. LIEBERMAN. Mr. President, I thank my friend and colleague from Tennessee for his very thoughtful statement. It has been a pleasure to work with him on the Governmental Affairs Committee, both when he led the committee and in the time that I have. I look forward to working with him in the weeks ahead to achieve what we all want to achieve, notwithstanding some differences that we have today, which is to secure the future of the American people here at home.

I know that the intention was that Senator Byrd would speak next. He is on the floor at this moment. I note the presence of the Senator from Texas.

Mr. THOMPSON. I would ask that the Senator from Texas be given as much time as he would like.

Mr. GRAMM. Why don't I take up to 10 minutes. Every time I have ever heard anybody say they will not use it, they talk more. But certainly everything I would want to say or should say or am competent to say I can say in 10 minutes.

Mr. LIEBERMAN. Very well. Then it would be our understanding, after the Senator from Texas has completed his statement, that Senator Byrd will be recognized.

Mr. THOMPSON. Yes.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I will withhold for a moment.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I greatly appreciate my friend from Texas withholding. He has always been very courteous. Today is no different than any other time.
that it be in order to request the yeas and nays on the nomination at this time.

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

Mr. REID. Mr. President, I do, therefore, ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second. The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, whenever a bill comes to the floor from a committee, obviously, a lot of people have had an opportunity to have an input in it. It is always easy for people who do not serve on that committee to stand on the outside and jeer and throw rocks through the windows. And we are going to have a long debate. I think this bill is going to change dramatically. So rather than spending my time being anything like seeing your fellow countrymen suffer to focus the mind on a challenge that too often we chose to pretend did not exist. I think we all concluded, in the wake of September 11, that our country had changed, perhaps forever. Part of that change had to do with coming up with an effective response.

Free societies are vulnerable to terrorist attacks. There is nothing we can do about that since we are going to remain a free society.

The President, who has the responsibility under the Constitution, as Commander in Chief, to defend the homeland, spent time and effort in getting together the best people, at least in his mind, that he could assemble, and he came up with a plan. That plan involved bringing all or part of 22 agencies together in a new Homeland Security Department.

I know there are many people who have many different views, and that is what makes democracy strong. But I would like to begin with the point that the one person who has the constitutional responsibility, the one person who has access to more information than anybody else in our society, made a proposal; and that is the President's proposal.

In my mind, under these circumstances, and in this clear and present danger that we face, I believe—no blank check, no guarantee we are going to do it as the President wants it—we ought to bend over backwards to try to accommodate the man who has the constitutional responsibility and is ultimately going to be given the credit or the blame by the American people based on what happens.

The President primarily asked for three things. One, he wanted flexibility in reorganizing these Departments. The flexibility wanted was substantial, but it was not without precedent. We had given similar flexibility to the Department of Energy, which was created from other Departments. We had given similar flexibility to the Department of Education and the Department of Health and Human Services.

Yet, remarkably, the bill that is before us denies the President the same flexibility that the President had when the Departments of Energy and Education were created. Now, energy is important, especially if you are in an energy crisis. Education is always important. But is there anybody who really believes the crisis we face is so unimportant that President Bush should not have the same powers in setting up the Department of Homeland Security that the President had in setting up the Department of Energy? I do not think many people take that position, but we have a problem here that all before us takes that position. In my mind, that has to be fixed.

I understand reasonable people with the same facts are prone to disagree, but, as I look at this first request of the President of the United States, I think there is enhanced flexibility, not dissimilar to what we had with the Department of Energy and the Department of Education, to me, that is pretty close to a no-trainer that the President ought to have to have this ability.

The second request is that the President have the power, based on national security, to override labor agreements. Now, that sounds like a pretty dramatic power. In fact, the way opponents normally talk about it, it is basically giving the President the power to eliminate collective bargaining. In my mind, nothing could be further from the truth. All this power does is give the President the power to set aside those collective bargaining agreements when national security is involved.

Interestingly enough, the power the President sought he has under existing law. The President was simply asking for an affirmation of existing power. But, remarkably, in the wake of 9/11, not only did the committee not reaffirm this existing power but they took power away from the President in saying that whereas today, whereas on September 11, or September 10, the President could have waived collective bargaining agreements for national security purposes, under this bill he would not be able to do that. But the prohibition would apply only to the Department of Homeland Security.

I submit there is always room for disagreement, there is always room for some negotiation in trying to understand what other people think, but, to me, it is incomprehensible and absolutely unacceptable that we should be setting up a Department of Homeland Security and take away the President has under existing law to take action based on national security concerns.

The provision taking away the President's national security powers simply does not fit in this bill. I do not think it fits in any bill. But in a bill that is trying to respond to 9/11, it clearly does not fit and cannot be accepted and will never be accepted. Clearly, that is something that has to be fixed.

Let me give you some examples. We currently have labor contracts negotiated with Government employee labor unions that prohibit the stationing of Border Patrol in areas that do not have those agreements. They have access to personal services. There is a long list of things that were written.

Now, in normal circumstances, where you have people trying to lead a quality life like everybody else, you can understand those things. The ability to take your clothes to the drycleaners is pretty important when you are wearing uniforms that require drycleaning. But in an emergency circumstance, do we really not want to have the power to overcome that collective bargaining agreement?

Another thing that has constantly driven me crazy, being in a border State—a huge border—with Mexico, is trying to get the Border Patrol, the Immigration and Naturalization Service, trying to get them to cross-train so that people can perform various functions, is like trying to get them to use the same toothbrush. In fact, President Clinton's National Security Adviser talked about his frustration in dealing with the INS and Customs and the unwillingness of one agency to open the trunk in working with another agency.

Now, look, I understand work rules. I admit I am probably less sympathetic to them than most other people. I think if you sign onto a job, whatever the job requires, within the limits of human dignity, you ought to be willing to do. I don't understand negotiating about who pushes what button or who has that trunk. It seems silly. I am not very sympathetic to it. But when we are dealing with national security concerns, when the lives of our fellow citizens are at stake, we cannot put up with that business.

So all the President is asking for is the power to set aside those kinds of agreements in dealing with national security. It is not a question of being anti-union, it is a question of having concerns that override collective bargaining. We have collective bargaining for the Marines and the Army; they are about very serious, life-threatening circumstances and tasks. In dealing with homeland security, we are dealing with exactly those kinds of circumstances.

Finally, the President's proposal asks for personnel flexibility—the ability to put the right person in the right position at the right time, without waiting for the normal 6 months, and the right to transfer people who are incompetent, and the right to fire people.

I understand collective bargaining, and I understand writing in requirements of how the personnel system
works. I understand trying to prevent people from being arbitrary and capricious. But the bottom line is, if we are trying to fight and win this war on terrorism, we need to have the ability to hire, fire, and promote based on merit in those agencies that are involved. I will prevail.

A woman FBI agent sends a cable to the home office basically saying that maybe we ought to be concerned about people with terrorist connections who are undergoing training and are focusing on flying planes but not landing them. That actually happened. In the whole process of trying to absorb massive amounts of information with conflicting jurisdiction, nobody ever responded to it. But don’t you think we ought to promote that woman? Don’t you think we ought to promote her out of grade and reward her—not only to reward the fact that she was paying attention to her business, she was alert to a potential problem that, God knows, we wish we had been alerted to, and we want to send a signal to others in the FBI and other agencies that if you are doing a good job, we are going to reward you.

On the negative side—and I don’t want to belabor it because I don’t know the circumstances and I am not at INS. I don’t know the individual life stories of the people involved or the problems they had or the bureaucracy they faced. But, look, when we granted visas to terrorists who had their picture on every television screen in the world, whose names are on the front page of every newspaper in America because they had killed over 3,000 of our citizens, and then weeks later we processed a visa request for these brutal terrorist/murderers, maybe somebody should have been fired. Maybe somebody should have been transferred.

I know that theoretically in the Federal Government you can fire people, but I don’t know that it is virtually impossible. As everybody in the Senate knows, fewer than 1 percent of people who are found to be doing totally unsatisfactory work end up being fired in the Federal Government, and 80 percent of them, because of the momentum of the seniority system, end up getting raises after they have been deemed to be doing failing work.

In the Department of Homeland Security, where we are dealing with people’s lives, the flexibility to promote and reward. And, quite frankly, despite all the protests from the labor unions, every time I talk to people in Government agencies who would be affected, they like this flexibility, they like rewarding merit, they believe they would benefit and thrive in this system.

I will conclude by simply saying this: The President is not saying do it my way or forget it. I think the President has been and will be flexible in terms of trying to accommodate. I think there is room for flexibility on the whole funding issue and reprogramming and the rights of the legislative branch. But when you get down to the ability to reorganize, the President is not going to accept a bill that gives him less power in the name of national security than the President had when we created the Department of Energy. He is going to say that, and he should not do it. There is no possibility that the President is going to accept a bill that takes away emergency powers that he has today to waive collective bargaining agreements in a bill that severely undermines the President’s power to deal with national security.

Finally, we gave flexibility on personnel under the FAA reorganization bill, under the IRS reorganization bill, and under the Transportation Security Act to control the organization. Yet in a bill trying to deal with homeland security, do we think it is less important than the FAA, or the IRS, or the Transportation Security Administration? Well, obviously, if you look at this bill, we don’t think it is productive for this to degenerate into any kind of partisan battle.

But the problem is, this is a bill that does not do the job. This is a bill that would—if it were adopted in its current form—not having. The President is not going to accept this bill, and I think we have reached the moment on a critical issue where we need simply to promote a bipartisan solution. Work out these agreements, give the President these three powers he wants, work something out on the appropriations issue for enhanced reprogramming and a partnership, and preserve the ability of Congress to control the organization.

I think the President, for every one problem he will have with money, will have 100 problems dealing with reorganization and personnel flexibility.

I am hopeful we can work something out. We are going to be offering a series of amendments. I assume at the end we will offer a substitute. I hope that substitute will be broadly supported. Senator Miller and I, along with almost 40 of our colleagues introduced the President’s bill because we wanted to try to promote a compromise moving in the President’s direction.

I thank Senator Thompson for his leadership on this issue. As I have followed what he has had to say, there is not any issue on which I have a substantive disagreement with him. I look forward to following his leadership as we work out these key issues, but these issues have to be dealt with. There cannot be a bill that does not give the President reorganization flexibility, the ability to override collective bargaining agreements in the name of national security and personnel flexibility. Denying these three powers simply is an incoherent sense and a denial of the crisis as we all know it exists, and the bill has to be changed.

I yield the floor.

The PRESIDING OFFICER (Mrs. CARNABY). The Senator from Tennessee.

Mr. THOMPSON. Madam President, I ask unanimous consent that the time used by the Senator from Texas not be charged to either side.

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

Mr. THOMPSON. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. THOMPSON. Madam President, I am getting ready to suggest the absence of a quorum again, and I ask unanimous consent that the quorum call we are about to go into not be charged against either side.

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

Mr. THOMPSON. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BYRD. Madam President, I thank the majority leader for the courtesies which have been extended to all Senators, myself in particular because I am the one I know about, naturally, in listening to our concerns with respect to the legislation that is before the Senate.

I am glad Members of this body had the opportunity during the August recess to study the House bill, to study the substitute that will be posed eventually by the distinguished Senator from Connecticut, Mr. Lieberman, which substitute, of course, is the product of his very great committee and the product in particular of the ranking member, Mr. Thompson of Tennessee, on that committee.

I proceed today with a great deal of humility, realizing that I am not a member of the committee. I have no particular reason, other than the fact that I am 1 of 100 Senators who speaks on this matter today with no particular insight from being on the committee which has looked at this legislation. I have read the newspapers. I have read and heard a great deal about what the administration wants. I have done the best I could during the August break, in addition to the several responsibilities I had, to read the House legislation and the substitute which will be proposed by Mr. Lieberman.
Enactment of legislation providing for the unification of the military did not occur in a matter of weeks, nor even months, but years.

On November 3, 1943, the Army Chief of Staff, General George C. Marshall, broke with long-standing War Department policy and submitted to the Joint Chiefs of Staff a proposal favoring a single Department of War. In his book, The Politics of Military Unification, Demetrios Caraley writes: "The conflict over military unification, which had led to the passage of the National Security Act of 1947 can be said to have begun November 3, 1943." In other words, this was the beginning of what would become a four-year struggle in the effort to reorganize our government by unifying our armed services.

In April 1944, the War Department submitted a unification proposal to the House Select Committee on Postwar Military Policy. That same month, the Committee began two months of hearings on the unification of the armed departments of the armed forces. The committee concluded that the time was inappropriate for legislation on a single department, strongly implying that such a reorganization might be a distraction from our efforts and, therefore, should wait until the war was over. The Committee report reads in part:

"The committee feels that many lessons are being learned in the war, and that many lessons should be used to stop the shooting stops, and that before any final pattern for a reorganization of the services should be acted upon, Congress should have the benefit of the wise judgment and experience of many commanders in the field."

I point out that, more than two full years had elapsed since General Marshall's proposal, and there had been considerable congressional and administration activity, including a number of studies, a number of alternate proposals, and a number of hearings, yet Congress at this stage was nowhere close to approving the reorganization of our government.

On June 15, 1946, President Truman, in a letter to the war effort, and therefore, should wait until the war was over. The Committee report reads in part:

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September 3, 2002

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after considering 17 amendments. Nine of the amendments were approved.

On July 24, 1947, after five meetings, a conference committee reported a compromise version of S. 758 and so The House adopted the conference report.

Two days later, President Truman signed the National Security Act into law, one half year after the legislation had been introduced, and four years since General Marshall recommended unification of our armed forces. I realize we do not have 4 years to act in this situation. I realize the situations are different in many ways; the circumstances are different in many ways. I know that. But this is a government reorganization that President Bush holds up as the role model for the present government reorganization which we are considering. The problem is that this administration envisions Congress approving in just a few weeks a massive reorganization of the Federal Government. It involves 22 agencies and 170,000 Federal workers.

The administration should stop reading “Gulliver’s Travels” and start reading some history, especially the history behind the unification of our Armed Forces. The story goes to show that as the role model, the National Security Act—the reorganization of our military, the establishment of a Department of Defense—we should read the history behind the unification of these forces. It is a cautionary tale, and one that the administration and we would do well to remember.

I am very concerned that 30 years from now, Congress will be struggling to rectify the problems that we will be creating with hasty, ill-considered enactment of the Department of Homeland Security. There was all this rush, there was all this hue and cry that we ought to get this done before Congress goes out for the August recess. The House passed this bill after 2 days of floor debate and took off a week earlier than the Senate did. Then there was the idea we ought to do this by September 11.

What we need to do is to develop a product that works. We need to have legislation enacted by Congress and signed by the President that is right, not something that is hurriedly passed just to conform with an artificial deadline on the calendar. How much harm could we have prevented, how much pain could have been alleviated, if we had spent the time to get it right.

We have 100 Senators. Thirty of 100 Senators took the time during the recess to read the House bill, to read the substitute that is about to be proposed by Mr. LIEBERMAN and Mr. THOMPSON. How many Senators took the time to read the Lieberman substitute so that we would have an opportunity to offer amendments? How many of us have had an opportunity to offer amendments?

The PRESIDING OFFICER. We are out of time.

Mr. BYRD. I thank the Presiding Officer.

Madam President, how much time do I have remaining?

What is the time situation with respect to the upcoming vote?

The PRESIDING OFFICER. We are going into executive session at 12:30.

Mr. BYRD. I thank the Presiding Officer.

Madam President, I hope Senators will take a look at this morning’s Washington Post. On the front page there is a column by Greg Schneider and Sara Kehaulani Goo, Washington Post staff writers. The headline reads as follows:

Twin Missions Overwhelmed TSA. Airport Agency Strives to Create Self, Stop Terror.

This story that I am about to take excerpts from tells exactly why we ought to take time and do this right.

I read from the column:

When a gunman opened fire at a Los Angeles International Airport ticket counter on July 4, the nation’s new agency in charge of airport security got its first chance to swing into action.

But I am concerned. That is where I am coming from, and I am sure there are other Senators who would be equally concerned if I had read these bills. But they have been busy. Senators are very busy people. I know that.

In a recent column, David Broder wisely pointed out that because the mission of the Department of Homeland Security “is so large and its scale is so vast, it is worth taking the time to get it right.”

That is David Broder, and he got it right when he said that. I will continue with his words.

It is worth taking the time to get it right. Having the bill on the President’s desk by the symbolic first anniversary of the terrorist attacks is much less vital than making the design as careful as it can be.

Hallelujah. That was David Broder. He is right.

Now let me read what he said without my editorial comment. He said: . . . the mission of the Department of Homeland Security “is so large and its scale is so vast, it is worth taking the time to get it right. Having the bill on the president’s desk by the symbolic first anniversary of the terrorist attacks is much less vital when making the design as careful as it can be.”

Remind my colleagues that once the genie is out of the bottle, it is gone. It would be difficult to get it back into the bottle. This bill is the best, if not the last, opportunity for Congress to make sure that we are not unleashing a genie, a very dangerous genie.

I realize it is not easy to go against the administration for some of my colleagues, in an election year especially. But our duty to our country and to future generations compels us to do no less. And I intend to do no less than stand on my feet and speak my thoughts. This is what separates the men from the boys, the women from the girls, and the statesmen from the politicians.

Madam President, how much time do I have remaining?

What is the time situation with respect to the upcoming vote?

The PRESIDING OFFICER. We are going into executive session at 12:30.
Instead, it claimed the shooting was outside its jurisdiction.

After bullets sprayed across the crowded holiday terminal, killing three, the agency’s director, Mr. John W. Magaw, has been criticizing Congress and the Bush administration for their lack of support. Magaw, and his deputies clashed with key members of Congress and the White House over budget cuts, with the department of homeland security committing $2.5 billion for new federal agencies to take on airport security, few people had any idea how to do it.

Now get this. I continue to read:

The agency simply couldn’t keep up with the rapid demand for creating itself and defining its mission. The result was a system of stopping terrorists.

There you are in a nutshell. That’s the problem.

Where congress is supposed to be transitioned into the department of security within 13 months, the total number of agencies—I have heard all of these numbers; we do not even know the number of agencies—and some other agency or some part of that agency. What are the criteria for this agency or that agency or some other agency or some part of that agency? What are the criteria by which such an agency is supposed to be guided in bringing these agencies into the superstructure and making them part of the directorates, which are parts of the new Department of Homeland Security?

Who knows? I have not seen anything in my reading, anything in writing. I have not heard anything in any way by which these 22 agencies—I will say 28, since Mr. LIEBERMAN has counted them. What are the criteria and what is going to happen?

Look at what the Post is reporting happened to the brandnew, shiny transportation agency, the TSA. And we are talking about 22 or 28 or 30 more agencies, putting them all in.

Here, Mr. President. Here is what you asked for. Here is the bill. You take it. Now, I am going to offer an amendment at some point. I may offer several amendments, but the first amendment I offer will deal only with title I, only with the first amendment. I offer will deal only with title I, only with title I. But my concern is that Congress has a responsibility, it has a duty to which it must face up, and that duty is to keep a hand on this, to maintain oversight. And I think these 22 agencies—I will quit using 22, I am going to use Joe LIEBERMAN’s figure, 28—these 28 agencies should be phased in, in a order that gives the government the time, as we go along, to look at what the administration—through this new Secretary of Homeland Security, through his recommendations, recommendations are assigned to it.

Can you imagine the chaos that is going to occur when all of these agencies are supposed to be transitioned into the department of security within 13 months, and the people within them. One-hundred and seventy thousand Federal employees will have to become accustomed to a new culture, once they are transitioned into transitioned, they will have to move their desks, their computers, their telephones. They will have to get acquainted with new associates. They will have new and different missions.

When we talk about the 1947 role model of the National Security Act, we are talking about military branches that had the same mission, overall. Those were not different missions. These people are going to be put into a brand spanking new, polished-chrome metal piece of toy to guard the homeland, the people. All of these people put into one agency are going to be concerned about their pay scales, their worker rights, and their privacy rights—all of those things. They will be. All yours, Mr. President. Here it is. You asked for it. Here it is now so Congress can stand on the sidelines for the next 13 months.

I am saying no. Congress should not stand on the sidelines for the next 13 months. We have a duty under the Constitution to exercise oversight and to see that the agencies are properly brought into the six directorates. The six directorates the committee recommended, the same superstructure. I am saying that is fine. But now, when it comes to bringing in the 22 agencies or the 28 agencies or the 30 agencies or the 25 agencies—I have heard all of these numbers; we do not even know the number of agencies—when it comes to fusing those, what are the criteria for this agency or that agency or some other agency or some part of that agency? What are the criteria by which such an agency is supposed to be guided in bringing these agencies into the superstructure and making them part of the directorates, which are parts of the new Department of Homeland Security?

Who knows? I have not seen anything in my reading, anything in writing. I have not heard anything in any way by which these 22 agencies—I will say 28, since Mr. LIEBERMAN has counted them. What are the criteria and what is going to happen?

Look at what the Post is reporting happened to the brandnew, shiny transportation agency, the TSA. And we are talking about 22 or 28 or 30 more agencies, putting them all in.

Here, Mr. President. Here is what you asked for. Here is the bill. You take it. That is what we are about to do, and I do not think we should do it.

I think Congress should stay in the mix, should continue to exercise its oversight, its judgment, give its advice, give its consent, and vote up or down as we go along on the procedure.

Now, I am going to offer an amendment that says, let’s change our present amendments, but the first amendment I offer will deal only with title I, only with title I. But my concern is that Congress has a responsibility, it has a duty to which it must face up, and that duty is to keep a hand on this, to maintain oversight. And I think these 22 agencies—I will quit using 22, I am going to use Joe LIEBERMAN’s figure, 28—these 28 agencies should be phased in, in a order that gives the government the time, as we go along, to look at what the administration—through this new Secretary of Homeland Security, through his recommendations, recommendations are assigned to it.

It will not be denied that power is of an encroaching nature and that it ought to be effectually restrained from passing the limits assigned to it.

Now, that is James Madison:

It will not be denied that power is of an encroaching nature and that it ought to be effectually restrained from passing the limits assigned to it.

The President is clearly attempting to remove the limits on his power. I don’t question his good intentions. Maybe he doesn’t understand what he is doing. But this is clearly an attempt to remove limits on the Executive’s power, and Congress is doing very little, up to this point, to restrain the administration’s ambitions.

The President is demanding such broad authority over an unprecedented amount of resources and information, while at the same time asking us to eliminate existing legal restrictions to allow him the “managerial flexibility” to respond to changing threats. His proposal gives the Secretary of Homeland Security almost unlimited access to intelligence and law enforcement information without adequate protections against misuse of such information. I am willing to give the President the authority to secure the Nation’s safety, but I believe we can give him flexibility without giving him a blank check.
In Federalist No. 48—and Senators and Representatives and other people should read the Federalist Papers once again—in Federalist No. 48 here is what he said:

An elective despotism was not the government we fought for. . . .

No—there is not going to be an elective despotism. But I am suggesting that we better go very carefully, as we legislate on this proposal, that we do not release to the executive branch, by legislation, powers that the Constitution guards against.

The President to control says:

An elective despotism was not the government we fought for. . . .

We can, in this Senate, very well pass legislation that ends up giving to any President—I am not just talking about Mr. Bush—that amount of power to an elective despotism. That is what I am concerned about in this legislation—one of the things.

An elective despotism was not the government we fought for; but one which should not be founded on free principles, but in which the powers of government should be so divided and balanced among several bodies of magistracy as that no one could transcend their checks without being effectively checked and restrained by the others.

Now, that is what I am saying Congress needs to be aware of. We need to be on guard that we do not pass legislation that, in the end, gives a President—and there is no assurance that this President will be President forever; he may be President for 2 more years or maybe 6 more years. Who knows. But the Congress must be on guard in this legislation—I know it is very tempting to vote without further delay, without any argument, vote for a new department of homeland security. And we ought to have it. But it will be very easy for Congress to pass legislation that, in the end, results in elective despotism. Madison warns us against it.

The President’s proposal cripples internal oversight offices and weakens external legal controls on the Department, including unnecessary exemptions from public disclosure laws such as the Federal Advisory Committee Act and the Freedom of Information Act, allowing the Secretary to exercise his broad authority in relative secrecy.

In many of these areas, Senator Lieberman’s committee, working with Senator LIEBERMAN’s committee, has brought in a bill that is, in my judgment, much better than the administration’s proposal, which is largely reflected by the House bill. And at the end of the day, the House bill will be before the Senate—at some point, Mr. Lieberman will offer his substitute—so that the Senate will have before it both the House bill and the Lieberman proposal.

So what I am saying is not altogether, or even in great part, criticism of the product the committee has given to the Senate. But there are some concerns. We cannot brush aside the House bill. It is going to be in conference, and we are going into conference, and these conferees are going to be up against the House conferees—the House, which is under the control of the other party, which is in control of the White House. So I do not envy the challenges that are going to be before our Senate conferees. I am speaking of my concerns with respect to both of these measures that will be before the Senate.

These exemptions reflect the administration’s strong antagonism toward traditional “good government” and “sunshine” laws that attempt to cast light on government activities and subject them to public scrutiny. The administration is seizing on this legislative opportunity to weaken these important laws.

The administration is attempting to gut the traditional protections for personal privacy and civil rights abuses from the new Department, and the bill that was passed by the House of Representatives, effectively dismantles most of these safeguards. Unfortunately, the Senate doesn’t do enough, in my judgment, to restore those checks.

The Senate bill does require, very generally, that the Secretary and the directorate for intelligence establish rules and procedures for governing the disclosure of sensitive information. Some of this language restricts the use of information to only authorized and “official” purposes, but this restriction is meaningless unless the Secretary authorizes given to the Secretary allows him to claim that almost anything he wants to do constitutes an “official” purpose.

In pressuring Congress to pass homeland security legislation, the administration is using the “war on terror” as a red herring to draw attention away from the underlying objectives of the administration’s proposal, which include expanding the regime of secrecy that has been established by the White House to the 22, 25, 28, or 30 agencies of the new Department of Homeland Security.

Once the Department has been legally shrouded in secrecy, the President can take advantage of his broad access to information and its vague mission and authority to command the “war” without scrutiny from Congress or the public.

The President has proclaimed that we are entering a “new era,” one that will resemble the cold war in its concerns for national security. His proposal marks a disturbing start for this era and I am afraid may be a sign of things to come. The cold war began with an iron curtain descending over Europe. Under this bill, the war on terror may have begun with an iron curtain descending around our Government.

Congress must not defer to executive judgment alone. Congress must not trust that this administration, or any other administration, will always act in the best interest of the Nation. Absolute trust and unquestioning deference are dangerous gifts for the legislature to bestow on the executive, even when our leaders have given us no reason for doubt.

Good intentions do not guarantee good government. As Madison tells us in Federalist No. 51:

If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: You first create the government to control the governed; and in the next place, you must guard it against the influence on the people is no doubt the primary control on the government; but experience has taught mankind the necessity of auxiliary precautions.

Madam President, Justice Brandeis echoed Madison’s warning of the dangers of relying on the good intentions of government. He wrote:

Experience should teach us to be most on our guard to protect and defend any government’s purposes are beneficial. Men born to freedom are naturally alert to repel invasion of their liberty by evil minded rulers. The greatest danger to liberty is an insidious encroachment by men of zeal, well-meant, but without understanding.

I suspect that this administration means well in its desire to mobilize the Government against terror, but so many in the administration have come lately—not all, but some. I fear that some of what the administration is asking for is a danger to the people’s liberty.

In our rush to reorganize the Government, we seem to have forgotten the principles upon which the Government was founded. The Constitution established a system of divided Government, a system that feared tyranny more than it favored efficiency. The Constitution’s separation of powers and checks and balances were not designed to provide managerial flexibility to any President, Democrat or Republican. They were designed to limit the power of the state over its citizens by ensuring that individual liberties could not be easily abridged by the unchallenged authority of any one branch of Government.

President Harry Truman proposed the most dramatic reorganization of the last century, creating the Department of Defense and the CIA in response to the new threats of the cold war. But even after he presided over such a critical moment of national security, he remained skeptical of the need for efficiency and flexibility in the executive branch. Truman said:

When there’s too much efficiency in government, you’ve got a dictator. And it isn’t efficiency in government we’re after, it’s efficiency in government.
justice in one place, then we’ve got a dicta-
torship and we go down the drain the same
as all the rest of those republics have.

Madam President, the administra-
tion’s proposal makes clear to me that it is not a free lunch Government the admin-
istration is after.

The Secretary of Homeland Security
will become a human link between the
FBI, the CIA, and local police depart-
ments, serving as a “focal point” for all
intelligence information available to
the United States. I am concerned that
in this role he may be able to circum-
vent existing legal restrictions placed
on those agencies to protect in-
dividual privacy, civil rights, and civil
liberties.

The Homeland Security Department
will be authorized to draw on the re-
sources of almost any relevant agency
at the Federal, State, and local level,
ranging from sensitive intelligence
information compiled by the CIA and
the NSA to surveillance of U.S. citizens
by the FBI and local police. Many of
these agencies were very purposely
kept separate and distinct, or were
given limited jurisdiction or investiga-
tive powers, in order to reduce abuses
of power. However, when the Depart-
ment—this new Department—draws on
the resources and information of other
agencies, it may not necessarily be subject to the same legal restraints im-
posed on those agencies.

In addition, the civil rights officer
and the privacy officer established
under the administration’s plan to un-
cover abuses in the Department are
given enough authority to actually
carry out their jobs. They are essen-
tially advisers with no real investiga-
tive or enforcement power. Both offi-
cers are responsible for ensuring com-
pliance with existing law, but their
only legal recourse after identifying a
problem or violation is to report the
problem to the Department’s inspector
general.

However, the inspector general, in
turn, is under no obligation to follow
up on privacy and civil rights com-
plaints, only an obligation to inform
Congress of any “civil rights abuses”
in semi-annual reports. If and when the
IG does choose to investigate, he will
often be unable to do so independently
as the Inspector General Act intended,
because this plan provides that the in-
spector general will be “under the au-
thority, direction, and control of the
Secretary” to do so. That ought to be
enough authority to actually carry
out their jobs. Let me read that again. The inspector general
will be “under the authority, direction,
and control of the Secretary”—mean-
ing the Secretary of Homeland Secu-
ritv—“with respect to audits or inves-
tigations, the issuance of subpoenas,
which require access to sensitive infor-
mation.” And the Secretary can say no
if he determines certain things, which I
can read into the RECORD—he deter-
mines; if he determines, the Secretary;
if he determines, the inspector gen-
eral is stopped in his tracks. That is it.
Is that the way the people in this coun-
try want it to be? I do not believe so.

Granting the Secretary control over
internal investigations puts the “fox in
charge of the hen house” whenever the
fox claims a national security reason
for it.

The inspector general can say: I have
a national security reason. You have to
stop. You cannot investigate further.
You cannot subpoena witnesses. You
cannot, because Congress passed the
law that the administration wanted
saying you cannot. So you stop right
here in your tracks.

Is that the way the American people
want it? No.

The President’s proposal also lets the
fox have his way when he uses working
groups—now get this—to investigate or
craft policy. Although not included in
the Senate bill, the House bill, which
will be before the Senate likewise, al-
 lows the Secretary of Homeland Secu-
ritv to exempt advisory groups within
the Department from the disclosure re-
quirements of the Federal Advisory
Commissions Act. The practical effect
of this authority would be to give the
Secretary of Homeland Security the
ability to conduct secret meetings to
craft Department policy, minimizing
interference from Congress and the
Public.

This would appear to expand the
model of secret policymaking cur-
cently employed in the administration,
the most notable example being Vice
President CHENEY’s secret energy
working group.

While the Federal Advisory
Committee Act does exempt the Central In-
telligence Agency and the Federal Re-
serve from disclosure requirements, the
justification for doing so cannot sup-
port providing the same exemption for
the Department of Homeland Security.

The broad authority and domestic ju-
risdiction of the Department distin-
guishes it from the CIA which has no au-
thority to invade the privacy of U.S.
citizens domestically and whose activi-
ties are controlled more directly by the
President in exercise of his constitu-
tional powers over foreign affairs. The
exemption for the Federal Reserve pro-
tects financial information and eco-
nomic projections in order to protect
the integrity of the markets.

While it may be reasonable to excuse
the Fed from this kind of public disclo-
 sure, I am not comfortable in allowing
the Secretary of Homeland Security to
set the lemon law—complex secrecy in
complete secrecy in the same way that
Alan Greenspan sets interest rates.

The Federal Advisory Committee Act
already allows waivers for sensitive in-
f ormation, so there is no compelling
national security justification for pro-
viding this blanket exemption. Remov-
ing this exemption would not elimi-
nate the Secretary’s ability to convene
committees in secret, but it would make
the Secretary and the President more
accountable—more accountable—for
choosing to do so.

The President is authorized under ex-
isting law to determine which commit-
tees should be exempt from disclosure
for national security reasons, and he
must explain himself every time he
does so. The bill passed by the House
allows the Secretary to exempt com-
m ittees at will, while only paying lip-
service to Congress. Both the House
omitted the Senate materials on request,
but it already provides exemptions for
 national security information, sen-
sitive law enforcement information,
and confidential business information.
The administration’s proposal extends
these exemptions to include any infor-
mation voluntarily submitted by cor-
porations to the Department. As a re-
 sult of this exemption, this corporate
information could not be released
under the Freedom of Information Act
for other enforcement purposes, so cor-
porations would be allowed to escape
liability for any information they sub-
mit.

I have argued, Madam President,
that this is the way it should not be put
off. I am opposed to this exemption
and the need to allow time for informed
deliberation. I reaffirm my objections to
rushing into all of these agencies trans-
sfers and new directives. However, these
secrecy problems have to be addressed
also.

The President has said that how we
respond to this crisis will determine
what kind of legacy we leave. I agree
with the President on that point. That
is exactly why I suggest to the Mem-
bers of the Senate we should take time
to remember the legacy that we have
inherited, a legacy of liberty and limited
Government, and preserve these
principles in the legacy that we will be-
queath.

This new Department is going to be
with us for some time, so we must
t hink beyond the next election and act
with an eye to the future. This Con-
gr assembly needs to make sure we will have
some recourse in the event that the ad-
iministration’s reorganization does not
live up to all of its promises. Congress
has a role to play in the ongoing super-
vision of the Federal Government, and
we should not compromise that role by
hastily surrendering our constitutional
powers.

I yield the floor.
McVerry, of Pennsylvania, to be United States District Judge for the Western District of Pennsylvania.

The PRESIDING OFFICER. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID, I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from Delaware (Mr. BIDEN), the Senator from Vermont (Mr. JEFF FORDS), the Senator from Vermont (Mr. LEAHY), and the Senator from New Jersey (Mr. TERRICELLI) are necessarily absent.

Mr. NICKLES. I announce that the Senator from Texas (Mr. GRAMM), the Senator from North Carolina (Mr. HELMS), the Senator from Alaska (Mr. MURKOWSKI), the Senator from Pennsylvania (Mr. SANTORUM), the Senator from Pennsylvania (Mr. SPECTER), the Senator from New Mexico (Mr. DOMENICI), and the Senator from Texas (Mrs. HARRISSON), are necessarily absent.

I further announce that if present and voting the Senator from New Mexico (Mr. DOMENICI), and the Senator from North Carolina (Mr. HELMS) would each vote "yay".

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

The result was announced—yeas 88, nays 0, as follows:

[Roll call Vote No. 208 Ex.]

YEAS—88

Allard    Dworkin
Allen      Durbin
Baucus     Edwards
Bayh      Eninom
Bennett   East
Bingaman  Feingold
Bond      Feinstein
Boxer     Fitzgerald
Breaux    Frist
Brownback Graham
Bunning   Grassley
Burns     Gregg
Byrd      Hagel
Campbell  Harkin
Cantwell  Hatch
Carnahan  Hoffsommer
Carter    Hatchinson
Claude    Inhofe
Gleason   Inouye
Clinton   Johnson
Cohehan   Kennedy
Collins   Kerry
Conrad    Kohl
Concini   Kyl
Craig      Landrieu
Crapo     Levin
Daeschle  Lieberman
Dayton    Lott
DeWine    Lott
Deed      Lugar

NOT VOTING—12

Akaka    Helms    Murkowski
Biden    Hatchison    Santorum
Domenici  Jeffords    Specter
Gramm    Lott    Torricelli

The Nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the President will be immediately notified of the Senate’s action.

Mr. LEAHY. Madam President, today the Senate is confirming Terrence McVerry to the United States District Court for the Western District of Pennsylvania. He is the 73rd judicial nominee of President George W. Bush to be confirmed by the Senate since July 20 last year. With today’s vote, the Democratic-led Senate has already exceeded the number of circuit and district court nominees confirmed in the last 30 months of Republican control of the Senate. And as you know, Democrats have confirmed those 2½ years during the first 2 years of a Democratic Senate. They have more than doubled the number of circuit and district court nominees confirmed in those 2½ years. Democrats have done more than Republicans did in less than half the time.

It is revealing that Republicans, with all of their misleading statistics, consistently fail to compare the actual results during their most recent period of control of the Senate with the progress we have made since the shift in the Senate majority. They do not want to compare their own record over the prior 6½ years with our record of accomplishment in evaluating judicial nominees. They do not want to own up to their delay and inaction on scores of judicial nominees during the last administration. During the period of Republican control of the Senate, judicial vacancies were filled at a 13½ percent rate. Since the change in majority, the Democratic Senate has worked hard to help fill 73 of those vacancies.

All too often the only claim that we hear about the Republican record is that President Clinton ultimately appointed 377 judges, five fewer than President Reagan. Our Republican critics try to obscure the fact that only 245 of those district and circuit court judges were confirmed in the 6½ years that President Clinton controlled the Senate, when 72 judges were confirmed by the Senate since July 20 last year. The Republican majority controlled the pace of Senate hearings and the Senate has acted quickly on this nominee. The Senate again failed to hold a hearing for Judge Davis and his nomination was returned after two weeks. The Senate again failed to hold a hearing for Judge Davis and his nomination was returned after two years.

The reason Republicans do not want to talk about their record and compare apples to apples is because this truth does not fit comfortably with the myth of obstruction by Democrats that they have been working so hard to disseminate for their own partisan purposes. This situation reminds me of a quote by Adlai Stevenson, who said “I have been thinking that I would make a perfect position to my Republican friends... that if they will stop telling lies about the Democrats, we will stop telling the truth about them.” Unfortunately, the persistence of the myth of inaction in the face of such a clear record of progress on judicial vacancies by Democrats makes me worry that many Republicans are following the cynical observation that a lie told often enough becomes viewed as the truth.

am confident that Americans understand that Democrats have been fairer to this President’s judicial nominees than Republicans were to his predecessor’s nominees.

Today’s vote is another example. The Senate acted quickly on Mr. McVerry’s nomination to the District Court in Pennsylvania. Mr. McVerry was nominated in January, received his ABA peer review in March, participated in a hearing in June, and was reported out of the Senate Judiciary Committee in July. The Judiciary Committee has held hearings for 10 district court nominees from Pennsylvania and the Senate has confirmed nine of them in just five months. There is no State in the Union that has had more Federal judicial nominees confirmed by this Senate than Pennsylvania. I think that the Senate Judiciary Committee and the Senate as a whole have done well by Pennsylvania.

This is in sharp contrast to the way vacancies in Pennsylvania were left unfilled during Republican control of the Senate, particularly regarding nominees in the western half of the State. Despite the best efforts and diligence of my good friend from Pennsylvania, Senator Specter, to secure confirmation of all of the judicial nominees from every part of his home State, there were seven nominees by President Clinton to Pennsylvania vacancies who never got a hearing or a vote. A recent example of the contrast between the way the Democrats and Republicans have treated judicial nominees is the case of Judge Legrome Davis, a well qualified and uncontroversial judicial nominee. He was first nominated to the Eastern District of Pennsylvania by President Clinton on July 30, 1998. The Republican-controlled Senate took no action on his nomination and it was returned to the President at the end of 1998. On January 26, 1999 President Clinton renominated Judge Davis for the same vacancy. The Senate again failed to hold a hearing for Judge Davis and his nomination was returned after two more years.

Under Republican leadership, Judge Davis’ nomination languished before the Committee for 868 days without a hearing. Unfortunately, Judge Davis was subjected to the kind of inappropriate partisan rancor that befell so many other nominees to the district courts in Pennsylvania during the Republican control of the Senate. This year, the Democratic-led Senate moved expeditiously to consider Judge Davis, and he was confirmed promptly, five weeks after receiving his ABA peer review, without a single negative vote. The Senate confirmed Judge Davis on July 10, 2001, who never received a hearing or a vote and who were the subject of secret, anonymous holds by Republicans for reasons that were never explained.

The hearing we had earlier this year for Judge Joy Conti was the first
We have tried to do our best to address the judicial vacancies problem. We have been able to consider district court nominees more quickly because they have been generally less controversial and ideological than this President’s choices for the circuit courts. Not all of the district court nominees we have considered, however, have been without controversy. One of the nominees on whom we have proceeded received a majority “Not Qualified” peer review rating from the ABA due to his relative inexperience. Five other district court nominees have received some “Not Qualified” votes during the ABA peer reviews. This is despite the fact that the ABA’s rating now comes after the President has given his imprimatur to the candidate and peers may be chilled from candidly sharing their concerns.

A number of President Bush’s district court nominees to lifetime seats have also been unusually young and have been practicing law for a little more than a decade. Some of them have views with which we strongly disagree. Several of this President’s judicial nominees seem to have earned their nominations as political rewards. Others have records demonstrating that they are pro-life and will actively undercut women’s right to choose. Some have already gone on to issue decisions against the privacy rights of those we believe to be innocent of any wrongdoing. Still other nominees have been intimately involved in partisan politics or played key roles in Republican fundraising. Today, the Senate is confirming a person whose spouse is employed as the treasurer of Senator Santorum’s election campaign.

The Federal district courts matter. They are the courts of first resort, the trial courts where individuals’ claims are tried or dismissed. Not everyone can afford the costs of appealing a trial court ruling. Additionally, circuit courts traditionally give great deference to the findings of the lower court that examined the claims and observed witnesses first hand, rather than making new factual findings based on a cold record. Of course, matters of law are reviewed by the circuit courts, which have a substantial impact on the development of the law, especially with a Supreme Court that hears fewer than 100 cases per year.

Because we have moved quickly and responsibly on consensus nominees, the number of vacancies is not at the 153 mark it would be at with no action, but is down to 80. On July 10, 2001, with the reorganization of the Senate, we began with 110 vacancies, 77 of which were on the district courts. Despite the large number of vacancies that have arisen in the past year, with the 60 district court confirmations we have had as of today, we have reduced district court vacancies to 51. That is almost to the level it was at when Republicans took over the Senate in 1995. The opposition party dismisses this achievement in a backhanded way, but it is one of the most significant things Republicans accomplished for the sake of the Federal courts and for litigants in the Federal courts. It has not been easy to process that many district court nominees in little more than one year. We have confirmed more of this President’s district court nominees over the past year than in any of the prior 6½ years of Republican control. Indeed, we have achieved more district court confirmations in the last 13 months than Republicans accomplished in all of 1999 and 2000 combined and more than were confirmed during the last 30 months of Republican majority control of the Senate.

We have had hearings for more of this President’s district court nominees than in any year of the Reagan Administration, and he had 6 years of a Senate majority of his own party. Indeed, we have confirmed more of President George W. Bush’s district court nominees in these past 13 plus months than were confirmed in any year of his father’s presidency. Thirteen nominees were confirmed during his father’s first two full years combined.

In contrast to how fairly we have treated this President’s Federal court nominees, consider how poorly nominees were treated during the prior 6½ years of Republican control of the Senate. Some district court nominees waited years and never received a hearing. For example, nine district court nominees from Pennsylvania alone never got hearings, including then Pennsylvania Common Pleas Court Judge Legrome Davis, who was subsequently re-nominated by President Bush and confirmed earlier this year. Four district court nominees from California were never given a hearing by Republicans despite the full support of their home-State Senators. These are just a few examples of Republican obstruction of judicial nominees. In all, more than three dozen of President Clinton’s district court nominees never received hearings or votes by Republicans.

Several others received hearings but never were given votes by the Republican-controlled Judiciary Committee. In fact, six of the 45 district court nominees, such as Fred Woocher, a California district court nominee and Clarence Sundram from New York. Still others waited hundreds and hundreds of days to be confirmed, such as Judge Susan Oki Milsden of the Thirty-Ninth District Court in Hawaii, whose nomination languished for 913 days before she was confirmed, and Judge Margaret Morrow of the District Court for the Central District of California who waited almost 2 months, 693 days, to be confirmed. We confirmed Republican Supreme Court Justice Ronnie White who was delayed twice only to be defeated on the Senate floor, in a sneak attack.
Judge White had waited 801 days only to be defeated through character assassination on the floor of the Senate. In all, nearly 60 of President Clinton's judicial nominees were blocked, many in the dark of night through secretive, anomalous Senate confirmations. When confronted with their record Republicans often refer to all nominees not getting hearings in 1992. That year, the Senate confirmed more of President George H.W. Bush's judicial nominees than in any year of his presidency and confirmed more judges than in any year in which the Republican majority controlled consideration of President Clinton's nominees. In 1992, 66 judges were confirmed. So, even though some nominations were returned, the Senate in 1992 worked hard to confirm a substantial number, 66, of new judges in the 10 months they were in session during that presidential election year. By contrast, in 1996 when the Republicans were in the Senate majority only 17 judges were confirmed all year and none for the vacancies on the courts of appeals. In 2000, the Republican majority in the Senate confirmed only 39 judges.

When the Senate is working hard to confirm judges, as it was in 1992 and since last summer, it may be understandable that not all nominees can be considered. When, as was the case during the Republican majority, the Senate is averaging only 38 confirmations a year in the long months and months without a single hearing, the circumstances are quite different. The Republican majority in their 6 1/2 years of control of the Senate ensured that they never treated President Clinton's judicial nominees better than the best year of former President Bush's administration—just as they made sure that President Clinton's total number of judges appointed never reached that of President Reagan. By contrast, the Democratic majority has reversed the downward spiral and has treated President's nominees more fairly than the Republican majority treated those of the last President.

We have also been confirming this President's judicial nominees at a record pace. Rather than continue the Republican pace of 38 confirmations a year, we have worked hard to do better. We have been so fair to President George W. Bush, despite the past unfair treatment, that his White House has reversed the downward spiral and has treated this President's nominees more fairly than the Republican majority treated those of the last President. In January I had proposed a simple procedural fix to allow the ABA evaluation to begin at the same time as the FBI investigation, as was the practice in past Republican and Democratic administrations for 50 years. Then the White House could be in position to submit its report and the ABA could evaluate the nomination. Had this proposal been accepted, I am confident there would be more than a dozen fewer vacancies in the federal courts. Instead our efforts to increase cooperation with the White House have been rebuffed. We continue to get the least cooperation from any White House I can recall during my nearly three decades in the Senate.

In spite of the obstacles they have put in the way of their own nominees and their refusal to cooperate, we have been able to have a record-breaking year restoring fairness to the judicial confirmation process. We have been rewarded with nearly constant criticism from the administration and its allies. White House Counsel Alberto Gonzales dismisses our accomplishments with a terse, one-sentence acknowledgement that Democrats have "made progress in holding hearings and votes on district court nominees." With today's vote, we have already confirmed 60 new federal trial court judges. That is more than were confirmed in 21 of the past 23 years. We have confirmed more district court nominees in these past 13 1/2 months than were ever confirmed by the Republican majority during their prior 6 1/2 years of control of the Senate.

For example, in 1993, the year the Republican majority took over the Senate, President Clinton nominated 68 district court candidates, but the Republican controlled Senate held hearings for and confirmed only 45 of those nominees. Republicans would call that 66 percent. In 1996, Republicans confirmed only 17 of the district court nominations pending and, of course no nominees to the circuit courts. That was 50 percent of the district court nominees. In 1997, Republicans allowed only 51 percent of the pending district court nominees to be confirmed. In 1998, they hit their high mark in considering district court nominees and allowed 77 percent to be confirmed. In 1999, they were back down to 64 for district court nominees. In 2000, again Republicans allowed only little more than half, or 56 percent, of the pending district court nominees to be confirmed.

In contrast, we have already had hearings for 100 percent of those district court nominees who were eligible for a hearing. We have had hearings for 66 district court nominees, voted 64 of them out of committee and, as of today, 60 of them have been confirmed by the Democratic-led Senate.

I would like to thank the members of the Judiciary Committee who have labored long and hard to get the records of the individuals chosen by this President for lifetime appointments to the Federal courts. The decisions we make after reviewing their records will last well beyond the term of this President and will affect the lives of the individuals whose cases will be heard by these judges and maybe millions of others affected by the precedents of the decisions of these judges.

While the opposition party seeks to attribute the vacancy crisis in the Federal courts to the Democrats, who only recently became the majority party in the Senate, I remain hopeful that the American people will discover the truth behind such partisan accusations. Republicans are trying to take advantage of the vacancies they hoarded while waiting for a Republican President with an ideological approach to judicial nominations and are trying to clean up the vacancies mess that the Republican majority created. I am proud of the efforts of the Senate to restore fairness to the judicial confirmation process.

The Senate Judiciary Committee is working hard to schedule hearings and votes on the few remaining judicial nominees, but it takes time to deal with a mess of the magnitude we inherited. I think we have done well by the Federal courts and the American people, and we will continue to do our best to ensure that all Americans have access to federal judges who are unbiased.
fair-minded individuals with appropriate judicial temperament and who are committed to upholding the Constitution and following precedent. When the President sends judicial candidates who embody these principles, we have tried to move quickly. When he sends controversial nominees whose records demonstrate that they lack these qualities and whose records are lacking, we will necessarily take more time to evaluate their merits.

Mr. Hatch. Madam President, I rise today in support of the confirmation of Terrence McVerry, who has been nominated to serve as a U.S. District Judge for the Western District of Pennsylvania.

Terrence McVerry has the breadth of experience and accomplishment we look for in a Federal judge. After graduating from law school, Mr. McVerry served in the U.S. Army Reserves and the Pennsylvania Air National Guard. He then went to work as an assistant district attorney for Allegheny County, prosecuting hundreds of trials with an emphasis in major felonies and homicides.

Mr. McVerry also has 17 years of civil litigation experience representing individuals in a variety of matters including personal injury, real estate, contracts, family matters, estate planning, and small businesses and corporations.

Mr. McVerry has been an able legislator, winning election to the Pennsylvania House of Representatives in 1976 and serving there for 21 years. In 1998 Governor Tom Ridge appointed him to fill a judicial vacancy on the Court of Common Pleas of Allegheny County in the Family Division. Currently Mr. McVerry is the solicitor of Allegheny County, acting as the chief legal officer and director of a governmental law department comprised of 36 attorneys.

I thank my colleagues for joining me in my unqualified support for Mr. McVerry.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will return to legislative session.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

The Senate, at 1:31 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. Cleland).

TERRORISM INSURANCE

Mr. Reid. Mr. President, I have to believe that the President is not getting the right information from his staff; otherwise, knowing him, I cannot believe he would say some of the things he has over the weekend. He was running yesterday morning, and on Public Radio I heard a preview of the speech the President was going to give before a union in Pennsylvania. And I thought they must have made a mistake. Then, later in the day, I heard him complete that speech, and he went ahead just as they had said on Public Radio.

As we consider homeland security and the measures we should take to defend America, I think it is important we talk about terrorism insurance. That is the issue I want to talk about. I believe the President has not received the proper information from his staff.

Following the attacks on the World Trade Center and the Pentagon about a year ago, American businesses have had trouble purchasing affordable insurance covering acts of terrorism.

As a consequence, many construction projects and real estate transactions have been delayed, interrupted, and in some cases cancelled. We are talking about billions of dollars worth of projects that have been stalled, some terminated, solely because of the lack of being able to purchase terrorism insurance.

These problems cost many American workers their jobs and prevent businesses from being as productive as they could be. Clearly, the lack of affordable terrorism insurance has had a harmful effect on our Nation’s already troubled economy.

I am glad we are back from our break and the President is back from his vacation. However, as I have indicated, yesterday, the President made some statements relating to terrorism insurance, and I want to move forward on terrorism insurance, that simply were without any fact.

As millions of students across the country go back to school, I want them to understand that they must speak the truth. I repeat, I do not think the President said what he said yesterday based upon full knowledge of all the information.

The truth, Mr. President, is Senate Democrats—because I have been here often have opposed the President’s request for months—have been leading the effort to pass an effective terrorism insurance bill—and we started on this last year—while Republicans have delayed and attempted to thwart this important legislation time after time.

The President should know that. The leadership in the Congress of his party has not allowed us to go forward on this legislation.

One of the statements he made before the union is: I am for hard hats, not trial lawyers.

This is terrorism insurance. We should move it forward. I am confident everyone can see through these statements the President made as being without fact.

I want to remind him and the people who give him advice—give him good information, good background information so he can speak with the full knowledge of the facts.

We are eager to pass terrorism insurance. We have done everything within our power to do that. This would help workers, businesses, and the Nation’s economy.

Shortly after the terrorist attacks last year, our colleagues—Senators Dodd, Sarbanes, and Schumer—developed a strong bill to help businesses get the affordable terrorism insurance they badly need.

When we attempted to move this bill last December, the minority voiced no fundamental disagreement with the bill but argued over the number of amendments to be offered. This was done in an effort to prevent us from moving forward on the bill. So we could not do it in December. We came right back and started on it. After having had many private attempts to get this legislation moving, we decided to go public and try to move it from the floor, right from where we stand.

We tried offering in early spring unanimous consent agreements to take up the terrorism insurance legislation. Again, there was no objection to the basis for or that the Dodd-Sarbanes-Schumer bill would be the vehicle we would bring to the floor. They wanted some amendments. We wanted to treat this as any other legislation. They said let us agree on the number of amendments. Whatever number we came up with wasn’t appropriate. We could not move it. Finally, they simply disagreed with bringing up the bill at all.

It is the right of the majority leader to decide which bills are brought to the floor. If the minority is opposed, they have the right to offer amendments and attempt to modify the text of the bill. We have offered to bring the bill up with amendments on each side so everyone could have the opportunity to make changes.

Nevertheless, the minority continued to object and further prevented us from passing the terrorism insurance legislation.

In April, the importance of the terrorism insurance legislation was enunciated by Secretary O’Neill in his testimony before the Appropriations Committee that the lack of terrorism insurance could cost America 1 percent of the GDP because major projects would not be able to get financing.

Finally, we were able to get an agreement that we could bring the bill to the floor. We passed the legislation. And then came weeks and weeks of more stalling by the minority. We could not get agreement on appointing conferences. We attempted and attempted and attempted an amendment. Finally they were upset because the ratio was 3 to 2, which is fairly standard. They said they wanted 4 to 3. So we came back
and said OK, and they still would not agree.

Finally, we were able to get agreement on the appointment of conference. But now nothing is happening in the conference. We cannot do that alone. So I hope it is clear I would refer to “the people downtown”—that is, the government representatives, the lobbyists who are concerned about this issue, the real estate and hotel owners, and these special interest groups. They know how we have tried to move this legislation. I only hope the people who have lost their jobs and are unable to move forward—these people in Pennsylvania yesterday who were told we are holding this up—understand that simply is not the truth.

So I certainly hope this legislation can be completed and we can have a bill sent to the President. It is the right thing to do. The legislation is important, and I hope we can do it sooner rather than later.

I submit to the absence of a quorum and ask unanimous consent that the time be charged equally to both sides. The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll. The assistant legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded. The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. Mr. President, I yield 15 minutes of my time now to the Senator from Illinois who, I might say parenthetically, has been an extraordinarily thoughtful, constructive participant in the Senate Governmental Affairs Committee’s consideration of the question of homeland security and, in that sense, has contributed mightily to the proposal we will put before the Chamber tonight. I am glad to yield to my friend and former House colleague, Tom Ridge, we are going to, frankly, not have the force multipliers we need that organization and coordination will bring.

Some of my colleagues have charged we are moving too quickly. Well, I happen to agree with the premise that this race to enact this legislation by September 11 of this year, on the 1-year anniversary of that terrible disaster, was precipitous. It would have been a miracle if we had been able to create a bill that quickly which would have really met the task. It is better for us to take the additional time to do it right than meet some self-imposed deadline or some deadline imposed by the press or our critics does not make a lot of sense when we are talking about a Department that is going to be facing the responsibility of protecting America for decades to come.

As a member of the committee, I want to report to our colleagues that I think our committee has done its job. This does not mean we should not debate the issue and deliberate on some of the issues and positions. What we have before us is an effort, backed by bipartisan work for many years under both Republican and Democratic chairmen. This committee has held 18 hearings since last September 11 setting up this new Department. It is a committee that has held a series of hearings over the last 4 or 5 years on the issues that are involved.

I remind my colleagues that this extensive body of work of this committee and chairman allowed our committee to report out a bill on May 22. Once the President decided he wanted a similar Department, we tried to coordinate his intentions with our own. Realizing that all wisdom does not reside in one branch of Government or the other, we have listened to the President’s suggestions. I am hopeful he will be open to our own.

One of the things I included in this as an element that was of particular personal interest was the whole question of information technology. The proposal to restructure 28 agencies into a new, unified Homeland Security Department poses a complex challenge to integrate the system’s infrastructure of our information technology to support the new Department’s mission. Let me get away from these high falutin’ words, high sounding words, and get back to the real world where I live, because I am not part of this computer generation. I struggle with my own computer and how to be up to speed. In the amendment that I adopted, what we are really saying to the Office of Management and Budget

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Several agencies have reported to the Senate that the Governmental Affairs version, from Senator Lieberman, the bipartisan manner. I hope that as we proceed to the debate on this bill, we can gather together again that same bipartisan force.

There is nothing that says Congress or the Senate have to agree on everything and, frankly, if we did, it would probably betray the principles and values of this Nation. But when it comes to our national security and defense, particularly the creation of a Department under the roof and under the authority of an independent national homeland security agency, and they suggested there were some agencies of Government right which would hold under the roof and under the authority of this new Department and quite effectively, or at least more effectively, defend the United States. The blueprint they laid out was really the notion we have, the Senate version, the Governmental Affairs version, from Senator Lieberman. The backbone of the new Department will be FEMA, the Federal Emergency Management Agency, along with the Departments guarding our borders and our perimeter. This new Department everyone sees as a way to protect our country more robustly.

Some have questioned, though, how a new Department and how reorganizing Government will really make us any safer. Right now there are more than 45 agencies in the Federal Government with some responsibility for homeland security. If we look at it, it is just too fragmented and it cannot be coordinated. In the words of my friend and former House colleague, Tom Ridge, we are going to, frankly, not have the force multipliers we need that organization and coordination will bring.

As a member of the committee, I want to report to our colleagues that I think our committee has done its job. This does not mean we should not debate the issue and deliberate on some of the issues and positions. What we have before us is an effort, backed by bipartisan work for many years under both Republican and Democratic chairmen. This committee has held 18 hearings since last September 11 setting up this new Department. It is a committee that has held a series of hearings over the last 4 or 5 years on the issues that are involved.

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One of the things I included in this as an element that was of particular personal interest was the whole question of information technology. The proposal to restructure 28 agencies into a new, unified Homeland Security Department poses a complex challenge to integrate the system’s infrastructure of our information technology to support the new Department’s mission. Let me get away from these high falutin’ words, high sounding words, and get back to the real world where I live, because I am not part of this computer generation. I struggle with my own computer and how to be up to speed. In the amendment that I adopted, what we are really saying to the Office of Management and Budget
is: We want you to have a special person, a special group, assigned the responsibility to coordinate the architecture of the computers that are supposed to be cooperating and working together in all of the different intelligence agencies. I am sorry to report to the Senate and to the people following this debate that that does not exist today. In fact, it has been a very low priority. If we look at the sorry state of affairs of computer technology at agencies such as the Federal Bureau of Investigation, we can certainly understand the need for this amendment. Currently, each of the agencies we expect to consolidate has its own separate information technology budget and program—the Coast Guard, Customs, FEMA, INS, Secret Service, Transportation Security Administration, and others. Each one has a unique system that does not necessarily have the capacity to communicate or coordinate these activities. Frankly, in what this debate is all about, so that all the agencies of the Federal Government will coordinate their resources, their authority, and their wisdom into one unified effort to create the force multiplier that Governor Ridge mentioned?

Because these divergent systems need to be linked, it is important to ask key questions now to ensure this new Department will help the agencies brought together and others outside to coordinate their communication and share information. It is equally important to establish appropriate links between the Homeland Security Department and other agencies, such as the CIA, the National Security Agency, the Department of Defense, the FBI, the State Department, and State and local officials, which may not be embraced under the Homeland Security Department’s organizational umbrella.

Given the current state of affairs in the country, do we expect the systems reflected in incomprehensible delays in meeting congressional mandates, I think this is long overdue. I will give two illustrations of why this is timely.

Six years ago, Congress mandated the Customs Department and INS to establish a database to record those exiting the United States with visitor’s visas. Those coming into the United States in many instances need visas to be in the United States, and we thought it was goop-drift for oil on the Moon. It is not going to happen—not until we come a long way from where we are today.

We also said, incidentally, to the FBI and the Immigration and Naturalization Service: We notice that they both collect fingerprints. Can they merge their databases so that law enforcement agencies across the Federal Government, across the Nation, around the world, will have access to a common database of fingerprints collected by the FBI? We asked them to do that 3 years ago. It still has not been done.

So when it comes to information technology, do not delude yourself into believing we are where we ought to be. We are not. The creation of this Department and the amendment which Senator Lieberman and others were happy to accept and said nice things about, I hope will move forward in achieving that goal.

The enterprise architecture and resulting systems must be designed for interoperability between many different agencies. I hope we get this achieved quickly.

I have had a great deal of frustration, even anger, over the lack of progress we have made since September 11. To have the new person in charge of information technology from the FBI testify before the Judiciary Committee saying it will be 2 years before the FBI is up to speed with their computers is totally unacceptable. Members should not stand for that one second. To think one can go to any computer store in any major city in America and buy computers with better capability than the computers of the Federal Bureau of Investigation is shameful. That exists today; it should change. This bill will be part of the change.

Also, I raise another issue briefly. After the events of September 11, we have heard from a number of people—Governor Ridge, Secretary Thompson of the Department of Health and Human Services—about concern for our Nation’s food supply and its vulnerability to attack. We have to be mindful and sensitive. I thank Senator Lieberman for including my language on food safety and security in this legislation, directing the Secretary of the Department of Homeland Security to contract with the National Academy of Sciences to conduct a detailed study to review all Federal statutes and regulations affecting the safety and security of the food supply, as well as the current organizational structure of food safety oversight to figure out if we can do it better. I think we can. I believed that for long time. I pushed for better coordination, better definition, better objectives for food safety. Now, this is a different level. It is not a question of food that can be contaminated by natural causes, but food that could be jeopardized and contaminated by enemies of the United States. It is part of the same consideration but raises it to a much higher level.

I close by thanking Senator Lieberman for his leadership on this issue. This reorganization is complicated. Although we are a great deliberative body, we have to roll up our sleeves and deal with it. We approach the anniversaries of September 11 and know further attacks are not only possible, but in many instances our open society invites them. We do not have the luxury of waiting. If there were another attack since last September 11, this bill would have passed out of here a lot sooner. Now that we have the time to do it, let’s do it and do it right.

I thank Senator Lieberman for his leadership, and I yield the floor.

Ms. Collins, Ms. President, I thank Senator Durbin for his statement and for the contributions he made substantively to the proposal and for his eloquent advocacy for the urgent necessity to get together and create a Department of Homeland Security.

I yield the floor.
Currently, as many as 100 Federal agencies are responsible for homeland security. But not one of them has homeland security as its principal mission. That is the problem with our current organizational structure. With that many entities responsible, nobody is accountable and turf battles and bureaucratic disputes are virtually inevitable.

If we are to overcome these problems and create a national security structure that will work, we need to unify the activities of Federal agencies into a single new Department of Homeland Security. This agency would work to secure our borders, help protect our ports, our transportation sector, and protect our critical infrastructure. It would synthesize and analyze homeland security intelligence from multiple sources, thus lessening the possibility of intelligence breakdowns or lack of communication. Furthermore, the new domestic security structure would coordinate Federal communications regarding threats and preparedness with State and local governments, as well as with the private sector.

Our efforts to create a new Department of Homeland Security will help to remedy many of the current weaknesses of the past and thus help to protect us against future terrorist attacks.

As a member of the Senate Governmental Affairs Committee, which held extensive hearings on the reorganization legislation, I have had the opportunity to consider a multitude of ideas and concepts regarding the creation of the new Department. We heard excellent testimony from Governor Ridge, from the Directors of the FBI and the CIA, and from a host of other experts. They all shed light on the problems that are created by our current disorganization in the area of homeland security. They shed light on the problems that have impaired our ability to defend our homeland and on the threats that we now face and inevitably will face in the future.

During the committee’s consideration of this bill, I expressed concerns that in our effort to create a new Department, we must be careful to protect the traditional missions, the very important missions of the agencies that are being assembled into this giant new department. In particular, I believe the Coast Guard’s traditional functions, such as search and rescue and mariner resource protection, must be protected and maintained.

Since the tragic events of September 11, the Coast Guard’s focus has shifted dramatically to homeland security. I talked with Coast Guard officers in Portland, ME, who told me the amount of time they are now spending on port security operations and inspecting foreign vessels coming into the harbor in Portland is double. It has very important missions and that the Coast Guard plays an essential role in homeland security. And I believe it should play a leading role in the new Department. However, we know the Coast Guard cannot continue to focus on homeland security missions without jeopardizing its traditional focus. I am concerned that if the current resource allocation is maintained and the Coast Guard’s non-homeland security responsibilities, its traditional missions will be sacrificed.

The President’s budget goes a long way to try to remedy this problem by allocating significant new funds for the Coast Guard. But we also need to make sure the organizational structure in the new Department also safeguards the Coast Guard’s traditional mission.

For example, prior to September 11, port security missions accounted for approximately 2 percent of the Coast Guard’s resources. Immediately following the terrorist attacks, the Coast Guard deployed 59 percent of its resources to port security and safety missions. As a result, many of the air-sea rescuecraft that were typically used for search and rescue were far removed from their optimal locations for that function. Even after the immediate impact of the September 11 attacks subsided, its impact on the resources of the Coast Guard continued. Indeed, from April through June of this year, the Coast Guard devoted 9 percent fewer hours on search and rescue missions than it did in the year before.

Because the Coast Guard’s importance to coastal areas throughout our Nation, any reduction in its traditional functions is cause for great concern. Those of us who represent coastal States know how absolutely vital the mission of the Coast Guard is. Last year alone, the Coast Guard performed over 39,000 search and rescue missions and saved more than 4,000 lives. On a typical day, the Coast Guard interdicts and rescues 14 illegal immigrants, inspects and repairs 135 buoys, helps over 300 mariners, and performs the most important function of checking out of U.S. ports, and saves 16 lives. That is on a typical day. In short, the Coast Guard’s traditional missions are of vital importance and they simply must be preserved.

Let me take a moment to talk about the Coast Guard’s impact and its importance in my home State of Maine. Each year, the Coast Guard performs about 300 search and rescue missions in my State. These missions are literally a matter of life and death. In October of 1999, 14 commercial fishermen have lost their lives at sea. Commercial fishing is one of the most dangerous of occupations, and the Coast Guard every year saves fishermen who get into trouble. How many more would have died or been injured if the nearest Coast Guard cutter had not been in port? How many more fishermen or recreational boaters will lose their lives if the local Coast Guard stations must devote the vast majority of their time to homeland security functions?

I agree that the Coast Guard must perform homeland security functions. The role the Coast Guard is playing in securing our ports is vitally important. But it is also vitally important that it not do so at the expense of its traditional missions.

To respond to this challenge, Senator Stevens of Alaska and I teamed up to offer an amendment during the Governmental Affairs Committee markup of this legislation. We offered a successful amendment to preserve the traditional functions of the Coast Guard, even as the agency is moved into the new Department of Homeland Security. I want to recognize Senator STEVENS and thank him for his leadership on this issue, as well as recognize the support of our colleagues who voted for our amendment.

Our amendment establishes the right balance between homeland security functions and the traditional missions of the Coast Guard. It ensures that the Coast Guard’s non-homeland-security functions shall be preserved for its transfer into the new Department but also provides for flexibility in the event of a national emergency or an attack on our Nation.

The amendment also has the Commdant of the Coast Guard report directly to the Secretary. In the chairman’s draft, he would not have done so. Thus, his role would have been devalued or demoted. Our amendment, the Stevens-Collins amendment, remedies that problem.

Our amendment will help to protect our coastal communities’ economies, their way of life, and their loved ones, while Americans, wherever they live, can rest assured that the Coast Guard will perform its necessary and vital homeland security functions. I believe our language strikes the right balance.

As we craft this bill, it is also important that we never forget who is on the front lines in the event of a national emergency. We learned on September 11 who responds. It is not the response of people in Washington. The people who are on the front lines are our police officers, our firemen, and our emergency medical personnel. That is why we need to make sure the new Department coordinates its activities and supports the activities of the local first responders.

I thank Senator FEINGOLD for his leadership in ensuring that the interests of the first responders are ever in our mind. I worked with him as well as with Senator CARPER on an amendment in committee that strengthens the role of first responders in homeland security, that recognizes their contributions.

We offered an amendment to enhance the cooperation and coordination between State and local first responders. The new Department will be required to designate an employee to be based in each and every 1 of the 50 States to be a liaison to State and local governments. I think that is so important. And it recognizes that this is a joint effort.

Similarly, an amendment Senator CARNAHAN and I offered will help our...
community fire departments by expanding the current grant program known as the FIRE Program. As I am sure the Presiding Officer knows, because he represents a rural State, as I do, the FIRE Program has been so important in helping a lot of our small, rural fire departments upgrade their equipment and their training.

The amendment the Senator from Missouri and I offered in committee would expand the FIRE Program and provide fire departments with the ability over 3 years to receive maximum grants of $100,000 to hire personnel. When I talk to my fire chiefs at home, they tell me that not only do they need help with equipment and training but they need more firefighters.

For those of us who went to New York City, one of the memories I will carry with me forever was talking with the fire commissioner and learning how many firefighters lost their lives on September 11. I will never forget his telling me that more firefighters died on that day than in the previous 70 years of the New York City Fire Department. It is the firefighters, the police officers, the emergency medical personnel who are always first on the scene. And I do not forget that these brave individuals will be the first to be called upon if and when a terrorist attack again occurs.

The New Department of Homeland Security is an essential component of our response to current and future threats. As the brutal attacks of September 11 demonstrated, distance from our enemies and the barriers of oceans no longer guarantee the security of our homeland. The bill we are considering today is another important step in preserving and strengthening our homeland security. I believe this legislation will help to make our Nation more secure, and I am hopeful that we will pass it quickly after due consideration.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, I yield myself 10 minutes from the time controlled by Senator Byrd.

The PRESIDING OFFICER (Mr. Nelson of Nebraska). Without objection, it is so ordered.

Mr. REED. Mr. President, we are here today for three major reasons. The first is the obvious need to restructure our response to current and future threats that were unanticipated in the cold war. The thought is that we do need to create a Department of Homeland Security. I support that. We are also here today because of the groundwork of Senator Lieberman and colleagues on the Governmental Affairs Committee. Before this proposal was invoked by the administration, they were working on it. They were developing through hearings the substance to make the presentation for which I am speaking today. But we are here today because of Senator Byrd's insistence that we consider this very significant reorganization in the context of our Constitution and of our responsibility as Members of the Senate to ensure we maintain the constitutional balance that is the heart of this Government.

It would be ironic indeed that in the name of homeland security we lost the very goal we were trying to protect, which is a constitutional government in which all of us play a significant role—the executive, the legislature, and the judiciary. I think it so important that, as we consider this legislation, to look carefully and thoughtfully at this proposed reorganization. It is an extraordinary combination of governmental entities. Approximately 170,000 employees will be combined into this new Department. It will affect 22 existing agencies. At least 11 full Senate committees have oversight responsibilities for these existing agencies.

This is an extraordinary moment, and we have to act deliberately, carefully, and methodically. That is why I think it is so critical that this debate take place and why it was so important that Senator Byrd was able to indeed encourage and inspire and in many respects direct the debate we are having today.

One of the major elements within this organization—there are many, and I would like to allude to a few—is the treatment of intelligence. We understood very starkly and very tragically on September 11 that intelligence is probably the key to successful protection of the United States, our home. We understood that. And now we have to take that lesson and apply it.

One of the proposals made by the administration to create an intelligence capacity within the new Department of Homeland Security. I agree with that. I think this new Department has to have an intelligence capacity. Unfortunately, in terms of the division of responsibility, it is, I think, the administration would only allow the intelligence operation within the Homeland Security Department to have that authority in the Homeland Security Department. That is critical.

The essence here is to have a place in the Government where—as said so often to me because it is so true—all the dots are connected. But you can't do that and rely on the intelligence products of other agencies. You can't do that if your focus is restricted to infrastructure protection.

As a result, I think this is illustrative of some of the problems of the administration’s proposal, and certainly some of the problems of the House bill. I should point out, as has been pointed out before, that we are now debating whether the Senate will bring it up for consideration.

There are other areas that are of concern to me. One has just been discussed quite articulately by my colleague and friend from Maine, Senator Collins; and the Coast Guard is an agency which, after September 11, has been decisively engaged in port protection. Port protection by the Coast Guard has gone from a rather minor operation before September 11 to one of their major operations. We have all seen the calls with respect to hazardous chemicals spills. They inspect and repair 55,000 oil tankers through the Narragansett Bay while the whole waterway was shut down by police and the National Guard. That is a time-consuming operation and one which has been replicated in the 361 ports of the United States. Also it is important to note that the Coast Guard is one of the agencies that are connected. But you can't do that and have your focus restricted to infrastructure protection.

The problem, though, is, as my colleague from Maine pointed out, that the Coast Guard has many other responsibilities. She referred to a typical day. On a typical day, the Coast Guard conducts 109 search and rescue missions, saves 10 lives, assists 92 boaters in trouble, and seizes 169 pounds of marijuana and 360 pounds of cocaine worth about $9.6 million. They intercept illegal immigrants coming into the United States. They respond to calls with respect to hazardous chemical spills. They inspect and repair boats. They assist nearly 200,000 tons of shipping just in the Great Lakes during the winter season alone. What will happen to these other responsibilities? I know the committee has dealt with this and has tried to strike a balance. But it is an area of concern, and it is an area that illustrates the difficulty even in thinking all of these pencil in with the mission of homeland security which might trump other legitimate missions. We have to be careful with...
this. In the course of our debate and discussion, I think we have to focus on this issue and other issues.

Much can be said in a similar vein about the Immigration and Naturalization Service. Here you have an agency which has responsibilities—Protect the borders from illegal entry and at the same time provide assistance to those individuals who are in the United States legally who want to become citizens or who are here on some type of temporary protective status and supervised by the United States. Those are diametrically opposed responsibilities.

We have to ask ourselves the question: If the INS is part of the Department of Homeland Security, will they emphasize one and de-emphasize the other? I think, frankly, most people will assume they will emphasize protecting the borders of the United States. After all, that is probably the most important issue with respect to homeland security.

What happens to the literally millions of individuals in the United States who legitimately need the services of the INS? Already today, there is a backlog of approximately 5 million cases. Each country in terms of applications to the INS for clarification of status. Indeed, as the National Immigration Forum noted in their words, “it is hard to imagine that a Federal agency whose primary issue is to deter terrorism will be able to strike and maintain an appropriate balance between admitting newcomers and deterring security threats.”

We see that these contradictions are complete throughout the reorganization. I again think a careful, thorough, and complete deliberation should be attendant to the consideration of this legislation.

I would like to mention just briefly a final area, an area which I think will come up again and again; that is, the administration’s proposal—and the proposal in the House of Representatives—to put up severe barriers to the right of Federal employees to organize collectively and to exercise their rights; and, also, the protection for the Civil Service.

We have to be very conscious of this and ask the very fundamental question: Why are we attempting to undercut provisions for which no one, I think, has seriously made the case they are no longer needed? The administration’s proposal to that extent.

As you probably realize, President Kennedy, 40 years ago, under executive order, gave Federal employees the right to organize in collective bargaining units. President Nixon expanded those rights in 1969. In 1978, the Civil Service Reform Act codified most of these executive orders.

Throughout the course of our history, these responsibilities have also given the President the authority to make exemptions for national security. And they have made those exemptions. The PRESIDING OFFICER. The Senator has used 10 minutes.

Mr. REED. Mr. President, I ask unanimous consent for 1 additional minute.

Mr. BYRD. Mr. President, I yield one additional minute.

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

Mr. REED. I thank the Senator. Over the course of our history, certainly in the 40 years, since these rights were established by executive order, there have always been appropriate exemptions in which the President, for national security reasons, exempt individual employees or groups of employees from these rights. I believe the Lieberman bill has, which embraces all dedicated civil servants in the United States. Those are diametrically opposed responsibilities.

Again, in my final few moments, I heard from my colleague from Maine—and I have heard it again and again—those firefighters struggling up the stairs of the World Trade Center were union employees. No one checked with their bargaining agent before going up those stairs. In fact, I don’t think they even checked with some of their captains and battalion commanders. They went up those stairs because it was their job and their duty and their lives. And many of them paid with their lives.

It is that spirit that emanates from those firefighters that encourages and embraces all dedicated civil servants in our Federal Government. I think to pursue this initiative is really, in a way, a slap at them, an insult to what they bring each and every day to their jobs, to their tasks, to their duty.

So I hope we adopt provisions, which I believe the Lieberman bill has, which recognize the right to organize, the right for civil service protections, and also flexibility, for management, by the President.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD. Mr. President, how much time does the distinguished Senator from South Carolina wish to have?

Mr. HOLLINGS. Thirty minutes.

Mr. BYRD. I ask the Senator, could you make it 20? Could we try for 20 to start with?

Mr. HOLLINGS: I will try to start with 20.

Mr. BYRD. I certainly want to be considerate with this Senator, this very senior Member of the body. And I am glad that he is a Member at this time.

Let’s say 20 minutes at this point. My time is limited, but let’s start with that, and move on.

Mr. HOLLINGS. Mr. President, right quickly, the distinguished Senator from Rhode Island was talking about the firemen running up those steps. It brings to mind 4 years ago the creation of the Office of Domestic Preparedness by this Congress.

We were confronting terrorism long before 9/11. Mr. President, 144,000 individuals have been through schools in Nevada, New Mexico, Louisiana, Texas, and Alabama. There are five big schools there to train the first responders. And that training has been really salutary in the sense that in the state of New York we have had over 17,000 first responders trained in the ODP program. So I say to the Senator, many who rushed up those steps had received the training and were responding in accordance with the foreseeability that we had in the constitutional branch with respect to terrorism.

I jump right quickly, with my time limited, to the hearings that we had. We hear so much about Hart-Rudman. We had hearings in the Senate, not just deciding on Hart-Rudman, that large bureaucracy, but, on the contrary, after 3 days of hearings in the State-Justice-Commerce Subcommittee of Appropriations we came down with a further beefing up of the Office of Domestic Preparedness. At the present time, ODP has a budget of $1.2 billion. We already have at the desk, unanimously approved by the Appropriations Committee and ready for debate, an increase of $1 billion, some $2.2 billion.

Mr. BYRD. Mr. President, I yield one more minute. I got together—and I must tell this story because it has already passed me with respect to the gun crowd—but be that as it may, I sat down with the El Al chief pilot from Israel who flew over from Tel Aviv and sat down and talked with us, myself, and about four other Senators.

At that seating, he emphasized the security of the cockpit door because I asked him: Sir, how is it that El Al, through the most careful approach under the gun, where the terrorists do not even wait now, for example, to get to a plane— they shoot up the ticket counter like they did out in Los Angeles—that you have not had a hijacking in 20 years?

He said: There is one way to prevent hijackings. Secure the cockpit door, and never open that door in flight.

Let me emphasize, he said: My wife can be assaulted in the cabin. I would rather fight to the death than let the law enforcement would meet me there.

In flight, you do not want to give responsibility to the pilots for law and order. You give the pilots the responsibility for flying the plane. If they have the responsibility, with a gun, for law and order, then they have made a bad mistake because the pilots cannot prevent a plane from being hijacked. The enemy is not a single hijacker. There are teams of terrorists, suicidal terrorists, who do not mind losing their lives.

Mr. REED. You, yes, you got that right, maybe, but the next three will take that plane over, and you will have a 9/11.
I think our responsibility in this particular debate is—in addition to going up to New York on Friday, in addition to having the debate here, and a whole day turned over on next Wednesday, which I commend—but the main thing is for [us] to assume the responsibility that a 9/11 never happens again.

Once you secure that door—Delta Airlines has gone along with it, JetBlue is going along with it, but we are still debating it.

We who have moved for airline security. We passed it 100–0 in a bipartisan bill. You see in the morning paper it is not turf. This Senate voted to put the Transportation Security Administration in the Justice Department. I was not trying to hold it because I am chairman of the Transportation Committee. I have commerce, science, and transportation. I was not trying to hold it in my committee. I voted to put it in Justice and defended this position on the House side arguing that Justice would get it up and going.

Instead I got a bureaucrat who was more interested in the logo and his office equipment and did not even talk to the airline managers. We continued the pressure was on—before Christmas.

We voted without the committee confirming this particular gentlemen. We just reported it out and we had a vote on it without any debate whatsoever. But now we are behind the curve and we have Admiral Malloy over there, and I think he is a great man, and I think we can do a lot of repairing and we are going to be realistic about what we can do. There is no arguing about what kind of terminal dates and everything else. We live in the real world and we must work together.

We put in rail security, we put in seaport security before Christmas of last year. You don’t find the administration pressuring the House to get going to pass it. They are still fussing about fees and taxes over there. They don’t want to pay for it. It is domestic politics, and people are part securing.

So there we are. We can go down the list of all the work we have done on it, and here comes this bill and what does it do? It organizes every entity that did not fail, like the Coast Guard, FEMA, and the Agriculture Department and everything else, and ignores the ones that did fail. 9/11 was an intelligence failure, and you will not get that out of the Select Committee on Intelligence that is the thing between the House and Senate because the entities of this administration—I am not saying the President knew anything will not be embarrassed. I am sure if the President knew anything he would have been the first to put in place to avoid it. But I can tell you here and now that the committee that is investigating is not going to speak out about the intelligence failure because it would reflect, if you please, poorly on the President’s management of their FBI, their CIA, their National Security Agency.

I have been on the Intelligence Committee. In fact, I started in this work in 1954 on the Hoover Commission. The same problem we had almost 50 years ago with the FBI talking to the CIA, and the CIA talking to the FBI, persists today. I have gotten together with Bob Mueller, and he is a good man. He has hired some CIA officials. Last year on my recommendation, we gave him $750 million to clean up his computerization. He reorganized the Department and instituted a Department of Domestic Intelligence and now is talking, I understand, to George Tenet, the head of the Central Intelligence Agency.

The CIA failed on 9/11. We already had the blowing up of the World Trade Towers almost 10 years ago. But the CIA said we didn’t know a plane could be used. They did not know a plane could be used. They had the direct record in 1994.

In 1994, they had the Islamic group that was going to blow up the Eifell Tower. Then, in 1995, they were working on a case out there in the Philippines where they uncovered a plan to blow up the Eifell Tower. Then, in 1997, the documents revealed that the terrorists, who had links to al Qaida, planned to ram a plane into the CIA building itself. But now they say they had no idea you could fly a plane into a building. Then al Qaida blew up our embassies and blew up the USS Cole. They knew.

Right to the point, they had warned about this crowd so much so that the President actually had on his desk on September 10—the day before—plan to attack Afghanistan. We had the intelligence. We just were not paying attention. The FBI also failed. There isn’t any question about that. We know about the flight schools in Arizona. Agent Williams sent notice saying: These people of Mideastern descent are trying to learn how to fly. We believe they are connected to fundamentalist groups, something’s not right to me.

That word never did get up to the head of the FBI or the President of the United States that was an intelligence failure. But we had the woman—Agent Coleen Rowley, I think her name was. When they arrested Moussaoui in Minnesota, they became so exercised she wrote a memo that: Look, this fellow doesn’t want to learn how to take-off or land. He only wants to learn how to fly. We need to investigate him further. But the Minnesota field office was denied permission for a warrant.

Why should we investigate him further? Because he was training to run a plane into the World Trade Towers. That is the record. I am not on any Intelligence Committee. I am not giving you any security information. If you want any kind of information along that line there is a wonderful article that appeared in Time magazine on May 27, 2002.

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

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

[From Time Magazine, May 27, 2002]

HOW THE U.S. MISSED THE CLUES

(By Michael Elliott)

None of this is pretty. In the immediate aftermath of the Sept. 11 attacks, members of the Bush administration stood together, determined to fight the war against terrorism, supporting those in military uniform and the button-down bureaucracy who had worked so hard before 9/11 to prevent something so awful from happening again.

Everyone–inside the Bush administration as well as outside—it—knew there had been massive failures of intelligence before the attacks. But after Sept. 11, the administration earned a reputation for steely-eyed competence, and its political opponents couched their legitimate criticism in language politer than that to which Washington is accustomed. That was then.

In the past month, a series of disclosures have cast doubt on the most basic abilities of the national-security establishment. The administration looked alternately shifty and defensive—Democrats—some of them presidential candidates—influenced on motormouth TV. And the nation has been forced into a period of painful second-guessing, asking whether Sept. 11 could have been prevented.

In August, the President was briefed by the CIA on the possibility that al Qaeda, the terrorist network headed by Osama bin Laden, might use hijacked airliners to win concessions from the U.S.

Sources tell TIME that the briefing, which was first reported by CBS News, was in response to a request by Bush for detailed information on the kind of threat posed by al Qaeda, not to American interests overseas—which had long preoccupied the spooks—but at home. During the period in which the brief was prepared, says a senior intelligence official, the CIA came to the conclusion that “al Qaeda was determined to attack the U.S.” After the strike came, White House sources concede, the administration made a conscious decision not to disclose the August briefing, hoping that it could be “discussed in context—and months later—when congressional investigations into the attacks eventually got under way. And that wasn’t the only embarrassing paper kept under wraps. Earlier this month, these sources leaked details to the Associated Press reported new details of a July 2001 memo by an FBI agent in Phoenix, Ariz., who presciently noted a pattern of Mideastern men signing up at flight schools. The agent, Kenneth Williams, 42, has spent 11 years working in an FBI antiterrorism task force. He recommended an investigation that had been turned down by al Qaeda operatives were training at the schools. He was ignored, and after the existence of the memo became known, the FBI investigators decided even if it had been acted upon, it would not have led to the detention of the Sept. 11 hijackers. (Only one of them, Hanji Hanjour, had trained in Arizona, and did so before Williams focused on the flight school.)

But sources tell TIME that at least one of the men Williams had under watch—a Muslim who has now left the U.S.—did indeed train at a Florida flight school.

The administration also identified a second pair of suspected Islamic radicals now living in the U.S. as resident aliens, the sources say. They are currently under FBI surveillance. As if those missed signals weren’t enough, last week it was also disclosed that in August, when the U.S. detained Zacarias Moussaoui—a man the French government knew was associated with Islamic extremists and who apparently wanted to learn to fly...
jumbo jets but not land them, and has since been charged with complicity in the Sept. 11 attacks—the FBI told nobody in the White House’s Counterterrorism Security Group. But that advice, under the watchful eye of National Security Adviser Condoleezza Rice, is supposed to coordinate the government’s response to terrorist threats.

At high levels of government, the awful possibility is dawning that things could have been different. “If we’d had access to Moussaoui, to access to the Phoenix memo, could we have broken up the plot?” asks a White House official who works on counterterrorism. Then he answers his own question: “We’ve taken and read it, so there’s at least a distinct possibility that we may at the very least have delayed it.” Bush was outraged at the suggestion that he might have delayed the September 11 attacks. “I’m not that stupid,” he said.

According to Rice, there was just a sentence or two on hijacking—and the passage did not address the possibility that a hijacked plane would ever be flown into a building. “It was not a building,” Bush said. “It just wasn’t so.” In 1995, authorities in the Philippines scuppered a plan—masterminded by Ramzi Yousef, who had also plotted the 1993 World Trade Center bombing—for mass hijackings of American planes over the Pacific. Evidence developed during the investigation of Yousef and his partner, Abdul Gulkari, who was scheduled to hijack a plane into CIA headquarters in Langley, Va. And as long ago as 1994, in an incident that went unreported by the news media, French authorities foiled a plot by the Algerian Armed Islamic Group to fly an airliner into the Eiffel Tower. “Since 1994,” says a French intelligence official, “we should all have been viewing kamikaze acts as a possibility for all terrorist hijackings.” But if Rice’s account is accurate, nobody signifying in the Bush Administration did.

There might have been more discussion of the risks of hijackings in the President’s briefing if its writers had known about the Phoenix memo. A group of French experts, who flesh out the written text—gets to work around the clock at 8 a.m.—were planning to blow up the American embassy and another diplomatic compound. The G-men claim to have been swamped by the crush of potential al-Qaeda personnel operating in the United States.

But investigators had some reasons for being preoccupied with attacks and threats against the U.S. Al-Qaeda’s most notorious blows against American interests had taken place in Nairobi and Dar es Salaam, the sites of the 1998 embassy bombings, and in Yemen, where the U.S.S. Cole was bombed in October 2000. And in the first half of last year, the CSG monitored information suggesting the likelihood of another attack in the United States.

In June 2001, the State Department issued a worldwide caution warning American citizens of possible attacks. That month, says a senior FBI official, “we were constantly worried that something was going to happen. Our best guesstimate was something in Southeast Asia.” A French investigator involved in al-Qaeda cases confirms the thought. “The prevailing logic from around 1998,” he says, “was that al-Qaeda and bin Laden had very clearly designated America as its prime target—but it was a target that it preferred to attack outside the U.S.”

The level of noise about terrorism from intelligence sources around the world was deafening. The CSG, then chaired by Richard Clarke, a Clinton Administration holdover who was consumed with terrorist threats to the point of obsession, was meeting almost every day. A specific threat was received on the life of Bush, who was due to visit Italy, France and Germany that month. Roland Jacquard, a leading French expert on terrorism, says that when Russian and Western intelligence agencies compared notes, nobody seemed to have found out what he said it was a target that it preferred to attack outside the U.S.

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That experience counted for nothing. In all three offices, the memo was pretty much ignored. “Our interest was in the hole of al-Qaeda. It was sort of a bureaucratic hell that is the FBI. That was the second key mistake. Sources told TIME that the memo was never forwarded—not even to the chief of the international-terrorism section. ‘The thing fell into the laps of people who were grossly overtaxed,’ says a senior FBI official. The G-men claim to have been swamped by tips about coming al-Qaeda operations. But Williams was onto something. The flight attendants who were taking off from the San Jose, Calif., airport on a trip to Minneapolis were masters of radical Islamic groups. Some of them, sources say, are believed to be linked to al-Qaeda and Hizballah organizations based in the Middle East, while at least one other—who has left the U.S.—has links to al-Qaeda. Another pair mentioned in the memo, who were being tracked by agents of the FBI, were saved his breath; the blame game is under way, but nothing was done to track them down.

That was the third huge mistake—and a somewhat baffling conclusion to draw, given the evidence at hand. In spring of 2001, Ahmed Ressam, the so-called millenium bomber,” was on trial in Los Angeles, charged with being part of a plot to bomb Los Angeles International Airport operations at the end of the 1990s. In her press conference last week, Rice conceded that in 2001 the FBI “was involved in a number of investigations of potential al-Qaeda personnel operating in the United States.” But investigators had some reasons for being preoccupied with attacks and threats against the U.S. Al-Qaeda’s most notorious blows against American interests had taken place in Nairobi and Dar es Salaam, the sites of the 1998 embassy bombings, and in Yemen, where the U.S.S. Cole was bombed in October 2000. And in the first half of last year, the CSG monitored information suggesting the likelihood of another attack in the United States.

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They may have shared too much. At least in France, investigators now acknowledge that Al-Qaeda may have been involved in a massive feint to Europe while the real attack was planned for the U.S. “People were convinced that Europe remained the theater for Islamic terrorists,” says Jacquard. “It’s anyone’s guess whether that was a technical or a psychological feint.”

Nine months ago, the appointment of Tom Ridge as Homeland Security czar was billed as the shake-up Washington needed. So far, he has been more of a mild foot-stamp than a lightning burst. While he has reorganized the Administration to operate more cohesively, he has also revealed the Administration’s initial response was to its usual operational mode—attempting to control warring satrapies from the White House. The remarkable weapon in last week’s event in Washington was the untold revelation that Rice is the true manager of counterterrorism policy. In the past, the National Security Council has been viewed by intelligence agencies as at best a partial partner in operational role rather than one of analysis (think Oliver North), and for Bush this identification of one of his closest advisers with the operational failures of counterterrorism policy could yet be politically troubling.

Among his supports, however, the President still richly has. Bush’s simmering passion argument—that he would never have sat idly if he had known what was coming on Sept. 11—helped stiffen spines. Republicans pointed out that members of congressional intelligence committees get the same information the President receives in his PDB and yet had not made a fuss about the Aug. 16 briefing. “That was a briefing that was disputed; Tom Daschle, the Democrat’s leader in the Senate, insisted the Senate and the Administration did not have “identical information” about al-Qaeda threats. In a sense, the spat over who got what version of which memo epitomizes Washington at its worst. The capital at its best would address that important question isn’t what Bush (or anyone else) knew before Sept. 11; it is what the Administration and Congress have and have not done since Sept. 11 to fix a system that was broken before the midterm elections, you may have noticed, are only six months away. Washington is reverting to form.

Mr. HOLLINGS. The magazine got it wrong. He is more so than the committee that has been leaking. I was disappointed Sunday when I heard my distinguished colleague from Tennessee say; No, he would not take a polygraph test. I am an attorney. I am not going to convict my client on a polygraph test. We used it in the Hoover Commission 50 years ago, and it is an indicator. I wanted to make sure the staff on the Intelligence Committee as I found out, I had been doubledealed by the CIA and was told: I cannot give you that information, Senator, because your staff does not have the appropriate clearance.

Before you serve here as a Capitol police officer or take a polygraph test, and also before you serve in the FBI, CIA, and Secret Service—go down the list—but not the staff of the Senate Intelligence Committee. So I learned that in a war you never ask your enemy to do something you do not do yourself first. So I went over to take a polygraph test. To the very first question, I started off my answer “in my humble opinion” and the needle went right off the chart. I flunked. It took 2 hours and they gave me another chance. And that 2-hour test, I passed it and came back and I still brought it up that as a member of the Intelligence Committee, they do not have the appropriate clearance. If they want to know where the leaks are, go to the committees.

Mr. President, the National Security Agency failed. They had all kinds of warnings about Al-Qaeda. They had a midnight conference over the word on September 10 in Arabic that “the match is about to begin,” but they didn’t translate the Arabic into English until September 12. Now comes the National Security Council. It is interesting that in 1947 we had the same problem of coordination—institutionizing not only the CIA, but the 1947 National Security Council that the function of the Council shall be to advise the President with respect to the integration—that is joining—of domestic, foreign, and military policies relating to the national security, so as to enable the military services and the other Departments and Agencies of Government to cooperate more effectively in matters involving national security.

If you don’t have a President right at the catbird seat pointing to them and saying you either talk and coordinate with each other or else you are out, it is not going to be done. You can pass all the bills you want in the U.S. Congress. You are just passing another entitled for fingerprint. They need cor- relation again and again. Here is exactly what the President said in the National Security Presidential directive he made. I had a copy of it here. It is with respect to coordinating the National Security Council. Incidentally, what I am saying I had said to him at the Cabinet table over 2 months ago. But on February 13—I ask unanimous consent that this National Security Presidential directive of February 13, 2001, be printed in the RECORD.

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

CONGRESSIONAL RECORD—SENATE September 3, 2002
Director, Office of Science and Technology Policy
Chairman, Board of Governors of the Federal Reserve
Chairman, Council on Environmental Qualitv
Chairman, Export-Import Bank
Chairman of the Joint Chiefs of Staff
Commissioner of Customs and Border Protection
Administrator, National Aeronautics and Space Administration
Chairman, Nuclear Regulatory Commission
Director, Office of Management and Budget
Director, Federal Bureau of Investigation
Director, Defense Intelligence Agency
President, Overseas Private Investment Corporation
Chairman, Federal Communications Commission
Commissioner, U.S. Customs Service
Administrator, Drug Enforcement Administration
President's Foreign Intelligence Advisory Board
Ambassador of the United States
Director, Information Security Oversight Office
Subject: Organization of the National Security Council System

This document is the first in a series of National Security Presidential Directives. National Security Directive NSC-1 shall replace both Presidential Decision Directives and Presidential Review Directives as an instrument for communicating presidential decisions about the national security policies of the United States.

National security includes the defense of the United States of America, protection of our constitutional system of government, and the advancement of United States interest around the globe. National security also depends on America's opportunity to prosper in the world economy. The National Security Act of 1947, as amended, established the National Security Council to advise the President with respect to the integration of domestic, foreign, and military policies relating to national security. That remains its purpose. The NSC shall advise and assist me in integrating all aspects of national security policy as it affects the United States—domestic, foreign, military, intelligence, and economics (in conjunction with the National Economic Council). The implementation of national security policies by multiple agencies of the United States Government shall usually be accomplished by the NSC Policy Coordination Committees (NSC/PCCs). The NSC/PCCs shall be the main daily fora for interagency coordination of national security policy. They shall provide policy analysis for consideration by the more senior committees of the NSC system and ensure timely national security decisions made by the President. Each NSC/PCC shall include representatives from the executive departments, offices, and agencies represented in the NSC/DC.

Six NSC/PCCs are hereby established for the following regions: Europe and Eurasia, Western Hemisphere, South Asia, East Asia, Near East and North Africa, and Africa. Each of the NSC/PCCs shall be chaired by an official of Under Secretary or Assistant Secretary rank to be designated by the Secretary of State.

Eleven NSC/PCCs are hereby also established for the following functional topics, each to be chaired by a person of Under Secretary or Assistant Secretary rank designated by the indicated authority: Democracy, Human Rights, and International Operations (the Assistant to the President for National Security Affairs); International Development and Humanitarian Assistance (the Secretary of State); Global Environment (the Assistant to the President for National Security Affairs and the Assistant to the President for Economic Policy in concert); International Finance (the Secretary of the Treasury); Transnational Economic Issues (the Assistant to the President for Economic Policy); Counter-Terrorism and National Preparedness (the Assistant to the President for National Security Affairs);
Defense Strategy, Force Structure, and Planning (by the Secretary of Defense); Arms Control (by the Assistant to the President for National Security Affairs); Preventing Counterproliferation and Homeland Defense (by the Assistant to the President for National Security Affairs); Intelligence and Counterintelligence (by the Assistant to the President for National Security Affairs); and Records Access and Information Security (by the Assistant to the President for National Security Affairs).

The Trade Policy Review Group (TPRG) will continue to function as an interagency coordination policy. Issues will be determined with respect to the meetings of the TPRG, as with the PCCs, will flow through the NSC and/or NEC process as appropriate.

Each NSC/PCC shall also have an Executive Secretary from the staff of the NSC, to be designated by the Assistant to the President for National Security Affairs. The Executive Secretary shall assist the Chairman in scheduling the meetings of the NSC/PCC, determining the agenda, recording the actions taken and tasks assigned, and ensuring timely responses to the central policymaking committees of the NSC system. The Chairman of each NSC/PCC, in consultation with the Executive Secretary, may invite representatives of executive departments and agencies to attend meetings of the NSC/PCC where appropriate.

The Assistant to the President for National Security Affairs, at my direction and in consultation with the Vice President and the Secretaries of State, Treasury, and Defense, may establish additional NSC/PCCs as appropriate.

The Chairman of each NSC/PCC, with the agreements of the Executive Secretary, may establish ad hoc working groups to assist the PCC in the performance of its duties.

The existing system of Interagency Working Groups is abolished.

The oversight of ongoing operations assigned in PDD/NSC-56 to Executive Committees of the Deputies Committee will be performed by the appropriate regional NSC/PCCs, which may create subordinate working groups to provide coordination for ongoing operations.

The Counter-Terrorism Security Group, Critical Infrastructure Coordination Group, Weapons of Mass Destruction Preparedness, Consequences Management and Protection Group, and the interagency working group on National Economic Resilience and the Director of Central Intelligence have been reconstituted as various forms of NSC/PCC on Counter-Terrorism and National Preparedness.

The duties assigned in PDD/NSC-75 to the National Counterintelligence Policy Group will be performed in the NSC/PCC on Intelligence and Counterintelligence, meeting with appropriate additional personnel.

The duties assigned to the Security Policy Board and other entities established in PDD/NSC-26 will be transferred to various NSC/PCCs, depending on the particular security problem being addressed.

The duties assigned in PDD/NSC-41 to the Standing Committee on Nonproliferation will be transferred to the PCC on Proliferation, Counterproliferation, and Homeland Defense.

The duties assigned in PDD/NSC-36 to the Interagency Working Group for Intelligence Priorities will be transferred to the PCC on Intelligence and Counterintelligence.

The Human Rights Treaty Interagency Working Group established in E.O. 13107 are transferred to the PCC on Democracy, Human Rights, and International Operations.

The Nazi War Criminal Records Interagency Working Group established in E.O. 13110 shall be reconstituted, under the terms of that order and until its work ends in January 2002, as a Working Group of the NSC/PCC for Records Access and Information Security.

Except for those established by statute, other existing NSC interagency groups, ad hoc bodies, and executive committees are abolished. However, unless they are specifically reestablished as subordinate working groups within the new NSC system as of that date. Cabinet officers, the heads of agencies, and the directors of offices within the Executive Office of the President shall advise the Assistant to the President for National Security Affairs of those interagency groups chaired by their respective departments or agencies that are either mandated by statute or are otherwise of sufficient importance and vitality as to warrant being reestablished. In each case the Cabinet officer, agency head, or office director should describe the scope of the activities proposed for or now carried out by the interagency group, the relevant statutory mandate if any, and the particular NSC/PCC that should coordinate this work. The Trade Promotion Coordinating Committee established in PDD/NSC-56 to Executive Committees of the NSC system, will continue its work, however, in the manner specified in that order. As to those committees expressly established in the National Security Act, the NSC/PCCs shall serve as the NSC/PCCs shall serve as the surviving committee and perform the functions assigned to those committees by the Act.

To further enhance effective accountability within the NSC system, those positions relating to foreign policy that are designated as special presidential representatives within the NSC system as of that date. Cabinet officers, the heads of agencies, and the directors of offices within the Executive Office of the President and the Secretary of State, and special advisors to the President and the Secretary of State shall be designated in PDD/NSC-56 to the national security council for national security. In the President and the Secretary of State as appropriate.

This Directive shall supersede all other existing presidential guidance on the organization of the National Security Council system. With regard to application of this document to economic matters, this document shall be interpreted in concert with any Executive Order governing the National Security Act and with presidential decision documents that implement either this directive or that Executive Order.

Mr. HOLLINGS. You will find in there that 11 functional coordinating committees within the council itself, chaired by the National Security Council. Among them are committees on counterterrorism and national preparedness, chaired by Condoleezza Rice, to Advisor to the President for National Security Affairs. You have another committee on counterproliferation and homeland defense, which the President of the United States thought was necessary in February of last year, chaired by Condoleezza Rice. There is another one on intelligence and counterintelligence, again chaired by Condoleezza Rice.

Later we see President's National Security Advisor on the TV saying: We did not get anything specific. In fairness to her, she is an expert in foreign policy. She can instruct a course. I understand, at Stanford. She has never served in law enforcement or counter-terrorism. But it is time to get real. This bill does not directly deal with the entities that failed. It is about running around, like my Navy friend used to say, “when in danger, when in doubt, run in circles scream and shout.”

The administration propose this big bureaucracy. I have 110,00 of them already, and I am not even talking about transportation security of the airlines, the rails, and the seaports. How are you going to get a department full of middle level personnel in charge if you cannot get the Executive level, the Presidential level, the Executive group management. I told the President of the United States: Mr. President, I want you to get hourly reports on the homeland security intelligence as you receive those hourly political reports from Carl Rove. He knows what is going on politically in this country. I want him to know what is going on intelligence-wise with respect to homeland security, but we do not have that.

What we have is another finger-pointing agency. As Harry Truman said: The buck stops here. He is the one who brought in the 1947 initiative to reorganize for national security. He did not mind assuming that responsibility.

Mr. President, do you think if you were President that you would depend on the Department of Homeland Security for your intelligence analysis? No, no, that is not going to ever happen. One, that Department is only going to be fed what the President says to feed them. The FBI is not going to tell them everything. The CIA is not going to tell them everything. It is a culture. We have to break down that culture, but the only place we know they are not afraid to tell is the National Security Council of the President of the United States.

The Secretary of the Homeland Department would not even know what to ask for. They do not have any kind of intelligence collection. They do not have the authority or resources to do that. They would create another analysis department, but it will not function properly. There has to be a fusion, an integration, as they said in 1947, of domestic and foreign intelligence so they know where to act. We have read in the newspapers where they are getting their money for terrorism, outfitting Canada and so on.

The PRESIDING OFFICER. The Senator's time has expired.

My time is limited, so I will close with the idea that, we can pass this bill ipso facto, word for word—either bill this afternoon, and 4 or 5 years from now after they have had a chance to organize, we can have another 9-11. We are not going to prevent it with this particular measure.

Mr. BYRD. Mr. President, I yield 5 additional minutes to the Senator.

Mr. HOLLINGS. Without objection, it is so ordered.

Mr. HOLLINGS. That is all right, Mr. President. I will yield the time back and come back in on the debate. This is
only a motion to proceed. I work with them. I can tell you the resistance of the FBI talking to the CIA—that is not in this bill—but we have to have a President get them together and make sure information is fused. There is a resistance. We have had meetings on port security. I think the FBI has to attend those meetings. I am going to get on Bob Mueller about that because I have his appropriation, but they do not want to get together. They are looking for crime. They are not looking for prevention. They want to catch someone. When crimes are committed they are called into action. While we hope crimes are never committed, the FBI serves the nation by responding when crimes are committed. We must work to prevent terrorist attacks. That is the new culture, the new role to be taken on.

The President has to play the game of President, be the chief executive. Mr. President, I say to Senator BYRD, be the chief executive. The President, when he took on the new role to be the chief executive, to take on the new culture, he had to be the President from the moment I first spoke of September 11. He has been extremely understanding and also very knowledgeable about what it was going to take to make us more secure.

I also thank Senator LIEBERMAN for his tremendous efforts in trying to craft legislation that will make us safer. We are not just doing this for a political exercise or just to reorganize for the sake of reorganizing, but we know there are serious issues to be addressed, some of which Senator HOLLINGS spoke about.

I do support the idea of a Homeland Security Department, but I come today to recognize the seriousness of the issues that should be addressed with the political exercise that is at hand. We have to determine what it is we need to do to make our Government more prepared.

There are a number of issues, and my colleagues have raised quite a few of them, but I want to focus on one particular, which is homeland security, and that is the resources that our frontline firefighters, police officers, and emergency responders need to be the soldiers to defend our homeland security. Just as we support our men and women in uniform, you are doing a very important job extremely well, from Afghanistan to the Middle East to the Far East, we have to do the same for our local homeland defenders.

I have been disappointed in the disconnect between rhetoric and resources from the administration. We certainly have had many heartfelt and moving moments where words have captured our feelings. When it comes to providing the resources that our police, our firefighters, and our emergency responders need, I think the administration has fallen short. That was certainly clear over the August recess when the President chose not to sign the emergency designation for the $5.1 billion supplemental appropriations bill, which included $2.5 billion for improving our homeland security.

That number did not come out of thin air. It was the result of hearings, testimony, and input from emergency responders who are particularly passionate about this issue because they lost so many of their colleagues.

The International Association of Firefighters has voiced its concern in very clear, unmistakable language. I know they are particularly passionate about this issue because they lost so many of their colleagues.

In his August 20 letter to President Bush, the International Association of Firefighters general president, Harold Schaitberger, had this to say: I would be dishonest if I did not convey our anger, concern and growing doubt about your commitment to the $5 billion. The real emergency is in the police stations and the firehouses and the emergency rooms of America. That is why I am concerned that when the Congress goes through the kind of process it did to arrive at a need for $5.1 billion and it is totally disregarded, then why on Earth would we want to give up congressional oversight and authority in setting the agenda to protect our country?

I believe it is imperative we do everything we can in setting up this Department to get the money to where it needs to go. We have to get the dollars where the responsibility rests.

When a disaster occurs, whether it is man-made or accidental, we do not call the White House. We do not even call the President, has the right to pontificate your commitment to us. No one, not even the President, has the right to pontificate about his or her commitment and respect for our first responders. I am not alone in thinking the President’s refusal to sign the emergency designation was a terrible mistake.

The President said he was exercising fiscal discipline by not making the emergency designation. That was clearly a terrible mistake. The President, has the right to pontificate about his or her commitment and respect for our first responders.

I have to respectfully disagree. I think we do face an emergency. We are rushing through this legislation because clearly we think we face an emergency. But the real emergency is not in Washington to reorganize a huge Government department. The real emergency is in the police stations and the firehouses and the emergency rooms of America. That is why I am concerned that when the Congress goes through the kind of process it did to arrive at a need for $5.1 billion and it is totally disregarded, then why on Earth would we want to give up congressional oversight and authority in setting the agenda to protect our country?

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When a disaster occurs, whether it is man-made or accidental, we do not call the President. We do not even call the Senate or the Congress or the Governor’s office. In most instances, we call 911.

It is clear the kind of support we need for direct Federal homeland security grants, but the fire departments improve the emergency preparedness, and there would have been $90 million to track the long-term health care of those who responded at Ground Zero, not just so we fulfill our obligation to take care of these brave men and women but also so they can be better prepared to take care of all of our first responders.

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but to walk the walk with our first responders. We have to give them the equipment and the resources and the training they need. According to the U.S. Conference of Mayors, since September 11 cities have invested almost $3 billion in added security equipment, software, and training. As of this date, with the exceptions of New York and Washington, DC, which suffered so grievously on September 11, not one city has received a single dime to cover these additional costs.

Some emergency funding—about $1.1 billion—has been dispersed to the States, and that helps, but that does not answer the need that our firefighters, police officers, and emergency responders have.

I think it is clear, if we are going to be debating this Department, let us talk about the real needs that are out there. We have to be sure we follow the clear example that has been set by communities in trying to shift funds to meet our emergency needs. We have to help them shoulder these additional burdens. Clearly, the Federal, State, and local governments are at partnership in preparing, in being responsible, and then finally in responding. But if they do not have the resources, they cannot do the job.

So as we debate this Department, let us join with the people on our front lines who understand what they really need—groups such as the U.S. Conference of Mayors, the National League of Cities, and the National Association of Counties. Let us support direct Federal funding to local communities. Let us do it in the form of a community development block grant. Let us follow the money where it needs to go.

From my perspective, it is imperative we debate resources, not just reorganization. It would be a cruel deception to pass something called Homeland Security Department reorganization. This alone is all we know is going to be done is to make everyone—sometimes without success—understand and try to get focused and to be effective, and not provide the dollars that our frontline defenders need.

I ask unanimous consent for 2 additional minutes.

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

Mrs. CLINTON. This is compounded because the administration’s budget calls for eliminating money that would go to our firefighters, and local law enforcement: eliminating more than $500 million from the COPS program; eliminating entirely Federal funding for hiring new so-called COPS officers; eliminating and cutting other essential programs such as the local law enforcement block grant. This makes no sense to me.

It is fine to have this abstract, theoretical, philosophical, even constitutional debate, as important as it is—and I believe with all my heart it is a critical debate—but let us not kid ourselves: If we do not get resources where it counts, we are not going to be better prepared, we are not going to be better defended. I hope as we debate homeland defense, we also recognize the obligation we owe to those men and women who would answer the call today when it is sent out.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank Mrs. Gorton. I thank the distinguished Senator from New York, for her very appropriate, meaningful, and forceful remarks in connection with this matter and in connection with other matters she has addressed. And I thank Senator BIVENS, the chairman of the committee which has jurisdiction over transportation, the chairman of the appropriations subcommittee which has jurisdiction over the State, Justice, and Commerce Departments and other agencies; and thank Senator RIEZER for his excellent presentation.

This time is going on my time, which is all right. I am prepared to yield to the distinguished senior Senator from Washington, Appropriations Committee and who presides over the Transportation Subcommittee of that committee with a high degree of dignity and poise, and someone who always brings to the committee’s attention and to the Senate’s attention the length and breadth of her great knowledge that she acquires through the holding of hearings, through the study she gives to the budget requests that come before the committee. I yield 15 minutes to the Senator.

The PRESIDING OFFICER (Mr. JOHNSON). The Senator from Washington.

Mrs. MURRAY. Mr. President, I thank the Senator from West Virginia for his leadership on this issue and for yielding me the time today.

On June 6, President Bush addressed the American public, informing the public he had changed his mind. After months of rejecting just such a proposal, he now saw the benefit of organizing, sometimes without success.

We are moving forward, and we are making America more secure. The Senate has followed a deliberate process, and the leadership of Senator BYRD has been critical to this endeavor. He has made sure that we move forward responsibly to meet the new challenges facing our Nation. But let’s face it, it takes a while to get even the simple things right. I have been working with the Transportation Subcommittee for months on airline security, and even the smallest things have taken a while to work out.

Look at what we face at our northern border. It took many months and we had to put a lot of pressure on this administration just to get the National Guard deployed at the northern border to fill the gaping holes in our border security left by years of negligence. It then took many more weeks to get our National Guard properly armed. Securing our border is essential, but so is ensuring the efficient flow of people, goods, and services across our border with our friends in Canada. Canada is our Nation’s largest trading partner. Many millions of people in both countries depend on that trade for their livelihoods. If we do the wrong thing, the loss of jobs in our border communities will be devastating.

How will the Department of Homeland Security, environment, ensure that President Bush balances the complexity of those competing needs of the American people? We do not know. We are supposed to trust this administration.

We need to be responsive to the President’s request. We need to give this and future administrations the tools they need to better secure America. However, we cannot sacrifice the critical safety work of the Coast Guard for the incomplete plan the President’s administration drew up in the basement of the White House.

I rise today because I am deeply concerned that in our rush to do something about homeland security, we have overlooked the fact it will have on the safety and security of all Americans. Frankly, given what I have seen so far, I have very real reasons for concern. Of course, I believe, like all my colleagues, that we need to do everything we can to make sure our Government and our military can meet the challenges since September 11. We have to think about the resources and addressing those challenges.

Those who want to harm us will look for new ways to exploit our weaknesses. We have to do better. The world has changed. We must adapt. But we must balance the needs of our country.

In my role as chairman of the Appropriations Transportation Subcommittee, I have worked very hard to provide the resources to meet our needs at our borders, at our seaports, airports, and throughout our Nation’s transportation infrastructure. Often, that has meant pushing this administration and Congress to provide the resources necessary funding sometimes without success.

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Now the administration wants to rush through a homeland security bill which was drawn up by a handful of White House aides. It is the largest Government reorganization since 1947. Look at what has happened in the Homeland Security Committee since its inception and their attack on the fiscal base. The standing committee looked at the proposal and saw major problems. The House Transportation and Infrastructure Subcommittee unanimously voted to keep the Coast Guard out of that new Department. Based on their expertise and their research, the standing committee saw the clear need to maintain the Coast Guard outside of the new Department.

What happened? The select committee ignored that recommendation and put a rubber stamp on the President’s original proposal. In fact, several times the standing committees made constructive improvements to bills, only to see their recommendations rejected by the select committee. The President wants to rush this proposal through Congress. Anyone who raises a legitimate question is immediately derided as “trying to re-serve turf.”

This is not about turf. It is about safety. It is about a young Coast Guardsmen who climbed aboard foreign vessels in the open seas, not knowing what they may find. It is about TSA security agents who are trying to make sure that passengers attempting to board commercial planes pose no security threat. I am proud to work to try to provide them with some job security just as they work hard to protect our Nation’s security.

These are real questions that need to be answered. This afternoon, I raise some of those questions because there is a lot at stake for the people I represent and for every American. I want to make sure we do this right. So far, I have not gotten the answers I need. I have concerns for critical jobs we have not yet figured out how to fulfill our traditional missions and the new security missions at the same time. If we combined all these various agencies into one massive Department with a primary mission of homeland security, how are we going to meet the traditional needs across the board?

Let’s look at the Coast Guard, just one agency. Since September 11, the Coast Guard has shifted resources away from operations focused on law enforcement, inspection, and service missions away from homeland security. That is an appropriate response, but it comes at a cost. Unfortunately, it means the Coast Guard is spending less time interdicting drugs and illegal migrants, enforcing fishery and marine safety laws, and protecting our coastal environment.

But the traditional missions have not disappeared. We still need the Coast Guard to keep drugs and the illegal migrants off our shores. We need them to protect our environment. And we need them to protect the lives of our fishermen and the integrity of our fishing grounds. Frankly, even without the new security needs, we have a long way to go to meet even those basic missions.

I am concerned we are rushing into a new organization that could compromise our ability to meet all the challenges we are facing. What will be the impact when the new Department of Homeland Security to protecting our marine environment or enforcing our fisheries laws or conducting search and rescue operations? If the administration continues to play budget games and undermine a budget, as it has so far with the TSA, will the scarce dollars go only to security and not to traditional missions?

Right now, we cannot even get the basic facts. I would like to know how much of the current Coast Guard budget is going toward homeland security. On July 9, the Coast Guard Commandant said 40 percent of the Coast Guard’s operating budget goes to the missions of the new Department. A few weeks later, on July 30, the Commandant of the Coast Guard said 40 percent of the Coast Guard’s budget went to homeland security. That is a difference of at least $350 million. That number matters because the boats and resources used for homeland defense are often the same vessels, crew, and equipment used for search and rescue and other missions.

I am not raising this to criticize Admiral Collins. He is doing an excellent job. I work closely with him. But it shows how difficult it is to get even the most basic information, as we look at this new Department. The answers matter because the vast majority of Americans live in coastal States or along the Great Lakes or inland waterways, and every American is impacted when the Coast Guard slows down its work stopping illegal drugs. To include the Coast Guard in the new Department will impact the lives of millions of people. I think we need to explore these questions closely. Simply put, we have not done a good job meeting our traditional missions and security missions at the same time. I would like to know how one massive Department, focused primarily on security, will help us meet the needs out there.

I am very concerned about accountability and authority over everything from the staff of the new Department to its budget. The administration has asked for unprecedented power and control over this proposed Department. The need for legal safeguards for the power over workers really trouble me. The President wants changes in the personnel rules so he can have flexibility. Is the President suggesting that today’s unionized border agents are not doing an adequate job or that today’s unionized Customs officials are not responding to new mission requirements in a timely manner? If that is what he is suggesting, then he is wrong.

I have been on the border. I have met with the Border Patrol and Customs professionals who are our sons and daughters, they are our neighbors, they are our friends, they are our husbands, and they are our wives. They serve the American people selflessly, often jeopardizing their own health and safety. I do not think those who serve in the Department of Homeland Security should be second-class citizens, given a lower level of rights and respect.

In addition to dramatic new control over workers, the administration wants the power to move the money around without congressional input. Let me tell you, given what I have seen so far, this is pretty scary news for families in Washington State. Right now, the United States has a problem. We can fight to make sure the needs in my State are being met. As elected Members of Congress, we know the needs in our communities and we are accountable to our voters. But the administration now wants accountants in the Office of Management and Budget to decide what is important to the people of my home State of Washington. If that happens, my constituents will lose out at a cost to their safety and security.

Let’s just look at what happened with the supplemental billions bill. Under the leadership of Chairman Byrd, the Appropriations Committee held unprecedented and comprehensive hearings on how to best meet our obligations to the American people. We spent countless hours hearing from national and local experts. We passed the funding to meet the needs before us. Congress passed that funding, but then the President eliminated more than $5 billion of it. With a wave of his hand, over the August break, the President eliminated funding that we here in Congress considered critical, after many hours of hearings, to protecting the American public.

He eliminated $11 million from Coast Guard operations. The President eliminated, with a wave of his hand, $362 million for critical procurement, including funding for coastal patrol boats for our security. The President eliminated $150 million for our Nation’s airports, as they are working so hard to meet the December deadline for installing explosive detection devices. And the President eliminated $480 million from its already shortchanged Transportation and Security Administration.

The Office of Management and Budget has not been a good advocate for the people of my home State of Washington. Given that record, I am very reluctant to give OMB dramatic new power over the safety and security of my constituents. The OMB originally blocked the Coast Guard’s desperately needed improvements to the marine 911 system. When they brought it to their attention, the OMB changed its policy, but under the President’s plan there is no way for us in Congress to address the arbitrary decision made by the OMB. Granting the President dramatic new power is a counterproductive exercise. It has real consequences for the people I represent. I take that responsibility very seriously.
If we are not going to figure out how all the functions are going to be performed and we can’t tie money to functions, this reorganization may consign many functions to death, as we saw when the President eliminated $5.1 billion in homeland security funding.

In order to better define the missions of the various agencies, and we need to make sure they continue to fulfill their traditional missions. It is essential for our economic security and our physical safety. The House bill does not strike a balance, and we have to do better. We need to really understand the consequences of this proposal and ensure that it will actually increase our homeland security and not jeopardize our citizens in other ways.

I believe this has not been thought out enough and we should certainly not race to put a rubberstamp on such an incomplete proposal. I think every Senator feels pressure to do something, anything about homeland security. But it is much more important to do the right thing.

I look forward to having a good debate about the new Department of Homeland Security. There are a lot of serious questions, and I look forward to hearing some serious answers.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD. Mr. President, I thank the very distinguished Senator who is a member of the Senate Appropriations Committee, as I have already indicated, for her exceedingly incisive remarks which reflect the high dedication that this Senator always brings to her work. I personally appreciate it, as the chairman of the committee. She is a fine member of that committee, and she has lived up to those—and far better—encomiums than I have been able to deliver today.

How much time does the distinguished senior Senator from New York wish to have?

Mr. SCHUMER. Will 15 minutes be all right?

Mr. BYRD. Let’s try 15 minutes and hope that will do the job.

Mr. SCHUMER. I thank the Senator. Before my friend from Washington State leaves the floor, I want to thank him for her leadership on this issue. I particularly thank our distinguished leader, the senior Senator from West Virginia, for his leadership on this issue.

The Senate, at certain times, has an important role—at all times it has important roles, but there is an important role that it has now, and that is for the Senate to be, of course, what one of the Founding Fathers called the cooling saucer. If there was ever a time where there was a need for that cooling saucer that the Senate should be and has been through its history in its finest moments, it is now. That is because we face a whole new challenge in these United States, a challenge that says every one of our citizens is on the front line.

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Mr. SCHUMER. Will 15 minutes be all right?

Mr. BYRD. Let’s try 15 minutes and hope that will do the job.

Mr. SCHUMER. I thank the Senator. Before my friend from Washington State leaves the floor, I want to thank her for her leadership on this issue. I particularly thank our distinguished leader, the senior Senator from West Virginia, for his leadership on this issue.

The Senate, at certain times, has an important role—at all times it has important roles, but there is an important role that it has now, and that is for the Senate to be, of course, what one of the Founding Fathers called the cooling saucer. If there was ever a time where there was a need for that cooling saucer that the Senate should be and has been through its history in its finest moments, it is now. That is because we face a whole new challenge in these United States, a challenge that says every one of our citizens is on the front line.

This new war on terrorism means that small groups of bad people can do real damage in our homeland. Until 9/11, this was something that was unknown to us. There were battlefronts and there was the homefront, but now the homeland is the battlefield, and the battlefront is the homefront and that demands dramatic and significant changes in our Government.

If the senior Senator from West Virginia were probably would have just rolled over and we would not have had the kind of debate we are having.

He knows his history, whether it be of the Roman Senate or of the U.S. Senate or all three. I was Senator in between. I was going to ask him—because my family and I just visited Venice—about the Venetian Senate, to see how that compared. I didn’t even know Venice had a Senate until I visited, but we still get here his lesson at another time. We have more pressing issues now.

The Senate from West Virginia is bringing the Senate to its best. He is saying it is not helpful, he is not saying no. He is simply saying not to rush on such a major piece of legislation that is going to involve the most dramatic reorganization of the Government in history, on a major piece of legislation that is called on to defend us in brand-new ways.

We no longer just have the battlefront, but we have the homefront. My citizens from New York believe they are on the battlefront. They walk into their subway car, and they worry what might happen. A plane flies overhead and they worry what might happen. They look at a reservoir or powerplant and they worry what might happen. This is not a time to rush things through because the very safety of our citizens is at stake.

When government was founded, when men and women got off their knees and founded government, they had two purposes: to protect foreign invasion and keep the domestic tranquility. For the first time, those two issues were combined.

A lengthy and worthy debate of the Senate is what is called for and the senior Senator from West Virginia, Mr. Byrd, whom we all admire so, has summoned the best in us and asked us to do that. I am proud to get up here and ask for that.

I would also like to praise my good friend from Connecticut. He has put together an excellent piece of legislation that talks about the Senate’s prerogatives, not just today but as we go forward. It says a single man, albeit elected, is the only person elected by all the people—the only person elected by all the people, so far, the President of the United States—should have some power. But this is not what the Founding Fathers intended. He should not be allowed to take one from one agency to another. It should not be in his power to move employees from one place to another without the approval of the Congress.

I regret to say that the House moved all too quickly. I am glad Senator Lieberman and his committee have had a chance to improve on the House legislation, and to improve on it in a very significant way in major areas that the Senator from Connecticut has outlined.

I fear that if we simply rearrange the agencies and run away from spending the extra dollars we have to spend to make our homeland more secure, we will not have done the full job. That is why I feel so strongly about having a complete debate.

Let me mention a few areas where I have had some expertise in that substantive area. No matter what you do about rearranging and putting a department here and a department there, we will still not be secure unless we delve into those departments.

One which I am going to touch on briefly is a computer system throughout the Justice Department. Recognizing that we are not reorganizing the FBI or the CIA, let me focus on the areas where we are, such as the INS. Our computer systems are totally backward. We had a hearing in my Judiciary subcommittee which has oversight over the FBI where we showed that the computer systems of the FBI cannot search for two words. They can search for the word “flight” and for the word “school,” but they cannot search for the words “flight school.” Something is dramatically the matter. The INS computers—we are moving the INS around—are just as bad, and maybe worse. Until we update those computers, all sorts of bad people with bad intentions will be able to get into this country even though another part of the Government knows they are bad. We should be addressing that problem when we are doing a homeland security bill.

Then let me talk about the issue that is of greatest concern to me, which is, frankly, the issue that seems to be of greatest concern to our President, and rightfully so. To me, the worst danger I can conceive of that could befall us in this war on terrorism is that a terrorist group could smuggle a nuclear weapon, or a few, into this country and detonate them. As horrible as 9/11 was, as aching as my city and State are, it would pale before the damage of a nuclear explosion in downtown New York, downtown Boston, downtown Houston, or downtown Los Angeles, San Francisco, Boston, Kansas City, or anywhere else.
Yet right now, if, God forbid, a terrorist group should get hold of such a nuclear weapon either by purchasing it from the few powers that have them that we are worried about—Pakistan, Russia, and, down the road, Iraq, if they develop enough U-235 that they could be smuggled into this country, say, on one of the large containers that are unloaded from our ships or brought through the borders—Canadian and Mexican—on trucks, with virtually no detection. What a surprising thought: that no one for years would deliver such a bomb or that a plane would deliver such a bomb but, rather, that it would come across our border at ground or water level. That is a frightening thought.

The good news is we can do something about it. The good news, when you talk to the scientists at Brookhaven National Lab out on Long Island or Argonne Lab in the suburbs of Chicago, is that we could develop a device that could at a distance of 40 or 50 feet detect nuclear weapons, if they, God forbid, should be smuggled into this country, because nuclear radioactivity involves gamma rays which can pierce all but lead. To deal with surrounding levels of lead, you can just use an x-ray detection device. The x-ray would detect the lead. The problem is, they have the technology to do this, but it is only done in lab conditions in cyclotrons and atom smashers. We could go through every container that comes into America. Right now, the only way you can detect radiation is through a Geiger counter. Unfortunately, a Geiger counter has to be no more than 40 or 50 crates in each container; there are hundreds of containers on these ships and thousands that come across by truck—without bringing commerce to a standstill.

The alternative is to develop a device that would do this 40 or 50 feet away, and then install it on every crane that either loads or unloads a container bound for the United States, or that is here in the United States, and put it on every toll booth for a truck that goes over the Canadian border or Mexican border. The cost of developing this device is probably about $500 million, and then probably another $1 billion to install it.

The good senior Senator from Virginia, Mr. WARNER—obviously not of my party—and I have legislation that would begin to do this, that would start the research without bringing commerce to a standstill.

For the love of me, why can't we get support for this? Why isn't the White House supporting this? We are very worried about Iraq producing nuclear weapons. We should be. But why aren't we making homeland security a priority, the delivery of those nuclear weapons? Maybe it won't be Iraq. Maybe it will be Iran. Maybe it will be North Korea.

Maybe it will be someone else we can't even think about.

I think we should be able to debate that proposal on the floor of this Senate—not a year from now but now. I feel the urgency of this. The safety of our citizens is at stake. If it takes an extra day or two, so be it. That is the role of the Senate.

Why doesn't the White House get behind this kind of proposal? For some reason, they don't think it is because they don't want to spend the money, as amplified by the recent almost virtual pocket veto of the $5 billion that was part of the appropriations bill. But I will bet if you ask each American if they would spend $1 billion to prevent nuclear weapons from being smuggled into our country and the worst kind of catastrophe imaginable to befall us, they would all say yes. If asked, my party and the President would say yes.

That is the kind of thing we are trying to do here—not be obstructionists. The Senator from West Virginia, as the leader of our band here, has made it clear he doesn't want to be an obstructionist. The Senator from Connecticut has made it clear he believes we have to do things to improve the legislation.

I ask that we continue to debate this legislation. I understand we have time constraints. Those are real. I understand that we can't debate this bill for 3 or 4 months right now. But we don't have to have an artificial deadline that it must be finished by next week. If we think that deadline is needed, let's stay in session, go in early, and stay in late, and get 2 or 3 major amendments dealt with. I am confident my colleagues from Connecticut and Tennessee will deal with those amendments in a fair way. They are not trying to say it is their way or no way. In fact, that is why we have bills, and that is why we have them debated. But the reorganization of Government agencies is an important issue. I agree with it. I am supportive of it. But I do not think it is the only issue facing homeland security.

And for our President—and I respect him and repeat that every New Yorker owes him a debt of gratitude for being so helpful in the $21 billion this Senate so generously voted for and the House voted for—but when he says the Senate is getting in the way, that the Senate better pass his bill his way, not the way I would want or the Senator from Connecticut would want or, in fact, the way the Senator from West Virginia would want, he is not being fair, not just to the Senate but to the American people because we do have a crisis. It is a slow crisis; it is an insidious crisis.

Unfortunately, for politicians, the incentive is to make their legislation look as though we all love to allocate money, build a school, and get up there and say: Here is a school. But what is our goal with homeland security? What do we want to happen? Nothing. We want to stop theьян happening. That provides negative incentives or perverse incentives for the political process. That is the real worry.

If we were to put $3 billion into the northern border, if we were to put $1 billion into the INS computer system, if we were to spend $1 billion to——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SCHUMER. Mr. President, I ask unanimous consent for 30 additional seconds to finish my thought.

Mr. BYRD. Mr. President, I yield the Senator 1 additional minute.

Mr. SCHUMER. Mr. President, I thank the Senator. If we were to spend $1 billion on nuclear weapons, I think it would be worth it. I think the American people would be for us. I may be wrong, but at least I would like the chance to debate and vote on issues I consider to be urgent, pressing needs for my constituency in my State that I love so, and for the people of the United States for the country I love so.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I ask unanimous consent that the distinguished Senator from California, Mrs. BOXER, be recognized at 5 p.m. for a period of 10 minutes, out of my time.

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

Mr. BYRD. Mr. President, the President wants the Congress to grant the administration the authority to write its own civil service system, regardless of what has been written in current law, that would apply only to Federal workers within a new Department of Homeland Security.

As I have expressed before on this floor, I am concerned that these changes mask the administration's larger hidden agenda, an agenda that would have the Federal Government function more like a big corporation. We all certainly ought to be concerned about that idea, given our recent experience with the inner workings of big corporations.

I come, Mr. President, from the coalfields of southern West Virginia, not from a corporate boardroom. So I approach this with a different perspective than the administration, quite obviously. Before I would ever vote to approve a homeland security measure, I would want to know more about the working conditions of its prospective employees. Will the employees who currently enjoy collective bargaining rights continue to enjoy those same rights at the new Department? Will these employees have complete whistleblower protections?

Before I vote to approve a homeland security measure, I want to know about the pay system. How will the pay system from the old departments be merged into the new Department? How would the special pay rates, allowances, and pay differentials be recognized at 5 p.m. for the new Department? How will the special pay rates, already in existence at the separate
agencies, coordinate or be replaced by a pay system if one were to be implemented? What will be the hiring procedures? What will be the firing procedures in this vast new order?

President Bush and the new Department of Homeland Security, established with considerable flexibility in its personnel system, is an especially ambitious proposal. I am not here to say our civil service system is perfect, but I do say that there are many improvements that can be made. As a rule of thumb, it is important to remember that Federal Government reorganizations, and the rights of Federal workers as a justification for personnel procedures and remedies. What about the new Transportation Safety Administration, John W. McGog, only 6 months after the agency was established. Creating an effective Department of Homeland Security and retaining the rights of Federal workers are not mutually exclusive.

I am not here to say our civil service system is perfect, but I do say that the security of the United States and the rights of Federal workers as a bargaining chip to further a political agenda is simply unacceptable. What an irony that this administration is using an attack by terrorists who have no respect for the rule of law or the rights of workers as a justification for us not to respect our own laws or the rights of workers.

So I am grateful for this opportunity to speak on this issue. I am grateful for the opportunity for the Senate to address the issue. I ask the distinguished Senator from Wyoming if he wishes to speak.

Mr. THOMAS. I do.

Mr. BYRD. I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.
Mr. THOMAS. Mr. President, I want to comment for a few minutes on the subject that is before the Senate. I am not a member of the committee. I have not spent as much time on it as have others. But I think there are probably different things that we have heard the same views now for quite a long time. Perhaps it would be well to talk a little bit about some of the other points of view that might be available and might be discussed later. I understand this is not actually on the issue but, rather, on a motion to proceed thereto. It is a very important issue, of course.

Nothing could be more important than homeland security. We have talked about it and we continue to talk about it at great length. The fact is, it is a high priority, certainly, for all of us to protect the homeland. In order to do that, we need to have a homeland security department with the most effective management that we can have, the most effective employees, and a system that is as effective as possible. So we support plans that protect workers through civil rights, equal opportunity guarantees, whistleblower protections, and all those fundamental rights which will be kept. Accountability is absolutely necessary, and we need to be able to protect the people who are going to face issues they have never before faced.

The bill now before us will compromise national security and place more importance, frankly, on bureaucracy and bureaucratic security than on national security. That really is not the issue here.

This is not a new issue. The President has the authority in every other agency, but there seems to be an inclination to be able to roll it back for the Department of Homeland Security. Under this bill, the President would have more flexibility to make decisions—or should have—for reasons of national security, and for HUD, for the Department of Education, he would have more than he does under this proposal. That seems strange to me. This is a proposal that deals with those kinds of emergencies—the things that are changeable—and flexibility needs to be there.

It seems to me that without some basic flexibility to manage, freedom to hire the right people, fire the wrong people, that national security would be at risk and not be secure. Here are some examples. The Senate bill prevents the President from holding services accountable. Last month, two America West pilots showed up to work drunk. They showed up on Monday and were fired on Tuesday. If they had been INS personnel, it would have taken 18 months—540 days—to be held accountable. These are the kinds of issues with which we have to deal. This is not the normal effort. There is a different limit that the President does need to have sufficient flexibility. After all, it is the President and the people in the executive branch who are going to do the job. What we do is give them the opportunity and the flexibility to do it.

Certainly there are controls. These controls will not be gone. But we have to provide the opportunity to the personnel responsible for carrying out this role. It is easy to sit here and talk about all the restraints we should have because we do not have to do that job; someone else does.

The Senate bill does not provide the new Department budget transfer authority. Without transfer authority, if intelligence indicated terrorists were developing a new type of biological weapon, the Secretary would be unable to transfer funds from one division to another to acquire additional medicines or vaccines or improve detection equipment. It does not provide the flexibility to attract, hire, and reward good performance or hold poor performers accountable. That is what we need to do in all of Government, but most especially in an agency where they are going to face issues they have never before faced.

The Office of Personnel Management reports it can take up to 5 months or more to hire a new Federal employee, and 18 months to terminate. If one is not getting the job done, is this what we want in homeland defense? I do not think so.

The bill does not provide for reorganization authority. The Senate bill will prevent the new Secretary from consolidating inspection work of the Customs Service, Border Patrol, and Agriculture inspectors at our ports of entry, leaving the current seams between these activities. Frankly, that has been the weakness in our system since September 11—there is information here, there is information there, and we need to bring it together in a seamless way, and that is one of the strengths and one of the purposes of this whole operation. Yet this bill will not allow that to happen.

It will strip the President of existing authority to act to preserve national security. The Senate would take away the President’s existing authority to exempt agencies in the new Department of collective bargaining requirements where national security requires it. Ever since President Jimmy Carter used this important national security authority in time of war—we are in a war of terrorism. To weaken the President’s authority seems to be contradictory of where we are or where we need to go.

Certainly, there needs to be great discussion, and I admire the emphasis and effort that has been made. I certainly respect the judgment everyone brings to this Chamber, but there are differences of view, and they ought to be reflected, and they will be reflected, in the bill. We are getting the impression today, however, that there is nothing the way the President has requested it is all wrong, and that cannot be the case. There has to be a balance, and I am sure there will be an effort to strike a balance.

Of course, we have to recognize rules that do protect Federal workers. And, indeed, there should be rules. They represent the best in America, and they deserve strong civil service protections that do exist. The President said the employees of the new Department will continue to be protected by important civil service laws, rules, and regulations that protect them against discrimination on the basis of age, disability, race, color, or religion. Those protections will be there, protected by the Fair Labor Standards Act, the Equal Employment Opportunity Commission, the Social Security Act, the Civil Rights Act, the Hatch Act, Government ethical standards, and they should continue, and indeed they will.

I know this is a very important issue. I know also that many Senators have worked very hard and are seeking to do what they believe is best to get together this homeland defense bill. But I do believe there is some recognition that this is different, that we are asking the executive branch to carry out a job that is unusual in a different time. It has to have some flexibility so that the decisions to accomplish what it is all about can be made. That is what the President and those who have put together this original proposition are for.

A letter has been written by the former Governor of Pennsylvania that lays out the need for these flexibilities very persuasively. I happen to agree. Certainly there are limits to what we want to do, but we do want to make this a successful effort and give those who are in charge of handling it the flexibility to make it work. I hope we will balance this bill.

Mr. President, I appreciate the time. I yield the floor.

The PRESIDING OFFICER (Mr. MILLER). The Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair. Mr. President, I know Senator BOXER is expected around 5. I would like to speak for a few moments until then.

I thank my colleague from Wyoming for his statement. To pick up on what he said, that one might get the impression listening to the debate that there was not anything good in this bill—specifically in the President’s proposal on homeland security—there is a natural way, when amendments are filed, to focus on where we disagree, where the amendment disagrees with the underlying bill. But there is a big iceberg under the surface on which there seems to be a great deal of agreement. On that there is great agreement. In fact, I believe, though it is hard to quantify this, that more than 90 percent of the bill the Governmental Affairs Committee approved in late July is exactly the same as what President Bush desires. It is now the will of the Democratic majority on the committee adopted by a 9-to-7 vote in May which, in turn, is similar to the proposal of
the commission headed by our colleagues, former Senators Gary Hart and Warren Rudman.

There is enormous agreement on what I would say are the guts of this bill and the guts of a new Department of Homeland Security: Coordinate the disparate agencies that are now disorganized, overlapping, creating gaps and vulnerabilities that terrorists took advantage of on September 11 and will again unless we close those gaps and eliminate those vulnerabilities. We cannot let that happen. Border security agencies are being brought together; emergency response is being centralized, working much more closely with State and local officials; infrastructure protection; intelligence, most important, to create that one place where all the dots come together so that we can see the terrorist plots before they are carried out and stop them; science and technology. Let’s use the brain power, the innovation, as the Defense Department has, to make us as successful in the battle to defend the American people at home as those technological innovations have made us abroad in the fight in pursuit of our principles and our national interest.

Most Americans enjoy broad bipartisan support. There are a few parts of the proposal right at the center which are in dispute. I understand the President does not support our proposal for a strong intelligence division in the Department. It is critically important to break down the barriers that existed and still exist, to some degree, between the FBI, the CIA, local law enforcement, and State and local law enforcement as opposed to Federal law enforcement; bring all those dots together on one table so they can see the outline of what is coming and stop it before it happens.

There is dispute from the White House on our national office to combat terrorism—want the nomination of the director of that office to be approved by the Senate. So these are real disputes related to homeland security.

The dispute that is going on now and the question of civil service rights is not relevant. I hate to see it stand as an obstacle in the path to adopting legislation creating a Department of Homeland Security which, as I say, will give the President at least 90 percent of the responsibilities in this new Department. In fact, far from limiting the authority of the new Secretary of Homeland Security with regard to the management flexibility that that Secretary has, our legislation protects the existing flexibility in law.

The new Secretary would be able to remove employees for poor performance, transfer employees as needed, reward and give bonuses to those who perform ably. In fact, we add by this legislation to the existing management flexibility that the new Secretary would have because of a bipartisan amendment worked on very hard and thoughtfully by Senator Voinovich and Senator Akaka which would give the President and the Secretary of Homeland Security new powers to reward employees, attract top talent and re-shape the workforce. It is quite an advance.

So far from limiting the management flexibility of the new Secretary, we are increasing it beyond what any other Secretary has today, and we give the administration an open invitation, specifically in the letter in regard to the legislation we are proposing, by asking the Secretary to come back every 6 months and to offer legislative recommendations.

We specifically enumerate this again on personnel management, that emerges from the experience the Secretary has over those 6 months.

We have to remember that the civil service system evolved for a reason. It was designed to create some accountability, from favoritism, from patronage, from politicization, by creating a transparent framework for a merit-based personnel system. Obviously, it is not perfect. That is why we included a provision that we reported out of our committee. But to essentially discard it, as the President’s proposal would do, to give the Secretary and the President effectively unlimited authority to rewrite the civil service rules, would be a real step backward.

A lot of this has to do with accountability. Accountability is an important goal in our public life and our public service. Where are we from the place where they work now—28 different agencies and offices, the Customs Service, the Coast Guard, the Transportation Security Agency, FEMA—and they are brought into this new Department. I think most managers in the private sector would want to do it in a way that would encourage those employees to believe we are all on the same team and we expect the most from them, we are going to work with them.

By pulling away these civil service protections, I think we are going to have exactly the opposite effect. At a time when the average worker would naturally be anxious about a change of office or status, we are going to hang a sword over their heads that says no more civil service protection; they will lose their rights and, at worst, their job without the right to protest and seek redress.

Responding to the Senator from Wyoming, I say he is right, that some of our colleagues have said enough positively either about the President’s proposal particularly, because it is emerging in the form that the committee will bring to the floor.

There are these disagreements. I hope we can work them out. I hope where they are fundamental, we can put them off for 6 months and do the urgent work, which is to get this bill done.

Let me say a word while I am speaking about items in dispute that I hope can be put off. This is the question of collective bargaining. I must say I have learned a lot about this. I have not been involved in some of these questions for a while, and I learned that collective bargaining rights were extended to Federal employees for the first time in 1962 by Executive order of President Kennedy and then were embraced in statute in 1978 under President Carter. In both the Executive order and the statute, there was a provision that reflected special concerns during the cold war which said that if the President determined that union membership in a given agency or office was inconsistent with national security, the President could remove the right to collectively bargain without giving a reason other than to say it was inconsistent with national security, without any right of review or appeal by the employees who were therefore losing a basic right, which is to join a union.

I do point out that Federal employees can neither strike nor in most cases do they negotiate for their salaries, which are usually set by statute.

I am going to stop for a moment and ask my friend and colleague from Pennsylvania whether he would like to address the Senate on the motion before us.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. Specter. I had not expected to address the Senate on this issue, but I never turn down an invitation.

Mr. Lieberman. Should I rescind my offer?

Mr. Specter. The Senator could, but not after it has been accepted.

Mr. Lieberman. Go right ahead. We both learned that at the same law school.

Mr. Specter. Senator Lieberman and I went to the same law school, and I think he knows one can rescind an offer, but not after it is accepted. At that point, it is too late.

Mr. Lieberman. I am pleased to have the Senator have the floor.

Mr. Specter. I am glad to see the legislation on homeland security on the floor. This is historic legislation. As the distinguished Senator from Connecticut has said, this is maybe the most important bill that will come out of his committee during his tenure. It is my hope we can move through the bill, go to conference, and have legislation on the President’s desk which the President can accept.

One of the key points at issue is the way the analysis of intelligence is going to be structured, and it is my hope that we will be able to take a step at this time on reforms which have long been in the making.

When I chaired the Intelligence Committee in the 104th Congress, I proposed legislation which would have brought under one umbrella the CIA and all of the intelligence agencies. There is on the President’s desk now a similar proposal. It would be acceptable to this Senator to have that umbrella control really anywhere, but the
turf wars which are well-known to be endemic and epidemic in this city have prevented that kind of umbrella or overview.

The proposal which I think is indispensable is not to change the operation of the FBI or the Central Intelligence Agency or National Security, but when it comes to analysis, to bring it all together so that the analysts are under one umbrella. I believe that there had been a umbrella prior to September 11, 2001, there is a good chance that 9/11 could have been prevented.

We know by hindsight about the FBI report out of Phoenix, and about the young man who had Osama bin Laden's picture on his wall while studying flight training, as well as other indicia of connections to Osama bin Laden. We know about the two at Kuala Lumpur, known to the CIA, but not communicated to the FBI or Immigration and Naturalization Service in a timely way. We know information from the National Security Agency on September 10, a threat, that was not translated until September 12. There are other factors at issue here where we could have connected the dots, as the metaphor is used.

This bill is a very substantial undertaking. I discussed the matter on a number of occasions with the distinguished Senator from Tennessee who raises a valid consideration that this bill may be going too far in the sense that it takes in a great deal of territory. It does that. However, the question is, When will it be done, if not now?

The business of consolidating Federal agencies is a Herculean task facing all sorts of obstacles, and it is only the event of 9/11 and the threat of another 9/11 which is a motivating factor to make these enormous changes.

Earlier today I heard the Senator from Tennessee say next year would be time enough to study the intelligence agencies. There is one big problem with that: The Senator from Tennessee will not be here next year. We need to take advantage of his skill this year.

Perhaps as important as the skill of the Senator from Tennessee is the momentum which we have. I have offered to give him some tips on his new job. I saw a headline in the paper the other day, “Senator Thompson Demoted to District Attorney.” First of all, I do not know that it is a demotion because I have held that position. However, that is what the headline said, Senator Thompson demoted.

I was surfing on Sunday. It is hard to surf with Senator Thompson or Senator Lieberman, or both of them. Senator Thompson was in a heated exchange with former Secretary Eagleburger, and then the program was interrupted for some entertainment. I thought Secretary Eagleburger and Senator Thompson were entertaining. They put on a portion of this television show. I wonder how many ex-district attorneys in the Senate turned down that television contract before Senator Thompson got his way?

At any rate, Senator Thompson was sitting behind a big desk in a dimly lit room and two assistant district attorneys approach him, I could not get the gist of it entirely, but guess the thrust of it is that somebody was in the room was in favor of legalizing drugs. The comment was made: What about our war on drugs? This District Attorney Thompson said: We have to have a war on something in Congress for people to be elected.

It seemed a little cynical for him to turn on his colleagues even before he is on his new payroll. I trust the Ethics Committee would not let him be on the payroll yet, although he is doing those shows.

Back to a serious vein, this is the time to do it. I talked to Governor Ridge after a meeting he had with the President today. I have supplied him with language and I sent a copy of it to Senator Specter and to Senator Thompson. The President wants to be sure that the President has the authority to continue to work with the CIA as he always has. Absolutely, he should have that authority. He does not have nothing to do with nothing. There is nothing we can do in legislation that would change it. The change in the language was made to have the analysis groups under one umbrella, subject to the President’s direction to the contrary.

An earlier draft stated the reverse, that the President can direct all of these intelligence agencies to coordinate. You cannot wait for the President to make a direction. He is too busy to do it. The generalization has to be that they will be working together, subject to one umbrella, and they will be coordinating the analysis, but this must be made explicit in statute. If the President wants to change that, of course he can. I do not think he needs that authority in the statute, but I am pleased to eliminate any question about it. It is my hope we can find some common ground on that question.

Washington, DC, has a way of having matters slide if we do not strike while the iron is hot. However, when it cools off, it is extraordinarily difficult. It has been a long time and many efforts have been made to bring these agencies together. It is a limited juncture to call on the analytical sections to be under one umbrella.

Homeland security will do a lot in response to another 9/11, but if that happens, it is really a very sad situation. Ninety-nine percent of our effort needs to be made to prevent it. If we have to respond to another 9/11, we are in deep trouble. Maybe something even more serious may occur—not that 9/11 was not serious enough, but it may involve weapons of mass destruction. Who knows what it may involve. We have a very heavy responsibility to do everything we can to prevent it. When we look at what was known before, with the dots there, and the possibility of the gumption of Senator Thompson, that is what we have to work toward.

I have worked a lot with the principals on this issue. I had the opportunity to serve on the Governmental Affairs Committee. I know the work of Senator Thompson, who was chairman, and Senator Lieberman, who is now chairman. We have structured this to accommodate all of the competing interests.

I think it will probably be a long day before Senator Lieberman will make an extra invite for me to speak again. I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut, Senator Lieberman.

Senator Lieberman. I do not regret the acceptance by the Senator from Pennsylvania, and I thank him very much for his remarks. He went right to the heart of one of the most important debates we will have on the bill, which is how do we structure the intelligence department of this new Department to make sure that we never again look back, as we have now after September 11, and say these barriers to communication between the FBI, the CIA, a whole bunch of people, if those barriers had been broken, and all the information was in one place, we might well have been able to prevent September 11. We have to have it within our power to do that.

I understand some of the concerns of the White House, but I do think the phrasing that Senator Specter has talked about is just right. I hope he may play a role in bringing us all together on this. I thank him, also, for the fact that he was my lead cosponsor; I was his lead cosponsor in October of last year when we introduced the original version of the bill creating the Department of Homeland Security which, in fairness, was based in good measure on the recommendation of the Hart-Rudman Commission. I look forward to his active participation in this debate and the days ahead.

Under a previous order, I believe Senator Boxer was to be recognized next, with the time to be taken from Senator Bog tong.

The PRESIDING OFFICER. The Senator from California.

Mrs. Boxer. I thank Senator Lieberman for all his hard work on this bill, and Senator Thompson as well. I thank Senator Byrd because in his 50 years in Congress, he has seen a lot and he has raised some very important issues at which this Senate ought to look. I rise to say thank you to him and to make note that when Senator Lieberman first brought the concept of Homeland Security to the floor of this Congress, he was still a junior Senator from California, and this administration was not for that in any way, shape, or form.
It is my understanding not having been on the committee, to my sadness—maybe if I was, I would have had more to say in how this bill would come about—my understanding is that not one Republican voted for the first version of that bill in the committee itself.

So we see a real transition from something that was an idea which Senator Lieberman had, the Democrats supported, to one that has been embraced, with important differences that will come out on this floor. I want to talk to some of those, as well as some of my own concerns.

I have been in elected life now for 26 years—not as long as Senator Byrd, but long enough to know that reshuffling a structure doesn’t necessarily mean you are going to solve your problem. As a matter of fact, it could in many ways make people less accountable, hiding under more layers of bureaucracy. So I approach this debate with some trepidation. I do not basically say I am not so sure about this.

I think what Senator Byrd is trying to do here by speaking with some of us who have some of these problems with the bill is to try to see if we can let the Senate deliberation and shape the bill so that it does not become an unwieldy bureaucracy that will be not more accountable but less accountable.

We all know what brought us together as a country was what happened on September 11. We will always remember it, and we will commemorate it. But I agree with those who say we have to do this right. It would be a disservice to those who were so adversely impacted if we were to set some artificial deadline for restructuring of the Government, a restructuring which is so huge it does not become an unwieldy bureaucracy.

Think back to September 11, to the heroes of September 11. They were not anyone in this Chamber. They were not anyone in the back room writing this bill. They were working people. They were people who were afforded the protections of collective bargaining; yes, afforded the protections of union membership. They never looked at their watch and said: Oh, gee, I have been on the 74th floor of the World Trade Center, and now I have worked 8 hours and I am coming down.

I just think it is most unfortunate that the President would not take this opportunity to keep us together here, focused on protecting our magnificent country and the people who reside therein, and instead use it as an opportunity to get through some of the things he was unable to get through in other bills. It is very disturbing to me.

I think Senator Lieberman has shown tremendous leadership in standing strong for those protections. Again, the heroes of September 11 were union members. The heroes of September 11 never let us down. How do you create a new Department such as this and unfetter those employees who they need to be at their top performance level, where they need to have the best morale, where they need to believe they are not treated worse, certainly, than any other Federal employee?

There are other things Senator Lieberman did in this bill that I applaud. A weakening of the Freedom Of Information Act that is in the House bill—that would have been a mess for us. Many of our communities want to know what chemicals are polluting the water. Again, some in the House use this as a way to weaken that act and say: We cannot give out that information; the terrorists may get it. A mother of little children needs to know if there is arsenic in a plant, if there is a harmful pollutant at a plant. Therefore, I am very pleased that, with Senator Leahy’s help, where he was able to fix this, that is not a problem.

For the remainder of my remarks, I focus on the Federal Emergency Management Administration and a couple of other agencies that were just lifted and taken lock, stock, and barrel into this new, enormous creation called the Department of Homeland Security. In California, we suffer from every kind of natural disaster you can imagine, from earthquakes to fire, to flood, to drought, to pestilence. We see it all. Unfortunately, we are used to it.

People sometimes say to me: Senator, why do people want to stay in California? Every other month, you are having another crisis.

I guess you have to just be there to understand. You are living in an area that is God’s gift to the world. With that beauty come all these problems.

The bottom line of it is, we, unfortunately, have a terrible share of these disasters. Putting the Federal Emergency Management Administration, lock, stock, and barrel, into this new Department I just think is going to be a real problem for us. Why not just take those folks in the Department who would work on homeland security but leave the others in place?

It took many years to straighten out the problems of FEMA. I have gone through the worst of it. Under President Clinton and under James Lee Witt, we saw a tremendous uplifting of FEMA’s morale. They know what they are doing now. All of us, Democrats and Republicans, have benefited from that. Our people have benefited from that. Now we are moving this, lock, stock, and barrel. And I am very worried about accountability.

Others have spoken of the Coast Guard. I feel the same way about that. Search and rescue—last year, the Coast Guard saved 530 lives in California. I know how important that is to homeland security but the same thing should apply here. You do not have to lift the whole thing up, lock, stock, and barrel.

We also have the INS situation, where the immigration and naturalization services are very far behind.

The PRESIDING OFFICER. The Senator’s time has expired.

Mrs. BOXER. I ask for 2 additional minutes.

Mr. BYRD. Yield 2 additional minutes to the distinguished Senator from California.

Mrs. BOXER. I thank Senator Byrd.

Now that he is here, I can tell him how much I appreciate his raising the red flags.

The INS, backlogged with processing immigration—good people, kind people, family people. It seems to me, again, we should have done this in a little bit of a different way.

If we really want to do something for homeland security, I would rather see...
us spend the $5 billion that we passed in this Senate that spoke to the need of homeland security and aviation security. We need more machines to check bags for bombs. We know the things we need to do at our ports. We lack the infrastructure. Instead of spending time moving boards and lifting agencies from one desk to another, I would rather go back and send the President that $5 billion and say to him that we don’t understand why he refused to spend this money. If he is so concerned about homeland security, why did he say he wasn’t going to spend this? He said it was bad for the economy because of the deficit.

I was an economics major. One thing we know is that if the Government spends and invests in the needs of the people, such as homeland security, it is going to create thousands of jobs, and it would do something that is important. It doesn’t help the economy to sit on that money. Frankly, it does not help to have this energy or homeland security if you create a big bureaucracy and they have no place to even put these people. And, by the way, if they are just going to be changed in name only, it is very confusing to me why we are doing this.

From all of my years in public life, I think we could have done this in a very lean and mean way. We could have made this a Cabinet-level position, which most of us supported. If the President wanted it to happen, he could have just had it happen. We have people dispatched who report to Tom Ridge and to each of these agencies and start to bring back and forth to him what we need to do in those agencies.

I thank you very much, Mr. President. I have a lot of serious questions about this.

I thank my colleagues for their consideration.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. THOMPSON. Mr. President, we have had a good discussion on this motion to proceed.

I thank Senator BYRD for doing what he has done. I will say publicly what I told him privately before the recess: I thought he was doing all of us a favor by slowing us down a little bit. There was an awful lot of talk about we must get this done by September 11 for symbolic reasons, and symbolism is important. But it is not nearly as important as it is to get this right. We will not get it right forever. We will be dealing with it probably for some time to come. But it is important to get it as right as we can. I think it is very important that we take the time necessary to do that. We can disagree as to how long is enough time. But I do think we can all agree that in retrospect, we were kind of headed toward a stampede there for a little while where we were doing something, we could say we got something passed. That receives short-term benefits maybe to us but it doesn’t do much in terms of long-term benefits to the country. I think we are where we need to be now. We have come back. We have had a chance to digest this, discuss it, debate it in a public forum, and now to discuss it here on the floor.

Senator BYRD made some very interesting and valid points about things that we need to consider. He, I think rightfully, pointed out that the NSA creation was probably the model that not only the President, but the model that we all can have in terms of importance and in terms of how long it takes to put these things together. It took a good while to put the National Security Agency together. I believe it took 6 months between the time the bill was introduced and the time that it was passed. I point out that it was after a war. I do think probably Congress had a little more leisure during those days than we have. It was 2 years after the war. Of course, we are just beginning our endeavor. We don’t have quite the leisure that perhaps the Congress did at that time.

We have been considering the overall concept one, formally or informally, for some time. The Gilmore Commission came in December of 2000 with a recommendation for a Homeland Security Department. The Hart-Rudman Commission came out in February, I believe, of last year with a recommendation. We didn’t pay enough attention to it soon enough. But it was out there. It was discussed and considered at that time. Congress, from time to time, has certainly considered many of the competent problems that have led to this bill.

For example, the problems with the INS are certainly no secret. We have been dealing with that. We have been dealing with other problems the Government has.

I suggest the time is ripe, and there is no reason now for us not to address this issue after we have had a full-fledged discussion. I think the analogy to the Transportation Administration that was referred to and that was referred to in the newspaper today is a good one. I think it shows the difficulty that we have when we establish an agency that is having to recreate the tools they can use to make it work. We had a civil service organization system, and we had a management system, the paradigm for which was established many years ago. We live in a different world. That is why we need a different paradigm for making sure this works the tools they can use to make it work. We had a civil service organization system, and we had a management system, the paradigm for which was established many years ago.

That leads me to perhaps a slightly different conclusion. That leads me to the conclusion that what we need to do to avoid that problem is to give the people who are in charge and have the responsibility for making sure this works the tools they can use to make it work. We had a civil service organization system, and we had a management system, the paradigm for which was established many years ago.

If you talk to corporate leaders who have undergone transitions that are much less complicated than what we are doing, they talk about how difficult it is and how important it is to have the right kind of culture but also to have the management wherewithal and flexibility to address those thousands of problems and difficulties that you are going to have in trying to pull all these factors together. These corporate managers don’t even have to answer to or deal with or worry about. Certainly, when it comes to Government, Congress cannot deal with each of these issues.

We have to either trust our leadership to the point of giving them some managerial flexibility or not. I think that is what we are doing here. That is what this is all about. It is not a major grant of new power; it is a granting of power by Congress after thorough deliberation to better manage what Congress is establishing discretion of Congress, and having the annual appropriations process, among other hearings and considerations, in which to evaluate what is going on. I think we have to give that kind of authority if we are going on these people the kinds of responsibilities that we are placing on them.

There has been a concern expressed about personal liberties. Democracy always has to—especially a democracy under attack—to balance the national security of the country with the personal liberties that we hold so dear. I think we have done a pretty good job of that. Some of the things that the administration has done have been somewhat controversial. They are not really reflected in this bill. This bill really doesn’t deal with any of those things. But I do think it is appropriate to point out that in other times President Lincoln instituted habeas corpus. If we ever have to face an enemy, and things of that nature. Other Presidents have taken rather severe action when they deemed it necessary in times of war and in times of national security. We are not even approaching things of that nature. And we are not really even approaching the subject matter in this bill.

So I respectfully suggest that there is no danger here of giving the President too much power. The danger, frankly, is that we are establishing a new Department that is complex, multifaceted, and is going to be difficult to organize without giving the President some authority that several other Government agencies already have, that the Congress has already given them.

We will have an opportunity to discuss this later when appropriate amendments come up. But in the area of national security, and in the area of flexibility with regard to some of these things, I think the President is basically asking for is the same authority that prior Presidents have had in the national security area, and the same
authority for this new Department that other Department heads already have. So I do not think we need to concern ourselves overly about that. But I will say that it is refreshing to stand on this floor, to sit and listen to someone speaking. Byrd talk about first principles, talk about the basic function of government, talk about the things the forefathers concerned themselves with, and the things we should concern ourselves with as we go forward with this bill. But I suggest that it is well worthwhile.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Twenty-four minutes.

Mr. BYRD. I thank the Chair.

Mr. President, I begin my closing remarks where I should begin, by thanking Senator LIEBERMAN and Senator THOMPSON for the leadership they have demonstrated in holding hearings, in holding the markups, in exploring the questions that were asked, in attempting to find solutions to questions and concerns and problems that occurred to them and to me, and sometimes to other Senators, and not through others. I thank these two Senators who represent, I believe, the finest.

I have been a Member of the body now for nearly 44 years next January 3, the Lord willing. The fine old woman who raised me to live in this age when we can have opportunity when we can mull over and decide these great questions, that confront us. And I believe that the opportunity when we can mull over and decide these great questions, that confront us.

I favor the creation of a Homeland Security Department. I am greatly concerned about the constitutional issues that are confronted by this legislation. I am greatly concerned about the constitutional, in whole or in part, of some of the things that we are about to do—if we do them—that are particularly contained in the House bill.

Now, we may pass legislation that is unconstitutional, and if it is never tried out in courts, it may be out there and there may not come an occasion where there is a case or controversy, which goes to court. But I say that we have a responsibility and a duty to determine in our own minds the constitutionality of measures that we pass.

That is why I joined with Senators on both sides of the aisle in bringing the line-item veto and pushing that matter to a decision by the U.S. Supreme Court. Of course, we didn’t have standing, as the Court determined, but we did proceed; but those who did have standing were pursuing it. Thank God, somebody pursued it, and I say thank you to the Supreme Court of the United States for throwing out that bad legislation. I said it was bad and the Court agreed.

Here we are today with legislation that can certainly be dangerous in many ways. I have talked to get some of those things, and I will have a further opportunity. But before I proceed with my final prepared remarks, let me thank Senator THOMPSON and Senator LANDSBERGER. I thank Senator THOMPSON for his closing remarks today, and I also thank Senator LIEBERMAN. These are gentlemen and I respect them as gentlemen. They have high and noble principles. That cannot be said of all men, of course.

We are here today because nearly 11 months ago, 19 men commandeered 4 aircraft. Their goal we know all too well. They crashed one aircraft into the Pentagon. One hurtled into the north tower of the World Trade Center. Another tore into the south tower a few minutes later. The men and women aboard the final plane, after learning of the fate of the others, decided to resist the hijackers. They knew that, in all likehood, they were about to die. But they entered into the embrace of death willingly after having decided to do what they could do to prevent the untimely and abrupt death of other men and women.

I have no doubt, as we were taken out of this Capitol that day, ushered out by the policemen here, that that last plane was coming to hit this Capitol or the White House—one or the other. I just know in my heart that it was headed here. But those men and women on that plane died for us. Their plane crashed in rural Pennsylvania. If not for the heroic efforts of those men and women, we would have scores of additional names to remember as victims of the worse terrorist attack in the history of our country.

We are here today debating because of those 19 hijackers. We are here because of the rescue workers who moved so quickly, so selflessly, so valiantly to save lives, only to lose their own while carrying out their duty. We are here because of those thousands of men and women who, on September 11, 1 year ago, were sitting at the desks, walking through the halls, doing their jobs, only to have such brutality bring to an end their precious lives, and so abruptly. They never had time to say goodbye to their loved ones. We are here, Senate because we can never forget the horror of September 11, because we want this Nation to have to go through and experience the horrors of that day again.

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In many ways, the creation of a new Department of Homeland Security will serve as a legacy to those more than 3,000 men and women who had lost their lives on that clear fall day 1 year ago. We must not rush to create a department in the memory of those who lost their lives on or after September 11. If that Homeland Security Department does not better prevent another attack, what becomes of the sacrifice of those lives almost 1 year ago? If in the rush to create a new department we make Americans more vulnerable to attack while the transition is going forward, is it worth it? Will that leave? What tribute does this offer to those men reorganized the Government and gave to the various States, to vote on in their ratifying conventions, this product that was signed by those men in Philadelphia on September 17, 1787. That was the first reorganization. That was the greatest reorganization because no longer do we operate under the Articles of Confederation but under the Constitution of the United States. So now we have come to another reorganization proposal, the one we have been discussing.

Terrorists have the advantage of knowing when they will strike, where they will strike, Law-abiding men and women do not know when the terrorists will attack, where they will attack, or how they will attack. If the truth be told, there is no department that this Congress can conceive that alone can save Americans from terrorist attacks. Moving a few squares on a flowchart will not, on its own, save lives. I remain suspicious about a complex, extensive reorganization plan originally authored only by a group of four men in absolute secret, a plan which we are told was not revealed until the day the President revealed it, at which time several of the Department heads, whose Departments would be affected by the plan, had not been contacted and still do not know what is that I understand from reading the press. So I remain suspicious about a complex, extensive reorganization plan authored only by a group of four men in absolute secret. I believe such a plan is likely—likely—to be politically motivated, somewhere along the line. There is an old fiddle tune I used to play, "Someplace Along the Line." I hope that is not true. I hope the motivations were pure, but should we not all be a little suspicious of this process? Congress should be especially careful, given the way this plan was formulated. We ought to consider our actions thoroughly and realize that the steps we take in the next few weeks will have ramifications for decades to come.

In the past few weeks, as the House select committee has held its hearings and the Senate Governmental Affairs Committee has drafted its plan, the focus has not been on how to best save lives. Rather, the focus, in part at least, has been on the "bureaucratic turf wars" that have developed. Should Secret Service be in, or should Secret Service be out?

The DESIGING OFFICER (Mr. DAYTON). The time under the Senator's control has expired.

Mr. BYRD. Mr. President, I have need for a few more minutes. May I call upon the mercy of the distinguished Senator who chairs this committee, if he has time, if he would let this poor Senator from the hills of West Virginia have a few more minutes?

Mr. LIEBERMAN. The Senator is moving me. I say to Senator BYRD, obviously I do not want to cut him off. I hope to leave in an hour to attend an event at my daughter's school. The Senator may proceed as he will. I do not intend to use the rest of my time, and I hope Senator BYRD will finish with as much dispatch as he can and still make his points.

Mr. REID. Will my friend from West Virginia yield for a question?

Mr. BYRD. Yes.

Mr. REID. I am wondering, with the three managers of the bill here on this phase of the debate, if we can agree on what time we are going to vote today. The time runs out at 6:37 p.m. It is my understanding that Senator THOMPSON and LIEBERMAN will be willing to give back some of their time.

Mr. LIEBERMAN. Yes, Senator THOMPSON has concluded his remarks. When Senator BYRD has finished, I will have concluding remarks that will go no longer than 5 minutes.

Mr. REID. Is Senator BYRD going to speak for 10 minutes?

Mr. BYRD. Well, let me put it this way. As far as I am concerned, we can exceed that. As far as I am concerned, we can vote by voice. I intend to vote to proceed to take up this measure, but Senators have been told we would vote. I will stop editorializing on my own remarks and read what I have prepared and announced.

Mr. LIEBERMAN. Fine. I thank the Senator.

Mr. REID. So the answer is we do not have a time certain.

Mr. LIEBERMAN. But no later than 6:37 p.m.

Mr. BYRD. Mr. President, I thank the distinguished chairman, Senator LIEBERMAN, for his generosity.

What about the Secret Service, should it be in or out? What about the Coast Guard? Why is the Bureau of Alcohol, Tobacco, and Firearms left out? While the 170,000 men and women targeted to move into this new Department try to figure out where the desks and telephones will be, the Nation's homeland and defense system may be far less effective, not more.

We in the Congress must insist on more information about the fine details, such as what this plan means for the separation of powers, why one agency was selected while others were left out. We must take time to determine if this approach is the best approach or if it is little more than cherry-picking the best agencies while leaving others behind. I firmly believe those who charge that by moving to slow this legislation, I and others are endangering the lives of Americans and that we are thinking about our pet projects in our own states. What a sorry, empty claim to make. This Congress, at the urging of the Senate Appropriations Committee which I chair, has added $15 billion for homeland security over the course of the past 8 months. That funding has helped us to take immediate steps to make Americans safer from attack and today we are paying for the response efforts should another attack occur.

That funding paid for more than 2,200 agents and inspectors to guard our...
long, porous borders with Canada and Mexico. The foreign student visa pro-
gram, which has been identified as one of the Immigration and Naturalization
Service’s chief loopholes, is undergoing a tighter tracking system because of
funding that Congress included in its first security funding package within 3 days after the tragedy oc-
curred in New York City.

Across this country, local police offi-
cers, firefighters, and emergency med-
cal workers are receiving new training
and equipment to handle threats that
before last fall they hardly considered
possible. Federal law enforcement also
benefited from the work of this Con-
gress. Because of the funding initiated
by the Appropriations Committee, the
FBI started to hire hundreds of new
agents. More than 300 additional pro-
tective personnel were hired to protect
the Nation’s nuclear weapons complex.
Air marshals have been hired to pro-
tect our planes. Seven hundred and
fifty food inspectors were hired to en-
ter the safety of the meals served at
America’s kitchen tables. America’s kitchen tables. We have paid
for smallpox vaccines and health de-
partment training. We are tightening
security at our seaports and pur-
chasing new bomb-detecting equipment
at our airports. We are taking steps to
protect American lives now, today, and
not just waiting for a bureaucratic
shuffle to protect us.

Congress, the elected representatives
of the people, have done this. Congress
also acted to provide additional emer-
gency funding to strengthen terrorism
prevention and to give much-needed
aid to first responders at the local
level. But President Bush has refused to
spend some of these critical funds
because he and OMB Director Mitch
Daniels want to make a point about
budget discipline.

If the President is really serious
about preventing terror, as he says he is, he should not politicize this
important funding, which by the signa-
ture of his name could have been re-
leased to the people at the local levels,
throughout the land, for the protection of the people and the protection of
the infrastructure of our country.

Members of Congress and the Presi-
dent would like to be able to tell the
public that they honored the victims of
September 11 by creating a new De-
partment for Homeland Security on the
altar of this tragedy. The new depart-
ment would like to be able to tell the
public that they honored the victims of
September 11 by creating a new De-
partment for Homeland Security on the
altar of this tragedy. The new depart-
mantle worker protections. We should
insist that this administration not use
this reorganization as a cover to dis-
mantle worker protections. We should
insist that the important non-home-

land-security work of the transferred
agencies assume new missions.

What a quotation from a Roman 2,000
years ago, and more. Before we rush
ahead with so many questions unan-
swered, let us ensure that the product
of our work is not just an illusion but
substance. If it is a monument we are
building, let it be one that will endure.

I yield the floor.

The PRESIDING OFFICER. The Sen-
ator from Maryland.

Mr. SARBANES. Mr. President, I
simply thank the very able Senator
from West Virginia for once again call-
ing on the Senate to face these very
fundamental questions that are in-
volved and which he has been speaking
to in the course of the day. I think it
behoves all of our colleagues not only to
listen to what the Senator from West Vir-
ginia has brought to the floor today, but
to go back and read his remarks
and to consider them carefully and
thoughtfully as we address this major
legislation.

Now we are embarked, of course, on
creating a new Department, but we
need to be very careful in how we do it.
We need to be very thorough in how we
do it. We need to be very thoughtful in
how we do it.

The President says he was the chair-
man of the committee, the able Senator
from Connecticut, because I think he has
brought all of those qualities to this
testimony that he has now brought
forth in the Senate.

There are very important questions
involved here in terms of how the polit-
cal system works and how the checks
and balances work and what the alloca-
tion of powers is. Some say this is a
fight over turf or over prerogatives. It
is much more important than that.

The PRESIDING OFFICER. The Sen-
ator is recognized.

I yield the floor.

Mr. SARBANES. Mr. President, I
simply thank the very able Senator
from Maryland.

The PRESIDING OFFICER. The Sen-
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Mr. SARBANES. Mr. President, I
simply thank the very able Senator
from Maryland.
Mr. BYRD. I thank the Senator for the generous remarks. The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I agree with my friend from Maryland: The Senator from Connecticut has made a valuable contribution here with his thoughtful leadership over the years, of course, and his thoughtful statements today. Even when I do not meet the statements with personal agreement, I know he forces me to think about fixed premises that I may bring to the debate, as well as everyone in this case, and that will make the product of our deliberations better than it would otherwise be.

I was thinking about the quote at the end of Senator BYRD’s remarks. It is true that reorganization or reform can sometimes not be in the interest of progress and can be a cover for disorganization and an excuse for inaction more broadly.

I do want to argue that this proposal that has come out of the Senate Governmental Affairs Committee, which builds on work that had been done by the Hart-Rudman Commission, which meshed with recommendations from the White House, is a necessary reorganization.

The current state of reality in our Federal Government is that we are disorganized. It is in some ways dysfunctional. It is costing us to protecting the security of the American people. It is as if we have a threat we have imagined, we have seen some small evidence of over the years. But on September 11 we were shocked from our lethargy and our apathy and our tolerance of disorganization, seeing the painful personal consequences of that disorganization—almost 3,000 Americans dead only because they were Americans, struck in a vicious and savage and cunning way only because they were Americans. They did not have the courage of this Congress to act on a constitutional field of battle but struck an undefended target full of innocent Americans.

That disorganization can no longer be tolerated. I have a sense of urgency about this. I look at the evidence we have accumulated about the various ways in which our intelligence and law enforcement personnel could have operated, could have shared information prior to September 11. I wonder, could we have prevented this from happening? I look at the way in which we have tolerated disorganization and overlap at our borders with failures of the various Federal agencies there and inability even to communicate with one another. I look at the ports, with 95 percent of the goods coming into the United States of America. Most people are shocked by this number; 95 percent come in by ship, yet the Customs Service is able to truly inspect only 1 percent of the containers coming in.

I look on and on about airport security pre-September 11 and security of our financial systems, cybersystems, and all the rest. We are just not organized to prevent what happened on September 11 from ever happening again.

In this regard, I have the echo in my mind of a meeting I attended some months ago with families of victims of September 11, mostly families of victims from the United States, some from New York, who died in the World Trade Center. The plaintive question they asked me was, how could this have happened? I do not want to ever be in a position to face another group of fellow Americans who ask me again, how could this have happened?

I make no claims that adoption of the bill that our committee has reported on will be a guarantee against terrorism. I suppose if someone has so little regard for their own life and other lives that they are prepared to strap bombs around themselves and walk into a crowd, that is not easy to stop. But something as well planned, as comprehensive, with as many contacts as we have, with flight training schools and public agencies, we should be able to prevent.

The only way to begin to do it is to create a structure that is accountable, that has a uniform chain of command, and that will at last place the over-come the gaps the terrorists took advantage of on September 11.

That is why I have urgently brought this matter to the floor, with the wonderfull bipartisan group of members of the Governmental Affairs Committee who contributed substantially to the product on the floor, and the various Members of the Senate on both sides with whom we have worked on parts of this proposal. There were 18 hearings, 3 or 4 days of committee meetings and markup. A lot of work has been done on this, building on work that had been done years before by others, as to how we can best protect the American people from terrorism.

It is time to proceed. We have had a very good opening day of debate. Obviously, there are some differences of opinion regarding the pace of action in Congress or whether the executive branch is seeking or being given too much authority, whether one or another agency that is consolidated by this bill should be consolidated, how strong our intelligence division should be in this Department, how much should we bring matters together.

Should we give this President and his successors unprecedented authority over civil service and Federal employees?

All of these matters, I know, will be directly discussed in the days ahead. And many of them, if not all of them, will be subjects of amendment before this Chamber. This is a big bill. It is a big proposal which responds to an urgent problem. As others have said, it would be the largest reorganization of the Federal Government in 50 years, since the post-World War II reorganization of our national security apparatus. It is what is the reality of our times requires. It is why we need the debate we will have in the days, and perhaps weeks, ahead.

In the paper today, there is a story that our intelligence service is working with foreign intelligence services and has tracked the movement of gold, substantial amounts of gold, apparently owned by al-Qaeda, from Pakistan through Iran, the United Arab Emirates, into Sudan, where it may be in Khartoum now. What does this tell us? That the enemy is out there, that we won a victory, a great victory, in Afghanistan, but that was only the first battle of the war.

Again, the enemy is not out there on a field of battle where we can see them, or in ships at sea. They are in the shadows. They have not diminished their intention to strike at America, and Americans only, because we are Americans.

One thing I do know, in the midst of all the debate, is we are ready to proceed. We have had a good opening day. Many more days of debate will come. But on the specific motion before us now, the motion to proceed, I am sure we are ready to vote. I yield whatever remaining time I have and I ask for the yeas and nays on the motion to proceed.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be. The question is on agreeing to the motion to proceed. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), and the Senator from Delaware (Mr. BIDEN), are necessarily absent.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS), the Senator from Texas (Mr. GRAMM), the Senator from Arkansas (Mr. MURKOWSKI), and the Senator from Pennsylvania (Mr. SANTORUM), are necessarily absent.

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

The result was announced—yeas 94, nays 0, as follows: [Rollcall Vote No. 209 Leg.]
The motion was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote and move to lay that motion on the table. The motion to lay on the table was agreed to.

**HOMELAND SECURITY ACT OF 2002**

The PRESIDING OFFICER. The clerk will report the bill by title.

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

The PRESIDING OFFICER (Mrs. CANTWELL). The Senator from Nevada.

**MORNING BUSINESS**

Mr. REID. Madam President, I ask unanimous consent the Senate now proceed to a period of morning business with Senators allowed to speak therein for a period not to exceed 5 minutes each.

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

**THE NOMINATION OF JUSTICE PRISCILLA OWEN OF TEXAS TO THE U.S. COURT OF APPEALS FOR THE FIFTH CIRCUIT**

Mr. HATCH. Madam President, I would like to make some brief remarks about the nomination of Justice Priscilla Owen of Texas who has been scheduled for a vote in the Judiciary Committee as early as this Thursday. I cannot say strongly enough how important this vote is for the future of the Judiciary and this Senate.

With the attempt by some to introduce ideology and base politics into the confirmations process, today a sword of Damocles hangs over the future of nominations and our constitutional role and no vote will hint the future more than this upcoming vote on Justice Owen.

Justice Owen has been attacked with orchestrated deceptions, distortions and demagoguery, yet she has the American Bar Association's unanimous rating of well qualified. 

In preparing for Justice Owen's vote, I again commend to my colleagues the words of Senator BIDEN when he said some years ago that:

Judicial confirmation is not about pro-life or pro-choice, conservative or liberal, it is not about Democrat or Republican. It is about intellectual and professional competence to serve as a member of the third co-equal branch of the Government.

Allow me to make just some brief remarks on the allegations made against Justice Owen which she clarified both in the hearing and in answers to written questions since then.

First, and most outrageously, it was said that she delayed in issuing an opinion in a car accident case involving a boy who subsequently died and that he died while waiting for her decision. And that she raised an issue, court venue, not previously raised by the lawyers.

The truth is that Justice Owen wrote an opinion for the majority in that case just 5 days after the majority reached a decision. The boy died 3 years later. And venue is automatically at issue when the petition is for a new trial and it was both briefed and argued by the lawyers, as was the case. That's the truth.

There is no use in holding hearings and asking written questions if we ignore the answers.

Second, she has been accused of being a "judicial activist" who pursues an outcome-based result.

The truth is that she is a judicious judge who never digresses from the results established by precedent and legal constitutional decision. She always grounds her decision in binding authority or judicial rules of decision. The charge that she is a judicial activist is a cynical trick of words used to interpret the legislature's intent: to protect parental involvement and their social engineering.

Another falsehood is that she is anti-abortion and is out to defeat abortion rights.

The truth is that Owen has never stated her personal views and has ruled in one case for Planned Parenthood and against Operation Rescue pro-life protestors. In the parental involvement cases, Owen repeatedly applied Roe v Wade and the Supreme Court cases and used them to interpret the legislature's choice of words in the statute.

It is said that in her parental notice cases, Owen sought to limit abortion rights.

The truth is that no abortion right is affected by giving mere notice to parents. And over 600 bypasses of notice have been granted by the courts under the standards Owen and her court established. The Texas Supreme Court merely debated the guidelines for lower courts to apply on a brand new law.

The Court sought to effect the legislature's intent: protect parental involvement rights, the right of parents to guide their children and protect them from harm was at stake, not abortion.

Justice Owen has been called an ideologue who is out of the mainstream.

The truth is that Owen was twice elected in Texas, the last time with 83 percent of the vote. She is a quiet, modest person, who leads her Church choir, and had to be convinced to leave a lucrative law practice to become a judge. She was unanimously rated well qualified by the highest echelon of the ABA, despite the ABA's pro-abortion stance.

It was noted that Justice Owen dissents too often and rules in favor of corporations and big money.

The truth is that she has dissented fewer than 10 percent of the time, that's half the average for any current U.S. Supreme Court justice. She is an umpire who calls the balls and the strikes as they are. It is silly to suggest that she is pro-life or pro-choice, pro-batter or pro-pitcher.

Let's speak truth to power.

The main reason Justice Owen is being opposed, is not that personal views are being falsely ascribed to her, the facts, but rather because she is a woman in public life who is believed to have personal views that some maintain are unacceptable for a woman in public life to have.

Such penalization is a matter of the greatest concern to me because it represents a new glass ceiling for women jurists just as they approach the tables of our high courts after long-struggling careers. Such treatment will have a chilling effect on women jurists that will keep them from weighing in on exactly the sorts of cases that most invite their participation and their perspectives as women.

On abortion, the truth is that, rather than being an activist foe of Roe, Justice Owen repeatedly cites and follows Roe and its progeny as authority.

Moreover, her opponents portray her as a pro-life activist, when all she has ever done is rule on a parental involvement law, popular with over 80 percent of the American people. The bottom line is that they are blinded to anyone who will not abide by abortion on demand even for little girls, without parents ever knowing.

I hope my colleagues will treat Justice Owen fairly when the vote comes. As they say back home in Utah, I hope they will choose the right.

But I warn them, the American people will hear of the result, and I warn them also, a sword of Damocles will hang over the Senate and the future of the Judiciary Committee when that vote comes.

**THE HONORABLE JESSE BROWN**

Mr. CONRAD. Mr. President, I was deeply saddened to learn of the untimely death of Jesse Brown on August 15, 2002. I was aware of Jesse's struggle with Lou Gehrig's disease, and know that friends, veterans and government officials across the Nation had Jesse and his family in their thoughts and prayers.

Jesse was an individual for whom I had the highest regard. He was truly a
TRIBUTE TO ANGELA MARSHALL-HOFMANN

Mr. BAUCUS. Madam President, I rise today to thank Angela Marshall-Hofmann, who has worked on my staff for more than a decade.

I first met Angela in 1990. She was a reporter for the school newspaper at Eastern Montana College during her freshman year. Angela met me at the Billings airport to do an interview, and after the interview was over, she indicated she would like to be an intern in my Billings office.

I told her to come in—and she did such a great job that when a part-time position opened up, we hired her. She continued to work in the Billings office until she graduated from college.

During her time in the Billings office, Angela began to develop an interest in trade issues. She worked on setting up a state visit by several Ambassadors, and helped draft an export manual for Montana’s small businesses.

During her senior year of college, she was encouraged to apply for the Rotary Club’s International Scholarship. There is always a talented pool of students in Montana that applies for that prestigious scholarship—and Angela won it. She used it to study in France for a year, and continued to focus on international trade.

When she came back from France she went to law school in Missoula and began work in our Missoula office. During her time there she got involved with the Mansfield Center and helped plan their international conferences, including one in China.

In 1997, Angela finally came east to work in our Washington, DC office, with a portfolio that included both agricultural and trade issues. During that time, she organized and traveled on trade missions to Asia and to South America.

Angela has always been one of the best multitaskers I know. When she worked in the Missoula office, she was going to law school and teaching dance classes—and doing great at all three.

These days, I think she has taken multitasking to a new level. With twin babies Marshall and Stephen at home and all of her responsibilities at work, she still manages to thrive.

And not only does Angela thrive, she does so with a positive attitude that makes her one of the most pleasant people to work with. I doubt there is anyone who has bad things to say about her. And after all her years on Capitol Hill—that is really saying something.

I was perhaps most proud of Angela, however, when she was asked this year to be the commencement speaker at Montana State University in Billings—formerly Eastern. She spoke as one of MSU’s most distinguished alumni. I believe she inspired the graduating students to achieve and accomplish many great things in the future.

Angela has truly done it all—from intern, part-time staffer, and receptionist, to legislative assistant, and now international trade counsel to the Senate Finance Committee. She has worked on issues that are vital to Montana, including softwood lumber an agriculture. She has helped pass historic legislation, including Permanent Normal Trade Relations for China and this year’s Trade Act.

Angela—thank you for your years of hard work, for your dedication to the State of Montana, and for the service to your country. You will truly be missed.

Mr. President, I yield the floor.

ADDITIONAL STATEMENTS

IN RECOGNITION OF THE CENTENNIAL OF BIG BASIN REDWOODS STATE PARK

Mr. BOXER. Mr. President, I take this opportunity to recognize the 100th anniversary of the creation of California’s oldest State park, Big Basin Redwoods State Park, located 23 miles northeast of Santa Cruz. Big Basin holds the distinction of being home to the largest continuous stand of Ancient Coast Redwoods south of San Francisco.

Big Basin Redwoods State Park was the first of California’s 396 State parks to be set aside by the State legislature in September, 1902. Its creation was the result of a turn of the century community organizing campaign. San Jose photographer Andrew F. Hill gathered a group of writers, educators and women’s club members for an exploratory expedition to the Santa Cruz Mountains, the area we know today as Big Basin. They formed the Sempervirens Club and began lobbying for protection of the area as a public park. Their intention was to save these trees for posterity.

Today we celebrate the foresight and dedication of Andrew F. Hill and his friends. Big Basin Redwoods State Park is seen as the birthplace of the movement to save California’s coastal redwoods and the birthplace of the entire State park system.

This system contains magnificent diversity and beauty ranging from the majestic forests of Northern California to the sun-baked deserts of Southern California and from the vibrant blue surf of the Pacific shoreline to the glorious peaks of the Sierra Nevada Mountain Range. It includes natural and historical sites of national importance, wildlife habitats and natural preserves that are critical to the ecological health of thousands of plants and animals and a vast array of recreational opportunities for all citizens.

Big Basin Redwoods State Park incorporates 18,000 acres of old growth and recovering redwood forest, mixed with conifer, oaks, chaparral and riparian habitats. The park encompasses 80 miles of trails that include numerous waterfalls, lush canyons and chaparral-covered slopes. Other features of the park are family and group camping facilities, tent cabins, backpacking

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Madam President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred Aug. 3, 1997 in Fort Worth, TX. Two gay men were physically assaulted after leaving a gay bar. The assailants, who were heard to yell anti-gay epithets during the attack, believed that government’s first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol against the harms that come out of hate.

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camps, hiking, mountain biking and equestrian trails.

On the 100th anniversary of the founding of Big Basin Redwoods State Park by the California legislature, I wish to recognize it as an enduring and unique place of historical and environmental importance. The agency celebrates the spirit and determination of a group of people that resulted in the preservation of a beautiful primeval forest that we enjoy today.

TRIBUTE TO SAMUEL "SKIP" KEEASAL, JR.

- Mrs. BOXER. Mr. President, I pay tribute to a great Californian, Samuel "Skip" Keasal, Jr. Skip will be honored by Leadership Long Beach with its prestigious Excellence in Leadership Award on October 3, 2002.

"Excellence in Leadership" aptly describes Skip Keasal and his long and distinguished career. Since founding the Keasal, Young and Logan in 1970, he has tried more than 250 cases, has been named a "Best Lawyer in America" for both his civil and maritime work, and was invited to join the distinguished International Academy of Trial Lawyers. The awards and acknowledgments he has won are too numerous to fully review and place him among the most honored lawyers in America. Indeed, Skip's career is worthy of an award for "Excellence in Leadership."

Skip Keasal could easily win a second "Excellence in Leadership" award for his exemplary community work. He serves on the boards of directors for many community organizations that serve children, provide community healthcare and educate young people. His work has helped the City of Long Beach prosper and its residents to live better, healthier lives.

Skip and his wife, Beth, have three adult children. I know all will join Skip in celebrating this award. I congratulate Skip Keasal and encourage him to keep up his very good work.

INLAND AGENCY'S 33RD ANNIVERSARY

- Mrs. BOXER. Mr. President, on October 12, 2002, the Inland Agency will celebrate 33 years of outstanding service to Riverside, San Bernardino, Inyo and Mono Counties. I would like to take a moment to acquaint my colleagues with this organization's exceptional record of service to the community.

Since 1969, Inland Agency has provided a wealth of programs and services for the community's diverse populations. It serves more than 132,000 individuals through its health, youth violence prevention and community strengthening programs.

In the area of health care, the agency has a caregivers' program, a health insurance counseling program geared toward seniors, and a program called the Desert Sierra Breast Cancer Partnership that has provided education and free breast cancer screenings to thousands of people.

In efforts to reduce youth violence and make sure children are led in the right direction, Inland Agency provides education, violence prevention training for children and their parents, and administration programs so that students have a safe, nurturing place to go after the school bell rings. I am proud to note that the Community Peace Program, through its education to thousands of children this year, has helped to reduce crime in the community. In addition, the agency takes a step further with its Project YES program, which strengthens children's academic and leadership abilities so they can be well prepared for a bright future ahead.

Not only does the Inland Agency reach out to individuals, but it also seeks to make a difference in the communities it serves. Through its Community Tool Box program in Adelanto, the agency gives community members the tools they need to strengthen and improve their neighborhoods and make them better places to live.

It is clear that Inland Agency exemplifies the best in American community work. I extend my very best wishes to each staff member and volunteer for improving the quality of life for thousands of people, and I wish them all many more years of continued success.

IN MEMORIAM: DANIEL LEW

- Mrs. BOXER. Mr. President, I would like to take this opportunity to share with the Senate the memory of one of my constituents, Daniel Lee, who lost his life on September 11, 2001. Mr. Lee was 34 years old when the plane he was on, American Airlines Flight 11, was hijacked by terrorists. As we all know, that plane crashed into the World Trade Center, killing everyone on board.

Daniel Lee grew up in Palm Desert, CA. He was a carpenter and a drummer in a local southern California band. He met his wife, Kellie, in 1991 at a rock concert in which he was playing the drums. They were married October 7, 1995 and their first child, Amanda Beth, was born December 11, 1998.

Mr. Lee was a dedicated and successful set carpenter in the music industry, known for his hard work and loyalty to his craft. He worked with many talented musicians including Neil Diamond, Barbra Streisand, N'Sync, Aerosmith and Yanni. He was touring with the Backstreet Boys when, on September 11, 2001, he left to fly home to be with his wife and daughter. It is a day to remember.

As the tragedy unfolded, from the fates of some were sealed as they boarded planes bound for San Francisco or Los Angeles. I offer today this tribute to one of 51 Californians who perished on that awful morning. I want to assure the family of Daniel Lee, and the families of all the victims, that their fathers and mothers, sons and daughters, aunts, uncles, brothers and sisters will not be forgotten.

SOUTH DAKOTA DEVELOPMENTAL CENTER CELEBRATES 100 YEARS OF SERVICE

- Mr. JOHNSON. Madam President, it is with great honor that I rise today to congratulate the South Dakota Developmental Center, SDDC, for its 100 years of service.

The SDDC was established in 1899 by the South Dakota State Legislature as the Northern Hospital for the Insane. The Center accepted its first admissions in 1902 to meet the needs of individuals with developmental disabilities for the State of South Dakota. One hundred years later, the Center continues to serve South Dakota and the needs of its citizens.

Over the last century, the South Dakota Developmental Center in Redfield, SD has provided quality services to individuals with developmental disabilities who do not have the option of receiving care from a community-based center. To meet the needs of its patients, services are provided by specialists from many areas of health care, including Audiology, Optometry, Chemical Dependency Counseling, Dentistry, Nutrition, Teaching, Physical Therapy, Pharmacy, Nursing, Psychiatry, Speech Pathology, Vocational Instruction, Mental Health Therapy, and Occupational Therapy. These staff members enable the SDDC to meet the needs of its diverse population, and help them reach their ultimate goal, a higher level of independence.

This year also marks 100 years of partnership between the local community and the SDDC. Currently, the SDDC employs more than 400 staff, making them a major employer in the Redfield area. The impact of SDDC on the local economy cannot be overstated. The SDDC not only provides tremendous benefits to individuals, but indirectly helps sustain numerous community businesses, organizations, and public services.
I am pleased to announce that the South Dakota Development Center is planning a centennial celebration on September 20, 2002. The centennial celebration includes a rededication of several buildings on campus, an award ceremony, a luncheon, special afternoon events, and an evening social at the local VFW for returning former employees, dignitaries, special guests and friends.

I am proud to have this opportunity to honor the South Dakota Development Center for its 100 years of outstanding service. It is an honor for me to share with my colleagues the exemplary leadership and strong commitment to individuals with developmental disabilities that the South Dakota Development Center has provided. I strongly commend their years of hard work and dedication, and I am very pleased that their substantial efforts are being publicly honored and celebrated.

TRIBUTE TO NORMAN TATE: DELAWARE’S FIREMAN OF THE YEAR

Mr. BIDEN. Madam President, over the past year, our Nation has endured heartbreak and celebrated heroes, especially the members of the fire service who, in a very profound sense, became the face of America on that fateful day last September.

In my State of Delaware, we celebrate a very special hero of our fire service, Norman Tate, who has been chosen as the 2002 Delaware Volunteer Fireman’s Association Fireman of the Year.

The truth is, Norman Tate has earned this award—and could have received it deservedly—in any number of years. He has been a firefighter with the Seaford Volunteer Fire Department since 1959, and now holds Life Member status. He has served in, literally, every administrative office of his department, and on the ambulance squad; he has twice been voted Seaford’s Fireman of the Year—the only member ever, in a century-long history, to receive the award more than once, and again, he could have received it, and deserved it, just about any year.

Norm has also been the Fireman of the Year for Sussex County and for the Delmarva Volunteer Fireman’s Association, and was instrumental in setting up the Delaware Volunteer Fireman’s Association, DVFA, State Conference. He did the hard organizational and persuasive work of committee chairman, and has been honored with the title of President Emeritus of DVFA.

Beyond the fire service, Norm Tate has been a leader in the Seaford Lions Club, and received the Lion of the Year Award. He also received the “Voice of the Blue Jays” award for outstanding service to the Seaford School District, and the Distinguished Service Award from the City of Seaford.

In short, Norman Tate defines citizen-leadership. He is the extraordinary ordinary American who becomes a hero, not by ambition but in response to the needs of his community and his country. He has a deep sense of responsibility, as well as pride, arising from his citizenship; he looks for opportunities to help; he undertakes service as a privilege.

Norm Tate is being honored as Delaware’s Volunteer Fireman of the Year, as his beloved Seaford Volunteer Fire Department celebrates 100 years of service to the community. There could not be a better way to honor our community than this recognition.

Norm Tate is, quite simply, the best, and as the fellow citizens he has served so well, we in Delaware are proud to honor him; as his friend, I am privileged to know him, and blessed by the influence of his generous and gracious spirit.

MOREHOUSE SCHOOL OF MEDICINE, ATLANTA, GEORGIA

Mr. CLELAND. Madam President, 27 years ago the National Medical Association and other prominent organizations endorsed the development of the Medical School at Morehouse College in Atlanta, GA. This came in light of studies that revealed, first, a severe shortage of African-American and other minority physicians in the United States, particularly in Georgia, and, secondly, that African-Americans suffered disproportionately from major diseases. Since its inception, Morehouse School of Medicine has worked to help solve our Nation’s healthcare crisis by graduating top-quality physicians who dedicate themselves to serving the more than 32 million people in this country who live in medically neglected communities. Seventy percent of Morehouse School of Medicine graduates practice in underserved communities.

The entering M.D. class has grown in recent years to over 60 students, and the school is now home to more than 900 students, the majority of whom live on campus. The school has established a four-year medical education program, a master of public health program, a Ph.D. program in the biomedical sciences, seven residency programs, and several centers of excellence. These include the Neuroscience Institute, the Cardiovascular Research Institute, and the NASA/Space Medicine and Life Science Research Center, the first of its kind at a minority medical institution.

Today we celebrate the new home of one of those centers of excellence, the National Center for Primary Care. This state-of-the-art facility will house an exceptional team of administrators, educators, and researchers devoted to eliminating health disparities in this country.

Georgia should, indeed, be grateful for this new jewel in our crown. Under the guidance of former Surgeon General David Satcher, Director of the National Center for Primary Care, this healthcare think tank is poised to educate and illuminate for decades to come.

ON THE DEDICATION OF THE YSMAEI R. VILLEGAS MIDDLE SCHOOL, RIVERSIDE, CALIFORNIA

Mrs. BOXER. Madam President, on September 6, the new Ysmael R. Villegas Middle School will be dedicated in Riverside, CA. This day will hold a particularly special meaning for the people of Riverside, as this new school is named for one of the community’s most distinguished military heroes, Staff Sg t. Ysmael R. Villegas, an Hispanic-American killed in the line of duty during World War II, one day before his 21st birthday and received the Congressional Medal of Honor for his bravery.

Sergeant Villegas, a resident of Casa Blanca in the Riverside community, received the prestigious Congressional Medal of Honor for his valiant bravery while defending our country in the Philippines. His citation, in part, reads:

...He moved boldly from man to man, in the face of bursting grenades and demolition charges, through heavy machinegun and rifle fire, to bolster the spirit of his comrades. As he neared his goal, he was hit and killed by enemy fire. Through his indomitable fighting spirit, Staff Sergeant Villegas, at the cost of his life, inspired his men to a determined attack in which they swept the enemy from the field.

It is clear from these words that Sergeant Villegas was truly a great American war hero. The people of Riverside have every reason to memorialize him and I am pleased that the Alvord Unified School District will give him this lasting legacy. Through the dedication of the Ysmael R. Villegas Middle School, and the City of Riverside celebrate the dedication of the Ysmael R. Villegas Middle School, I extend my best wishes...
to all those who made this important day possible. As students enter the classrooms of this institution, they can hold their heads high knowing that their school bears the name of such a wonderful model of courage, dignity and integrity.

CONGRATULATING THE STATE OF OHIO ATTORNEY GENERAL’S OFFICE

Mr. Voinovich. Madam President, I rise today on behalf of the people of the State of Ohio to congratulate Ohio Attorney General Betty Montgomery and her staff for being selected to receive the 2002 American Bar Association, ABA, Pro Bono Publico Award.

In May 2000, Betty Montgomery unveiled an office-wide Pro Bono Initiative to provide legal assistance for low-income seniors and hospice patients across Ohio. Through this program, participating staff attorneys offer their time and talents to provide legal assistance to those who can’t afford it. Once training is completed, attorneys are allowed to provide their services at no charge for up to 40 hours a year. Services provided by assistant attorneys include wills, general powers of attorney, durable powers of attorney for health care, and other “end-of-life” legal issues.

Since the program’s inception, 125 assistant attorneys general, 20 paralegals, and 15 secretaries have answered the call to help underserved Ohioans handle their legal matters. To date, the office has served 625 clients by providing them with 1,235 healthcare powers of attorney, living wills, powers of attorney, and wills.

This year, the Attorney General’s office is one of five recipients of the ABA Pro Bono Publico Awards. The Pro Bono Publico Awards were established by the ABA in 1984 and are presented annually by the ABA Standing Committee on Pro Bono and Public Service to recognize lawyers, law firms and corporate law departments for extraordinary noteworthy contributions in extending legal services to the poor and disadvantaged.

This is not the first time that the Attorney General’s office has been honored for these services. In 2001, the Columbia Bar Foundation and Association recognized the program with its award. Outstanding Pro Bono Service by a Governmental Agency. In addition, the Ohio Legal assistance Foundation and the Ohio Bar Association presented the Attorney General’s office with the 2001 Presidential Award for Pro Bono Service.

I am proud to have worked with my friend, Betty Montgomery, when I was Governor of Ohio. Her unwavering commitment to serving the people of Ohio through pro bono services is vital towards maintaining a justice system that is meaningful to all segments of society. This program serves as a testament to our founding fathers’ belief in a system of equal justice for all.

I believe that every lawyer has an ethical and professional obligation to provide pro bono services. It is my hope that this sets a challenge for lawyers statewide and sends the message that participating in pro bono programs is an ideal that is embraced by leaders in the legal community. Betty Montgomery has certainly led the way in this endeavor. I am proud of her accomplishment and I congratulate Attorney General Montgomery and her staff on their dedication to providing pro bono services to all of Ohio’s citizens.

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 and a treaty which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

Under the authority of the Senate of January 3, 2001, the Secretary of the Senate, on August 2, 2002, during the recess of the Senate, received a message from the President of the United States submitting sundry nominations and a treaty which were referred to the appropriate committees.

Under the authority of the Senate of January 3, 2001, the enrolled bills were signed by the President pro tempore (Mr. Byrd) on August 2, 2002.

ENROLLED BILLS SIGNED

Under the authority of the Senate of January 3, 2001, the Secretary of the Senate, on August 7, 2002, 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. 223. An act to amend the Clear Creek County, Colorado, Public Lands Transfer Act of 1993 to provide additional time for Clear Creek County to dispose of certain lands transferred to the county under the act.

H.R. 326. An act to provide for the determination of withholding tax rates under the Guam income tax.

H.R. 601. An act to redesignate certain lands within Craters of the Moon National Monument, and for other purposes.

H.R. 1576. An act to designate the Jamestown Experimental Forests and Range in the Arapaho and Roosevelt National Forests in the State of Colorado, and for other purposes.

H.R. 2968. An act to revise, codify, and enact without substantive change certain general and permanent laws, related to public buildings, property, and works, as title 40, United States Code, “Public Buildings, Property, and Works.”

H.R. 2324. An act to revise the boundary of the Tumacacori National Historical Park in the State of Arizona.

H.R. 2440. An act to rename Wolf Trap Farm Park as “Wolf Trap National Park for the Performing Arts,” and for other purposes.

H.R. 2441. An act to amend the Public Health Service Act to redesignate a facility as the National Hansen’s Disease Programs Center, and for other purposes.

H.R. 2643. An act to authorize the acquisition of additional lands for inclusion in the Fort Sumter and Fort Moultrie National Memorial in the State of South Carolina, and for other purposes.


H.R. 3380. An act to authorize the Secretary of the Interior to issue right-of-way permits for natural gas pipelines within the boundary of Great Smoky Mountains National Park.

Under the authority of the Senate of January 3, 2001, the enrolled bills were signed by the President pro tempore (Mr. Byrd) on August 8, 2002.

MEASURE REFERRED

The following measure, having been reported from the Committee on Indian Affairs, was referred to the Committee on Banking, Housing, and Urban Affairs, pursuant to the order of May 27, 1988, for a period of not to exceed 60 days:


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–8413. A communication from the Comptroller General of the United States, General Accounting Office, transmitting, pursuant to law, a report concerning U.S. General Accounting Office (GAO) employees who were assigned to congressional committees as of July 22, 2002, to the Committee on Governmental Affairs.

EC–8414. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting, a draft of proposed legislation entitled “Fort Sumter and Fort Moultrie National Historical Park Act of 2002”; to the Committee on Energy and Natural Resources.

EC–8415. A communication from the General Counsel, Department of the Treasury,
transmitting, a draft of proposed legislation to amend the Customs user fee statute, and for other purposes; to the Committee on Finance.

EC–8416. A communication from the Acting Chief of Staff, National Indian Gaming Commission, transmitting, a draft of proposed legislation to amend the Indian Gaming Regula-
tions, pursuant to the Indian Gaming Regu-
lations Act of 1988, to authorize the United States Compensation Fund for Indian Claims, pursuant to the National Indian Gaming Commission funding, and to make such other technical amend-
ments as are required; to the Committee on Indian Affairs.

EC–8417. A communication from the Regu-
lations Office, Federal Highway Adminis-
tration, Office of the Assistant Secretary for Trans-
portation, transmitting, pursuant to law, the report of a rule entitled “Certification of Size and Weight Enforce-
ment” (RIN2125–AA69) received on July 23, 2002; to the Committee on Environment and Public Works.

EC–8418. A communication from the Prin-
cipal Deputy Associate Administrator of the Environmental Protection Agency, transmit-
ting, pursuant to law, the report of a rule en-
titled “Approval and Promulgation of Imple-
mentation Plans Reinstatement of Redesign-
ation of Area for Air Quality Planning Pur-
pose; Kentucky Portion of the Cincinnati-
Hamilton Area” (FRL4752–4) received on July 31, 2002; to the Committee on Environ-
ment and Public Works.

EC–8419. A communication from the Prin-
cipal Deputy Associate Administrator of the Environmental Protection Agency, transmit-
ting, pursuant to law, the report of a rule en-
titled “Approval and Promulgation of Imple-
mentation Plans: North Carolina: Permit-
ting, Rules and Other Miscellaneous Revi-
sions” (FRL4755–2) received on July 31, 2002; to the Committee on Environment and Pub-
lic Works.

EC–8420. A communication from the Prin-
cipal Deputy Associate Administrator of the Environmental Protection Agency, transmit-
ting, pursuant to law, the report of a rule en-
titled “Complete Status of Oxides of Ni-
trogen Regulations Submission of a Com-
plete Plan by the State of Ohio” (FRL4755–3) received on July 31, 2002; to the Committee on Environment and Public Works.

EC–8421. A communication from the Prin-
cipal Deputy Associate Administrator of the Environmental Protection Agency, transmit-
ting, pursuant to law, the report of a rule en-
titled “Hague Agreement Imple-
mentation Act”; to the Committee on the Judiciary.

EC–8422. A communication from the Assist-
ant Attorney General, Office of Legislative Affairs, Department of Justice, transmit-
ting, a draft of proposed legislation entitled “Anti-Recidivism Act”; to the Committee on the Judiciary.

EC–8424. A communication from the Direc-
tor, National Science Foundation, transmit-
ting, a draft of proposed legislation entitled “National Science Foundation Authorization Act for Fiscal Year 2003 and 2004”; to the Committee on Health, Education, Labor, and Pensions.

EC–8425. A communication from the Sec-
retary of Labor, transmitting, a draft of pro-
posed legislation entitled “Federal Unemployment Tax Act”; to the Committee on Health, Edu-
cation, Labor, and Pensions.

EC–8426. A communication from the Gen-
eral Counsel of the Department of Com-
merce, transmitting, a draft of proposed leg-
islation to authorize the United States participation in and appropriations for the United States contribution to the thirteenth replenishment of the resources of the International Devel-
OPment Association; to the Committee on Foreign Relations.

EC–8427. A communication from the Direc-
tor, Office of Management and Budget, Exec-
utive Office of the President, transmitting, a draft of proposed legislation to authorize the President to agree to amendments to the Agreement between the Government of the United States of America and the Govern-
ments of the United Mexican States con-
cerning the Establishment of a Border Envi-
ronment Cooperation Commission and a North American Development Bank; to the Committee on Appropriations.

EC–8428. A communication from the Sec-
retary of Transportation, transmitting, a draft of proposed legislation entitled “Fe-
geral Railroad Safety Improvement Act”; to the Committee on Commerce, Science, and Transportation.

EC–8429. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Trans-
portation, transmitting, pursuant to law, the report of a rule entitled “Safety/Security Zone Regulations; Fireworks Display, Co-
lumbia River, Astoria, Oregon” ((RIN2115–
AA97)(2002–0165)) received on July 30, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8430. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Trans-
portation, transmitting, pursuant to law, the report of a rule entitled “Regatta Regula-
tions; Prospect Bay, Kent Island Narrows” ((RIN2120–AA46)(2002–0001)) received on July 30, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8431. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Trans-
portation, transmitting, pursuant to law, the report of a rule entitled “Regulations and Administrative Law, United States: Rhossili Bay, Anglesey, Wales” (RIN2115–
AA71) received on July 30, 2002; to the Committee on Commerce, Science, and Transpor-
tation.

EC–8432. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Trans-
portation, transmitting, pursuant to law, the report of a rule entitled “Regulations and Administrative Law, United States: Rhossili Bay, Anglesey, Wales” (RIN2115–
AA69) received on July 30, 2002; to the Committee on Commerce, Science, and Transpor-
tation.

EC–8433. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Trans-
portation, transmitting, pursuant to law, the report of a rule entitled “Regulations and Administrative Law, United States: Rhossili Bay, Anglesey, Wales” (RIN2115–
AA71) received on July 30, 2002; to the Committee on Commerce, Science, and Transpor-
tation.

EC–8434. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Trans-
portation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Rolls Royce plc. T700 Engine” ((RIN2120–
AA69)(2002–0021)) received on July 23, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8435. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Trans-
portation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Honey-
well International Inc., TPE331–11U, –12B, –12UA, –12UAR, and –12UHR Series Turbofan Engines” ((RIN2120–
AA69)(2002–0021)) received on July 23, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8436. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Trans-
portation, transmitting, pursuant to law, the report of a rule entitled “Regulations and Administrative Law, United States: Rhossili Bay, Anglesey, Wales” (RIN2115–
AA69) received on July 30, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8437. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Trans-
portation, transmitting, pursuant to law, the report of a rule entitled “Regulations and Administrative Law, United States: Rhossili Bay, Anglesey, Wales” (RIN2115–
AA71) received on July 30, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8438. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Trans-
portation, transmitting, pursuant to law, the report of a rule entitled “Regulations and Administrative Law, United States: Rhossili Bay, Anglesey, Wales” (RIN2115–
AA69) received on July 30, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8439. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Trans-
portation, transmitting, pursuant to law, the report of a rule entitled “Regulations and Administrative Law, United States: Rhossili Bay, Anglesey, Wales” (RIN2115–
AA69) received on July 30, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8440. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Trans-
portation, transmitting, pursuant to law, the report of a rule entitled “Regulations and Administrative Law, United States: Rhossili Bay, Anglesey, Wales” (RIN2115–
AA69) received on July 30, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8441. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Trans-
portation, transmitting, pursuant to law, the report of a rule entitled “Regulations and Administrative Law, United States: Rhossili Bay, Anglesey, Wales” (RIN2115–
AA69) received on July 30, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8442. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Trans-
portation, transmitting, pursuant to law, the report of a rule entitled “Regulations and Administrative Law, United States: Rhossili Bay, Anglesey, Wales” (RIN2115–
AA69) received on July 30, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8443. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Trans-
portation, transmitting, pursuant to law, the report of a rule entitled “Regulations and Administrative Law, United States: Rhossili Bay, Anglesey, Wales” (RIN2115–
AA69) received on July 30, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8444. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Trans-
portation, transmitting, pursuant to law, the report of a rule entitled “Regulations and Administrative Law, United States: Rhossili Bay, Anglesey, Wales” (RIN2115–
AA69) received on July 30, 2002; to the Committee on Commerce, Science, and Transportation.
EC-8445. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Bombardier Model CL-215 1 A10 and CL-215 6B11 Series,iplanant to FR Docket No. 02–0297 received on July 23, 2002; to the Committee on Commerce, Science, and Transportation.

EC-8446. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Eurocopter France Model SA330F, G, J, and LTSIO–520 A Series Engines” ((RIN2120–AA64)(2002–0326)) received on July 23, 2002; to the Committee on Commerce, Science, and Transportation.

EC-8447. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Eurocopter Deutschland GmbH Model BO–105A, 105 C2, 105 CB1, 105 CS–2, 105 CBS 2, 105 CBA–1 Helicopters” ((RIN2120–AA64)(2002–0323)) received on July 23, 2002; to the Committee on Commerce, Science, and Transportation.

EC-8448. A communication from the Secretariat of the Federal Trade Commission, Bureau of Consumer Protection, transmitting, pursuant to law, the report of a rule entitled “Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Evansville, Indiana)” (MM Docket No. 01–184) received on July 29, 2002; to the Committee on Commerce, Science, and Transportation.

EC-8454. A communication from the Senior Legal Advisor to the Chief, 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 (Alberta, Virginia; Whittakers, North Carolina; Dinwiddie, Virginia; and Garysburg, Virginia)” (MM Docket No. 00–240) received on July 29, 2002; to the Committee on Commerce, Science, and Transportation.

EC-8455. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled “Amendment of Section 73.202(b), Table of Allotment, FM Broadcast Stations (Memphis, Tennessee; Olive Branch and Horn Lake, Mississippi)” (MM Doc. No. 02–31) received on July 29, 2002; to the Committee on Commerce, Science, and Transportation.

EC-8456. A communication from the Senior Legal Advisor to the Chief, 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 (Paducah, Texas; Paulden, Arizona)” (MM Doc. No. 01–156) received on July 29, 2002; to the Committee on Commerce, Science, and Transportation.

EC-8458. A communication from the Senior Legal Advisor to the Chief, 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 (Parkers, Arizona)” (MM Docket No. 01–49) received on July 29, 2002; to the Committee on Commerce, Science, and Transportation.


PTETIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-279. A resolution adopted by the House of the General Assembly of the Commonwealth of Pennsylvania relative to the United States Secretary of Energy to establish a program to implement such activities as are necessary to provide for a decision by the United States Secretary of Energy that there are technical or scientific issues to prevent Yucca Mountain from serving as a permanent repository and clearly support the recommendation by the Secretary to the President of the United States to proceed on licensing a permanent repository at Yucca Mountain; and

Whereas, Congress enacted the Nuclear Waste Policy Act of 1982 and directed the Department of Energy to establish a program for the management of the nation’s high-level waste, including used nuclear fuel, and for its permanent disposal in a deep geologic repository; and

Whereas, More than $7 billion has been spent on scientific testing and studies of Yucca Mountain, Nevada, showing that the site is an ideal repository to safely contain the nation’s used nuclear fuel, with a capacity sufficient to meet all foreseeable storage needs; and

Whereas, Studies of Yucca Mountain have yielded the scientific information necessary for a decision by the United States Secretary of Energy that there are technical or scientific issues to prevent Yucca Mountain from serving as a permanent repository and clearly support the recommendation by the Secretary to the President of the United States to proceed on licensing a permanent repository at Yucca Mountain; and

Resolved, That copies of this resolution be transmitted to the President and Vice President of the United States, to be Speaker of the United States House of Representatives, to the Secretary of the United States Department of Energy, to the United States Secretary of Transportation, and to the United States Secretary of Commerce.
POM-281. A resolution adopted by the East Hampton Town Board, East Hampton, New York relative to Millstone II nuclear power facility in Connecticut; to the Committee on Environment and Public Works.

POM-282. A resolution adopted by the Town Board of New Castle, New York relative to converting Indian Points II and III from nuclear energy to natural gas or other non-nuclear fuel; to the Committee on Environment and Public Works.

POM-283. A resolution adopted by the Town Board of New Castle, New York relative to converting Indian Points II and III from nuclear energy to natural gas or other non-nuclear fuel; to the Committee on Environment and Public Works.

POM-284. A resolution adopted by the Town Board of New Castle, New York relative to Indian Point Power Station; to the Committee on Environment and Public Works.


While the site managers have the utmost respect for the work of the employees of Y–12, the facilities at Y–12 were developed into an economic development engine, spinning off new businesses and serving as a template for future economic development.

Whereas, the Work for Others Program has brought many federal contracts to Oak Ridge, allowing Y–12 employees to update and hone their skills while producing materials for the U.S. Department of Defense and the U.S. Navy, among others; and

Whereas, the Y–12 Plant, in conjunction with the Oak Ridge National Laboratory and other federal facilities in Oak Ridge, has developed into an economic development engine, spinning off new businesses and serving as a template for future economic development.

Resolved, That enrolled copies of this resolution be transmitted to the Honorable George W. Bush, President of the United States, and to the Secretary of the United States Senate; the Speaker and the Clerk of the United States House of Representatives; and to each member of Tennessee's Congressional Delegation.

POM-286. A joint resolution adopted by the Assembly of the State of California relative to social health maintenance organizations; to the Committee on Finance.

Whereas, Government spending for nursing homes, home health care, and prescription drugs is rising at a rate of almost 10 percent a year, faster than the overall medical health care inflation rate of 4.3 percent for November 2000; and

Whereas, the growth of long-term care expenditures, estimated at 2.6 percent nationally on an annual basis coupled with the growing demographics, will significantly increase costs to the nation's Medicaid and Medicare programs; and

Whereas, innovative and cost-effective models of care are needed to address the needs of aging Americans; and

Whereas, in the federal Deficit Reduction Act of 1984, Congress mandated the social health maintenance organization (social HMO) demonstration, which has since benefited over 125,000 individuals; and

Whereas, the social HMO demonstration has been reinforced and expanded by Congress in 1987, 1990, 1993, 1997, and 1999; and

Whereas, the social HMO is a community-based approach to integrating acute and long-term care for older Americans; and

Whereas, the primary purpose of the social HMO is to finance, provide, and coordinate additional services as an extension of benefits covered by Medicare and Medicaid, thereby helping frail seniors live safely in their own homes and avoid costly nursing home stays; and

Whereas, the social HMO targets individuals at risk for nursing home placement and chronic illness; and

Whereas, the social HMO supplements the standard benefits required of Medicare+Choice with essential benefits, including geriatric-specific case management, adult day care, personal care, homemaker services, nutrition support, and medication management; and

Whereas, a slight percent of nursing home costs are financed by Medicaid, avoiding or delaying longer nursing home stays and directly saving federal and state funds, by reducing Medicaid nursing home expenditures; and

Whereas, California has 3.3 million resident aged 65 years and older, and is home to the largest elderly population in the country; and

Whereas, the number of California aged 60 years and older is projected to grow 154 percent over the next 40 years; and

Whereas, the fastest growing population group in California is aged 85 years and older; and

Whereas, only one social HMO exists in California, serving over 46,000 seniors, of which 10,300 are eligible for nursing home place; and

Whereas, the Senior Care Action Network (SCAN), the only social HMO in California, has been able to maintain these skilled nursing home-certifiable seniors in their own homes by providing home and community-based programs and services; and

Whereas, SCAN members are 53 percent less likely than their counterparts in other health care programs to have a long nursing home stay; and

Whereas, SCAN offers financial savings and security to older adults, their families, and taxpayers by alleviating anxiety about exhausting personal savings for long-term care; and

Whereas, the permanency of the social HMO, a benefit option under the Medicare+Choice program will allow organizations like SCAN to provide comprehensive services to seniors anywhere in the nation; and

Whereas, the social HMO will serve as a national model of cost-effective care that provides older Americans with greater health, independence, and dignity; now, therefore, be it

Resolved by the Senate and House of Representatives of the State of California, jointly, That the Legislature of the State of California hereby urges the President and Congress of the United States, the federal Department of Health and Human Services, and the Centers for Medicare and Medicaid Services to do all of the following:

(a) Affirm the intent of the social HMO program to provide services for frail and chronically ill seniors; and

(b) Fully support the transition of the social HMO demonstration into a permanent benefit option as part of Medicare+Choice.

(c) Include Medicaid beneficiaries in the social HMO Medicare+Choice option.

(d) Allow the social HMO option to offer comprehensive services in addition to fundamental Medicare benefits.

(e) Approve and support a payment methodology needed for the advanced care for the nation's frail and chronically ill elderly; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, the United States Senator from California, the Administrator of the Centers for Medicare and Medicaid Services, and to each Senator and Representative from California in the Congress of the United States.

POM-287. A resolution adopted by the Senate of the Legislature of the State of Louisiana relative to asbestos; to the Committee on the Judiciary.

SENATE RESOLUTION NO. 58

Whereas, asbestos, a mineral processed and used in thousands of construction and consumer products, is a dangerous substance and has caused thousands of people to develop serious and often fatal diseases and cancers; and

Whereas, millions of workers have been exposed to asbestos, and the economic toll resulting from litigation related to exposure to asbestos could run into the hundreds of billions of dollars; and

Whereas, many companies, in order to avoid bankruptcy and to compensate victims of asbestos-related injuries, have been required to set aside sufficient resources to compensate the victims with manifest injuries from exposure to asbestos; and

Whereas, the new claims brought are resulting in a depletion of the funds available to compensate those victims who have manifested serious injuries and who are in desperate need of compensation.

Whereas, the United States Supreme Court noted in Ortiz v. Fibreboard Corp., 527 U.S.

September 3, 2002

CONGRESSIONAL RECORD — SENATE S8085
Whereas, the Congress of the United States of America calls for national legislation; and
Whereas, there has been demonstrated a significant goal, it will be necessary to convene a special session, there remain many areas that should be examined to ensure continued economic development in the state; and
Whereas, there has been demonstrated a need to construct a long range, strategic plan for future economic development of the utility, communications, and transportation industry in Louisiana; and
Whereas, in order to accomplish this significant goal, it will be necessary to convene a summit meeting of the governor, the Louisiana congressional delegation, the president of the Senate, the speaker of the House of Representatives, the members of the Public Service Commission, and the secretary of the Department of Economic Development to coordinate a strategic plan for future economic development of the utility, communication, and transportation industry in Louisiana.

Therefore, be it resolved, That the Senate of the State of Louisiana hereby urges and requests the governor, the Louisiana congressional delegation, the president of the Senate, the speaker of the House of Representatives, the members of the Public Service Commission, and the secretary of the Department of Economic Development to convene a summit meeting to discuss a long range, strategic plan for future economic development of the utility, communication, and transportation industry in Louisiana.

Be it further resolved, That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

POM–288. A resolution adopted by the Legislature of the State of Louisiana relative to constructing a long range economic development plan for Louisiana focused on the utility, communications, and transportation; to the Committee on Environment and Public Works.

SENATE RESOLUTION NO. 62
Whereas, the recently completed 2002 First Extraordinary Session of the legislature focused on various improvements to spur economic development in Louisiana; and
Whereas, the special session successfully integrated the state’s economic development blueprint with the legislative and organizational needs of the Department of Economic Development; and
Whereas, there is a need to blend this long range, strategic plan for future economic development of the utility, communications, and transportation industry into the state’s overall economic development plan, Vision 2020, along with federal initiatives in this area; and
Whereas, in order to accomplish this significant goal, it will be necessary to convene a summit meeting of the governor, the Louisiana congressional delegation, the president of the Senate, the speaker of the House of Representatives, the members of the Public Service Commission, and the secretary of the Department of Economic Development to coordinate a strategic plan for future economic development of the utility, communication, and transportation industry in Louisiana.

Therefore, be it resolved, That the Senate of the State of Louisiana hereby urges and requests the governor, the Louisiana congressional delegation, the president of the Senate, the speaker of the House of Representatives, the members of the Public Service Commission, and the secretary of the Department of Economic Development to convene a summit meeting to discuss a long range, strategic plan for future economic development of the utility, communication, and transportation industry in Louisiana.

Be it further resolved, That a copy of this Resolution be transmitted to the governor, the Louisiana congressional delegation, the president of the Senate, the speaker of the House of Representatives, the members of the Public Service Commission, and the secretary of the Department of Economic Development.

POM–289. A resolution adopted by the Senate of the General Assembly of the Commonwealth of Pennsylvania relative to the Delaware River Channel Deepening Project; to the Committee on Environment and Public Works.

RESOLUTION
Whereas, The Delaware River has, since the inception of the Commonwealth of Pennsylvania, been a vital artery of commerce and trade; and
Whereas, It is the longstanding policy of the Commonwealth of Pennsylvania to encourage waterborne commerce and to support the development and competitiveness of the Port of Philadelphia; and
Whereas, It is essential that the Delaware River navigation channel be deepened to 45 feet in order to accommodate larger shipment vessels and future growth; and
Whereas, The Government, acting through the Congress of the United States and the Army Corps of Engineers, has authorized a public works project that will deepen the Delaware River Channel to 45 feet; and
Whereas, The Delaware River Channel Deepening Project is enthusiastically supported by businesses and labor union whose livelihood depends on a healthy and vibrant seaport; and
Whereas, It is essential that this extraordinarily important public works project proceed without interruption; Therefore be it
Resolved, (the House of Representatives concurring), That the General Assembly of the Commonwealth of Pennsylvania reaffirm its support for the Delaware River Channel Deepening Project and urge the Congress and the Army Corps of Engineers to take all necessary steps to assure its successful and prompt completion; and be it further
Resolved, That copies of this resolution be transmitted to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.

POM–290. A resolution adopted by the Senate of the General Assembly of the Commonwealth of Pennsylvania relative to the Fair Credit Reporting Act; to the Committee on Banking, Housing, and Urban Affairs.

RESOLUTION
Whereas, Identity theft is the fastest-growing crime in the United States, expanding at a rate of 50% per year; and
Whereas, Every 79 seconds an identity is stolen; and
Whereas, Approximately one out of every five Americans or a member of the family has been victimized by identity theft; and
Whereas, Every year more than 400,000 Americans are robbed of their identities and suffer losses of more than $2 billion; and
Whereas, More than 1,000 people a day in the United States fall victim to crimes of stolen identity; and
Whereas, Victims spend anywhere from six months to two years recovering from identity theft; and
Whereas, On average, victims spend 175 hours and $808 in out-of-pocket expenses to clear their names; and
Whereas, Experts report that most victims do not realize that a theft has occurred for more than five years after the theft; and
Whereas, To protect consumer privacy, the Congress of the United States enacted the Fair Credit Reporting Act (FCRA); and
Whereas, The FCRA requires all credit reporting agencies to maintain reasonable procedures designed to assure maximum possible accuracy of the information contained in credit reports; and
Whereas, A private right of action allows injured consumers to recover any actual damages caused by negligent procedures and both actual and punitive damages for willful noncompliance; and

Whereas, Nonconventional gas resources currently provide about 26% of gas production in the United States; and
Whereas, Nonconventional resources such as coalbed methane and Devonian shale, are technologically challenging and require support for economic production; and
Whereas, Although the country holds a large natural gas resource base, natural gas is being limited in its use by Federal and State regulations; and
Whereas, There are large resources of undeveloped nonconventional gas resources that remain too difficult to develop and will only be produced with ongoing incentives; and
Whereas, The current tax credit for producing fuel from a nonconventional source section 29 of the Internal Revenue Code of 1986 will expire in 2002; and
Whereas, This expiration will disrupt the ongoing progress in developing nonconventional gas resources at a time when the gas consumer, United States economy and our environment need these resources most; and
Whereas, The only short-term solution that reduces costs and switching to less desirable energy resources is to increase the natural gas supply; therefore be it
Resolved, That the Senate of the Commonwealth of Pennsylvania urge Congress to take all the necessary steps to extend the tax credit under section 29 of the Internal Revenue Code of 1986 to continue to provide for fair, untapped, nonconventional gas to United States gas consumers; and be it further
Resolved, That copies of this resolution be transmitted to the presiding officers of each house of Congress, to each member of Congress from Pennsylvania, to the Finance Committee of the United States Senate, and to the Ways and Means Committee of the United States House of Representatives.

POM–291. A resolution adopted by the Senate of the General Assembly of the Commonwealth of Pennsylvania relative to the Fair Credit Reporting Act of 2002; to the Committee on Banking, Housing, and Urban Affairs.

RESOLUTION
Whereas, The Delaware River has, since the inception of the Commonwealth of Pennsylvania, been a vital artery of commerce and trade; and
Whereas, It is the longstanding policy of the Commonwealth of Pennsylvania to encourage waterborne commerce and to support the development and competitiveness of the Port of Philadelphia; and
Whereas, It is essential that the Delaware River navigation channel be deepened to 45 feet in order to accommodate larger shipment vessels and future growth; and
Whereas, The Government, acting through the Congress of the United States and the Army Corps of Engineers, has authorized a public works project that will deepen the Delaware River Channel to 45 feet; and
Whereas, The Delaware River Channel Deepening Project is enthusiastically supported by businesses and labor union whose livelihood depends on a healthy and vibrant seaport; and
Whereas, It is essential that this extraordinarily important public works project proceed without interruption; Therefore be it
Resolved, (the House of Representatives concurring), That the General Assembly of the Commonwealth of Pennsylvania reaffirm its support for the Delaware River Channel Deepening Project and urge the Congress and the Army Corps of Engineers to take all necessary steps to assure its successful and prompt completion; and be it further
Resolved, That copies of this resolution be transmitted to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.
Whereas, The Supreme Court ruled unanimously in TRW, Inc. v. Andrews that the two-year deadline to sue companies which collect or spread bad information begins when the credit agency reports erroneous information and not when the victim discovers the fraud; therefore be it

Resolved, That the Senate of the Commonwealth of Pennsylvania memorialize Congress to amend the Fair Credit Reporting Act to permit victims of identity theft to bring suit any time within two years of the victim’s discovery of the fraud; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, the Speaker of the United States House of Representatives, the President pro tempore of the United States Senate, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from Pennsylvania in the Congress of the United States House of Representatives, and the Speaker of the United States Senate, the Speaker of the United States House of Representatives, and members of the Michigan congressional delegation.

POM-292. A Senate concurrent resolution adopted by the Legislature of the State of Michigan relative to Federal Forest Lands; to the committee on Energy and Natural Resources.

SENATE CONCURRENT RESOLUTION NO. 53

Whereas, In recent years, our country has benefited from public policy encouraging the states to assume responsibility, and is not long handled by the federal government. Experts in many fields have come to accept the wisdom of utilizing state expertise and resources to address concerns that are best addressed locally rather than from Washington, D.C.; and
Whereas, The management of public forest lands is another area that should be turned over to states through a program of block grants, Michigan, with more public forests than any other state in the eastern portion of the country, has compiled an impressive record of success in the management of its resources. The conditions of Michigan’s state forest acreage is a model for other parts of the country; and
Whereas, There are several sound reasons why forest management would be more efficiently and productively managed by the state instead of the federal government. State management offers flexibility, rather than a “one size fits all” approach; shorter lines of communication; better communication within localities and agencies; and generally lower overall costs. State control over forest operations in Michigan will more accurately reflect our citizens’ historic sense of commitment in this vitally important resource; now, therefore, be it

Resolved by the Senate, That the people of the state of Michigan, acting through the Senate, do hereby call upon the United States Congress to enact the 99th U.S. Congress to transmit to the President of the United States, the President pro tempore of the United States Senate, the Speaker of the House of Representatives, and the Speaker of the House of the Legislature of the State of New Hampshire relative to developing a national missile defense system; to the Committee on Armed Services.

HOUSE RESOLUTION NO. 21

Whereas, New Hampshire is located in the New England region of the northeastern United States and is populated by over 1,200,000 persons, and maintains distinguished centers of higher learning, and is the site of advanced information and defense research that identifies new methods of protecting the United States and its citizens from the threat of missile attacks, and the threat to our nation, our allies, and our armed forces abroad; and
Whereas, The United States does not possess a robust and effective defense against ballistic missiles bearing weapons of mass destruction, launched by anyone who opposes American ideals, interests, and influence throughout the world; and
Whereas, New Hampshire, the United States, and the international community are aware of the global proliferation of ballistic missiles and weapons of mass destruction, and their threat to our nation, our allies, and our armed forces abroad; and
Whereas, The New Hampshire house of representatives hereby urges the President of the United States to take all actions necessary, within the limits of the considerable technological prowess of this great union, to protect our nation, our allies, and our armed forces abroad from the threat of missile attack; and
That the New Hampshire house of representatives hereby urges the President of the United States to take all actions necessary, within the limits of the considerable technological prowess of this great union, to protect our nation, our allies, and our armed forces abroad from the threat of missile attack; and
That the New Hampshire house of representatives hereby urges the President of the United States to take all actions necessary, within the limits of the considerable technological prowess of this great union, to protect our nation, our allies, and our armed forces abroad from the threat of missile attack; and
That the New Hampshire house of representatives hereby conveys to the President and Congress of the United States the sentiment that an effective national missile defense will require a robust and multi-layered architecture consisting of integrated land-based, sea-based, and space-based assets designated to deter future threats whenever possible and meet them whenever necessary; and
That copies of this resolution shall be sent by the house clerk to the New Hampshire congressional delegation, the Speaker of the United States House of Representatives, the President of the United States Senate, and the Chairman of the Joint Chiefs of Staff, and the President of the United States.


HOUSE JOINT RESOLUTION No. 181

Whereas, recent reports issued by the Department of Environmental Quality reveal that Virginia is currently the second largest importer of municipal solid waste from other states, second only to Pennsylvania, and is currently importing approximately four million tons annually of municipal solid waste from other states; and

Whereas, the importation of significant amounts of municipal solid waste from other states is expected to increase in coming years due to the closure of the Fresh Kills Landfill in New York and increased volumes from other states; and

Whereas, the importation of significant amounts of municipal solid waste from other states is expected to increase in coming years due to the closure of the Fresh Kills Landfill in New York and increased volumes from other states; and

Whereas, the lack of coverage for these important new products leaves many Medicare beneficiaries suffering from blood-related cancers such as leukemia, lymphoma, and myeloma as well as cancers of the breast, lung, and prostate; and

Whereas, certain members of the United States Congress have recognized the necessity of Medicare coverage for all oral anti-cancer drugs and have introduced legislation in the 107th Congress to achieve that result (H.R. 1624 and S. 913); now, therefore, be it

Resolved further, That the Clerk of the House of Delegates transmit copies of this resolution to the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, the Secretary of the Health and Human Services, the Administrator of the Centers for Medicare and Medicaid Services, and the members of the Virginia Congressional Delegation so that they may be apprised of the sense of the House of Delegates of Virginia in this matter.

POM–299. A resolution adopted by the House of Delegates of the General Assembly of the Commonwealth of Virginia to Veterans' Day; to the Committee on the Judiciary.

HOUSE RESOLUTION NO. 18

Whereas, the National Commission on Federal Election Administration controversy in its report to the President the possibility of moving the observance of Veterans Day to the second Tuesday in November in even-numbered years so that it could be celebrated on a national holiday; and

Whereas, Veterans Day, November 11th, formerly called Armistice Day, is the time when America's citizens came to recognize the sacrifices and service of past and present members of the United States military; and

Whereas, as established as Armistice Day in 1926 to commemorate the November 11, 1918, armistice that ended hostilities in World War I; and that years, in 1954 the name of the holiday was changed to Veterans Day to honor all men and women who have served America in its armed forces; and

Whereas, Veterans Day and the ceremonies nationwide to observe it are important to the millions of Americans who take the time each November 11th to honor their fellow citizens who have served their country; and

Whereas, the American Legion, at its 83rd National Convention in August 2001, expressed its opposition to any change of the date of observing Veterans Day; now, therefore, be it

Resolved by the House of Delegates, That the President and Vice-President of the United States be urged to oppose efforts to move the observance of Veterans Day from November 11th; and, be it

Resolved further, That the Clerk of the House of Delegates transmit copies of this resolution to the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, and the members of the Virginia Congressional Delegation so that they may be apprised of the sense of the House of Delegates of Virginia in this matter.


HOUSE RESOLUTION NO. 19

Whereas, cancer is a leading cause of morbidity and mortality in the Commonwealth and throughout the nation; and

Whereas, unfortunately a disease of the elderly, with more than half of all cancer diagnoses occurring in persons age 65 or older; persons who are often dependent on the federal Medicare program for provision of cancer care; and

Whereas, treatment with anti-cancer drugs is the only cure for many modern cancer care, and elderly cancer patients must have access to potentially life-extending drug therapy; and

Whereas, the Medicare program's coverage of anti-cancer drugs is limited to injectable drugs or oral drugs that have an injectable version; and

Whereas, the nation's investment in biomedical research has begun to bear fruit with a compelling array of new oral anti-cancer drugs that are less toxic, more effective, and more cost-effective than existing therapies, but, because these drugs do not have an injectable equivalent, they are not covered by Medicare; and

Whereas, the lack of coverage for these important new products leaves many Medicare beneficiaries confronting the choice of either using the drug's injectable counterpart or the addition of more toxic and less effective treatments that are covered by Medicare; and

Whereas, Medicare's failure to cover oral anti-cancer drugs leaves at risk many beneficiaries suffering from blood-related cancers such as leukemia, lymphoma, and myeloma, as well as cancers of the breast, lung, and prostate; and

Whereas, certain members of the United States Congress have recognized the necessity of Medicare coverage for all oral anti-cancer drugs and have introduced legislation in the 107th Congress to achieve that result (H.R. 1624 and S. 913); now, therefore, be it

Resolved further, That the Clerk of the House of Delegates transmit copies of this resolution to the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, the Secretary of the Health and Human Services, the Administrator of the Centers for Medicare and Medicaid Services, and the members of the Virginia Congressional Delegation so that they may be apprised of the sense of the House of Delegates of Virginia in this matter.


Whereas, the lack of coverage for these important new products leaves many Medicare beneficiaries confronting the choice of either using the drug's injectable counterpart or the addition of more toxic and less effective treatments that are covered by Medicare; and

Whereas, Medicare's failure to cover oral anti-cancer drugs leaves at risk many beneficiaries suffering from blood-related cancers such as leukemia, lymphoma, and myeloma, as well as cancers of the breast, lung, and prostate; and

Whereas, certain members of the United States Congress have recognized the necessity of Medicare coverage for all oral anti-cancer drugs and have introduced legislation in the 107th Congress to achieve that result (H.R. 1624 and S. 913); now, therefore, be it

Resolved further, That the Clerk of the House of Delegates transmit copies of this resolution to the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, the Secretary of the Health and Human Services, the Administrator of the Centers for Medicare and Medicaid Services, and the members of the Virginia Congressional Delegation so that they may be apprised of the sense of the House of Delegates of Virginia in this matter.
Resolved by the House of Delegates. That the Congress of the United States be urged to expand use of federal historic preservation tax credits to qualified owner-occupied structures; and

Resolved Further. That the Clerk of the House of Delegates transmit copies of this resolution to the Speaker of the United States House of Representatives, the President of the United States Senate, and the members of the Virginia Congressional Delegation in order that they may be apprised of the sense of the House of Delegates of Virginia in this matter.

POM–301. A House joint resolution adopted by the General Assembly of the State of Illinois relative to inland waterway transportation; to the Committee on Environment and Public Works.

HOUSE JOINT RESOLUTION NO. 54

Whereas, Illinois farmers, producers, and consumers rely on efficient transportation to remain competitive in a global economy, and efficiencies in river transport offset higher production costs, compared to those incurred by foreign competitors; and

Whereas, The Upper Mississippi and Illinois lock and dam system saves our nation more than $1,500,000,000 in higher transportation costs each year, and failing to construct 1,200-foot locks will cause farmers to raise the nation’s cargo, supporting more than 400,000 jobs; and

Whereas, More than 60% of American agriculture, including, corn, wheat, and soybeans, are shipped down the Mississippi and Illinois rivers on the way to foreign markets; and

Whereas, Illinois farmers, producers, and consumers have direct, competitive benefits for all states throughout the nation, representing thousand of jobs in the State; therefore be it

Resolved, That the House of Representatives of the Ninety-Second General Assembly of the State of Illinois, the Senate concurring herein, That we recognize the importance of inland waterway transportation to Illinois agriculture and the benefits it provides, including, jobs, and the Illinois River System; and be it further

Resolved, That suitable copies of this resolution be delivered to the Pro Tempore and the Secretary of the United States Senate, the Speaker and the Clerk of the United States House of Representatives, the Chair of the Senate Committee on Commerce, Science, and Transportation, the Chair of the House Committee on Transportation and Infrastructure, and to the Illinois congressional delegation.

POM–302. A concurrent resolution adopted by the Legislature of the State of Oklahoma pursuant to the United States General Agreement on Tariffs and Trade Agreement (NAFTA), and potentially under the proposed Free Trade Area of the Americas (FTAA), bilateral agreements such as the United States-Chile agreements, the Investment chapter of the North American Free Trade Agreement (NAFTA), and potentially under the World Trade Organization (WTO); and

Whereas, investment rules do not safeguard the traditional powers of state and local governments while negotiating international investment agreements; and

Whereas, Investment rules under these agreements deviate from United States legal ownership of land and casinos, law enforcement by courts, public services, and sovereign immunity; and

Whereas, Investment rules under these agreements deviate from United States legal precedents on taking law and deference to legislative determination on protecting the public interest; and

Whereas, Investment rules do not safeguard any category of law from investor
Whereas, foreign investors have used the provisions of NAFTA's investment chapter to challenge core powers of state and local government including, but not limited to, regulatory power to protect ground water in California; the power of civil juries to use punitive damages to deter corporate fraud in Mississippi; the ability of states to invoke sovereign immunity in Massachusetts; and a decision by local government to deny a zoning permit for construction of a hazardous waste dump in Guadalcanal, Mexico; and

Whereas, these cases are the first to test the constitutional validity of international investment rules under NAFTA and the National League of Cities has expressed concern that expansion of investment rules could undermine the successful effort by state and local governments to conserve environmental resources, and regulate or exclude investor-to-state disputes from the scope of international investment agreements; ensure that international investment rules do not undermine traditional police powers of state and local governments to protect public health, conserve environmental resources, and regulate fair compensation; encourage the states to pursue avenues for taking disputes to arbitration, the jurisdiction of the United States Constitution; and now, therefore,

Be it resolved by the Senate of the State of Kansas, the House of Representatives concurring therein: That we condemn the Ninth Circuit Court of Appeals that ruled that the decision of the Ninth United States Circuit Court of Appeals is an egregious error that cannot be allowed to stand as our law. In this time of war, especially, we are shocked that an expression of devotion and loyalty to our nation's flag and all it represents should be suppressed by a three-judge panel of the non-uniformed United States Court of Appeals; and

Whereas, The Ninth Circuit's ruling that the words “under God” somehow represent the establishment of a religious symbol in violation of the Establishment Clause of the United States Constitution is ludicrous. No state church has been established in the United States by the Federal government. The words added to the Pledge of Allegiance are part of the purportedly terrible impact of reciting “under God” in our Pledge of Allegiance, should a person choose to do so,-framework that will not happen; and

Whereas, Should the Ninth Circuit fail to correct this ruling, the United States Supreme Court should reverse this ruling as a gross misinterpretation of our Constitution and astounding lack of common sense. Our flag unites us, regardless of our heritage. Our Pledge of Allegiance is our flag, which represents the United States Constitution; now, therefore, be it further resolved: That the New Hampshire house of representatives reaffirms the right to recite the pledge of allegiance as an exercise of free speech protected under the First Amendment to the United States Constitution; and

Whereas, the state of New Hampshire affirms the importance of the pledge of allegiance in honoring those who have fallen in defense of our country; and

Whereas, the state of New Hampshire affirms the importance of the pledge of allegiance in the education of the youth of our country; and

Whereas, the state of New Hampshire affirms the right to recite the pledge of allegiance as an exercise of free speech protected under the First Amendment to the United States Constitution; now, therefore, be it Resolved by the House of Representatives: That the House of Representatives strongly disagrees with the ruling of the United States Court of Appeals for the Ninth Circuit that the New Hampshire house of representatives reaffirms the right to recite the pledge of allegiance as an exercise of free speech protected under the First Amendment to the United States Constitution; and

That the New Hampshire house of representatives reaffirms the right to recite the pledge of allegiance as an exercise of free speech protected under the First Amendment to the United States Constitution; and

That copies of this resolution be transmitted to the judges of the Ninth United States Circuit Court of Appeals, the justices of the United States Supreme Court, the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM–306. A resolution adopted by the Senate of the Legislature of the State of Michigan relative to Designating October 2002 as Respect Month and Respect Your Neighborhood Day; to the Committee on the Judiciary.

Whereas, For over ten years, the state of Michigan has recognized October as Respect Month and October 30 as Respect Your Neighborhood Day, a time for people of all ages to launch projects that encourage respect for one another and serve their communities as a whole; and

Whereas, this has led young people to participate in such projects including the clean up of vacant lots and helping senior citizens; and

Whereas, in 1998, the City Councils of Detroit and Highland Park voted to make Respect Month and Respect Your Neighborhood Day permanent occasions in their cities and to request the President and the Congress of the United States to proclaim such occasions on a national level; and

Whereas, In 1999, the Highland Park School Board made a similar request; and

Whereas, Encouraging adults to help create an atmosphere of respect may avert tragedies and save lives. The recent horrors on September 11, 2001, and the shootings in schools like Columbine are prime examples of the devastating effects of the lack of respect for our communities can help maintain the dignity of all members of society; and

This resolution be transmitted to the judges of the Ninth United States Circuit Court of Appeals, the justices of the United States Supreme Court, and the members of the New Hampshire congressional delegation.

POM–305. A resolution adopted by the Senate of the Legislature of the State of New Hampshire relative to allowing the Pledge of Allegiance; to the Committee on the Judiciary.

Resolved, That we condemn
Whereas, Respect Month will function as a time to positively model respect, promote respect, and encourage youth and their peers to do the same for each other, their communities, and mankind;

Whereas, Adults who can have an impact on children by putting an emphasis on the meaning of and the need for respect in society are invaluable to this cause, and character education brings about a greater respect and appreciation for all. The meaning of respect is ascertainment during childhood, and the exhibiting of respect by adults is of great importance; and

Whereas, Proclaiming Respect Month and Respect Your Neighborhood Day will encourage service projects and conflict-resolution courses, which are two ways to combat poor self-esteem and lack of self-respect which can lead to violence; and

Whereas, The existing diversity in our communities must be admired, appreciated, and valued, but without respect, this society will not achieve its full potential; now, therefore, be it

Resolved by the Senate, That the members of this legislative body commemorate October 2002 as Respect Month and October 30, 2002, as Respect Your Neighborhood Day on a permanent basis in the state of Michigan; and be it further

Resolved by the Senate that we urge President George W. Bush and the Congress of the United States to make such proclamations for the country as a whole; and be it further

Resolved by the Senate that we urge President George W. Bush and the Congress of the United States, the President of the U.S. Senate, the Speaker of the U.S. House of Representatives, and the Michigan congressional delegation.

POM–307. A resolution adopted by the General Assembly of the State of Maryland relative to September 11, 2001; ordered to lie on the table.

RESOLUTION

Be it hereby known to all that The Maryland General Assembly offers this resolution as an expression of sympathy in remembrance of September 11, 2001, when foreign terrorists conducted inhumane, murderous attacks on the United States.

The entire membership offers its deepest sympathy, its unwavering support, and its sincere concern to the families, friends, and the Nation.

The General Assembly directs this Resolution be presented on this 9th day of January, 2002, and that copies of this Resolution be sent to the President of the United States, George W. Bush, all members of the United States Congress, the Governor of New York and Mayor of New York City, the Governor of Virginia, and the Governor of Pennsylvania.

REPORTS OF COMMITTEES RECEIVED DURING RECESS

Under the authority of the order of the Senate of August 1, 2002, the following reports of committees were submitted on August 2, 2002:

By Mr. BAUCUS, from the Committee on Finance, with an amendment in the nature of a substitute:

S. 1971: A bill to amend the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 to protect the retirement security of American workers by ensuring that pension assets are adequately diversified and by providing workers with more information and improved protections about their pension plans, and for other purposes. (Rept. No. 107–242).

Under the authority of the order of the Senate of July 29, 2002, the following reports of committees were submitted on August 28, 2002:

By Mr. JEFFORDS, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute and an amendment to the title:

S. 351: A bill to amend the Solid Waste Disposal Act to reduce the quantity of mercury in the waste stream by eliminating the use of mercury by crematories, improving collection, recycling, and disposal of mercury, and for other purposes. (Rept. No. 107–253).

By Mr. JEFFORDS, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 1079: A bill to amend the Public Works and Economic Development Act of 1965 to provide assistance to communities for the development of brownfield sites. (Rept. No. 107–24–).

By Mr. KENNEDY, from the Committee on Health, Education, Labor, and Pensions, with an amendment in the nature of a substitute:


By Mr. INOUYE, from the Committee on Indian Affairs, with an amendment in the nature of a substitute:


S. 1944: A bill to provide training and technical assistance to Native Americans who are interested in commercial vehicle driving careers. (Rept. No. 107–248).

S. 3917: A bill to provide assistance to communities for the development of brownfield sites. (Rept. No. 107–250).

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CAMPBELL, from the Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 210: A bill to authorize the integration and consolidation of alcohol and substance abuse programs provided by Indian tribal governments, and for other purposes. (Rept. No. 107–250).

By Mr. KERRY, from the Committee on Small Business, with an amendment in the nature of a substitute and an amendment to the title:

S. 2753: A bill to provide for a Small and Disadvantaged Business Ombudsman for Procurement in the Small Business Administration, and for other purposes. (Rept. No. 107–251).

By Mr. INOUYE, from the Committee on Indian Affairs, without amendment:

S. 1308: A bill to provide for the use and distribution of the funds awarded to the Quinault Indian Nation under United States Claims Court Dockets 772–72, 773–71, and 775–71, and for other purposes. (Rept. No. 107–252).

EXECUTIVE REPORT OF COMMITTEE

The following executive report of committee was submitted:

By Mr. BIDEN, from the Committee on Foreign Relations:


TEXT OF COMMITTEE RECOMMENDED RESOLUTION OF RATIFICATION

Resolved (two-thirds of the Senators present concurring therein).

Section 1. Advice and Consent to Ratification of the Protocol Concerning Specifically Protected Areas and Wildlife to the Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region, subject to Reservations, an Understanding, and a Declaration.

The Senate advises and consents to the ratification of the Protocol Concerning Specifically Protected Areas and Wildlife to the Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region, including Annexes, done at Kingston on January 18, 1990 (Treaty Doc. 107–8), in the nature of a substitute:

Section 2, the understanding in Section 3, and the declaration in Section 4.

Section 2. Reservations.

The advice and consent of the Senate under section 1 is subject to the following reservations, which shall be included in the instrument of ratification:

(1) The United States of America does not consider itself bound by Article 11(1) of the Protocol to the extent that United States permits the limited use of flora and fauna listed in Annexes I and II.

(2) The United States has long supported environmental impact assessment procedures, and has actively sought to promote the adoption of such procedures throughout the world. U.S. law and policy require environmental impact assessments for major Federal actions significantly affecting the quality of the human environment. Accordingly, although the United States expects that it will, for the most part, be in compliance with Article 13, the United States does not accept an obligation under Article 13 of the Protocol to the extent that the obligations contained therein differ from the obligations of Article 12 of the Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region.

(3) The United States does not consider the Protocol to apply to six species of fauna and flora, which do not receive the protection provided by the Protocol in U.S. territory. These species are the Alabama, Florida and Georgia populations of least tern (Sterna antillarum), the Audubon’s shearwater (Puffinus lherminieri), the Mississippi, Louisiana and Texas population of the wood stork (Mycteria americana) and the Florida and Alabama populations of the pelican (Pelecanus occidentalis), which are listed on Annex II, as well as the fulvous whistling duck (Dendrocygna bicolor), and the populations of wildeon and the common iguana (Iguana iguana), as covered by the obligations of the Protocol.
Section 4. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

Existing federal legislation provides sufficient legal authority to implement United States obligations under the Protocol. Accordingly, no new legislation is necessary in order for the United States to implement the Protocol.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mrs. HUTCHISON (for herself, Mrs. FEINSTEIN, Mr. HATCH, Mrs. CLINTON, Mr. HUTCHISON, Mrs. CARMAN, Mr. BENNETT, Mr. ROCKFELLER, Mr. HELMS, Ms. LANDRIEU, Mr. HARKIN, Ms. COLLINS, Mr. KYL, Mr. DURBIN, Mr. EDWARDS, Mr. DODD, Mr. CHAFEE, Ms. SNOWE, Mr. ALLARD, Mr. VINO-VICH, Mr. NELSON of Florida, Mr. LOTT, Mr. BIDEN, Mr. LUGAR, and Ms. STABENOW):

S. 2896. A bill to enhance the operation of the AMBER Alert communications network in order to facilitate the recovery of abducted children, to provide for enhanced notification on highways of alerts and information on such children, and for other purposes; to the Committee on the Judiciary.

By Mr. JEFFORDS:

S. 2897. A bill to assist in the conservation of marine turtles and the nesting habitats of marine turtles in foreign countries; to the Committee on Environment and Public Works.

By Mr. THURMOND:

S. 2898. A bill for the relief of Jaya Gulab Tolani and Hitesh Gulab Tolani; to the Committee on the Judiciary.

By Ms. LANDRIEU (for herself and Mr. BREAUX):

S. 2899. A bill to establish the Atchafalaya National Heritage Area, Louisiana; to the Committee on Energy and Natural Resources.

By Mr. WELSTON (for himself and Mr. DAYTON):

S. 2900. A bill to designate the facility of the United States Postal Service located at 610 Perry Road, Bloomington, Minnesota, as the ‘‘Thomas E. Burnett, Jr. Post Office Building’’; to the Committee on Governmental Affairs.

By Mr. GRASSLEY:

S. 2901. A bill to provide that bonuses and other extraordinary or excessive compensation of corporate insiders and wrongdoers may be included in the bankruptcy estate; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 2119

At the request of Mr. HUTCHISON, the name of the Senator from Maryland (Ms. MIKULSKI) and the Senator from Minnesota (Mr. WELLSTONE) were added as cosponsors of S. 2119, a bill to implement effective measures to stop trade in conflict diamonds, and for other purposes.

S. 2456

At the request of Mr. DURBIN, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 2456, a bill to amend title 9 of the United States Code to exclude all employment contracts from the arbitration provisions of chapter 1 of such title, and for other purposes.

S. 2480

At the request of Mr. LEAHY, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 2480, a bill to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from state laws prohibiting the carrying of concealed handguns.
COLLINS) was added as a cosponsor of S. 2521, a bill to amend title II of the Social Security Act to restrict the application of the windfall elimination provision to individuals whose combined monthly income from benefits under such title and other monthly periodic payments exceeds $2,000 and to provide for a graduated implementation of such provision on amounts above such $2,000 amount.

At the request of Mr. Smith of New Hampshire, the names of the Senator from Connecticut (Mr. CONRAD) and the Senator from Maine (Ms. COLLINS) were added as cosponsors of S. 2554, a bill to amend title II of the Social Security Act to reauthorize the Medicare + Choice program and for other purposes.

S. 2554

At the request of Mr. KENNEDY, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 2566, a bill to improve early learning opportunities and promote school preparedness, and for other purposes.

S. 2566

At the request of Mr. REED, the name of the Senator from California (Ms. FEINSTEIN) was added as a cosponsor of S. 2611, a bill to reauthorize the Museum and Library Services Act, and for other purposes.

S. 2611

At the request of Mr. LIEBERMAN, the name of the Senator from Louisiana (Mr. BREAUX) was added as a cosponsor of S. 2592, a bill to provide affordable housing opportunities for families that are headed by grandparents and other relatives of children, and for other purposes.

S. 2592

At the request of Mr. ROCKEFELLER, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 2633, a bill to prohibit an individual from knowingly opening, maintaining, managing, controlling, renting, leasing, making available for use, or profiting from any place for the purpose of manufacturing, distributing, or using any controlled substance, and for other purposes.

S. 2633

At the request of Mrs. CLINTON, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 2657, a bill to amend the Child Abuse Prevention and Treatment Act to provide for opportunity passports and other assistance for young in foster care and youth aging out of foster care.

S. 2657

At the request of Mr. NELSON of Florida, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 2704, a bill to provide for the comprehensive reporting of information on projects of the Department of Defense, such as Project 112 and the Shipboard Hazard and Defense Project (Project SHAD), that included testing of biological or chemical agents involving potential exposure of members of the Armed Forces to toxic agents, and for other purposes.

S. 2704

At the request of Mr. NELSON of Florida, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 2712, a bill to authorize economic and democratic development assistance for Afghanistan and to authorize military assistance for Afghanistan and certain other foreign countries.

S. 2712

At the request of Mr. SARBANES, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2721, a bill to improve the voucher rental assistance program under the United States Housing Act of 1937, and for other purposes.

S. 2721

At the request of Mr. KERRY, the name of the Senator from Maine (Ms. SOWE) was added as a cosponsor of S. 2734, a bill to provide emergency assistance to non-farm small business concerns that have suffered economic harm from the devastating effects of drought.

S. 2734

At the request of Mr. THOMAS, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 2762, a bill to amend the Internal Revenue Code of 1986 to provide involuntary conversion tax relief for producers of livestock due to adverse weather-related conditions or Federal land management agency policy or action, and for other purposes.

S. 2774

At the request of Mr. CRAIG, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 2777, a bill to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to the treatment of qualified public educational facility bonds as exempt facility bonds.

S. 2826

At the request of Mr. SCHUMER, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 2826, a bill to improve the national instant criminal background check system, and for other purposes.

S. 2826

At the request of Mr. ROCKEFELLER, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 2860, a bill to amend title XXI of the Social Security Act to modify the rules for redistribution and extended availability of fiscal year 2000 and subsequent fiscal year allotments under the State Children's health insurance program, and for other purposes.

S. 2860

At the request of Mr. GRASSLEY, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 2873, a bill to improve the provision of health care in all areas of the United States.

S. 2873

At the request of Mr. CONRAD, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 2882, a bill to amend the Internal Revenue Code of 1986 to modify the tax credit for holders of qualified zone academy bonds.

S. RES. 311

At the request of Mr. JEFFORDS, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. Res. 311. A resolution expressing the Sense of the Senate regarding the policy of the United States at the World Summit on Sustainable Development and related matters.

S. CON. RES. 94

At the request of Mr. WYDEN, the names of the Senator from Louisiana (Mr. BREAUX) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. Con. Res. 94. A concurrent resolution expressing the sense of Congress that public awareness and education about the importance of health care coverage is of the utmost priority and that a National Importance of Health Care Coverage Month should be established to promote that awareness and education.

S. CON. RES. 129

At the request of Mr. CRAPO, the names of the Senator from West Virginia (Mr. ROCKEFELLER) and the Senator from Oregon (Mr. SMITH) were added as cosponsors of S. Con. Res. 129. A concurrent resolution expressing the sense of Congress regarding the establishment of the month of November each year as "Chronic Obstructive Pulmonary Disease Awareness Month".

AMENDMENT NO. 416

At the request of Mr. ROCKEFELLER, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of amendment No. 416 proposed to S. 812, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. HUTCHISON (for herself, Mrs. FEINSTEIN, Mr. HATCH, Mrs. CLINTON, Mr. HUTCHISON, Mrs. MOORE, Mr. BENTHETT, Mr. ROCKEFELLER, Mr. HELMS, Mrs. LANDRIEU, Mr. HARKIN, Ms. COLLINS, Mr. KYL, Mr. DURBIN,
Mr. EDWARDS, Mr. DODD, Mr. CRAPO, Ms. SNOWE, Mr. ALLARD, Mr. Voinovich, Mr. Nelson of Florida, Mr. LOTT, Mr. BIDEN, Mr. LUGAR, Ms. Stabenow, Mr. Sessions, and Mr. Inhofe:

S. 2808 would amend the AMBER Alert authorization, to enhance the operation of the AMBER Alert communications network in order to facilitate the recovery of abducted children, to provide for enhanced notification of highways of alerts and information on such children, and for other purposes; to the Committee on the Judiciary.

Mrs. Hutchison, Madam President, I am introducing today with my friend from California, Senator Feinstein, legislation to improve the current system of AMBER Alert plans that exist in various States. Our legislation recognizes the tremendous job that those involved in AMBER alerts are playing and we seek to build on their efforts.

In 1996, 9-year-old Amber Hagerman of Arlington, Texas was abducted and brutally murdered. Her death had such an impact on the community that local law enforcement and area broadcasters developed what is now known as AMBER Alert, America's Missing: Broadcast Emergency Response. An AMBER alert is activated by law enforcement to find a child, when a child has been abducted. An Alert triggers highway notification and broadcast messages throughout the area where the abduction occurred.

As we have this summer, AMBER plans in different communities have worked to bring children home safely. To date, AMBER Alert has helped recover 27 children nationwide. Many communities and states have outstanding AMBER plans; however, the vast majority of States do not yet have comprehensive, statewide coverage and lack the ability to effectively communicate between plans. This is a critical issue particularly when an abducted child is taken across State lines.

The bill I am introducing today establishes an AMBER Alert Coordinator within the Department of Justice to assist States with their AMBER plans. An AMBER Alert Coordinator is needed to address situations such as the recent examples of interstate travel with abducted children. We have witnessed several successful stories of AMBER plans helping to recover a child within a region; however, many gaps exist between the various AMBER plans around the country. The AMBER Alert Coordinator will facilitate appropriate regional coordination of AMBER alerts, particularly with interstate travel situations, and will assist states, broadcasters, and law enforcement in setting up additional AMBER plans.

The AMBER Alert Coordinator will set minimum, voluntary standards to help states coordinate when necessary. The AMBER Alert Coordinator will help to reconcile the different standards for what constitutes an AMBER alert. In doing so, the Coordinator will work with existing participants, including the National Center for Missing and Exploited Children, local and State law enforcement and broadcasters to define minimum standards.

Overall, the AMBER Alert Coordinator's efforts will set safeguards to make sure that the system is used to meet its intended purpose. In addition, the bill provides for a matching grant program. The grant program will help localities and states build or further enhance their efforts to disseminate AMBER alerts. To this end, the matching grant program will fund road signage and electronic message boards along highways, dissemination of information on abducted children, education and training, and related activities.

Our bill has the strong support of the National Center of Missing and Exploited Children and the National Association of Broadcasters, who play essential roles in the AMBER Alert system. I urge the Senate to act expeditiously on this legislation to further protect America's children.

Mrs. Feinstein, Mr. President, today, I am pleased to join Senator Hutchison in introducing legislation that will provide by expanding the existing AMBER Alert program nationwide.

AMBER Alerts are official bulletins broadcast over the airwaves to enlist the public's help in tracking down abducted children facing imminent danger from their kidnappers.

The power of the AMBER alert can be seen in the recent kidnapping of Tamara Brooks and Jacqueline Morris. On August 1, 2002, twenty-four hours after the State of California launched its statewide AMBER Alert program, Tamara Brooks, 16, and Jacqueline Morris, 17, were abducted from their vehicles at gunpoint in Lancaster, CA. AMBER Alert from California Highway Patrol issued an AMBER Alert on the girls disappearance.

Within the next few hours, concerned members of the community called into CHP hotlines, delivering a flurry of crucial tips that helped locate the suspect.

A driver on state Highway 178 spotted the abductor's stolen white bronco in Walker Pass, approximately 70 miles east of Bakersfield. Two hours later, a CalTrans worker spotted the suspect on Highway 178, and,

A Kern County animal control officer spotted the Bronco on a local dirt road. Based on these tips, sheriff's deputies located the girls and their abductor, Roy Ratliff, in a vehicle in a dry riverbed, just 12 hours after the abduction.

Ratliff was killed during an exchange of gunfire with sheriff's deputies, and the girls were returned home safely.

The AMBER Alert system and the effective work of the Kern County Sheriff's Department may be the only reason that the girls are alive today.

Children abducted in States without an AMBER Alert system, however, may not have been so fortunate.

That is why we are introducing this legislation, to spur the development of State and local AMBER plans across the country so we can increase the chances that children abducted by strangers can be returned home safely. Currently, more than 38,000 children in the United States are abducted by non-family members, often in connection with another crime.

In the most dangerous type of child abduction, stranger abduction, fully 40 percent of children are murdered. Speed is crucial to any effective law enforcement response to these most deadly cases.

According to a study by the U.S. Department of Justice, 74 percent of children who were abducted, and later found murdered, were killed within three hours of being taken.

AMBER Alerts are a proven weapon in the fight against stranger abductions. Each AMBER Alert costs a month where an abducted child is facing an imminent threat of harm.

The program is named after nine-year-old Amber Hagerman who was kidnapped and murdered in Arlington, TX in 1996.

The power of the AMBER alert system is that an alert can be issued within minutes of an abduction, disseminating key information of the crime to the community at large.

Nationally, since 1996, the AMBER Alert has been credited with the safe return of 29 children to their families, including one case in which an abductor reportedly released the child after hearing the alert himself.

These are 29 families who didn't have to suffer the pain of losing a loved one. Twenty-nine families who didn't have to bury a child.

Since the State of California first adopted the AMBER Alert program a month ago, the State has issued 13 AMBER alerts. Each of the AMBER Alerts concluded with the missing child being united with their families.

Eight of these alerts involved stranger abductions. Four involved family members, and one case is considered a false alarm.

I would like to describe two of these cases: the rescue of four-year-old Jessica Cortez from Los Angeles and 10-year-old Nichole Timmons from Riverside.

Jessica disappeared from Echo Park in Los Angeles on August 11, 2002.

But when Jessica's abductor took her to a clinic for medical care, receptionist Denise Leon recognized Jessica from the AMBER Alert and notified law enforcement.

Without the publicity generated by the alert, Jessica could have been lost to parents forever.

Nichole Timmons was kidnapped from her Riverside home on August 20.

In Nichole's case, an Alert was issued not just in California, but in Nevada as well.

A tribal police officer in Nevada spotted the truck of Nichole's abductor and stopped him within 24 hours of the abduction.
He was found with duct tape and a metal pipe.

The AMBER Alert enabled Nichole to return home safely to her parents.

The legislation we are introducing today is simple, yet very important.

First, it would establish a national coordinator for AMBER Alerts in the Department of Justice to expand the network of AMBER Alert systems and to coordinate the issuance of region-wide AMBER Alerts.

We believe coordination of AMBER Alert because, as we saw in the case of Nichole Timmons, abductors of children may cross State lines as they flee crime scenes.

Second, the bill would establish grant programs in the Department of Justice and the Department of Transportation to provide for the development of AMBER Alert systems, electronic message boards, and training and education programs in states that do not have AMBER Alerts.

To date, AMBER Alert systems exist in only 15 States and 32 local and regional jurisdictions. This bill would help the expansion of AMBER Alerts to new jurisdictions.

Third, the bill directs the Department of Justice to establish minimum standards for the coordination of AMBER alerts between jurisdictions.

Minimum standards are needed because many of the existing AMBER plans have slightly different standards for any AMBER Alert, such as when to issue an alert.

Without a common standard, sharing AMBER Alerts between states will be difficult.

I would also like to stress what the bill does not do.

It is the specific intent of this bill not to interfere with the operation of the 50 State and local AMBER plans that are working so well.

Participation in regional AMBER plans is only voluntary, and any plan that wishes to go it alone may so. Do so.

The bill also does not change the very strict criteria of the AMBER Alert.

AMBER Alerts are successful because they are issued rarely, and only when strict criteria are met.

A typical AMBER Alert is only issued when a law enforcement agency confirms that a stranger abduction has occurred and is in imminent danger, and there is information available that, if disseminated to the public, could assist in the safe recovery of the child.

The effectiveness of the system depends on the continued judicious use of the alert so that the public does not grow to ignore the warnings.

This bill is carefully designed to preserve the Alert’s ongoing effectiveness.

In sum, through this legislation, we can extend the ever-wider net of AMBER Alerts to networks of AMBER Alerts that will protect our children.

If we can set up a program that will increase the odds that an abducted child can return to his or her family safely, then I believe the program will be well worth it.

We know the AMBER Alert system works. We know that every community in America should have access to it.

Mr. HATCH. Mr. President, I am proud to join with Senators KAY BAILEY HUTCHISON (R-TX) and DIANE FEINSTEIN (D-CA) in introducing the “National AMBER Alert Network Act of 2002” which will extend the AMBER Alert (America's Missing: Broadcast Emergency Response) system across our Nation. The recent wave of child abductions across our Nation, including the kidnapping of Elizabeth Smart in my own home state of Utah, has highlighted the need for legislation to enhance our ability to protect our Nation’s children against predators of all types.

When a child is abducted, time is of the essence. All too often it is only a matter of hours before a kidnapper commits an act against the child. Alert systems, such as the AMBER Alert system, galvanize entire communities to assist law enforcement in the timely search for and safe return of children.

The AMBER Alert system was developed in 1996 in Texas after 9-year-old Amber Hagerman was kidnapped. To date, the system has been credited with the recovery of 27 missing children. Nonetheless, only 15 States have adopted AMBER Alert systems.

Just this year, my home State of Utah adopted a statewide alert program aimed at preventing child abduction called “Rachel Alert.” The program was named after young Rachel Runyan who was abducted and later found murdered.

We recently witnessed the success of the AMBER Alert system in California. There the AMBER system was used to broadcast the disappearance of Nichole Timmons, two young women were found.

The legislation we introduce today will enhance our ability to recover abducted children by establishing a Coordinating Office in the Department of Justice to assist States in developing and coordinating alert plans nationwide. The Act also provides for a matching grant program through the Department of Transportation for highway signs, education and training programs, and the equipment necessary to facilitate AMBER Alert systems.

I support the National AMBER Alert Network Act and other legislative proposals that will improve our ability on a national level to combat crimes against children. For that reason, I will introduce in the coming days comprehensive legislation that will enhance existing laws, investigative tools, criminal penalties and child crime resources in a variety of ways. I believe Congress must do all it can to ensure that we devote the same intensity of purpose to crimes committed against children, as we do to other serious criminal offenses, such as those involving terrorism.

We have no greater resource than our children. I invite the Department of Justice, the Federal Bureau of Investigation and other entities and professionals who are protecting our children to work with me to improve our Federal laws and to assist States in doing the same.

I commend Senator HUTCHISON for her tireless efforts on behalf of children and families and urge my colleagues to work with us to enact this critical legislation which will increase the chances that future victims of child predators will be found swiftly and returned home safely.

By Mr. JEFFORDS:

S. 2897. A bill to assist in the conservation of marine turtles and the nesting habitats of marine turtles in foreign countries; to the Committee on Environment and Public Works.

Mr. JEFFORDS. Mr. President, I rise today to introduce the “Marine Turtle Conservation Act of 2002.”

Marine turtles were once abundant, but now they are in serious trouble. Six of the seven recognized species are listed as threatened on endangered under the Endangered Species Act, and all seven species have been included in Appendix I of the Convention on International Trade in Endangered Species of Wild Flora and Fauna, CITES. Because marine turtles are long-lived, late-maturing, and highly migratory, they are particularly vulnerable to the impacts of human exploitation and habitat loss. In addition, some species, illegal trade seriously threatens wild populations. Because of the immense challenges facing marine turtles, the resources available to date have not been sufficient to cope with the continued loss of nesting habitat due to human activities and the resulting diminution of marine turtle populations.

The Marine Turtle Conservation Act of 2002 is modeled after the successful African Elephant Conservation Act, the Asian Elephant Conservation Act, and the Rhinoceros and Tiger Conservation Act. These acts have established programs within the Department of the Interior to assist in the conservation and preservation of these species around the world. More than 300 projects have been funded and generated millions of dollars in private matching funds from sponsors representing a diverse group of conservation organizations. The projects range from purchasing anti-poaching equipment to implementing elephant conservation plans to aerial monitoring of the Northern white rhinoceros.
The Marine Turtle Conservation Act of 2002 will assist in the recovery and protection of marine turtles by supporting and providing financial resources for projects to conserve nesting habitats of marine turtles in foreign countries and marine turtles while they are in transit in marine turtle parts and projects, and to address other threats to the survival of marine turtles. The bill authorizes $5 million annually to implement the program.

This bill helps to preserve this ancient and distinctive part of the world’s biological diversity.

By Mr. THURMOND:
S. 2898. A bill for the relief by Jaya Gulab Tolani and Hitesh Gulab Tolani; to the Committee on the Judiciary.

Mr. THURMOND. Madam President, I rise to introduce a private relief bill that would provide permanent legal resident status for Hitesh Tolani and his mother, Jaya Tolani, who face voluntary removal from this country. I feel that the Tolani’s case presents a compelling need for legislative action. Hitesh Tolani, who is a scholarship student at Wofford College in Spartanburg, SC, came to the United States with his mother, Jaya, and father, Gulab, in 1984. When Hitesh arrived in this country, he was a toddler. Hitesh has a younger brother, Ravi, who was born here and is a United States citizen.

The Tolani’s efforts to become United States citizens was beset by tragedy. Gulab’s brother, who served as a sponsor, died during the family’s efforts to become legal permanent residents. Furthermore, just days before Gulab was to interview in New York in hopes of gaining legal permanent resident status for himself and his family, he passed away. Jaya was left with no way to legalize her or Hitesh’s status.

In the same year in which Gulab died, Jaya was also diagnosed with breast cancer. In the midst of these difficulties, Jaya was left with very few alternatives. When Hitesh learned of his illegal status, he made the decision to turn himself into the authorities. After removal proceedings commenced, Hitesh and Jaya sought relief in the form of cancellation of removal. In order to do so, Hitesh Tolani and his mother, Jaya Tolani, if forced to leave this country, will face exceptional hardship. Hitesh is a fine young man and an outstanding student. Through no fault of his own, he faces the prospect of leaving only home that he has ever known. I ask unanimous consent that the text of the bill be printed in the RECORD.

Relocation to India would also create extreme hardship for Jaya, who is in remission from breast cancer. She would have to abandon her clothing store business in South Carolina and return to a land that she has not seen for twenty years. She also faces the potential breakup of her family due to the status of her youngest son, Ravi, who is a U.S. citizen. Ravi would be forced to go to India with the rest of his family or face the prospect of foster care. Ravi is not fluent in Hindi, but is very proficient in English. Ravi is also an asthmatic who must periodically use an inhaler machine. He would be subject to unhealthy air quality in Bombay, the city where the Tolani’s closest relatives reside and the place where they would settle.

The Tolani family appealed to the Board of Immigration Appeals, and the Immigration Judge’s decision was affirmed without comment. The family is now appealing to the Eleventh Circuit Court of Appeals. The standard of review is deferential, making this an uphill climb for Hitesh and Jaya.

I have always been a strong proponent of enforcing our Nation’s immigration laws. However, the Tolani’s case represents one of those rare instances where removal would be unjust. The Tolani family, if forced to leave this country, will face exceptional hardship. Hitesh is a fine young man and an outstanding student. Through no fault of his own, he faces the prospect of leaving only home that he has ever known. I ask unanimous consent that the text of the bill be printed in the RECORD.

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

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

SECTION 1. PERMANENT RESIDENCE.

Notwithstanding any other provision of law, for purposes of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), Jaya Gulab Tolani and Hitesh Tolani shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of enactment of this Act upon payment of the required visa fees.

SEC. 2. REDUCTION OF NUMBER OF AVAILABLE VISAS.

Upon the granting of permanent residence to Jaya Gulab Tolani and Hitesh Gulab Tolani, as provided in section 1, the Secretary of State shall instruct the proper officer to reduce by the appropriate number during the current fiscal year the total number of immigrant visas available to natives of the country of the aliens’ birth under section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)).

By Ms. LANDRIEU (for herself and Mr. BREAUX):
S. 2899. A bill to establish the Atchafalaya National Heritage Area, Louisiana; to the Committee on Energy and Natural Resources.

Ms. LANDRIEU. Madam President, today I rise, along with Senator Breaux, to introduce legislation to establish the Atchafalaya National Heritage Area in Louisiana. This legislation has particularly special meaning to those of us from Louisiana because of the importance of the cultural and natural resources of the Atchafalaya region to the Nation.

This legislation would establish a framework to help protect, conserve, and promote these unique natural, cultural, historical, and recreational resources of the region. Specifically, the legislation would establish a National Heritage Area in Louisiana that encompasses thirteen parishes in and around the Atchafalaya Basin swamp, America’s largest river swamp. The heritage area in south-central Louisiana reaches from Concordia parish to the north, where the Mississippi River begins to partially flow into the Atchafalaya River, all the way to the Gulf of Mexico in the south. The thirteen parishes are: St. Mary, Iberia, St. Martin, St. Landry, Avoyelles, Pointe Coupee, Iberville, Assumption, Terrebonne, Lafeyette, West Baton Rouge, Concordia, and East Baton Rouge. This boundary is the same area covered by the existing Atchafalaya Trace State Heritage Area.

This measure will appoint the existing Atchafalaya Trace Commission as the federally recognized “local coordinating entity.” The commission is composed of thirteen members with one representative from each parish in the heritage area. Both the Atchafalaya Trace Commission and the Atchafalaya Trace State Heritage Area were created by the Louisiana Legislature a number of years ago. The Atchafalaya Trace State Heritage Area program currently receives some State funding, and already has staff working at the Louisiana Department of Culture, Recreation & Tourism, DCRT, under Lieutenant Governor Kathleen Blanco. State funds were used to create the management plan for the heritage area, which followed “feasibility analysis” guidelines as recommended by the National Park Service. Therefore, the recently-completed management plan need only be submitted to the Secretary of the Interior for approval as this legislation would recognize an existing local coordinating entity that will oversee the implementation of this plan. We are very proud that this state heritage area has already completed the complicated planning process, with input from Atchafalaya Trace Service representatives, while using a standard of planning quality equal to that of existing national heritage.
areas. All at no cost to the Federal Government.

Please let me also emphasize that this legislation protects existing private property rights. It will not interfere with local land use ordinances or regulations, but it is specifically prohibited from doing so. Nor does this legislation grant any powers of real property acquisition to the local coordinating entity or heritage area program. In addition, the legislation does not imply any environmental process or cause any change in Federal environmental quality standards different from those already in effect.

Heritage areas are based on cooperation and collaboration at all levels. This legislation remains true to the core concept behind heritage areas. The heritage area concept has been used successfully in various parts of our nation to promote historic preservation, natural and cultural resources protection, heritage tourism and sustainable revitalization for both urban and rural areas. Heritage areas provide a flexible framework for government agencies, private organizations and businesses and landowners to work together on a coordinated regional basis. The Atchafalaya National Heritage Area will join the Cane River National Heritage Area to become the second National Heritage Area in Louisiana, ultimately joining the 23 existing National Heritage Areas around the Nation.

The initiative to develop the Atchafalaya National Heritage Area is an outgrowth of a grassroots effort to achieve multiple goals of this region. Most important among these is providing opportunities for the future, while at the same time not losing anything that makes this place so special. Residents from all over the region, local tourism agencies, State agencies such as the DCRT and the Department of Natural Resources, the State Legislature, Federal agencies including the National Park Service and U.S. Army Corps of Engineers, parish governments, conservation and preservation groups, local businesses and local landowners have all participated in this endeavor to make it the strong initiative it is today. These groups have been very supportive of the heritage area effort, and as time moves on, the heritage area will continue to involve more and more of the area’s most important resource, its people.

I would also like to give you a brief overview of the resources that make this place significant to the entire country. Not only is it important to our Nation’s history but it is also critical to understanding America’s future. The name of the place itself—Atchafalaya—comes from the American Indians and means “long river.” This name signifies the first settlers of the region, descendants of whom still live there today. As it is specifically to understand America’s future. The Atchafalaya Basin has become a study of the complexities and interplay of nature. After the catastrophic Mississippi River flood of 1927 left thousands dead and millions displaced, the U.S. Congress decreed that the U.S. Army Corps of Engineers should develop an intricate system of levees to protect human settlements, particularly New Orleans. Today, the Mississippi River is caged within the walls of earthen and concrete levees and manipulated with a complex system of locks, barrages and floodgates. The Atchafalaya River runs parallel to the Mississippi and through the center of the Basin. In times of flooding the river basin serves as the key floodway in controlling floodwaters headed for the large population centers of Baton Rouge and New Orleans by diverting waters from the Mississippi River to the Gulf of Mexico. This system was sorely tested in 1973 when floodwaters threatened to break through the floodgates and permanently divert the Mississippi River to the Atchafalaya. However, after this massive flood event, new land started forming off the coast. These new land formations make up the Atchafalaya Delta, and is the only significant area of new land being built in the United States. The vast amounts of Mississippi River sediment are also raising filling in the Basin itself, raising the level of land in certain areas of the basin and filling in lakes and waterways. And to demonstrate just how complex this ecosystem is, one only needs to realize that just to the East of the Delta, Terrebonne parish, also in the heritage area, is experiencing some of the most significant coastal land loss in the country.

Over the centuries, the ever-changing natural environment has shaped the lives of the people living in the basin. Residents have profited from and been imperiled by nature. The popular cultural identity of the region is strongly associated with the Canjuns, descendants of the French-speaking Acadians who settled in south Louisiana after being deported by the British from Nova Scotia, (formerly known as Acadia). The Acadians were three thousand exiled Acadians repatriated in Louisiana where they proceeded to re-establish their former society.

Today, in spite of complex social, cultural, and demographic transformations, Cajuns maintain a sense of group identity and continue to display a distinctive set of cultural expressions nearly two-hundred-and-fifty years after their exile from Acadia. Cajun culture has become increasingly popular outside of Louisiana. Culinary specialties adapted from Acadia such as etoufee, boudin, andouille, crepes, beignets and sauces thickened with roux, delight food lovers well
beyond Louisiana's borders. Cajun music has also "gone mainstream" with its blend of French folk songs and ballads and instrumental dance music, and more recent popular country, rhythm-and-blues, and rock music influences. While the growing interest in Cajun music has raised awareness of its culture for its unique traditions, many of the region's residents are concerned about the growing commercialization and stereotyping that threatens to diminish the authentic Cajun ways of life.

While the Atchafalaya Basin area may be well known for its Cajun culture, there is an astonishing array of other cultures within these parishes. Outside of New Orleans, the Atchafalaya Basin area of Louisiana is the most racially and ethnically complex region, and has been so for many years. A long legacy of multiculturalism presents interesting opportunities to examine how so many distinct cultures have survived in relative harmony. There may be interesting lessons to learn from here as our nation becomes increasingly heterogeneous. The cultural complexity of this region has created a rich tapestry of historically significant traditions, evidenced by the architecture, music, language, food and festivals unlike anywhere else. Ethnic groups of the Atchafalaya include: African-Americans, Black Creoles, Asians, Chinese, Filipinos, Vietnamese, Lebanese, Spanish, Italians, Scotch-Irish, and American Indian tribes such as the Attakapas, Chitimacha, Coushatta, Houma, Opelousa and Tunica-Biloxi.

This heritage area has a wealth of existing cultural, historic, natural, scenic, recreational and visitor resources on which to build. Scenic resources include numerous State Wildlife Management Areas and National Wildlife Refuges, as well as ten designated state scenic trails. There are also interesting stories to tell within the Atchafalaya Basin area. The Office of State Parks operates three historic sites in the heritage area and numerous historic districts and buildings can be found in the region. There are also nine Main Street communities in the Atchafalaya Basin area. Outdoor recreational resources include two State Parks and a multitude of waterways and bayous. Hunting, fishing, boating, and canoeing, and more recently birdwatching and cycling, are popular ways to experience the region. Various visitor attractions, interpretive centers and visitor information centers exist to help residents and tourists alike better understand and navigate many of the resources in the heritage area. Major roads link the heritage area's central visitor entrance points and large population centers, especially New Orleans. Much of the hospitality industry servicing the Atchafalaya Basin area exists around the larger cities of Baton Rouge, Lafayette, and Houma. However, more and more bed and breakfast and heritage accommodations, such as houseboat rentals, are becoming more numerous in the smaller towns and rural areas.
(2) invite the participation of residents, public agencies, and private organizations in the Heritage Area.

(c) CONTENTS.—The management plan shall include—

(1) an inventory of the resources in the Heritage Area, including—

(A) a list of property in the Heritage Area that—

(i) relates to the purposes of the Heritage Area; and

(ii) should be preserved, restored, managed, or maintained because of the significance of the property; and

(B) an assessment of cultural landscapes within the Heritage Area;

(2) provisions for protection, interpretation, and enjoyment of the resources of the Heritage Area consistent with this Act;

(3) an interpretation plan for the Heritage Area; and

(4) a program for implementation of the management plan that includes—

(A) actions to be carried out by units of government, private organizations, and public-private partnerships to protect the resources of the Heritage Area; and

(B) the identification of existing and potential sources of funding for implementing the plan.

(d) SUBMISSION TO SECRETARY FOR APPROVAL.—

(1) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the local coordinating entity shall submit the management plan to the Secretary for approval.

(2) EFFECT OF FAILURE TO SUBMIT.—If a management plan is not submitted to the Secretary by the date specified in paragraph (1), the local coordinating entity shall submit the management plan to the Secretary for approval.

(e) APPROVAL.—

(1) IN GENERAL.—Not later than 90 days after receiving the management plan submitted under subsection (d)(1), the Secretary, in consultation with the State, shall approve or disapprove the management plan.

(2) ACTION FOLLOWING DISAPPROVAL.—

(A) IN GENERAL.—If the Secretary disapproves a management plan under paragraph (1), the Secretary shall—

(i) advise the local coordinating entity in writing of the reasons for the disapproval;

(ii) make recommendations for revisions to the management plan; and

(iii) allow the local coordinating entity to submit to the Secretary revisions to the management plan.

(B) DEADLINE FOR APPROVAL OF REVISION.—Not later than 90 days after the date on which a revision is submitted under subparagraph (A)(iii), the Secretary shall approve or disapprove the revision.

(f) REVISION.—

(1) IN GENERAL.—After approval by the Secretary of a management plan, the local coordinating entity shall periodically—

(A) review the management plan; and

(B) make an update to the Secretary, for review and approval by the Secretary, the recommendations of the local coordinating entity for any revisions to the management plan that the local coordinating entity considers to be appropriate.

(2) EXPENDITURE OF FUNDS.—No funds made available under this Act shall be used to implement any revision proposed by the local coordinating entity under paragraph (1)(B) until the Secretary approves the revision.

SEC. 8. FINANCIAL ASSISTANCE.

(a) IN GENERAL.—To provide the Federal share of the costs of an activity assisted by the local coordinating entity under this Act shall not exceed 50 percent.

(b) COST SHARING.—The Federal share of the costs of an activity assisted by the local coordinating entity under this Act shall not exceed 50 percent.

(c) EFFECT OF ACT.—

(1) I N GENERAL.—Not later than 3 years after September 30, 2017, nothing in this Act or in establishment of the Heritage Area—

(A) precludes any Federal activity that would be applicable had the Heritage Area not been established;

(B) precludes any activity in Federal environmental quality standards; or

(C) modifies, enlarges, or diminishes any activity that would have been made available under this Act, the local coordinating entity financial assistance in the amount of $10,000,000, of which not more than $1,000,000 for any fiscal year.

(2) LIMITATION.—For any year in which Federal funds have been made available under this Act, the local coordinating entity shall submit to the Secretary a report that describes—

(A) the accomplishments of the local coordinating entity; and

(B) the expenses and income of the local coordinating entity.

SEC. 11. AUTOMATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act $10,000,000, of which not more than $1,000,000 shall be made available for any fiscal year.

SEC. 12. TERMINATION OF AUTHORITY.

The Secretary shall not provide any assistance under section 8 after September 30, 2017.

By Mr. GRASSLEY:

S. 2901. A bill to provide that bonuses and other extraordinary or excessive compensation of corporate insiders and wrongdoers may be included in the bankruptcy estate; to recover transfers made while the company's employees, shareholders and creditors are left carrying the burden of the bankruptcy. Further, corporate officers and insiders shouldn't be allowed to get bonuses and loans when a company has done so poorly to go bankrupt.

- Currently, the Bankruptcy Code permits a trustee to recover assets from an insider made within a year of the filing of a bankruptcy petition. However, the Bankruptcy Code does not clearly establish that this section applies to bonuses and other extraordinary or excessive compensation of corporate directors and wrongdoers. My legislation, the "Corporate Accountability in Bankruptcy Act," would clarify that the bonuses and other extraordinary or excessive compensation of corporate directors and wrongdoers can be brought back into a bankruptcy estate when a company goes bankrupt.

- This legislation is equitable because corporate officers and those individuals who have engaged in wrongdoing and failed the securities and accounting laws should not be able to make outrageous amounts of money off of a company which has gone bankrupt, while the company's employees, shareholders and creditors are left carrying the burden of the bankruptcy. Furthermore, corporate officers and insiders shouldn't be allowed to get bonuses and loans when a company has done so poorly to go bankrupt. They don't deserve that kind of excessive compensation.

- Similarly, the plain fact is that corporate officers and those who engage in illegal activity should not be allowed to benefit where their actions have contributed to the downfall of the company. I don't think that's fair, and my bill would ensure that there is some equity in terms of who gets left holding the bag when a company goes bankrupt.

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- Similarly, the plain fact is that corporate officers and those who engage in illegal activity should not be allowed to benefit where their actions have contributed to the downfall of the company. I don't think that's fair, and my bill would ensure that there is some equity in terms of who gets left holding the bag when a company goes bankrupt.
I think everyone would agree that a trustee should be able to recover these kinds of assets when a company goes bankrupt. Corporate bigwigs and wrongdoers shouldn’t be able to keep their bonuses, loans or other excessive compensation when a company goes under. Corporate mismanagement and irresponsibility should not be rewarded, and the bad guys need to be held accountable.

So I think that we need to clarify the Bankruptcy Code in order that bonuses and other extraordinary or excessive compensation that the company has given to the insiders and wrongdoers can be drawn back into the bankruptcy estate.

My legislation is simply and straightforward. The Corporate Accountability in Bankruptcy Act would specifically provide in section 547 of the Bankruptcy Code that a trustee may recover bonuses, loans, non-qualified deferred compensation, and any other extraordinary or excessive compensation as determined by the court, made to an insider, officer or director and made within one year before the date of the filing of the bankruptcy petition.

In addition, the Corporate Accountability in Bankruptcy Act would specifically provide in section 548 of the Bankruptcy Code that a trustee may recover bonuses, loans, non-qualified deferred compensation, and any other extraordinary or excessive compensation as determined by the court, paid to an officer, director or employee who has committed securities or accounting violations, within 4 years of the filing of the bankruptcy petition. My bill extends the present one year reach-back period for fraudulent transfers in the Bankruptcy Code to 4 years, I did that because a majority of states have adopted a 4 year time period or the Uniform Fraudulent Transfer Act which allows for a 4 year time frame. I believe that these changes to section 548 are fair because they are tied to excessiveness and wrongdoing. Simply said, illegal acts should not be rewarded with a big fat paycheck.

The point of this bill is that corporate officers and wrongdoers should not be able to keep bonuses, loans and other excessive compensation when the company goes under and others, employees, creditors and investors, are left holding an empty bag through no fault of their own. It’s just not fair. So I hope that my colleagues will support the Corporate Accountability in Bankruptcy Act to make the Bankruptcy Code clear that corporate bigwigs and wrongdoers cannot unjustly enrich themselves and their excessive compensation and loans can and will be brought back into the bankruptcy estate.

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

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

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**SEC. 1. SHORT TITLE.**

This Act may be cited as the “Corporate Accountability in Bankruptcy Act”.

**SEC. 2. BANKRUPTCY PROVISIONS.**

(a) **PREFERENCES.**—Section 547 of title 11, United States Code, is amended by adding at the end the following:

“(b) A trustee may avoid any transfer made within 1 year before the date of the filing of the petition that was made to an insider, officer or employee of any corporation for any bonuses, loans, non-qualified deferred compensation, or other extraordinary or excessive compensation as determined by the court.

(b) **FRAUDULENT TRANSFERS AND OBLIGATIONS.**—Section 548(a) of title 11, United States Code, is amended by adding at the end the following:

“(A) that transfer of interest or obligation was made or incurred on or within 4 years before the date of the filing of the petition;

and

“(B) the officer, director, or employee committed—

(i) a violation of the Federal securities laws (as defined in section 3(a)(7) of the Securities Exchange Act of 1934, or State securities laws, or any regulation or order issued under Federal or State securities laws;

(ii) fraud, deceit, or manipulation in a fiduciary capacity or connection with the purchase or sale of any security registered under section 12 or 15(d) of the Securities Exchange Act of 1934 or under section 6 of the Securities Act of 1933; or

(iii) illegal or deceptive accounting practices.

By Mr. WELLSTONE (for himself and Mr. DAYTON):

S. 2901. A bill to designate the facility of the United States Postal Service located at 6101 West Old Shakopee Road in Bloomington, Minnesota, as the “Thomas E. Burnett, Jr., Post Office Building”;

To the Committee on Governmental Affairs.

Mr. WELLSSTONE, Madam President, I rise today to pay tribute to an American hero. Tom Burnett, Jr. was a beloved husband and father, an adored son, and a successful business leader. He was a person who would not, and did not, sit quietly as terrorists carried out their plan last year on September 11.

I am introducing a bill today, along with my colleague from Minnesota, Senator DAYTON. Our bill would designate a U.S. Postal Service facility in Bloomington, MN as the “Thomas E. Burnett, Jr. Post Office Building.” It is a companion proposal to a bill introduced by our House colleague, Representative Jim RAMSTAD, whose district includes Bloomington.

Tom Burnett, Jr., who grew up in Bloomington, was aboard United Flight 93 on September 11 of last year. America owes Tom a deep debt of gratitude for his bravery on that day. It is possible that Members of Congress, including myself, could owe him our very lives. We will never know for sure. Tom is believed by investigators to have been among those passengers who kept the hijackers from crashing Flight 93 into a national landmark, most likely the White House or the Capitol. That, of course, would likely have resulted in many more deaths than already occurred that day. Instead, as we all know, Flight 93 crashed in a Pennsylvanian field.

After listening to the tape from the flight’s black box, law enforcement officials have described a desperate struggle aboard the plane. As FBI Director Mueller said after being briefed on the contents of the tape, “We believe those passengers were absolute heroes, and their actions during this flight were heroic.”

Tom Burnett, Jr. was 38 years old when he died. A 1986 graduate of the Carlson School of Management at the University of Minnesota and a member of Alpha Kappa Psi fraternity, he had shown selfless leadership before. As a quarterback at Thomas Jefferson High School in Bloomington, Tom’s inspired play led his team to the conference championship game in 1980. He was a successful business leader as chief operating officer for a medical device manufacturer in California. We will never forget the ultimate sacrifice of Tom and many other heroes last September 11. Our thoughts and prayers today are with Tom’s family: his wife Deena; their daughters Madi and Shelby; his parents Thomas, Sr. and Beverly; and his sisters Martha O’Brien and Mary Margaret Burnett. Bloomington will be proud to have this post office named for Tom Burnett, Jr. We all are proud of this son of Minnesota.

**AMENDMENTS SUBMITTED AND PROPOSED**

SA 4471. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table.

**TEXT OF AMENDMENTS**

SA 4471. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; and

(a) **DIVISIONS.**—This Act is organized into 3 divisions as follows:

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**TABLE OF CONTENTS.**

September 3, 2002
Subtitle E—Children Refugee and Asylum Seekers
Sec. 1251. Guidelines for children’s asylum claims.
Sec. 1252. Unaccompanied refugee children.
Sec. 1256. Authorization of appropriations.

TITLE XIII—AGENCY FOR IMMIGRATION HEARINGS AND APPEALS
Subtitle A—Structure and Function
Sec. 1301. Establishment.
Sec. 1302. Director of the Agency.
Sec. 1303. Board of Immigration Appeals.
Sec. 1304. Chief Immigration Judge.
Sec. 1305. Chief Administrative Hearing Officer.
Sec. 1306. Removal of Judges.
Sec. 1307. Authorization of appropriations.
Subtitle B—Transfer of Functions and Savings Provisions
Sec. 1311. Transition provisions.
Subtitle C—Effective Date
Sec. 1321. Effective date.

DIVISION C—FEDERAL WORKFORCE IMPROVEMENT
TITLE XXI—CHIEF HUMAN CAPITAL OFFICERS
Sec. 2101. Short title.
Sec. 2102. Agency Chief Human Capital Officer.
Sec. 2103. Chief Human Capital Officers Council.
Sec. 2104. Strategic Human Capital Management.
Sec. 2105. Effective date.

TITLE XXII—REFORMS RELATING TO UNIFORM RESOURCE MANAGEMENT
Sec. 2201. Inclusion of agency human capital strategic planning in performance plans and program performance reports.
Sec. 2202. Reform of the competitive service hiring process.
Sec. 2203. Permanent extension, revision, and expansion of authorities for use of voluntary separation incentive pay and voluntary early retirement.
Sec. 2204. Student volunteer transit subsidy.

TITLE XXIII—REFORMS RELATING TO FEDERAL HUMAN CAPITAL MANAGEMENT
Sec. 2301. Repeal of recertification requirements of senior executives.
Sec. 2302. Adjustment of limitation on total annual compensation.

TITLE XXIV—ACADEMIC TRAINING
Sec. 2401. Academic training.
Sec. 2402. Modifications to National Security Education Program.
Sec. 2403. Compensatory time off for travel.

DIVISION A—NATIONAL HOMELAND SECURITY AND COMBATING TERRORISM
SEC. 100. DEFINITIONS.
Unless the context clearly indicates otherwise, the following shall apply for purposes of this division:
(1) AGENCY.—Except for purposes of subtitile E of title I, the term “agency”—
(A) means—
(i) an Executive agency as defined under section 105 of title 5, United States Code;
(ii) a military department as defined under section 102 of title 5, United States Code;
(iii) the United States Postal Service; and
(iv) does not include the General Accounting Office.
(2) ASSETS.—The term “assets” includes contracts, facilities, property, records, obligated or unobligated balances of appropriations, and other funds or resources (other than personnel).
(3) DIRECTOR.—The term “Director” means the Director of the National Office for Combating Terrorism.
(4) DEPARTMENT.—The term “Department” means the Department of Homeland Security established under title I.
(5) ENTERPRISE ARCHITECTURE.—The term “enterprise architecture” means—
(A) a strategic information asset base, which defines the mission;
(B) the information necessary to perform the mission;
(C) the technologies necessary to perform the mission; and
(D) any other systems that are necessary to perform the mission.
(6) FEDERAL TERRORISM PREVENTION AND RESPONSE AGENCY.—The term “Federal terrorism prevention and response agency” means any Federal department or agency charged under the Strategy for carrying out the Strategy.
(7) FUNCTIONS.—The term “functions” includes—
(A) authorities and, as appropriate, with the priorities, and plans for the United States related to threats of terrorism, and other homeland threats.
(8) HOME.—The term “homeland” means the United States, in a geographic sense.
(9) LOCAL GOVERNMENT.—The term “local government” has the meaning given under section 102(6) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93–288).
(10) OFFICE.—The term “Office” means the National Office for Combating Terrorism established under title II.
(11) PERSONNEL.—The term “personnel” means officers and employees.
(12) RISK ANALYSIS AND RISK MANAGEMENT.—The term “risk analysis and risk management” means the assessment, analysis, management, mitigation, and communication of homeland security threats, vulnerabilities, criticalities, and risks.
(13) SECRETARY.—The term “Secretary” means the Secretary of Homeland Security.
(14) STRATEGY.—The term “Strategy” means the National Strategy for Combating Terrorism and the National Strategy for Homeland Security Response developed under this division.
(15) UNITED STATES.—The term “United States”, when used in a geographic sense, means any State (within the meaning of section 102(6) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93–288)), any possession of the United States, and any waters within the jurisdiction of the United States.

TITLE I—DEPARTMENT OF HOMELAND SECURITY
Subtitle A—Establishment of the Department of Homeland Security
SEC. 101. ESTABLISHMENT OF THE DEPARTMENT OF HOMELAND SECURITY.
(a) IN GENERAL.—There is established the Department of Homeland Security.
(b) EXECUTIVE DEPARTMENT.—Section 101 of title 5, United States Code, is amended by adding at the end the following:
"(c) Mission of Department.—
(1) HOMELAND SECURITY.—The mission of the Department is to—
(A) promote homeland security, particularly with regard to terrorism;
(B) prevent terrorist attacks or other homeland threats within the United States; and
(C) prevent, the vulnerability of the United States to terrorism, natural disasters, and other homeland threats; and
(D) minimize the damage, and assist in the recovery, from terrorist attacks or other natural or man-made crises that occur within the United States.
(2) OTHER MISSIONS.—The Department shall be responsible for carrying out the other functions, and promoting the other missions, of entities transferred to the Department as provided by law.
(d) SEAL.—The Secretary shall procure a proper seal, with such suitable inscriptions and devices as the President shall approve. Such seal, to be known as the official seal of the Department of Homeland Security, shall be kept and used to verify official documents, under such rules and regulations as the Secretary may prescribe. Judicial notice shall be taken of the seal.

SEC. 102. SECRETARY OF HOMELAND SECURITY.
(a) IN GENERAL.—The Secretary of Homeland Security shall be the head of the Department. The Secretary shall be appointed by the President, by and with the advice and consent of the Senate.
(b) RESPONSIBILITIES.—The responsibilities of the Secretary shall be the following:
(1) To develop policies, goals, objectives, priorities, and plans for the United States for the promotion of homeland security, particularly with regard to terrorism.
(2) To administer, carry out, and promote the other established missions of the entities transferred to the Department.
(3) To develop, with the Director, a comprehensive strategy for combating terrorism and the homeland security response in accordance with title II.
(4) To advise the Director on the development of a comprehensive annual budget for programs and activities under the Strategy, and the responsibility for budget recommendations relating to border and transportation security, critical infrastructure protection, emergency preparedness and response, science and technology, and related to homeland security, and Federal support for State and local activities.
(5) To plan, coordinate, and integrate those Federal Government activities relating to border and transportation security, critical infrastructure protection, all-hazards emergency preparedness, response, recovery, and mitigation.
(6) To serve as a national focal point to analyze all information available to the United States related to threats of terrorism and other homeland threats.
(7) To establish and manage a comprehensive risk analysis and risk management program that directs and coordinates the support of risk analysis and risk management activities of the Directorates and ensures coordination with entities outside the Department engaged in such activities.
(8) To identify and make known scientific and technological advances that will enhance homeland security.
(9) To include, as appropriate, State and local governments and entities in the full range of activities undertaken by the Department to promote homeland security, including—
(A) providing State and local government personnel, agencies, and authorities, with appropriate intelligence information, including warnings, regarding threats posed by terrorism, in a timely and secure manner;
(B) facilitating efforts by State and local law enforcement and other officials to assist in the collection and dissemination of intelligence information and to provide information to the Department, and other agencies, in a timely and secure manner;
(C) coordinating with State, regional, and local government personnel, agencies, and authorities and, as appropriate, with the private sector, other entities, and the public,
ensure adequate planning, team work, coordination, information sharing, equipment, training, and exercise activities;

(D) consulting State and local governments and other entities as appropriate, in developing the Strategy under title III; and

(E) systematically identifying and removing obstacles to developing effective partnerships among the Department, other agencies, and State, regional, and local government personnel, agencies, and authorities, the private sector, other entities, and the public, and incorporating recommendations concerning organizational structure, equipment, and positioning of military assets determined critical to executing the Strategy.

(10)(A) To consult and coordinate with the Secretary of Defense and the governors of the several States regarding integration of the United States National Guard, into all aspects of the Strategy and its implementation, including detection, prevention, protection, response, and recovery.

(B) To consult and coordinate with the Secretary of Defense and make recommendations concerning organizational structure, equipment, and positioning of military assets.

(11) To seek to ensure effective day-to-day coordination of homeland security operations, and establish effective mechanisms for such coordination, among the elements constituting the Department and with other involved and affected Federal, State, and local departments and agencies.

(12) To administer the Homeland Security Advisory System, exercising primary responsibility for the Homeland Security System, and in coordination with other agencies providing specified warning information to State and local government personnel, agencies and authorities, the private sector, other entities, and the public, and advice about appropriate protective actions and countermeasures.

(13) To conduct exercise and training programs for employees of the Department and other involved agencies, and establish effective command and control procedures for the full range of potential contingencies regarding United States homeland security, including contingencies that require the substantial use of military assets.

(14) To annually review, update, and amend the Federal response plan for homeland security and emergency preparedness with regard to terrorism and other manmade and natural disasters.

(15) To direct the acquisition and management of all of the information resources of the Department, including communications resources.

(16) To endeavor to make the information technology systems of the Department, including communications systems, effective, efficient, secure, and appropriately interoperable.

(17) In furtherance of paragraph (16), to oversee and ensure the development and implementation of an enterprise architecture for Department-wide information technology, with timetables for implementation.

(18) To require the Secretary to consider necessary steps to oversee and ensure the development and implementation of updated versions of the enterprise architecture under paragraph (17).

(19) In the case of the Congress on the development and implementation of the enterprise architecture under paragraph (17) in—

(A) each implementation progress report required under section 192(b); and

(B) each biennial report required under section 192(b).

(c) VISA ISSUANCE BY THE SECRETARY.—

(1) DEFINITION.—In this subsection, the term "consular officer" has the meaning given that term under section 101(a)(9) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(9)).

(2) IN GENERAL.—Notwithstanding section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)) or any other provision of law, if provided under paragraph (3), the Secretary—

(A) shall be vested exclusively with all authorities to investigate and enforce the provisions of such Act, and of all other immigration and nationality laws, relating to the functions of consular officers of the United States in connection with the granting or refusal of visas, which authorities shall be exercised by the Secretary, except that the Secretary may delegate to an employee of the Department the authority to deny a visa or reverse the decision of a consular officer to refuse a visa to an alien; and

(B)(i) may delegate in whole or part the authority under subparagraph (A) to the Secretary of State; and

(ii) shall have authority to confer or impose upon any officer or employee of the United States any of the duties of the head of an executive agency under whose jurisdiction such officer or employee is serving, any of the functions specified in subparagraph (A), or any function specified in this paragraph (B)(i), as determined by the Secretary of State, to the extent such officer or employee is serving, any of the functions specified in subparagraph (A), or any function specified in this paragraph (B)(i), as determined by the Secretary of State.

(3) AUTHORITY OF THE SECRETARY OF STATE.—

(A) IN GENERAL.—The Secretary of State may direct the acquisition and management of any of the functions specified in subparagraph (A) to the Secretary of State; and

(B) may delegate in whole or part the authority to confer or impose upon any officer or employee of the United States any of the duties of the head of an executive agency under whose jurisdiction such officer or employee is serving, any of the functions specified in subparagraph (A), or any function specified in this paragraph (B)(i), as determined by the Secretary of State, to the extent such officer or employee is serving, any of the functions specified in subparagraph (A), or any function specified in this paragraph (B)(i), as determined by the Secretary of State.

(4) CONSULAR OFFICERS AND CHIEFS OF MISSIONS.—Nothing in this subsection may be construed to alter or affect—

(A) the employment status of consular officers as employees of the Department of State;

(B) the authority of a chief of mission under section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3937).

(5) ADVISORY SYSTEM.—The Secretary is authorized to assign employees of the Department to diplomatic and consular posts abroad to perform the following functions:

(i) Provide expert advice to consular officers regarding specific security threats relating to the adjudication of individual visa applications or classes of applications.

(ii) Review any such applications, either on the initiative of the employee of the Department or upon request by a consular officer or other person charged with adjudicating such applications.

(iii) Conduct investigations with respect to matters under the jurisdiction of the Secretary.

(6) PERMANENT ASSIGNMENT; PARTICIPATION IN TERRORIST LOOKOUT COMMITTEE.—When appropriate, employees of the Department assigned to perform functions described in subparagraph (A) may be permanently assigned to overseas diplomatic or consular posts with country-specific or regional responsibilities, if the Secretary so directs, any such employee, when present at an overseas post, shall participate in the terrorist lookout committee established under section 304 of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1733).

(7) TRAINING AND HIRING.—

(I) IN GENERAL.—The Secretary shall ensure that any employees of the Department assigned to perform functions described in subparagraph (A) and, as appropriate, consular officers, shall be provided all necessary training, including training in foreign languages, in conditions in the particular country where each employee is assigned, in order to be capable of effectively performing the functions described in subparagraph (A) and providing that preference shall be given to individuals who meet such requirements in hiring employees for the performance of such functions.

(j) USE OF CENTER.—The Secretary is authorized to use the National Foreign Affairs Training Center, on a reimbursable basis, to obtain the training described in clause (i).

(k) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary and the Secretary of State shall submit to Congress—

(A) a report on the implementation of this subsection; and

(B) any legislative proposals necessary to further the objectives of this subsection.

(3) EFFECTIVE DATE.—This subsection shall take effect on the earlier of—

(A) the date on which the President publishes notice in the Federal Register that the President has submitted a report to Congress setting forth a memorandum of understanding to provide funding for the Department of State governing the implementation of this section; or

B
SEC. 103. DEPUTY SECRETARY OF HOMELAND SECURITY.
(a) In general.—There shall be in the Department a Deputy Secretary of Homeland Security, who shall be appointed by the President, by and with the advice and consent of the Senate.
(b) Responsibilities.—The Deputy Secretary of Homeland Security shall—
(1) assist the Secretary in the administration and operations of the Department;
(2) perform such responsibilities as the Secretary shall prescribe; and
(3) act as the Secretary during the absence or disability of the Secretary or in the event of a vacancy in the office of the Secretary.
SEC. 104. UNDER SECRETARY FOR MANAGEMENT.
(a) In general.—There shall be in the Department an Under Secretary for Management, who shall be appointed by the President, by and with the advice and consent of the Senate.
(b) Responsibilities.—The Under Secretary for Management shall—
(1) assist the Secretary in the management and administration of the Department;
(2) perform such responsibilities as the Secretary shall prescribe; and
(3) act as the Secretary during the absence or disability of the Secretary or in the event of a vacancy in the office of the Secretary.

Section 105. Assistant Secretaries.

Section 106. Inspector General.

Section 107. Chief Financial Officer.
SEC. 108. CHIEF INFORMATION OFFICER.

(a) In General.—There shall be in the Department of Homeland Security, or in the Deputy Secretary of Homeland Security, a Chief Information Officer, who shall be responsible for department-wide information resources management and perform those duties prescribed by law for chief information officers of agencies.

(b) Responsibilities.—The Chief Information Officer shall assist the Secretary with department-wide information resources management and serve as the focal point for ensuring that the Department has the necessary skills and training, and that the recruitment and retention policies of the Department attract and retain a highly qualified workforce, in accordance with all applicable laws and regulations to enable the Department to achieve its mission.

SEC. 109. GENERAL COUNSEL.

(a) In General.—There shall be in the Department of Homeland Security a General Counsel, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) Responsibilities.—The General Counsel shall—

(1) advise and assist the Secretary in ensuring that the Department’s activities are consistent with constitutional requirements related to applicable law relating to the privacy of personal information;

(2) provide legal assistance to the Secretary concerning the programs and policies of the Department; and

(3) advise and assist the Secretary in carrying out the responsibilities under section 102(b).

SEC. 110. CIVIL RIGHTS OFFICER.

(a) In General.—There shall be in the Department a Civil Rights Officer, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) Responsibilities.—The Civil Rights Officer shall be responsible for—

(1) coordinating compliance with all civil rights and related laws and regulations applicable to Department employees and participants in Department programs;

(2) coordinating administration of all civil rights and related laws and regulations within the Department for Department employees and participants in Department programs;

(3) assisting the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that civil rights considerations are appropriately incorporated and implemented in Department programs and activities;

(4) overseeing compliance with statutory and constitutional requirements related to the civil rights of individuals affected by the programs and activities of the Department; and

(5) notifying the Inspector General of any matter that, in the opinion of the Civil Rights Officer, warrants further investigation.

SEC. 111. PRIVACY OFFICER.

(a) In General.—There shall be in the Department a Privacy Officer, who shall be appointed by the Secretary.

(b) Responsibilities.—The Privacy Officer shall—

(1) oversee compliance with section 552a of title 5, United States Code (commonly referred to as the Privacy Act of 1974) and all other applicable laws relating to the privacy of personal information;

(2) assist the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that—

(A) privacy considerations and safeguards are appropriately incorporated and implemented in Department programs and activities; and

(B) any information received by the Department is used or disclosed in a manner that minimizes the risk of harm to individuals from the inappropriate disclosure or use of such materials;

(3) assist Department personnel with the preparation of privacy impact assessments when required by law or considered appropriate by the Secretary; and

(4) notify the Inspector General of any matter that, in the opinion of the Privacy Officer, warrants further investigation.

SEC. 112. CHIEF HUMAN CAPITAL OFFICER.

(a) In General.—The Secretary shall appoint, or designate a Chief Human Capital Officer, who shall—

(1) advise and assist the Secretary and other officials of the Department in ensuring that the Department has the necessary skills and training, and that the recruitment and retention policies of the Department attract and retain a highly qualified workforce, in accordance with all applicable laws and requirements, that enable the Department to achieve its mission;

(2) oversee the implementation of the laws, rules and regulations of the President and the Office of Personnel Management governing the civil service within the Department;

(3) advise and assist the Secretary in planning and reporting under the Government Performance and Results Act of 1993 (including the amendments made by that Act), with respect to the human capital resources and needs of the Department for achieving the plans and goals of the Department.

(b) Responsibilities.—The responsibilities of the Chief Human Capital Officer shall include—

(1) setting the workforce development strategy of the Department;

(2) assessing workforce characteristics and future needs based on the mission and strategic plan of the Department;

(3) aligning the human resources policies and programs of the Department with organization mission, strategic goals, and performance outcomes;

(4) developing and advocating a culture of continuous learning to attract and retain employees with superior abilities;

(5) identifying best practices and benchmarking studies;

(6) applying methods for measuring intellectual capital and identifying links of that capital to organizational performance and growth; and

(7) providing employee training and professional development.

SEC. 113. OFFICE OF INTERNATIONAL AFFAIRS.

(a) Establishment.—There is established in the Department, an Office of International Affairs. The Office shall be headed by a Director who shall be appointed by the Secretary.

(b) Responsibilities of the Director.—The Director shall have the following responsibilities:

(1) To promote information and education exchange with foreign nations in order to promote sharing of best practices and technologies relating to homeland security. Such information shall—

(A) joint research and development on countermeasures;

(B) joint training exercises of first responders; and

(C) exchange of expertise on terrorism prevention, response, and crisis management.

(2) To identify areas for homeland security information and training exchange.

(3) To plan and undertake international conferences, exchange programs, and training activities.

(4) To manage activities under this section and other international activities within the Department in consultation with the Department of State and other relevant Federal officials.

(5) To initially concentrate on fostering cooperation with countries that are already highly focused on homeland security issues and that have the capability for fruitful cooperation with the United States in the area of counterterrorism.

(6) To plan and undertake international conferences, exchange programs, and training activities consistent with the mission and functions of the Directorate.

(7) To participating the Secretary, in coordination with other Directorates and entities outside the Department, in conducting appropriate risk analysis and risk management activities consistent with the mission and functions of the Directorate.

(8) To performing such other duties as assigned by the Secretary.

(9) To participating in the preparation of international agreements, functions, personell, and assets to the Department. Except as provided under subsection...
(d) the authorities, functions, personnel, and assets of the following entities are transferred to the Department:

(1) The United States Customs Service, which shall be maintained as a distinct entity within the Department.

(2) The United States Coast Guard, which shall be maintained as a distinct entity within the Department.

(3) The Animal and Plant Health Inspection Service of the Department of Agriculture, that portion of which administers laws relating to agricultural quarantine inspection and inspection of imports.

(4) The Transportation Security Administration of the Department of Transportation.

(5) The Federal Law Enforcement Training Center of the Department of the Treasury.

(d) Exercise of Customs Revenue Authority.—

(1) In General.—

(A) Authorities Not Transferred.—Notwithstanding subsection (c), authority that was vested in the Secretary of the Treasury by law to issue regulations related to customs revenue functions before the effective date of this section under the provisions of law set forth under paragraph (2) shall not be transferred to the Secretary by reason of this Act. The Secretary of the Treasury, with the concurrence of the Secretary, shall exercise such authority. The Commissioner of Customs is authorized to engage in activities to develop and support the issuance of the regulations described in this paragraph. The Secretary shall be responsible for the implementation and enforcement of regulations issued under this section.

(B) Report.—Not later than 60 days after the date of enactment of this Act, the Secretary of the Treasury shall submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives proposing conforming amendments to the statutes set forth under paragraph (2) in order to determine the appropriate allocation of legal authorities described under this subsection. The Secretary of the Treasury shall also identify those authorities vested in the Secretary of the Treasury that are exercised by the Commissioner of Customs on or before the effective date of this section.

(C) Liability.—Neither the Secretary of the Treasury nor the Department of the Treasury shall be liable for or named in any legal action concerning the implementation and enforcement of regulations issued under this paragraph on or after the date on which the United States Customs Service is transferred under this division.

(2) Applicable Laws.—The provisions of law referred to under paragraph (1) are those sections of the following statutes that relate to customs revenue functions:


(B) Section 249 of the Revised Statutes of the United States (19 U.S.C. 6).

(C) Section 2 of the Act of March 4, 1923 (19 U.S.C. 6).


(E) Section 251 of the Revised Statutes of the United States (19 U.S.C. 66).


(G) The Foreign Trade Zones Act (19 U.S.C. 81a et seq.).

(H) Section 1 of the Act of March 2, 1919 (19 U.S.C. 198).


(L) The Uruguay Round Agreements Act (19 U.S.C. 2011 et seq.).


(P) Any other provision of law vesting customs revenue functions in the Secretary of the Treasury.

(3) Definition of Customs Revenue Functions.—The term "customs revenue functions" means:

(A) assessing, collecting, and refunding duties (including any special duties), excise taxes, fees, and any liquidated damages or penalties due on imported merchandise, including classifying and valuing merchandise and the procedures for "entry" as that term is defined in the United States Customs laws;

(B) administering section 337 of the Tariff Act of 1930 and provisions relating to import quotas and the marking of imported merchandise, recording and keeping Customs Records for copyrights, patents, trademarks;

(C) collecting accurate import data for compilation of international trade statistics; and

(D) administering reciprocal trade agreements and trade legislation.

(e) Preserving Coast Guard Mission Performance.—

(1) Definitions.—In this subsection:

(A) Non-Homeland Security Missions.—The term "non-homeland security missions" means the following missions of the Coast Guard:

(i) Maritime safety.

(ii) Search and rescue.

(iii) Aids to navigation.

(iv) Living marine resources (fisheries law enforcement).

(v) Marine environmental protection.

(vi) Ice operations.

(B) Homeland Security Missions.—The term "homeland security missions" means the following missions of the Coast Guard:

(i) Ports, waterways and coastal security.

(ii) Drug interdiction.

(iii) Migrant interdiction.

(iv) Defense readiness.

(v) Other law enforcement.

(2) Maritime Duties of Functions and Assets.—Notwithstanding any other provision of this Act, the authorities, functions, assets, organizational structure, units, personnel, and non-homeland security missions of the Coast Guard shall be maintained intact and without reduction after the transfer of the Coast Guard to the Department, except as provided in this subsection.

(3) Certain Transfers Prohibited.—None of the missions, functions, personnel, and assets (including for purposes of this subsection ships, aircraft, helicopters, and vehicles) of the Coast Guard may be transferred to the operational control of, or diverted to the principal and continuing use of, any other organization, unit, or entity of the Department.

(4) Changes to Non-Homeland Security Missions.—

(A) Prohibition.—The Secretary may not make any substantial or significant change to any of the non-homeland security missions of the Coast Guard, or to the capabilities that shall be exercised by the Coast Guard to carry out each of the non-homeland security missions, without the prior approval of Congress as expressed in a subsequent Act.

(B) Waiver.—The President may waive the restrictions under subparagraph (A) for a period of not to exceed 90 days upon a declaration and certification by the President to Congress that a clear, compelling, and immediate national emergency exists that justifies such a waiver. A certification under this subparagraph shall include a detailed and justifiable basis for the declaration and certification, including the reasons and specific information that demonstrate that the Nation's infrastructure is at risk and that the Secretary of the Treasury shall respond effectively to the national emergency if the restrictions under subparagraph (A) are not waived.

(5) Annual Review.—

(A) In General.—The Inspector General of the Department shall conduct an annual review of the performance by the Coast Guard of all missions of the Coast Guard (including non-homeland security missions and homeland security missions) with a particular emphasis on examining the non-homeland security missions.

(B) Report.—The report under this paragraph shall be submitted not later than March 1 of each year to—

(i) the Committee on Governmental Affairs of the Senate;

(ii) the Committee on Government Commitment of the House of Representatives;

(iii) the Committees on Appropriations of the Senate and the House of Representatives;

(iv) the Committee on Commerce, Science, and Transportation of the Senate; and

(v) the Committee on Transportation and Infrastructure of the House of Representatives.

(6) Direct Reporting to Secretary.—Upon the transfer of the Coast Guard to the Department, the Commandant shall report directly to the Secretary without being required to report through any other official of the Department.

(7) Operation as a Service in the Navy.—

None of the conditions and restrictions in this subsection shall apply when the Coast Guard operates as a service in the Navy under section 3 of title 14, United States Code.

SEC. 132. Director of Intelligence.

(a) Establishment.—

(A) In General.—There is established a Director of Intelligence which shall serve as a national-level focal point for information available to the United States Government relating to the plans, intentions, and capabilities of terrorists and terrorist organizations, the purposes of supporting the mission of the Department.

(B) Support to Directorate.—The Directorate of Intelligence shall communicate, coordinate, and cooperate with—

(i) the Federal Bureau of Investigation;

(ii) the intelligence community, as defined under section 3 of the National Security Act of 1947 (50 U.S.C. 401a), including the Office of the Director of Central Intelligence, the National Intelligence Council, the Central Intelligence Agency, the National Security Agency, the Defense Intelligence Agency, the National Imagery and Mapping Agency, the National Reconnaissance Office, and the Bureau of Intelligence and Research of the Department of State; and

(iii) other agencies or entities, including those within the Department, as determined by the Secretary.

(b) Information on International Terrorism.—

(1) Definitions.—In this subparagraph, the terms "foreign intelligence" and "counter-intelligence" shall have the meaning given those terms in section 3 of the National Security Act of 1947 (50 U.S.C. 401a).

(2) Provision of Information to Counter-Terrorism Center.—In general, the Secretary is provided with appropriate analytical products, assessments,
and warnings relating to threats of terrorism against the United States and other threats to homeland security, the Director of Central Intelligence (as head of the intelligence community), the Attorney General, the heads of other major law enforcement agencies, the Department of Defense, the Department of Homeland Security, and the heads of other agencies of the United States Government to establish overall collection priorities for purposes of the provision to the Department of Central Intelligence's Counterterrorist Center.

(2) DIRECTOR OF CENTRAL INTELLIGENCE.—The Director of Central Intelligence shall use the authority exercised under subsection (a)(1)(B) to share material on a regular or routine basis, including arrangements involving broad categories of material, and regardless of whether the Secretary has entered into any such cooperative arrangement, all agencies described under subsection (a)(1)(B) shall promptly provide information under this subsection.

(3) PERSONNEL SECURITY STANDARDS.—The provisions of subsection (a)(1)(B) shall not be construed to prohibit the Director of Central Intelligence to protect intelligence sources and methods from unauthorized disclosure.

(4) MANAGEMENT AND STAFFING.—The Secretary may further provide that the Secretary shall be in accordance with such personnel employment of personnel in the Directorate to the consent of the assigning agency.

(5) DISSEMINATION INFORMATION TO THE DIRECTOR OF CRITICAL INFRASTRUCTURE PROTECTION.—The agencies described under subsection (a)(1)(B) shall be staffed, in part, by analysts and other United States Government and other sector entities.

(6) DISSEMINATION INFORMATION TO THE SECRETARY.—The Director, in coordination with the Director of Central Intelligence, shall provide the Secretary, to allow such providers or consumers to identify and share intelligence in conducting secondary duties or utilize information received from the Department, including training and support under section 103 of the USA PATRIOT Act of 2001 (Public Law 107–56).

(7) WITH REGARD TO—The provisions of paragraph (1). The analysts shall be assigned by the Secretary in conducting appropriate risk analysis and risk management activities consistent with the mission of the Department. The Secretary may further provide that the Secretary shall be in accordance with such personnel employment of personnel in the Directorate to the consent of the assigning agency.
Intelligence, shall establish for this subsection.

(5) PERFORMANCE EVALUATION.—The Secretary shall evaluate the performance of all personnel assigned, or detailed, or otherwise ordered to carry out the functions of the Under Secretary for Intelligence.

(g) SEC. 133. DIRECTORATE OF CRITICAL INFRASTRUCTURE PROTECTION.

(a) ESTABLISHMENT.—

(1) DIRECTORATE.—There is established within the Department the Directorate of Critical Infrastructure Protection.

(2) UNDER SECRETARY.—There shall be an Under Secretary for Critical Infrastructure Protection, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Directorate of Critical Infrastructure Protection shall be responsible for the following:

(1) Maintaining critical infrastructure information from the Directorate of Intelligence, law enforcement information, and other information in order to comprehensively assess the vulnerabilities of the key resources and critical infrastructures in the United States.

(2) Integrating relevant information, intelligence analysis, and vulnerability assessments (whether such information, analyses, or assessments are provided by the Department or others) to identify priorities and support protective measures by the Department, by other agencies, by State and local government personnel, agencies, and authorities, by the private sector, and by other entities, to protect the key resources and critical infrastructures in the United States.

(3) As part of the Strategy, developing a comprehensive national plan for securing the key resources and critical infrastructures in the United States.

(4) Assisting and supporting the Secretary, in coordination with other Directors and entities outside the Department, in conducting risk analysis and risk management activities consistent with the mission and functions of the Directorate. This shall include, in coordination with the Office of Risk Analysis and Assessment in the Directorate of Science and Technology, establishing procedures, mechanisms, or units for the purpose of utilizing intelligence to identify vulnerabilities and protective measures in—

(A) public health infrastructure;

(B) food and water storage, production and distribution systems;

(C) commerce systems, including banking and finance;

(D) energy systems, including electric power and oil and gas production and storage;

(E) transportation systems, including pipelines;

(F) information and communication systems;

(G) continuity of government services; and

(H) other systems or facilities that could cause substantial harm to health, safety, property, or the environment.

(5) Enhancing the sharing of information regarding vulnerability and physical security of the United States, developing appropriate security standards, tracking vulnerabilities, proposing improved risk management policies, and delineating the roles of various Government agencies in preventing, defending, and recovering from attacks.

(6) Acting as the Critical Information Technology, Assurance, and Security Officer of the Department and assuming the responsibilities carried out by the Critical Infrastructure Assurance Office and the National Infrastructure Protection Center before the effective date of this division.

(7) Coordinating the activities of the Information Sharing and Analysis Centers to share information, between the public and private sectors, on threats, vulnerabilities, and individual incidents of privacy issues regarding homeland security.

(8) Working closely with the Department of State on cyber security issues with respect to international bodies and coordinating with appropriate agencies in helping to establish cyber security policy, standards, and enforcement mechanisms.

(9) Establishing the necessary organizational structural within the Directorate to provide leadership and focus on both cyber security and physical security, and ensuring that the maintenance of both cyber security and physical security experts within the United States Government.

(10) Performing such other duties as assigned by the President.

(c) TRANSFER OF AUTHORITIES, FUNCTIONS, PERSONNEL, AND ASSETS TO THE DEPARTMENT.—The authorities, functions, personnel, and assets of the following entities are transferred to the Department:

(1) The Critical Infrastructure Assurance Office of the Department of Commerce.

(2) The National Infrastructure Simulation and Analysis Center of the Department of Energy.

(3) The National Institute of Standards and Technology.


(5) The National Infrastructure Simulation and Analysis Center of the Department of Energy.


(7) The Centers for Disease Control and Prevention.

(8) The Federal Protective Service of the Department of Justice.

(9) The Office of Intelligence.

(d) REPEAL.—Sections 107–188 of title 50, United States Code, are repealed.

(e) CONFERENCES.—There is authorized to be appropriated such sums as may be necessary to provide for agencies and entities, to coordinate and cooperate with respect to this division.

(f) ESTABLISHMENT.—There is established within the Department the Directorate of Critical Infrastructure Protection.

(g) maintaining appropriate fiscal and risk management activities consistent with the mission and functions of the Directorate.

(h) The mission and functions of the Directorate shall include—

(1) DETERMINATION.—There is established within the Department the Directorate of Critical Infrastructure Protection.

(2) DUTIES.—The Director shall be responsible for the following:

(3) Appointing an Under Secretary for Critical Infrastructure Protection, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Director of Critical Infrastructure Protection shall be responsible for the following:

(1) Establishing the necessary organizational type within the Directorate to provide leadership and focus on both cyber security and physical security, and ensuring that the maintenance of both cyber security and physical security experts within the United States Government.

(2) Performing such other duties as assigned by the President.

(c) TRANSFER OF AUTHORITIES, FUNCTIONS, PERSONNEL, AND ASSETS TO THE DEPARTMENT.—The authorities, functions, personnel, and assets of the following entities are transferred to the Department:

(1) The Critical Infrastructure Assurance Office of the Department of Commerce.

(2) The National Infrastructure Protection Center of the Federal Bureau of Investigation (other than the Computer Investigative and Operational Center).


(4) The Computer Security Division of the National Institute of Standards and Technology.

(5) The National Infrastructure Simulation and Analysis Center of the Department of Energy.


(9) The Centers for Disease Control and Prevention.

(10) The Office of Intelligence.

(11) Consulting with the Under Secretary for Science and Technology, the Secretary of Agriculture, and the Federal Emergency Management Agency to establish and updating the list of potential threat agents or toxins relating to the functions of the Select Agent Registration Program transferred under section (c)(5).

(12) Coordinating and responding to the interface of medical informatics and the medical response to terrorism that address—

(A) standards for interoperability;

(B) real-time data collection;

(C) ease of use for health care providers;

(D) epidemiological surveillance of disease outbreaks in human health and agriculture;

(E) integration of telemedicine networks and standards;

(F) patient confidentiality; and

(G) other topics pertinent to the mission of the Department.

(13) Activating and coordinating the operations of the National Disaster Medical System as defined under section 102 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107–188).

(14) Assisting and supporting the Secretary, in coordination with other Directors and entities outside the Department, in conducting appropriate fiscal and risk management activities consistent with the mission and functions of the Directorate.

(15) Performing such other duties as assigned by the Secretary.

(16) TRANSFER OF AUTHORITIES, FUNCTIONS, PERSONNEL, AND ASSETS TO THE DEPARTMENT.—The authorities, functions, personnel, and assets of the following entities are transferred to the Department:

(1) The Federal Emergency Management Agency, the 10 regional offices of which shall be maintained and strengthened by the Department, which shall be maintained as a distinct entity within the Department.

(3) The Office of Domestic Preparedness of the Department of Justice.

(4) The Office of Emergency Preparedness within the Office of the Assistant Secretary for Public Health Emergency Preparedness of the Department of Health and Human Services, including—

(A) the Noble Training Center;

(B) the Metropolitan Medical Response System;

(C) the Department of Health and Human Services component of the National Disaster Medical System;

(D) the Disaster Medical Assistance Teams, the Veterinary Medical Assistance Teams, and the Disaster Mortuary Operational Response Team;

(E) the special events response; and

(F) the citizen preparedness programs.

(5) The Strategic National Stockpile of the Department of Health and Human Services including all functions and assets under sections 121 and 127 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107–188).

(6) The functions of the Select Agent Registration Program of the Department of Health and Human Services and the United States Department of Agriculture, including all functions of the Secretary of Health and Human Services and the Secretary of Agriculture (21 U.S.C. 201 through 221) to the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107–188).

(7) The Department as Under Secretary and Director.—

(I) In general.—An individual may serve as both the Under Secretary for Emergency Preparedness and Response and the Director of the Federal Emergency Management Agency if appointed by the President, by and with the advice and consent of the Senate, to each office.

(II) Pay.—Nothing in paragraph (1) shall be construed to authorize an individual appointed to both positions to receive pay at a rate of pay in excess of the rate of pay payable for the position to which the higher rate of pay applies.

(III) Report.—Not later than 1 year after the date of enactment of this Act, the Under Secretary for Emergency Preparedness and Response shall submit a report to Congress on the National Emergency Technology Council and the capacities of such systems to meet the goals under subsection (b)(2) in responding to a terrorist attack.

SEC. 135. DIRECTORATE OF SCIENCE AND TECHNOLOGY.

(a) Purpose.—The purpose of this section is to establish a Directorate of Science and Technology that will support the mission of the Department and the directorates of the Department by—

(I) establishing, funding, managing, and supporting research, development, demonstration, testing, and evaluation activities to meet national homeland security needs and objectives;

(II) setting national research and development priorities pursuant to the mission of the Department, and developing strategies and policies in furtherance of such goals and priorities;

(III) coordinating and collaborating with other Federal departments and agencies, and State, local, academic, and private sector entities, to advance the research and development agenda of the Department;

(IV) advising the Secretary on all scientific and technical matters relevant to homeland security; and

(V) coordinating the transfer and deployment of technologies that will serve to enhance homeland security goals.

(b) Definitions.—In this section:

(1) Council.—The term ‘‘Council’’ means the Homeland Security Science and Technology Council established under this section.

(2) Fund.—The term ‘‘Fund’’ means the Acceleration Fund for Research and Development of Homeland Security Technologies established under this section.

(3) HOMELAND SECURITY RESEARCH AND DEVELOPMENT.—The term ‘‘homeland security research and development’’ means research and development of the type of technology and research necessary for the detection of, prevention of, protection against, response to, and recovery from homeland security threats, particularly acts of terrorism.

(4) OSTP.—The term ‘‘OSTP’’ means the Office of Science and Technology Policy.

(5) SARP.—The term ‘‘SARP’’ means the Security Advanced Research Projects Agency established under this section.

(6) Technology roadmap.—The term ‘‘technology roadmap’’ means a plan or framework of goals, priorities, and milestones for desired future technological capabilities and functions are established, and research and development alternatives are identified in terms of priorities, priorities, and milestones are identified and analyzed in order to guide decisions on resource allocation and investments.

(7) Under Secretary.—The term ‘‘Under Secretary’’ means the Under Secretary for Science and Technology.

(c) DIRECTORATE OF SCIENCE AND TECHNOLOGY.—

(I) ESTABLISHMENT.—There is established a Directorate of Science and Technology within the Department.

(II) UNDER SECRETARY.—There shall be an Under Secretary for Science and Technology, who shall be appointed by the President, by and with the advice and consent of the Senate, to serve in the Office of the Under Secretary for Science and Technology established under section 130.

(J) PURPOSE.—The purpose of this section is to establish a Directorate of Science and Technology to—

(A) With respect to research and development expenditures under this section, the authority (subject to the same limitations and conditions) as the Secretary of Defense under section 807 of title 10, United States Code (except for subsections (b) and (f)), for a period of 5 years beginning on the date of enactment of this Act. Competitive, merit-based selection procedures shall be used for the selection of projects and participants for transactions entered into under the authority of this paragraph. The annual report required under subsection (b) of such section, as applied to the Secretary by this subparagraph, shall—

(I) be submitted to the President of the Senate, the Speaker of the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, the Committee on Appropriations of the Senate, and the Committee on Appropriations of the House of Representatives; and

(II) report on other transactions entered into under subparagraph (B).

(B) Authority to carry out prototype projects in accordance with the requirements and conditions provided for carrying out prototype projects under section 845 of the National Defense Authorization Act for Fiscal Year 2003 (Public Law 108–136) for a period of 5 years beginning on the date of enactment of this Act. In applying the authorities of such section 845, subsection (c) of that section shall apply with respect to prototype projects under this paragraph, and the Secretary shall perform the functions of the Secretary of Defense under subsection (d) of that section. Competitive, merit-based selection procedures shall be used for the selection of projects and participants for transactions entered into under the authority of this paragraph.

(C) In hiring personnel to assist in research, development, testing, and evaluation activities within the Directorate of Science and Technology, the Secretary shall exercise the personnel hiring and management authorities described in section 1101 of the
Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (5 U.S.C. 3104 note; Public Law 105-261), with the stipulation that the Secretary shall exercise such authority no later than 7 years following the date of enactment of this Act, that a maximum of 100 persons may be hired under such authority, and that the term of appointment for employees under subsection (c)(1) of that section may not exceed 5 years before the granting of any extensions under subsection (c)(2) of that section.

Agreements.

The Secretary may transact research, development, testing, and evaluation responsibilities under this chapter, and may enter into or conclude agreements with private sector entities, including corporations, partnerships, or individuals; and public sector entities, including Federal, State, or local entities; private sector entities, including corporations, partnerships, or individuals; and other nongovernmental entities, including universities, federally funded research and development centers, and other academic or research institutions.

Authorization of Appropriations.

There are authorized to be appropriated $200,000,000 for fiscal year 2003, and such sums as are necessary in subsequent fiscal years.

Science and Technology Council.

(1) ESTABLISHMENT.—There is established the Homeland Security Science and Technology Council within the Directorate of Science and Technology. The Under Secretary for Science and Technology shall have the authority to convene meetings. At the discretion of the Under Secretary and the Director of the National Science and Technology Council, the Council may be constituted as a subcommittee of the National Science and Technology Council.

(2) COMPOSITION.—The Council shall be composed of the following:

(A) Senior research and development officials representing agencies engaged in research and development relevant to homeland security and combating terrorism, which includes, in addition to those designated in paragraph (1) of that section, the following:

(B) The Director of the OSTP and other appropriate officials within the Department.

(C) The Director of the Office of Science and Technology.

(D) The Director of the Acceleration Fund.

(E) The Secretary of the Treasury.

(F) The Secretary of Health and Human Services.

(G) The Secretary of Homeland Security.

(H) The Under Secretary for Science and Technology.

(I) The Under Secretary for Management.

(J) The Director of the Office of Risk Analysis and Assessment.

(K) Such other officials as the Under Secretary may determine.

(L) The Executive Director of the Acceleration Fund.

(M) The Director of the National Institute of Standards and Technology.

(3) RESPONSIBILITIES.—The Council shall—

(A) provide the Under Secretary with recommendations on priorities and strategies, including those related to funding and portfolio management, for homeland security research and development;

(B) facilitate effective coordination and communications among agencies, other entities of the Federal Government, and entities in the private sector and academia, with respect to the conduct of research and development related to homeland security;

(C) recommend specific technology areas for which the Fund and other research and development resources shall be used, among other things, to rapidly transition homeland security research and development into deployed technology and reduce identified homeland security vulnerabilities;

(D) assist the Under Secretary in developing the technology roadmap referred to under subsection (c)(2)(B); and

(E) perform other appropriate activities as directed by the President.

(4) ADVISORY PANEL.—The Under Secretary may establish an advisory panel consisting of representatives from industry, academia, and other nonfederal entities to advise and support the Council.

(5) WORKING GROUPS.—At the discretion of the Under Secretary, the Council may establish working groups in specific homeland security areas consisting of individuals with relevant expertise in each articulated area. Working groups established for bioterrorism and counterproliferation research shall be fully coordinated with the Working Group established under section 108 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107-188).

Advanced Research Projects Agency.

(1) ESTABLISHMENT.—There is established the Security Advanced Research Projects Agency within the Directorate of Science and Technology.

(2) RESPONSIBILITIES.—SARPA shall—

(A) undertake and stimulate basic and applied research and development, leverage existing research and development, and accelerate the deployment of technologies that will serve to enhance homeland defense;

(B) identify, fund, develop, and transition high-risk, high-payoff homeland security research and development opportunities that—

(i) may lie outside the purview or capabilities of existing Federal agencies and

(ii) emphasize revolutionary rather than evolutionary or incremental advances;

(C) provide selected projects with single or multiyear funding, and require such projects to provide interim progress reports, no less often than annually;

(D) administer the Acceleration Fund to carry out the purposes of this chapter, and advise the Secretary and Under Secretary on funding priorities under subsection (c)(3)(E); and

(F) perform other appropriate activities as directed by the Under Secretary.

Office of Risk Analysis and Assessment.

(1) ESTABLISHMENT.—There is established an Office of Risk Analysis and Assessment within the Directorate of Science and Technology.

(2) FUNCTIONS.—The Office of Risk Analysis and Assessment shall assist the Secretary, the Under Secretary, and other Directors and Assistant Directors in the design, development and management of activities to provide scientific or technical support for such activities. Such support shall include, as appropriate—

(A) identification and characterization of homeland security threats;

(B) evaluation and delineation of the risk of these threats;

(C) pinpointing of vulnerabilities or linked vulnerabilities to these threats;

(D) determination of criticality of possible threats; and

(E) analysis of possible technologies, research, and protocols to mitigate or eliminate threats, vulnerabilities, and criticalities;

(F) evaluation of the effectiveness of various forms of risk communication; and

(G) other appropriate activities as directed by the Secretary.

(3) METHODS.—In performing the activities described under paragraph (2), the Office of Risk Analysis and Assessment may support or conduct, or commission from federal funders or research and development centers or other entities, work involving modeling, statistical analyses, field tests and exercises (including red teaming), testbed development, development of standards and metrics.

(4) OFFICE FOR TECHNOLOGY EVALUATION AND TRANSITION.—

(1) ESTABLISHMENT.—There is established an Office for Technology Evaluation and Transition within the Directorate of Science and Technology.

(2) FUNCTION.—The Office for Technology Evaluation and Transition shall, with respect to technologies relevant to homeland security needs—

(A) serve as the principal, national point-of-contact and clearinghouse for receiving and processing proposals or inquiries regarding such technologies;

(B) identify and evaluate promising new technologies;

(C) undertake testing and evaluation of, and assist in transitioning, such technologies into deployable, fielded systems;

(D) consult with and advise agencies regarding the development, acquisition, and deployment of such technologies;

(E) coordinate with SARPA to accelerate the transition of technologies developed by SARPA and ensure transition paths for such technologies; and

(F) perform other appropriate activities as directed by the Under Secretary.
(3) TECHNICAL SUPPORT WORKING GROUP.—The functions described under this subsection may be carried out, in coordination with, or through an entity established and modeled on the Technical Support Working Group (organized under the April 1992, National Security Decision Directive Numbered 30) that provides expert advice and direction to the Department concerning research and development of technologies for combating terrorism.

(1) OFFICE OF LABORATORY RESEARCH.—There is established an Office of Laboratory Research within the Directorate of Science and Technology.

(2) RESEARCH AND DEVELOPMENT FUNCTIONS TRANSFERRED.—There shall be transferred to the Department, to be administered by the Under Secretary, the functions, personnel, assets, and liabilities of the following programs and activities:

(A) Within the Department of Energy (but not including programs and activities relating to the strategic nuclear defense posture of the United States) the following:

(i) The chemical and biological national security and supporting programs and activities supporting domestic response of the non-proliferation and verification research and development program.

(ii) The nuclear smuggling programs and activities, and other programs and activities directed to homeland security, within the proliferation detection program of the nonproliferation and verification research and development program, except that the programs and activities described in this clause may be designated by the President either for transfer to the Department or for joint operation by the Secretary and the Secretary of Energy.

(iii) The nuclear assessment program and activities of the assessment, detection, and cooperation program of the international materials protection and cooperation program.

(iv) The Environmental Measurements Laboratory.

(B) Within the Department of Defense, the National Bio-Weapons Defense Analysis Center established under section 161.

(3) RESPONSIBILITIES.—The Office of Laboratory Research shall:

(A) supervise the activities of the entities transferred under this subsection;

(B) administer the disbursement and undertaking of research and development funds transferred from the Department to other agencies outside of the Department, including funds transferred to the Department of Homeland Security and the Department of Human Services consistent with subsection (c)(3)(E);

(C) establish and direct new research and development facilities as the Secretary determines appropriate;

(D) include a science advisor to the Under Secretary on research priorities related to biological and chemical weapons, with supporting research staff, who shall advise the Secretary on research priorities with respect to:

(i) research on countermeasures for biological weapons, including research on the development of drugs, devices, and biologics; and

(ii) research on biological and chemical threat agents; and

(E) other appropriate activities as directed by the Under Secretary.

(1) OFFICE FOR NATIONAL LABORATORIES.—(A) Establishment.—There is established within the Directorate of Science and Technology an Office for National Laboratories, which shall be responsible for the coordination and oversight of the Department's support to national laboratories and sites in a manner to create a networked laboratory system for the purpose of supporting the missions of the Department.

(B) JOINT SPONSORSHIP ARRANGEMENTS.—(A) NATIONAL LABORATORIES.—The Department of Energy may enter into a multiple agency sponsorship arrangement with the Department of Energy, of 1 or more Department of Energy national laboratories in the performance of work on behalf of the Department.

(B) DEPARTMENT OF ENERGY SITE.—The Department may be a joint sponsor of Department of Energy sites in the performance of work as if such sites were federally funded research and development centers and the work were performed under a multiple agency sponsorship arrangement with the Department.

(C) PRIMARY SPONSOR.—The Department of Energy shall be the primary sponsor under a multiple agency sponsorship arrangement entered into under subparagraph (A) or (B).

(D) CONDITIONS.—A joint sponsorship arrangement under this subsection shall—

(i) provide for the direct funding and management by the Department of the work being carried out on behalf of the Department; and

(ii) include procedures for addressing the coordination of resources and tasks to minimize conflicts between work undertaken on behalf of the Department.

(E) LEAD AGENT AND FEDERAL ACQUISITION REGULATION.—

(i) LEAD AGENT.—The Secretary of Energy shall act as the lead agent in coordinating the formation and performance of a joint sponsorship agreement between the Department and a Department of Energy national laboratory or site for work on homeland security.

(ii) COMPLIANCE WITH FEDERAL ACQUISITION REGULATION.—A contract concluded by a national laboratory or site under this section shall comply with the policy on the use of federally funded research and development centers under section 35.017 of the Federal Acquisition Regulation.

(F) FUNDING.—The Department shall provide funds for work at the Department of Energy national laboratories or sites, as the case may be, under this section under the same terms and conditions as apply to the primary sponsor of such national laboratory under applicable law, except that such Laboratory shall act as a federally funded research and development center under reason of subparagraph (B).

(2) OTHER ARRANGEMENTS.—The Office for National Laboratories may enter into other arrangements with Department of Energy national laboratories or sites to carry out work to support the missions of the Department, under applicable law, except that the Department of Energy may not charge or apply administrative fees for work on behalf of the Department.

(3) TECHNOLOGY TRANSFER.—The Office for National Laboratories may exercise the authorities in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a) to permit the Director of a Department of Energy national laboratory to enter into cooperative research and development agreements, or to negotiate licensing agreements, pertaining to work supported by the Department at the Department of Energy national laboratory.

(4) ASSISTANCE IN ESTABLISHING DEPARTMENT OF ENERGY LABORATORIES.—

(A) The Secretary, acting through the Under Secretary, shall, to the greatest extent practicable, provide for the temporary appointment or assignment of employees of Department of Energy national laboratories or sites to the Department for purposes of assisting in the establishment or organization of the technical programs of the Department through an agreement that includes provisions for minimizing conflicts between work assignments of such personnel.

(5) EXPERIMENTAL Facility.—To the greatest extent practicable, research conducted or supported by the Department shall be unclassified.

(6) REPORTING.—The Secretary shall report periodically to the Congress on the status of the non-Federal entity countermeasure research, development, and production, and submit additional recommendations for legislation as needed.

(1) CLASSIFICATION OF RESEARCH.—

(A) GENERAL.—In general, the Department, through the Under Secretary for Science and Technology, shall develop a comprehensive, long-term strategy and plan for engaging non-Federal entities, particularly including private, for-profit entities, in the research, development, and production of homeland security countermeasures for biological, chemical, and radiological weapons.

(B) FRAMEWORK.—The strategy and plan under this subsection, together with recommendations for the enactment of the supporting or enabling legislation, shall be submitted to the Congress within 270 days after the date of enactment of this Act.

(C) COORDINATION.—In developing the strategy and plan under this subsection, the Secretary shall consult with—

(A) other agencies with expertise in research, development, and production of countermeasures;

(B) private, for-profit entities and entrepreneurs with appropriate expertise and technology regarding countermeasures;

(C) investors that fund such entities;

(D) nonprofit research universities and institutions;

(E) public health and other interested private sector and government entities; and

(F) governments allied with the United States in the war on terrorism.

(4) PURPOSE.—The strategy and plan under this subsection shall evaluate proposals to assure that—

(A) research on countermeasures by non-Federal entities leads to the expeditious development and production of countermeasures that may be procured and deployed in the homeland security interests of the United States;

(B) capital is available to fund the expenses associated with such research, development, and production, including Government grants and contracts and appropriate capital formation tax incentives that apply to non-Federal entities with and without tax liability;

(C) the terms for procurement of such countermeasures are defined in advance so that such entities may accurately and reliably assess the potential countermeasures market and the financial rate of returns;

(D) appropriate intellectual property, risk protection, and Government approval standards are applicable to such countermeasures;

(E) Government-funded research is conducted and prioritized so that such research complements, and does not unnecessarily duplicate, research by non-Federal entities and such Government-funded research is made available, transferred, and licensed on commercially reasonable terms to such entities for development; and

(F) universities and research institutions play a vital role as partners in research and development and technology transfer, with appropriate progress benchmarks for such activities, with for-profit entities.

(5) REPORTING.—The Secretary shall report periodically to the Congress on the status of non-Federal entity countermeasure research, development, and production, and submit additional recommendations for legislation as needed.

(1) CLASSIFICATION OF RESEARCH.—

(A) GENERAL.—In general, the Department, through the Under Secretary, shall, to the greatest extent practicable, provide for the temporary appointment or assignment of employees of Department of Energy national laboratories or sites to the Department for purposes of assisting in the establishment or organization of the technical programs of the Department through an agreement that includes provisions for minimizing conflicts between work assignments of such personnel.

(B) EXPERIMENTAL Facility.—To the greatest extent practicable, research conducted or supported by the Department shall be unclassified.

(C) CLASSIFICATION AND REVIEW.—The Under Secretary for Science and Technology, in consultation with

(A) decide whether classification is appropriate before the award of a research
grant, contract, cooperative agreement, or other transaction by the Department; and

(ii) if the decision under clause (i) is one of classification, control the research results through standard classification procedures; and

(B) periodically review all classified research grants, contracts, cooperative agreements, and other transactions issued by the Department to determine whether classification is still necessary.

(3) RESTRICTIONS.—No restrictions shall be placed on or reporting of federally funded fundamental research that has not received national security classification, except as provided under applicable provisions of law.

(m) OFFICE OF SCIENCE AND TECHNOLOGY POLICY.—The National Science and Technology Policy, Organization, and Priorities Act is amended—

(1) in section 204(b)(1) (42 U.S.C. 6613(b)(1)), by inserting “homeland security,” after “national security,”; and

(2) in section 208(a)(1) (42 U.S.C. 6617(a)(1)), by inserting “the National Office for Combating Terrorism,” after “National Security Council”.

SEC. 136. DIRECTORATE OF IMMIGRATION AFFAIRS.

The Directorate of Immigration Affairs shall be established and shall carry out all of the duties of that Directorate in accordance with division B of this Act.

SEC. 137. OFFICE FOR STATE AND LOCAL GOVERNMENT COORDINATION.

(a) ESTABLISHMENT.—There is established within the Office of the Secretary for State and Local Government Coordination, to oversee and coordinate departmental programs for and relationships with State and local governments.

(b) RESPONSIBILITIES.—The Office established under subsection (a) shall—

(1) coordinate the activities of the Department relating to State and local government;

(2) assess, and advocate for, the resources needed by State and local government to implement the national strategy for combating terrorism;

(3) provide State and local government with regular information, research, and technical support to assist local efforts at securing the homeland; and

(4) develop a process for receiving meaningful input from State and local government in the development of the national strategy for combating terrorism and other homeland security activities.

(c) HOMELAND SECURITY LIASON OFFICER.

(1) CHIEF HOMELAND SECURITY LIASON OFFICER.—

(A) APPOINTMENT.—The Secretary shall appoint the Chief Homeland Security Liaison Officer to coordinate the activities of the Homeland Security Liaison Officers, designated under paragraph (2).

(B) RESPONSIBILITIES.—The Chief Homeland Security Liaison Officer shall prepare an annual report, that contains—

(i) a description of the State and local priorities in each of the 50 States based on discovered needs of first responder organizations, including law enforcement agencies, fire and rescue agencies, medical providers, emergency service providers, and relief agencies;

(ii) a needs assessment that identifies homeland security functions in which the Federal role is duplicative of the State and local role, and recommendations to decrease or eliminate inefficiencies between the Federal Government and State and local entities; and

(iii) recommendations to Congress regarding the creation, expansion, or elimination of any program to assist State and local entities to carry out their respective functions under the Department; and

(iv) proposals to increase the coordination of Departmental efforts within each State and between the States.

(2) HOMELAND SECURITY LIASON OFFICER.—

(A) DESIGNATION.—The Secretary shall designate in each State or political subdivision of less than 1 employee of the Department to—

(i) serve as the Homeland Security Liaison Officer in that State; and

(ii) coordinate between the Department and State and local first responders, including—

(I) law enforcement agencies;

(II) fire and rescue agencies;

(III) medical providers;

(IV) emergency service providers; and

(V) relief agencies.

(B) DUTIES.—Each Homeland Security Liaison Officer designated under subparagraph (A) shall—

(i) ensure coordination between the Department and—

(I) State, local, and community-based law enforcement;

(II) fire and rescue agencies; and

(III) medical and emergency relief organizations;

(ii) identify State and local areas requiring additional information, training, resources, and security;

(iii) provide training, information, and education regarding homeland security for State and local entities;

(iv) identify homeland security functions in which the Federal role is duplicative of the State and local role, and recommend ways to decrease or eliminate inefficiencies;

(v) assist State and local entities in priority setting based on discovered needs of first responder organizations, including law enforcement agencies, fire and rescue agencies, medical providers, emergency service providers, and relief agencies;

(vi) assist the Department to identify and implement State and local homeland security objectives in an efficient and productive manner; and

(vii) serve as a liaison to the Department in representing State and local priorities and concerns regarding homeland security.

(d) FEDERAL INTERAGENCY COMMITTEE ON FIRST RESPONDERS.

(1) IN GENERAL.—There is established an Interagency Committee on First Responders, that shall—

(A) ensure coordination among the Federal agencies involved with—

(I) State, local, and community-based law enforcement;

(II) fire and rescue operations; and

(III) medical and emergency relief services;

(B) identify community-based law enforcement, fire and rescue, and medical and emergency relief services needs;

(C) recommend new or expanded grant programs to improve community-based law enforcement, fire and rescue, and medical and emergency relief services;

(D) identify ways to streamline the process through which Federal agencies support community-based law enforcement, fire and rescue, and medical and emergency relief services; and

(E) assist in priority setting based on discovered needs.

(2) MEMBERSHIP.—The Interagency Committee on First Responders shall be composed of—

(A) the Chief Homeland Security Liaison Officer of the Department; and

(B) a representative of the Federal Bureau of Investigation of the Department of Justice; and

(K) representatives of any other Federal agency identified by the President as having a significant role in the purposes of the Interagency Committee on First Responders.

(3) ADMINISTRATION.—The Department shall provide administrative support to the Interagency Committee on First Responders and the Advisory Council, which shall include—

(A) scheduling meetings;

(B) preparing agenda;

(C) maintaining minutes and records;

(D) producing reports; and

(E) reimbursing Advisory Council members.

(4) LEADERSHIP.—The members of the Interagency Committee on First Responders shall select annually as chairperson.

(5) MEETINGS.—The Interagency Committee on First Responders shall meet—

(A) at the call of the Chief Homeland Security Liaison Officer of the Department, or

(B) not less frequently than once every 3 months.

(e) ADVISORY COUNCIL FOR THE FEDERAL INTERAGENCY COMMITTEE ON FIRST RESPONDERS.

(1) ESTABLISHMENT.—There is established an Advisory Council for the Federal Interagency Committee on First Responders, in this section referred to as the “Advisory Council”.

(2) MEMBERSHIP.—

(A) IN GENERAL.—The Advisory Council shall be composed of not more than 13 members, selected by the Interagency Committee on First Responders.

(B) REPRESENTATION.—The Interagency Committee on First Responders shall ensure that the membership of the Advisory Council represents—

(i) the law enforcement community;

(ii) fire and rescue organizations; and

(iii) medical and emergency relief services; and

(iv) both urban and rural communities.

(3) CHAIRPERSON.—The Advisory Council shall select annually a chairperson from among its members.

(4) COMPENSATION OF MEMBERS.—The members of the Advisory Council shall serve without compensation, but shall be eligible for reimbursement of necessary expenses connected with their service to the Advisory Council.

(5) MEETINGS.—The Advisory Council shall meet with the Interagency Committee on First Responders not less frequently than once every 3 months.

SEC. 138. UNITED STATES SECRET SERVICE.

There are transferred to the Department the authorities, functions, and assets of the United States Secret Service, which shall be maintained as a distinct entity within the Department.

SEC. 139. BORDER COORDINATION WORKING GROUP.

(a) DEFINITIONS.—In this section:
(1) BORDER SECURITY FUNCTIONS.—The term "border security functions" means the securing of the borders, territorial waters, ports, terminals, waterways, and air, land, and sea transportation systems of the United States.

(2) RELEVANT AGENCIES.—The term "relevant agencies" means any department or agency of the United States that the President determines to be relevant to performing border security functions.

(b) ESTABLISHMENT.—The Secretary shall establish a border security working group (in this section referred to as the "Working Group"), composed of the Secretary or the designee of the Secretary, the Under Secretary for Border and Transportation Protection, and the Under Secretary for Immigration Affairs.

(c) FUNCTIONS.—The Working Group shall meet not less than once every 3 months and shall:

(1) with respect to border security functions, develop coordinated budget requests, allocations of appropriations, staffing requirements, communication, use of equipment, transportation, facilities, and other infrastructure;

(2) coordinate joint and cross-training programs for personnel performing border security functions;

(3) monitor, evaluate and make improvements to the coverage and geographic distribution of border security programs and personnel;

(4) develop and implement policies and technologies to ensure the speedy, orderly, and efficient flow of lawful traffic, travel and commerce, and enhanced scrutiny for high-risk traffic, travel, and commerce; and

(5) identify systemic problems in coordination encountered by border security agencies and programs and propose administrative, regulatory, or statutory changes to mitigate such problems.

(d) RELEVANT AGENCIES.—The Secretary shall consult representatives of relevant agencies with respect to deliberations under subsection (c), and may include representatives of such agencies in Working Group deliberations, as appropriate.

SEC. 140. EXECUTIVE SCHEDULE POSITIONS.

Section 5914 of title 5, United States Code, is amended by adding at the end the following:

"Under Secretary for Border and Transportation Protection, Department of Homeland Security."

"Under Secretary for Critical Infrastructure Protection, Department of Homeland Security."

"Under Secretary for Emergency Preparedness and Response, Department of Homeland Security."

"Under Secretary for Immigration, Department of Homeland Security."

"Under Secretary for Intelligence, Department of Homeland Security."

"Under Secretary for Science and Technology, Department of Homeland Security."

Subtitle C—National Emergency Preparedness Enhancement

SEC. 151. SHORT TITLE.

This subtitle may be cited as the "National Emergency Preparedness Enhancement Act of 2002." 

SEC. 152. PREPAREDNESS INFORMATION AND EDUCATION.

(a) ESTABLISHMENT OF CLEARINGHOUSE.—There is established in the Department a National Clearinghouse on Emergency Preparedness (referred to in this section as the "Clearinghouse"). The Clearinghouse shall be headed by a Director.

(b) CONSULTATION.—The Clearinghouse shall consult with such heads of agencies, such representatives of Federal officers or employees, and such representatives of the private sector, as appropriate, to collect information on emergency preparedness, including information relevant to the Strategy.

(c) DUTIES.—The Clearinghouse shall perform the following duties:

(1) DISSEMINATION OF INFORMATION.—The Clearinghouse shall ensure efficient dissemination of accurate emergency preparedness information.

(2) COORDINATION.—The Clearinghouse shall establish a one-stop center for emergency preparedness information, which shall include a website, with links to other relevant Federal websites, the telephone number, and staff, through which information shall be made available on—

(A) ways in which States, political subdivisions, and private entities can access Federal grants;

(B) emergency preparedness education and awareness tools that businesses, schools, and the general public can use; and

(C) other information as appropriate.

(3) PUBLIC AWARENESS CAMPAIGN.—The Clearinghouse shall develop a public awareness campaign. The campaign shall be ongoing, and shall include an annual theme to be implemented during the National Emergency Preparedness Week established under section 154. The Clearinghouse shall work with agencies to coordinate public service announcements and other information-sharing tools utilizing a wide range of media.

(d) TECHNICAL ASSISTANCE.—The Clearinghouse shall compile and disseminate information on best practices for emergency preparedness identified by the Secretary and the heads of other agencies.

SEC. 153. PILOT PROGRAM.

(a) EMERGENCY PREPAREDNESS ENHANCEMENT PILOT PROGRAM.—The Department shall award grants to States or political subdivisions to pay—

(i) for the Federal share of the cost of improving emergency preparedness, and educating employees and other individuals using the entities' facilities about emergency preparedness;

(ii) for the use of funds. An entity that receives a grant under this subsection may use the funds made available through the grant to:

(1) develop evacuation plans and drills;

(2) plan additional or improved security measures, with an emphasis on innovative technologies or practices;

(3) deploy innovative emergency preparedness technologies; or

(4) educate employees and customers about the development of emergency preparedness recommendations under paragraph (1), the results of which are published in the Federal Register.

(2) USE OF FUNDS.—An entity that receives a grant under this subsection may use the funds made available through the grant to:

(i) develop evacuation plans and drills;

(ii) plan additional or improved security measures, with an emphasis on innovative technologies or practices;

(iii) deploy innovative emergency preparedness technologies; or

(iv) educate employees and customers about the development of emergency preparedness recommendations under paragraph (1), the results of which are published in the Federal Register.

(b) APPLICATION OF GRANTS.—On the date of enactment of this Act, the National Science Foundation shall award grants to States or political subdivisions to pay—

(i) for the Federal share of the cost of improving emergency preparedness, and educating employees and other individuals using the entities' facilities about emergency preparedness;

(ii) for the use of funds.

(2) USE OF FUNDS.—An entity that receives a grant under this subsection may use the funds made available through the grant to:

(i) develop evacuation plans and drills;

(ii) plan additional or improved security measures, with an emphasis on innovative technologies or practices;

(iii) deploy innovative emergency preparedness technologies; or

(iv) educate employees and customers about the development of emergency preparedness recommendations under paragraph (1), the results of which are published in the Federal Register.

Pursuant to the provisions of section 701 of title 5, United States Code, the Secretary of Homeland Security shall ensure efficient dissemination of information including information relevant to the Strategy and the Clearinghouse.

SEC. 154. DESIGNATION OF NATIONAL EMERGENCY PREPAREDNESS WEEK.

(a) DESIGNATION.—Each week that includes September 11 is "National Emergency Preparedness Week.

(b) PROCLAMATION.—The President is requested every year to issue a proclamation calling on the people of the United States (including State and local governments and the private sector) to observe the week with appropriate activities and programs.

(c) MISSION.—The mission of the Center is to develop countermeasures to potential attacks by terrorists using biological or chemical weapons that are weapons of mass destruction (as defined under section 103 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2302(1))) and conduct research and analysis concerning such weapons.

SEC. 162. REVIEW OF FOOD SAFETY.

(a) REVIEW OF FOOD SAFETY LAWS AND FOOD SAFETY ORGANIZATIONAL STRUCTURE.—The Secretary shall enter into an agreement with and provide funding to the National Academy of Sciences to conduct a detailed, comprehensive study which shall—

(i) review all Federal statutes and regulations affecting the safety and security of the food supply to determine the effectiveness of the statutes and regulations at protecting the food supply from deliberate contamination; and

(ii) review the organizational structure of Federal food safety oversight to determine the effectiveness and efficiency of the organizational structure at protecting the food supply from deliberate contamination.

(b) REPORT.—(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the National Academy of Sciences shall prepare and submit to the President, the Secretary, and Congress a comprehensive report containing—

(A) the findings and conclusions derived from the reviews conducted under subsection (a); and

(B) specific recommendations for improving—

(i) the effectiveness and efficiency of Federal food safety and security statutes and regulations; and

(ii) the organizational structure of Federal food safety oversight.

(2) IN CONJUNCTION WITH THE RECOMMENDATIONS.—In conjunction with the recommendations under paragraph (1), the report shall address—

(i) the effectiveness with which Federal food safety and security statutes are utilized to protect public health and ensure the food supply remains free from contamination;

(ii) the shortfalls, redundancies, and inconsistencies in Federal food safety statutes and regulations;

(iii) the application of resources among Federal food safety oversight agencies; and

(iv) the effectiveness and efficiency of the organizational structure of Federal food safety oversight.

(c) RESPONSIBILITY OF THE SECRETARY.—Not later than 90 days after the date on which the report is submitted to the Secretary, the Secretary shall provide to the President and Congress the response of the Department to the recommendations of the report submitted to the Department to further protect the food supply from contamination.

SEC. 163. EXCHANGE OF EMPLOYEES BETWEEN FEDERAL, STATE OR LOCAL GOVERNMENTS.

(a) FINDINGS.—Congress finds that—
(1) information sharing between Federal, State, and local agencies is vital to securing the homeland against terrorist attacks;
(2) Federal, State, and local employees working to protect the homeland can learn from one another and resolve complex issues;
(3) Federal, State, and local employees have specialized knowledge that should be considered by the assignment; and
(4) providing training and other support, such as staffing, to the appropriate Federal, State, and local agencies can enhance the ability of an agency to analyze and assess threats against the homeland, develop appropriate responses, and inform the United States public.

SEC. 164. AIRPORT SECURITY SCREENERS.

Section 111(d) of the Aviation and Transportation Security Act (Public Law 107–71; 115 Stat. 620; 49 U.S.C. 44955 note) is amended—

(1) by striking "(d) SCREENER PERSONNEL.—Notwithstanding any other provision of law," and inserting the following:

"(d) SCREENER PERSONNEL.—

(1) in GENERAL.—Notwithstanding any other provision of law, (except as provided under paragraph (2)), and

(2) by adding at the end the following:

"(2) WHISTLEBLOWER PROTECTION.—

"(A) DEFINITION.—In this paragraph, the term "security screener" means—

"(i) any Federal employee hired as a security screener under subsection (e) of section 44955 of title 49, United States Code;

"(ii) an applicant for the position of a security screener under that subsection;

"(B) IN GENERAL.—Notwithstanding paragraph (1), section 2302(b)(8) of title 5, United States Code, shall apply with respect to any security screener, and

"(C) COVERED POSITION.—The President may not exclude the position of security screener as a covered position under section 2302(a)(2) of title 5, United States Code, to the extent that a security screener would be covered under a provision of law similar to subsection (a).

SEC. 165. WHISTLEBLOWER PROTECTION FOR CERTAIN AIRPORT EMPLOYEES.

(a) IN GENERAL.—Section 42121(a) of title 49, United States Code, is amended—

(1) by striking "(a) DISCRIMINATION AGAINST AIRLINE EMPLOYEES.—No air carrier or contractor or subcontractor of an air carrier shall engage in discrimination against an employee on the basis of—" and inserting the following:

"(a) DISCRIMINATION AGAINST EMPLOYEES.—

"(1) an air carrier or contractor or subcontractor of an air carrier;

"(2) an individual who is a member of the Transportation Security Administration, the Federal Air Marshal Service, the Department of Homeland Security, the Department of Justice, or the Federal Bureau of Investigation, or who is an employee of an agency that has been designated pursuant to law to carry out the transportation safety responsibilities of the Federal Government;

"(3) an employee who has been placed on an airport security screening list maintained by or on behalf of an airport authority; and

"(4) an employee who is a member of the Transportation Security Administration, the Federal Air Marshal Service, the Department of Homeland Security, the Department of Justice, or the Federal Bureau of Investigation, or who is an employee of an agency that has been designated pursuant to law to carry out the transportation safety responsibilities of the Federal Government.

(b) EXCHANGE OF EMPLOYEES.—

(1) IN GENERAL.—The Secretary may provide for the exchange of employees of the Department and State and local agencies in accordance with subchapter VI of chapter 33 of title 5, United States Code.

(2) CONDITIONS.—With respect to exchanges described under this subsection, the Secretary shall ensure that—

(A) any assigned employee shall have appropriate training or experience to perform the work required by the assignment; and

(B) any assignment occurs under conditions that appropriately safeguard classified and other sensitive information.

SEC. 166. BIOTERRORISM PREPAREDNESS AND RESPONSE DIVISION.

Section 319D of the Public Health Service Act (42 U.S.C. 247–4) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b), the following:

"(c) BIOTERRORISM PREPAREDNESS AND RESPONSE DIVISION.

"(1) ESTABLISHMENT.—There is established within the Office of the Director of the Centers for Disease Control and Prevention a Bioterrorism Preparedness and Response Division (in this subsection referred to as the 'Division').

"(2) MISSION.—The Division shall have the following primary missions:

"(A) To lead and coordinate the activities and responsibilities of the Centers for Disease Control and Prevention with respect to countering bioterrorism;

"(B) To coordinate and facilitate the interaction of the Centers for Disease Control and Prevention personnel with personnel from the Department of Homeland Security and, in so doing, serve as a major contact point for 2-way communications between the jurisdictions of homeland security and public health.

"(3) RESPONSIBILITIES.—In carrying out the division's primary missions, the Division shall—

"(A) the Strategic National Stockpile.

"(C) To train and employ a cadre of public health personnel who are dedicated full-time to the countering of bioterrorism.

"(D) Responsibilities carried out by the Division shall be as follows:

"(A) The Bioterrorism Preparedness and Response Program.

"(B) The Strategic National Stockpile.

"(C) Other such programs and responsibilities as may be assigned to the Division by the Secretary of Health and Human Services.

"(D) DURATION.—The Director of the Division shall serve at the discretion of the Secretary of Health and Human Services.


(a) IN GENERAL.—The annual Federal response plan developed by the Secretary under section 176(1)(b) of title 42, United States Code, shall be consistent with section 319 of the Public Health Service Act (42 U.S.C. 247d).

(b) DISCLOSURES AMONG RELEVANT AGENCIES.

(1) IN GENERAL.—Full disclosure among relevant agencies shall be made in accordance with this subsection.

(2) PUBLIC HEALTH EMERGENCY.—During the period in which the Secretary of Health and Human Services has declared the existence of a public health emergency under section 319(a)(1) of the Public Health Service Act (42 U.S.C. 247d(a)), the Secretary of Health and Human Services shall keep relevant agencies, including the Department of Homeland Security, the Department of Justice, and the Federal Bureau of Investigation, fully and currently informed.

(3) POTENTIAL PUBLIC HEALTH EMERGENCY.—In cases involving, or potentially involving, a public health emergency, but in which no determination of an emergency by the Secretary of Health and Human Services has been made, all relevant agencies, including the Department of Homeland Security, the Department of Justice, and the Federal Bureau of Investigation, shall keep the Secretary of Health and Human Services and the Director of the Centers for Disease Control and Prevention fully and currently informed.

SEC. 168. RAIL SECURITY ENHANCEMENTS.

(a) IN GENERAL.—There are authorized to be appropriated to the Department, for the benefit of Amtrak, for the 2-year period beginning on the date of enactment of this Act—

(1) $375,000,000 for grants to finance the cost of enhancements to the security and safety of Amtrak rail passenger service;

(2) $778,000,000 for grants for life safety improvements to 6 New York Amtrak tunnels built in 1910, the Baltimore and Potomac Amtrak tunnel built in 1872, and the Washington, D.C. Union Station Amtrak tunnels built in 1904 under the Supreme Court and House and Senate Office Buildings; and

(3) $55,000,000 for the emergency repair, and rerouting to service of Amtrak passenger cars and locomotives.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated under subsection (a) shall remain available until expended.

(c) COORDINATION WITH EXISTING LAW.—Amounts made available to Amtrak under this section shall not be considered to be Federal assistance for purposes of part C of subtitle V of title 49, United States Code.

SEC. 169. GRANTS FOR FIREFIGHTING PERSONNEL.


(1) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively;

(2) by redesigning paragraphs (1) through (4) as paragraphs (A) through (D), respectively, and

(3) by adding the following:

"(E) GRANTS FOR FIREFIGHTING PERSONNEL.—

"(1) IN GENERAL.—Grants under sections 102(b)(14) and 134(b)(7) shall be made in accordance with this Act.

"(b) DURATION.—Grants awarded under paragraph (1) shall be for a 3-year period.

"(2) MAXIMUM AMOUNT.—The total amount of grants awarded under this paragraph shall not exceed $100,000 per firefighter, indexed for inflation, over the 3-year grant period.
VULNERABILITIES AND FEDERAL TRANSPORTATION SECURITY. The Committee on Homeland Security and Governmental Affairs, by and with the advice and consent of the Senate, submits for approval the report on the comprehensive enterprise architecture and plan referred to in subsection (a)(1), and the information systems managed and acquired under the enterprise architecture, shall possess the characteristics of—

(1) rapid deployment;

(2) a highly secure environment, providing data access only to authorized users; and

(3) the capability for continuous system upgrades to benefit from advances in technology while preserving the integrity of stored data.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall conduct a detailed, comprehensive study which shall—

(1) review all available intelligence on terrorist threats against aviation, seaport, rail, and transit facilities and the vulnerability of such facilities;

(2) review all available information on vulnerabilities at aviation, seaport, rail and transit facilities and the vulnerability of such facilities; and

(3) be submitted to the Secretary, the Comptroller General, and the appropriate committees of Congress.

(c) IMPLEMENTATION.—The Director of the Office of Management and Budget, in consultation with the Secretary and acting under the responsibilities of the Director under law (including the Clinger-Cohen Act of 1996), shall ensure the implementation of the enterprise architecture developed under subsection (a)(1), and shall coordinate, oversee, and evaluate the management and acquisition of information technology by agencies with responsibility for homeland security to ensure interoperability consistent with the enterprise architecture developed under subsection (a)(1).

SEC. 170. REVIEW OF TRANSPORTATION SECURITY VULNERABILITIES AND FEDERAL TRANSPORTATION SECURITY EFFORTS. The Comptroller General shall conduct a detailed, comprehensive study which shall—

(a) REVIEW.—In general.—The Comptroller General shall conduct a detailed, comprehensive study which shall—

(1) review all available intelligence on terrorist threats against aviation, seaport, rail, and transit facilities and the vulnerability of such facilities;

(2) review all available information on vulnerabilities at aviation, seaport, rail and transit facilities and the vulnerability of such facilities; and

(3) be submitted to the Secretary, the Comptroller General, and the appropriate committees of Congress.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit a report to Congress describing the findings and conclusions resulting from the review required by subsection (a), including the following:

(1) the findings and conclusions from the review required by subsection (a);

(2) proposed steps to improve any deficiencies found in aviation, seaport, rail, and transit security including, to the extent possible, improving the steps taken by agencies with responsibility for homeland security to ensure interoperability consistent with the enterprise architecture developed under subsection (a)(1), and the information systems managed and acquired under the enterprise architecture, shall possess the characteristics of—

(1) rapid deployment;

(2) a highly secure environment, providing data access only to authorized users; and

(3) the capability for continuous system upgrades to benefit from advances in technology while preserving the integrity of stored data.

(c) RESPONSE OF THE SECRETARY.—Not later than 90 days after the date on which the report under section 170 is submitted to the Secretary, the Secretary shall provide to the President and Congress—

(1) the response of the Department to the recommendations of the report; and

(2) a plan by the Department to further protect passengers and transportation infrastructure from terrorist attack.

SEC. 171. INTEROPERABILITY OF INFORMATION SYSTEMS.

(a) IN GENERAL.—The Director of the Office of Management and Budget, in consultation with the Secretary and affected entities, shall develop a comprehensive enterprise architecture for information systems, including communication systems, to achieve interoperability between and among information systems of agencies with responsibility for homeland security; and

(1) a plan to achieve interoperability between and among information systems, including communication systems, of agencies with responsibility for homeland security and those of State and local agencies with responsibility for homeland security.

(b) TIMETABLE.—The Director of the Office of Management and Budget, in consultation with the Secretary and acting under the responsibilities of the Director under law (including the Clinger-Cohen Act of 1996), shall ensure the implementation of the enterprise architecture developed under subsection (a)(1), and shall coordinate, oversee, and evaluate the management and acquisition of information technology by agencies with responsibility for homeland security to ensure interoperability consistent with the enterprise architecture developed under subsection (a)(1).

(c) IMPLEMENTATION.—The Director of the Office of Management and Budget, in consultation with the Secretary and acting under the responsibilities of the Director under law (including the Clinger-Cohen Act of 1996), shall ensure the implementation of the enterprise architecture developed under subsection (a)(1), and shall coordinate, oversee, and evaluate the management and acquisition of information technology by agencies with responsibility for homeland security to ensure interoperability consistent with the enterprise architecture developed under subsection (a)(1).

SEC. 172. EXTENSION OF CUSTOMS USER FEES.

SEC. 173. TRANSFER OF AGENCIES.

SEC. 174. TRANSITIONAL AUTHORITIES.

SEC. 175. INCIDENTAL TRANSFERS AND TRANSFER OF RELATED FUNCTIONS.

SEC. 176. DEFINITIONS.


SEC. 181. DEFINITIONS.

In this subtitle:

(a) AGENCY.—The term "agency" includes any entity, organizational unit, or function transferred to or to be transferred under this title.

(b) TRANSITION PERIOD.—The term "transition period" means the 1-year period beginning on the effective date of this division.

(c) TRANSFER.—The transfer of an agency to the Department, as authorized by this title, shall occur when the President so directs, but in no case later than the end of the transition period.
SEC. 185. IMPLEMENTATION PROGRESS REPORTS AND LEGISLATIVE RECOMMENDATIONS.

(a) In General.—In consultation with the President and in accordance with this section, the Secretary shall prepare implementation progress reports and submit such reports to—

(1) the President of the Senate and the Speaker of the House of Representatives for referral to the appropriate committees; and

(2) the Comptroller General of the United States.

(b) REPORT FREQUENCY.—

(1) INITIAL REPORT.—As soon as practicable, and not later than 6 months after the date of enactment of this Act, the Secretary shall submit the first implementation progress report.

(2) SEMIANNUAL REPORTS.—Following the submission of the report under paragraph (1), the Secretary shall submit additional implementation progress reports not less frequently than once every 6 months until all transfers to the Department under this title have been completed.

(3) FINAL REPORT.—Not later than 6 months after all transfers to the Department under this title have been completed, the Secretary shall submit a final implementation progress report.

(c) CONTENTS.—

(1) In general.—Each implementation progress report shall report on the progress made in implementing titles I, II, III, and XI, and shall include the information specified under paragraph (2) that the Secretary has gathered as of the date of submission. Information contained in an implementation report under this section shall be referenced to, and not set out in full, in a subsequent report. The final implementation progress report shall include any required information not yet previously reported.

(2) SPECIFICATIONS.—Each implementation progress report shall contain, to the extent available—

(A) with respect to the transfer and incorporation of entities, organizational units, and functions—

(i) the actions needed to transfer and incorporate entities, organizational units, and functions into the Department;

(ii) a projected schedule, with milestones, for completing the various phases of the transfer and incorporation;

(iii) a progress report on taking those actions and meeting the schedule;

(iv) the organizational structure of the Department, including a listing of the respective directorates, the field offices of the Department, and the executive positions that will be filled by political appointees or career officials;

(v) the location of Department headquarters, including a timeframe for relocating to the new location, an estimate of cost for relocating, and information about which elements of the various agencies will be located at headquarters;

(vi) unexpended funds and assets, liabilities, and personnel that will be transferred, and the proposed allocations and disposition within the Department; and

(vii) the costs of implementing the transition;

(B) with respect to human capital planning—

(i) a description of the workforce planning undertaken for the Department, including the preparation of an inventory of skills and competencies available to the Department, to identify and plan for the training, recruitment, and retention policies necessary to attract and retain a workforce to meet the needs of the Department; and

(ii) the past and anticipated future record of the Department with respect to recruitment and retention of personnel;

(C) with respect to information technology—

(i) an assessment of the existing and planned information systems of the Department; and

(ii) a report on the development and implementation of enterprise architecture and of the plan to achieve interoperability;

(D) with respect to programmatic implementation—

(i) the progress in implementing the programmatic responsibilities of this division;

(ii) the progress in implementing the mission of each entity, organizational unit, and function transferred to the Department;

(iii) recommendations of any other governmental entities, organizational units, or functions that need to be incorporated into the Department in order for the Department to function effectively;

(iv) recommendations of any entities, organizational units, or functions not related to homeland security transferred to the Department that need not be transferred from the Department or terminated for the Department to function effectively;

(E) WITH RESPECT TO HUMAN CAPITAL—

(I) the progress in implementing the workforce planning undertaken for the Department, including the preparation of an inventory of skills and competencies available to the Department, to identify and plan for the training, recruitment, and retention policies necessary to attract and retain a workforce to meet the needs of the Department; and

(ii) the past and anticipated future record of the Department with respect to recruitment and retention of personnel;

(F) SEPARATE SUBMISSION OF PROPOSED LEGISLATION.—The Secretary shall submit the proposed legislation under paragraph (1) to Congress before submitting the balance of the report under this title.

SEC. 186. TRANSFER AND ALLOCATION.

Except as otherwise provided in this title, the personnel employed in connection with, and the assets, liabilities, contracts, proposals, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with, any program or activity transferred under this title, shall be transferred to the Secretary for appropriate allocation, subject to the approval of the Director of the Office of Management and Budget under section 1501 of title 31, United States Code. Unexpended funds transferred under this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

SEC. 187. SAVINGS PROVISIONS.

(a) CONINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permitts, licenses, contracts, recognitions of labor organizations, collective bargaining agreements, certificates, licenses, registrations, privileges, and other administrative or judicial proceedings, if this title had not been enacted.

(b) PROCEEDINGS NOT AFFECTED.—The provisions of this title shall not affect any proceeding before an agency at the time this title was enacted, and orders issued in connection therewith, and judgments rendered in any such proceedings shall continue in effect as if this title had not been enacted, and orders issued in any such proceedings shall continue in effect as if this title had not been modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law.

(c) SUITS NOT AFFECTED.—The provisions of this title shall not affect suits commenced before the effective date of this division, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this title had not been enacted.

(d) NONABANDONMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against an agency, or by or against any individual as an officer of an agency, shall abate by reason of the enactment of this title.
(e) Administrative Actions Relating to Promulgation of Regulations.—Any administrative action relating to the preparation or promulgation of a regulation by an agency that transfers a function transferred under this title may be continued by the Department with the same effect as if this title had not been transferred.

(f) Employment and Personnel.—

(1) Employer Rights.—

(A) Transferred Agencies.—The Department shall be the legal successor to any entity or organizational unit, or subdivision thereof, transferred under this Act, and shall accept all functions transferred under this Act.

(B) Transferred Employees.—An employee transferred to the Department under this Act, who was in an appropriate unit under section 7112 of title 5, United States Code, prior to the transfer, shall not be excluded from a unit under this Act if the employee

(i) is the primary job of the employee for which compensation was paid under section 7103(b)(1) of title 5, United States Code, as a result of any order issued under section 7103(b)(1) of title 5, United States Code, after July 19, 2002.

(2) Terms and Conditions of Employment.—The transfer of an employee to the Department under this Act shall not alter the terms and conditions of employment, including compensation, of any employee so transferred.

(g) Conditions and Criteria for Appointment.—Any qualifications, conditions, or criteria required by law for appointments to a position in an agency, or subdivision thereof, transferred under this title, including a requirement that an appointment be made by the President, by and with the advice and consent of the Senate, shall continue in effect in the Department.

(h) Whistleblower Protection.—The President may not exclude any position transferred to the Department as a covered position under section 2302(a)(2)(B)(ii) of title 5, United States Code, to the extent that such exclusion subject to that authority was not made before the date of enactment of this Act.

(i) No Effect on Intelligence Authority.—The transfer of authorities, functions, personnel, and assets of elements of the United States Government under this title, or the assumption of authorities and functions by the Department under this title, shall not be construed, in cases where such authorities, functions, personnel, and assets are engaged in intelligence activities as defined in title 52 United States Code, as affecting the authorities of the Director of Central Intelligence, the Secretary of Defense, or the heads of departments and agencies within the intelligence community.

SEC. 188. Transition Plan.

(a) In General.—Not later than September 15, 2002, the President shall submit to Congress a transition plan as set forth in subsection (b).

(b) Contents.—

(1) In General.—The transition plan under subsection (a) may consist of—

(A) plan for the transition to the Department and implementation of titles I, II, and III and division B; and

(B) proposal for the financing of those operations and needs of the Department that do not represent solely the continuation of functions for which appropriations already are available.

(2) Financial Proposal.—The financing proposal under paragraph (1) may consist of any combination of specific appropriations transfers, new specific appropriations and the President considers advisable.

SEC. 189. USE OF APPROPRIATED FUNDS.

(a) Application of This Section.—Notwithstanding any other provision of this Act or any other law, this section shall apply to the use of any funds, disposal of property, and acceptance and disposal of gifts, or donations of services or property, of, for, or by the Department, including any agencies, entities, or other organizations transferred to the Department under this Act and the National Combating Terrorism Strategy Panel.

(b) Use of Transferred Funds.—Except as may be provided in an appropriations Act, in accordance with subsection (d), balances of appropriations and any other funds or assets transferred under this Act—

(1) shall be available only for the purposes for which they were originally available;

(2) shall remain subject to the same conditions and limitations provided by law for appropriations originally transferred; and

(3) shall not be used to fund any new position established under this Act.

(c) Notification Regarding Transfers.—The President shall notify Congress not less than 15 days before any transfer of appropriations balances, other funds, or assets under this Act.

(d) Additional Uses of Funds During Transition.—Subject to subsection (c), amounts made available under this Act and only under the conditions and for the purposes specified in such appropriations Act.

(e) Disposal of Property.—

(1) Strict Compliance.—If specifically authorized to dispose of real property in this or any other Act, the Secretary shall exercise this authority in strict compliance with section 204 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485).

(2) Deposit of Proceeds.—The Secretary shall deposit the proceeds of any exercise of property disposal authority into the miscellaneous receipts of the Treasury in accordance with section 3302(b) of title 31, United States Code.

(f) GIFTS.—Gifts or donations of services or property of or for the Department, the Office, or the National Combating Terrorism Strategy Panel may not be accepted, approved, and disposed of unless specifically permitted in advance in an appropriations Act and only under the conditions and for the purposes specified in such appropriations Act.

(g) Budget Request.—Under section 105 of title 31, United States Code, the President shall submit to Congress a detailed budget request for the Department for fiscal year 2001.

Subtitle F—Administrative Provisions

Sec. 191. Reorganizations and Delegations.

(a) Reorganization Authority.—

(1) In General.—The Secretary may, as necessary and appropriate—

(A) allocate, or reallocate, functions among officers of the Department; and

(B) establish, consolidate, alter, or discontinue organizational entities within the Department.

(2) Limitation.—Paragraph (1) does not apply to—

(A) any office, bureau, unit, or other entity established by law and transferred to the Department;

(B) any function vested by law in an entity referred to in subparagraph (A) or vested by law in an officer of such an entity; or

(C) the alteration of the assignment or delegation of functions assigned by this Act to any officer or organizational entity of the Department.

(b) Delegation Authority.—

(1) Secretary.—The Secretary may—

(A) delegate any of the functions of the Secretary to other officers and employees of the Department;

(B) authorize, or reallocate, functions among officers of the Department; and

(B) authorize successor redelegations of functions of the Secretary to other officers and employees of the Department.

(2) Limitations.—An officer of the Department may—

(A) delegate any function assigned to the officer by law and transferred to the Department;

(B) any function vested by law in an entity referred to in subparagraph (A) or vested by law in an officer of such an entity; or

(C) the alteration of the assignment or delegation of functions assigned by this Act to any officer or organizational entity of the Department.

(3) Limitations.—

(A) Interim Delegation.—Any function specified by this Act to an organizational unit of the Department or to the head of an organizational unit of the Department may not be delegated to an officer or employee outside of that unit.
(B) FUNCTIONS.—Any function vested by law in an entity established by law and transferred to the Department or vested by law in an officer of such an entity may not be delegated to an officer or employee outside of that entity.

SEC. 192. REPORTING REQUIREMENTS.
(a) ANNUAL EVALUATIONS.—The Comptroller General of the United States shall monitor and evaluate the implementation of titles I, II, III, and XI. Not later than 15 months after the effective date of this division, and every year thereafter for the succeeding 4 years, the Comptroller General shall submit a report to Congress containing—

(1) an evaluation of the implementation of program reports submitted to Congress and the Comptroller General by the Secretary under section 185;
(2) the findings and conclusions of the Comptroller General of the United States resulting from the monitoring and evaluation conducted under this subsection, including evaluations of how successfully the Department is meeting—

(A) the homeland security missions of the Department; and
(B) the other missions of the Department; and
(C) any recommendations for legislation or administrative action the Comptroller General considers appropriate.
(b) BIANNUAL REPORTS.—Every 2 years the Secretary shall submit to Congress—

(1) a report assessing the resources and requirements of executive agencies relating to border security and emergency preparedness issues; and
(2) a report certifying the preparedness of the United States to prevent, protect against, and respond to natural disasters, cyber attacks, and incidents involving weapons of mass destruction.

(c) PORT-TO-PORTEER MANAGEMENT REPORT.—Not later than 1 year after the effective date of this division, the Secretary shall submit to Congress a report outlining proposed steps to consolidate management authority for Federal operations at key points of entry into the United States.

(d) COMBATING TERRORISM AND HOMELAND SECURITY RELATED ACTIVITIES.—Not later than 270 days after the date of enactment of this Act, the Secretary and the Director shall—

(1) in consultation with the head of each department or agency affected by titles I, II, III, and XI, develop definitions of the terms “combating terrorism” and “homeland security” for purposes of those titles and shall consider consultative, the flexibilities, personnel or other resources, without any diminishment; and
(2) submit a report to Congress on such definitions.
(e) RESULTS-BASED MANAGEMENT.—
(1) STRATEGIC PLAN.—

(A) IN GENERAL.—Not later than September 30, 2002, consistent with the requirements of section 191 of title 31, United States Code, the Secretary, in consultation with Congress, shall prepare and submit to the Director of the Office of Management and Budget and to Congress a strategic plan for the program activities of the Department.
(B) PERIOD; REVISIIONS.—The strategic plan shall cover a period of not less than 5 years from the date of its initial submission and it shall be updated and revised at least every 3 years.

(C) CONTENTS.—The strategic plan shall describe—

(A) the elements for the non-homeland security related activities of the Department and homeland security related activities of the Department.
(B) an annual performance plan for the program activities of the Department and homeland security related activities of the Department.

(A) IN GENERAL.—In accordance with subsection (a) of section 1115 of title 31, United States Code, the Secretary shall prepare an annual performance plan covering each program activity set forth in the budget of the Department.

(B) CONTENTS.—The performance plan shall include—

(i) the goals to be achieved during the year;
(ii) strategies and resources required to meet those goals and measures of progress toward meeting those goals; and
(iii) the means used to verify and validate measured values.

(C) SCOPe.—The performance plan shall describe the planned results for the non-homeland security related activities of the Department and homeland security related activities of the Department.

(D) PERFORMANCE.—

(A) IN GENERAL.—In accordance with section 1116 of title 31, United States Code, the Secretary shall prepare and submit to the President and Congress an annual report on program performance for each fiscal year.

(B) CONTENTS.—The performance report shall include the actual results achieved during the year compared to the goals expressed in the performance plan for that year.

SEC. 193. ENVIRONMENTAL PROTECTION, SAFETY, AND HEALTH REQUIREMENTS.

The Secretary shall—

(1) ensure that the Department complies with all applicable environmental, safety, and health statutes and requirements; and
(2) develop procedures for meeting such requirements.

SEC. 194. LABOR STANDARDS.

(a) IN GENERAL.—All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance provided under the National Security Transfer Act of 2002 (42 U.S.C. 276a et seq.), shall be entitled to the minimum wages and rates of pay prescribed by the Davis-Bacon Act (40 U.S.C. 276a)."
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receives independently of the Department.

information that a State or local government

preempting or otherwise modifying State or

designation of records under subsection (d).

confidentiality of records furnished volun-

themselves, the Department and subsequently

shall, upon receipt of a request under section 592 of title 5, United States Code.

(i) not make the record available; and

(ii) refer the request to the Department for

processing and response in accordance with

this Act.

B) SHREDDABLE PORTION OF RECORD.—Any

reasonably segregable portion of a record shall be provided to the person requesting the

record or a certified copy of any portion which is exempt under this section.

(2) DISCLOSURE OF INDEPENDENTLY FUR

NISHED RECORDS.—Notwithstanding para-

graph (1), nothing in this section shall pro-

hibit an agency from making available under

section 592 of title 5, United States Code, any record that the agency receives independ-

ently of the Department, regardless of

whether or not the Department has a similar

or identical record.

(d) WITHDRAWAL OF CONFIDENTIAL DESIGNA-

TION.—The Secretary shall order the withdraw-

al of a record designation of a record under

subsection (b) at any time within a

reasonable period specified by the Depart-

ment, the congressional committees,

and the official requestor.

(2) E EFFECT ON STATE AND LOCAL LAW.—

(a) Establishment.—There is established

within the Executive Office of the President the National Office for Combating Terror-

ism.

(b) Officers.—The head of the Office shall be

the Director of the Office of National Office for Combating Terror-

ism, and shall be appointed by and with the ad-

vice and consent of the Senate.

(3) EXECUTIVE SCHEDULE LEVEL I POSITION.

Section 3312 of title 5, United States Code, is amended by adding after the following:

"Director of the Office for Combating Terror-

ism:"

(4) OFFICERS.—The President shall assign the following officers, as directed by the

Director, to serve in the Office:

(A) the head of the Office; and

(B) such other officers as the Director deems appropriate.

(i) CONFIDENTIAL RECORDS.—Any

records that are designated by the Director as

confidential shall be provided to the person requesting the

record or a certified copy of any portion which is exempt under this section.

(2) IN GENERAL.—The report shall be sub-

mitted in unclassified form, but may include a classified

appendix.

SEC. 199. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to—

(1) establish and maintain the National Office for Combating Terrorism;

(2) ensure that relevant agencies and officials are provided with pertinent information derived such activities into the development of the Strategy.

(3) To direct and review the development of a comprehensive national assessment of terrorist threats and vulnerabilities to such threats, which shall be—

(A) conducted by the heads of relevant agencies, the National Security Advisor, the Director of the Office of Science and Tech-

ology Policy, and other involved White

House entities, and

(B) used in preparation of the Strategy.

(4) To develop national objectives and poli-

cies for combating terrorism.

(5) To ensure that relevant agencies and entities contribute to the development of the Strategy by agencies with responsibilities for combating terrorism under the Strategy, partly those involving military, intel-

ligence, law enforcement, diplomatic, and scientific and technological assets.

(6) To work with agencies, including the Environmental Protection Agency, to ensure that appropriate actions are taken to ad-

dress vulnerabilities identified by the Direc-
torate of Critical Infrastructure Protection within the Department.

(7)(A) To coordinate, with the advice of the Secretary, the development of a comprehen-
sive annual budget for the programs and ac-

tivities under the Strategy, including the

budgets of the military departments and agencies within the National Foreign Intel-

ligence Program relating to international terrorism, military programs, projects, or activities relating to force pro-

tection.

(B) To have the lead responsibility for bud-

getary contributions relating to mili-

tary, intelligence, law enforcement, and dip-

lomatic assets in support of the Strategy.

(8) To exercise funding authority for Fed-

eral terrorism prevention and response agen-
cies in accordance with section 202.

(9) To serve as an advisor to the National Security Advisor.

(10) To work with the Director of the Fed-

eral Bureau of Investigation to ensure that—

(A) the Director of the National Office for Combating Terrorism provides the Director of the Federal Bureau of Investigation related to terrorism; and

(B) such information is made available to the appropriate agencies, to State and local law enforcement officials.

(d) RESOURCES.—In consultation with the Director, the President shall assign such offices as the Director determines to the Office, and shall provide such resources as the Director determines are necessary to carry out the requirements of this Act.

(e) O VERSIGHT BY CONGRESS.—The estab-

lishment of the Office within the Executive

Office of the President shall not be construed as affecting access by Congress, or any committee of Congress, to—

(1) any information, document, record, or paper in the possession of the Office or any study conducted by or at the direction of the Director; or

(2) any personnel of the Office.

SEC. 202. FUNDING FOR STRATEGY PROGRAMS

AND ACTIVITIES.

(a) BUDGET REVIEW.—In consultation with the Director of the Office of Management and Budget, the Secretary, and the heads of other agencies, the National Security Advisor, and the Director of the Office of Science and Technology Policy, and other involved White

House entities, the Director shall—

(1) identify programs that contribute to the

Strategy; and

(2) in the development of the budget sub-

mitted by the President to Congress under

section 1105 of title 31, United States Code, review and provide advice to the heads of agencies on the amount and use of funding for programs identified under paragraph (1).

(b) SUBMITTAL OF PROPOSED BUDGETS TO

THE DIRECTOR.—

(1) IN GENERAL.—The head of each Federal

terrorism prevention and response agency shall submit to the Director, each year the proposed budget of that agency for the fiscal year beginning in that year for programs and activities of that agency under the Strategy during that fiscal year.

(2) DATE FOR SUBMISSION.—The proposed

budget of an agency for a fiscal year under paragraph (1) shall be submitted to the Di-

rector—

(A) not later than the date on which the agency completes the collection of informa-
tion to enable the submission of the proposed budget by the President of a budget to Congress for that fiscal year under section 1105 of title 31, United States Code; and

(B) before that information is submitted to the Director of the Office of Management and Budget for such purposes.

(3) FORMAT.—In consultation with the Di-

rector of the Office of Management and Budget, the Director shall specify the format for the submittal of proposed budgets under paragraph (1).

(4) REVIEW OF PROPOSED BUDGETS.—

(1) IN GENERAL.—The Director shall review each proposed budget submitted to the Di-

rector with the following:

(2) INADEQUATE FUNDING DETERMINATION.—

If the Director determines under paragraph...
(1) that the proposed budget of an agency for a fiscal year under subsection (b) is inadequate, in whole or in part, to permit the implementation by the agency during the fiscal year of the goals of the Strategy applicable to the agency during the fiscal year, the Director shall submit to the head of the agency a notice in writing of that determination.

(4) MAINTENANCE OF RECORDS.—The Director shall maintain a record of—

(A) each notice submitted under paragraph (2), including any statement accompanying such notice; and

(B) each notice submitted under paragraph (3).

(d) AGENCY RESPONSE TO REVIEW OF PROPOSED BUDGET.—

(1) IN GENERAL.—At the same time the head of a Federal terrorism prevention and response agency submits its proposed budget for a fiscal year to the Office of Management and Budget for purposes of the submission by the President of a budget to Congress for the fiscal year under section 1105 of title 31, United States Code, the head of the agency shall submit to the head of the Office of Management and Budget for purposes of the submission by the President of a budget to Congress for the fiscal year under section 1105 of title 31, United States Code.

(2) REVIEW AND DECERTIFICATION AUTHORITY.—The Director of the National Office for Combating Terrorism and Homeland Security Response Program shall be responsible for—

(A) reviewing, in consultation with the Secretary and the head of each Federal terrorism prevention and response agency concerned—

(i) the proposed budget of such agency for a fiscal year under subsection (c)(2)(B); and

(ii) the budget recommendations made under this section;

(B) a statement of the proposed funding, and any initiatives, set forth in the notice submitted under that subsection with respect to the proposed budget;

(i) may decertify the proposed budget; and

(ii) with respect to any proposed budget so decertified, shall submit to Congress—

(I) a notice of the decertification;

(II) a copy of the notice submitted to the agency concerned for the fiscal year under subsection (c)(2)(B); and

(III) the budget recommendations made under this section.

(3) SUBMISSION TO CONGRESS.—

(1) IN GENERAL.—For each fiscal year, following the submittal of proposed budgets to the Director under subparagraph (b), the Director shall, in consultation with the Secretary and the head of each Federal terrorism prevention and response agency concerned—

(A) develop a consolidated proposed budget for such fiscal year for all programs and activities under the Strategy for such fiscal year;

(B) subject to paragraph (2), submit the consolidated proposed budget to the President and to Congress.

(2) ELEME NTS WITHIN INTELLIGENCE PROGRAM.—In the submission of the consolidated proposed budget to Congress under paragraph (1)(B), those elements of the budget which are within the National Foreign Intelligence Programs—

(A) the Select Committee on Intelligence of the Senate;

(B) the Permanent Select Committee on Intelligence of the House of Representatives;

(C) the Committee on Appropriations of the Senate; and

(D) the Committee on Appropriations of the House of Representatives.

(3) DESIGNATION OF CONSOLIDATED PROPOSED BUDGET.—The consolidated proposed budget for a fiscal year under this subsection shall be known as the National Terrorism Prevention and Response Program Budget for the fiscal year.

(g) REPROGRAMMING AND TRANSFER QUESTIONS.—

(1) APPROVAL BY THE DIRECTOR.—The head of a Federal terrorism prevention and response agency may not submit to Congress a request for the reprogramming or transfer of any funds specified in the National Terrorism Prevention and Response Program Budget for programs or activities of the agency under the Strategy for a fiscal year in excess of $5,000,000 without the approval of the Director.

(2) APPROVAL BY THE PRESIDENT.—The President shall—

(A) review, in consultation with the head of the agency concerned, the proposed budget of such agency for a fiscal year under this subsection with respect to the proposed budget;

(B) in accordance with the recommendation of the President, permit the submission of a request previously disapproved by the Director under paragraph (1) to Congress; and

(C) in any case in which the submission of a request previously disapproved by the Director under paragraph (1) to Congress is permitted by the President under subparagraph (B), permit the submission of the request to Congress will further the purposes of the Strategy.

(h) SUBMISSION OF REVISED PROPOSED BUDGETS.—

(1) SUBMISSION.—Not later than 60 days after the submission to Congress of the consolidated proposed budget to Congress under section 1105 of title 31, United States Code, the Secretary shall submit to Congress the request submitted by the President under paragraph (d) with respect to the consolidated budget submitted under such section.

(2) CONTENTS.—The contents of the Strategy shall include—

(A) a comprehensive statement of mission, goals, objectives, desired end-state, priorities and responsibilities;

(B) policies and procedures to maximize the collection, translation, analysis, exploitation, co-op- eration, and dissemination of information relating to combating terrorism and homeland security response throughout the Federal Government and with State and local authorities;

(C) plans for countering chemical, biological, radiological, nuclear and explosives, and cyber threats;

(D) plans for integrating the capabilities and assets of the United States military into all aspects of the Strategy;

(E) plans for improving the resources of, coordination among, and effectiveness of health and medical sectors for detecting and responding to terrorist attacks on the homeland;

(F) specific measures to enhance cooperation efforts between the public and private sectors in protecting against terrorist attacks;

(G) a review of measures needed to enhance transportation security with respect to potential terrorist attacks;

(H) plans for identifying, prioritizing, and meeting research and development objectives to support homeland security needs; and

(I) other critical areas.

(i) COOPERATION.—At the request of the Secretary or Director, departments and agencies shall provide necessary information or planning documents relating to the Strategy.

(j) ENTRUSTMENT.—There is established the National Counterterrorism and Homeland Security Response Council to assist in the preparation and implementation of the Strategy.

(k) MEMBERSHIP.—The members of the Council shall be the heads of the Federal terrorism prevention and response agencies or their designees. The President or designee shall designate such agencies.

(l) CO-CHAIRS AND MEETINGS.—The Secretaries or Directors shall co-chair the Council, which shall meet at their discretion.

(m) SUBMISSION TO CONGRESS.—Not later than December 1, 2003, and each year thereafter, there shall be submitted to Congress a report which—

(A) is prepared by the President and is submitted by the Secretary and the Director to Congress, which includes a copy of the Strategy and an assessment of the implementation of the Strategy by the Federal Government; and

(B) is submitted by the Secretary and the Director to Congress, which includes a copy of the Strategy and an assessment of the implementation of the Strategy by the Federal Government;
(a) In general.—In consultation with the Director, the Secretary of the Department of Homeland Security shall establish an independent panel to be known as the National Terrorism Strategy Panel.

(b) Office of Management and Budget report.—Not later than 90 days after the date of the submission of the Strategy report required under section 301, the Director of the Office of Management and Budget shall—

(1) submit to Congress a report describing agency progress under subsection (a); and

(2) provide a copy of the report to the Comptroller General of the United States.

(c) General Accounting Office report.—Not later than 90 days after the date of the report required under subsection (b), the Comptroller General of the United States shall submit a report to the Governmental Affairs Committee of the Senate and the Government Reform Committee of the House of Representatives, the Committee on Appropriations of the Senate, and the Committee on Appropriations of the House of Representatives, evaluating—

(1) the management guidance identified under subsection (a); and

(2) the actual progress of Federal agencies in implementing and executing the Strategy.

SEC. 303. NATIONAL COMBATING TERRORISM STRATEGY PANEL.

(a) Establishment.—The Secretary and the Director shall establish a nonpartisan, independent panel to be known as the National Combating Terrorism Strategy Panel (in this section referred to as the “Panel”).

(b) Membership.—

(1) Appointment.—The Panel shall be composed of a chairperson and 8 other individuals appointed by the Secretary and the Director, in consultation with the chairman and ranking member of the Committee on Governmental Affairs of the Senate and the chairperson of the Government Reform Committee of the House of Representatives, from among individuals in the private sector who are recognized experts in matters relating to combating terrorism and the homeland security of the United States.

(2) Terms.—

(A) General.—An individual shall be appointed to the Panel for a 18-month term.

(B) Term periods.—Terms on the Panel shall not be continuous. All terms shall be for the 18-month period which begins 12 months before each date a report is required to be submitted under subsection (l)(2)(A).

(c) Multiple terms.—An individual may serve more than one term.

(d) Duties.—The Panel shall—

(1) conduct and submit to the Secretary the assessment of the Strategy; and

(2) provide a comprehensive, independent, alternative assessment of homeland security measures required under this section.

(e) Alternative Assessment.—The Panel shall submit to the Secretary an independent alternative assessment of the optimal policies and programs to combat terrorism, including homeland security measures. As part of the assessment, the Panel shall, to the extent practicable, estimate the funding required by fiscal year to achieve these optimal approaches.

(f) Information from Federal Agencies.—

(1) In general.—Subject to paragraph (2), the Panel may secure directly from any agency such information as the Panel considers necessary to carry out this section. Upon request from the panel, the head of such department or agency shall furnish such information to the Panel.

(2) Intelligence information.—The provision of information to the Panel under paragraph (1) related to intelligence shall be provided in accordance with procedures established by the Director of Central Intelligence and in accordance with section 104d(3) of the National Security Act of 1947 (50 U.S.C. 403–3(d)(3)).

(3) Compensation of Members.—Each member of the Panel shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the General Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the office.

(g) Travel Expenses.—The members of the Panel shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Panel.

(h) Staff.—

(1) In general.—The Chairperson of the Panel may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other administrative support as necessary to enable the Panel to perform its duties. The employment of an executive director shall be subject to confirmation by the Panel.

(2) Compensation.—The Chairperson of the Panel may fix the compensation of the executive director and other personnel without regard to chapter 51 and subchapter III of chapter 55 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(i) Persons as Federal employees.—(A) In general.—The executive director and any personnel of the Panel who are employees shall be employees under section 2102 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

(B) Members of Panel.—Subparagraph (A) shall not be construed to apply to members of the Panel.

(j) Reduction of staff.—During periods that members are not serving terms on the Panel, the executive director shall reduce the number and hours of employees to the minimum necessary to—

(1) provide effective continuity of the Panel; and

(2) minimize personnel costs of the Panel.

(k) General Accounting Office report.—Not later than 90 days after the submission of the report referred to under subparagraph (A), the Secretary shall submit a report to the Governmental Affairs Committee of the Senate and the House of Representatives, a copy of that report with the comments of the Secretary and the Director on the report.

(k) Staff.—

(1) In general.—The Chairperson of the Panel may, without regard to the civil service laws and regulations, appoint and terminate an executive director and other administrative support as necessary to enable the Panel to perform its duties. The employment of an executive director shall be subject to confirmation by the Panel.

(2) Compensation.—The Chairperson of the Panel may fix the compensation of the executive director and other personnel without regard to chapter 51 and subchapter III of chapter 55 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(l) Reports.—

(1) Preliminary report.—(A) Report to Secretary.—Not later than July 1, 2004, the Panel shall submit to the Secretary and the Director a preliminary report setting forth the activities and the findings and recommendations of the Panel under subsection (d), including any recommendations for legislation that the Panel considers appropriate.

(B) Report to Congress.—Not later than 30 days after the submission of the report referred to under subparagraph (A), the Secretary and the Director shall submit to the Committees on Appropriations of the Senate and the House of Representatives, a copy of that report with the comments of the Secretary and the Director on the report.

SEC. 401. LAW ENFORCEMENT POWERS FOR INVESTIGATIONS OF INSPECTOR GENERAL AGENTS.

(a) In general.—Section 6 of the Inspector General Act of 1978 (5 U.S.C. 552b(c)(1)) is amended by adding at the end the following:

"(2)(A) In addition to the authority otherwise provided by this Act, any Inspector General appointed under section 3, any Assistant Inspector General for Investigations under such an Inspector General, and any special agent supervised by such an Assistant Inspector General may be authorized by the Attorney General to—

"(A) carry a firearm while engaged in official duties as authorized under this Act or another statute, or as expressly authorized by the Attorney General; and

"(B) make an arrest without a warrant while engaged in official duties as authorized under this Act or another statute, or as expressly authorized by the Attorney General, for any offense against the United States committed in the presence of such Inspector General, Assistant Inspector General, or agent, or for any felony cognizable under the laws of the United States if such Inspector General, Assistant Inspector General, or agent, as the case may be, believes that the person to be arrested has committed or is committing such felony; and
“(C) seek and execute warrants for arrest, search of a premises, or seizure of evidence issued under the authority of the United States upon probable cause to believe that a violation has occurred.

“(2) The Attorney General may authorize exercise of the powers under this subsection only upon an initial determination that—

“(A) the Office of Inspector General is significantly hampered in the performance of responsibilities established by this Act as a result of the lack of such powers;

“(B) available assistance from other law enforcement agencies is insufficient to meet the need for such powers; and

“(C) adequate internal safeguards and management procedures exist to ensure proper exercise of such powers.

“(3) The Inspector General offices of the Department of Commerce, Department of Education, Department of Energy, Department of Health and Human Services, Department of Housing and Urban Development, Department of the Interior, Department of Justice, Department of Labor, Department of State, Department of Transportation, Department of the Treasury, Department of Veterans Affairs, Agency for International Development, Environmental Protection Agency, Federal Deposit Insurance Corporation, Federal Emergency Management Agency, General Services Administration, National Aeronautics and Space Administration, Nuclear Regulatory Commission, Office of Personnel Management, Railroad Retirement Board, Small Business Administration, Social Security Administration, and the Tennessee Valley Authority are exempt from the requirements under paragraph (2) or (5) shall not be rescinded or suspended upon a determination by the Attorney General that any of the requirements under paragraph (2) is no longer satisfied or that the exercise of authorized powers by the Inspector General has not complied with the guidelines promulgated under this subsection.

“(6) A determination by the Attorney General under paragraph (2) or (5) shall not be reviewable in or by any court.

“(7) To ensure the proper exercise of the law enforcement powers authorized by this subsection, the Offices of Inspector General described under paragraph (3) shall, not later than 180 days after the date of enactment of this Act, promulgate guidelines under section 6(e)(4) of the Inspector General Act of 1978 (5 U.S.C. App. (as added by subsection (a) of this section)) that—

“(a) are in effect on the date of enactment of this Act;

“(B) in the case of a contract to be awarded under paragraph (2) or (5) shall not be rescinded or suspended upon a determination by the Inspector General that any of the requirements under paragraph (2) or (5) is no longer satisfied or that the exercise of authorized powers by the Inspector General has not complied with the guidelines promulgated under paragraph (2) or (5) shall not be rescinded or suspended upon a determination by the Attorney General that any of the requirements under paragraph (2) is no longer satisfied or that the exercise of authorized powers by the Inspector General has not complied with the guidelines promulgated under this subsection.

“(C) promote the purpose set forth in section 6(e)(3) of the Inspector General Act of 1978 (5 U.S.C. App. (as added by subsection (a) of this section)) applicable to the Inspector General offices described under sections (a) and (b) of this section.

“(D) satisfying or that the exercise of authorized powers by the Inspector General has not complied with the guidelines promulgated under paragraph (2) or (5) shall not be rescinded or suspended upon a determination by the Attorney General that any of the requirements under paragraph (2) is no longer satisfied or that the exercise of authorized powers by the Inspector General has not complied with the guidelines promulgated under this subsection.

“(E) to ensure the proper exercise of the law enforcement powers authorized by this section, collectively enter into a memorandum of understanding to establish an external review process for ensuring that adequate internal safeguards and management procedures continue to exist within each Office and within any Office that later receives an authorization under paragraph (2). The review process shall be established in consultation with the Attorney General, who shall be provided with a copy of the memorandum of understanding that establishes the review process. Under the review process, the exercise of the law enforcement powers by each Office of Inspector General shall be reviewed periodically by another Office of Inspector General.

“(8) A determination by the Attorney General under paragraph (2) or (5) shall not be rescinded or suspended upon a determination by the Attorney General that any of the requirements under paragraph (2) is no longer satisfied or that the exercise of authorized powers by the Inspector General has not complied with the guidelines promulgated under this subsection.

“(9) No provision of this subsection shall limit the exercise of law enforcement powers established under any other statutory authority, including United States Marshals Service special deputation.”.

“(b) PROMULGATION OF INITIAL GUIDELINES.—In this subsection, the term ‘memorandum of understanding’ means the agreements between the Department of Justice and the Inspector General offices described under section 6(e)(3) of the Inspector General Act of 1978 (5 U.S.C. App.) (as added by subsection (a) of this section) that—

“(A) are in effect on the date of enactment of this Act;

“(B) authorize such offices to exercise authority that is the same or similar to the authority described under section (a) of this Act.

“(2) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Attorney General shall promulgate guidelines under section 6(e)(4) of the Inspector General Act of 1978 (5 U.S.C. App.) (as added by subsection (a) of this section) applicable to the Inspector General offices described under section (a) of this Act.

“(3) MINIMUM REQUIREMENTS.—The guidelines promulgated under this subsection shall include, at a minimum, the operational and training requirements in the memoranda of understanding.

“(4) NO LAPSE OF AUTHORITY.—The memorandum of understanding in effect on the date of enactment of this Act shall remain in effect until the guidelines promulgated under this subsection take effect.

“(5) EFFECTIVE DATES.—

“(a) IN GENERAL.—Subsection (a) shall take effect 180 days after the date of enactment of this Act.

“(b) INITIAL GUIDELINES.—Subsection (b) shall take effect on the date of enactment of this Act.

TITLE V—FEDERAL EMERGENCY PROCUREMENT FLEXIBILITY

Subtitle A—Temporary Flexibility for Certain Procurements

SEC. 501. DEFINITION.

In this title, the term ‘executive agency’ has the meaning given that term under section 4(1) of the Federal Procurement Policy Act (41 U.S.C. 403(1)).

SEC. 502. PROCUREMENTS FOR DEFENSE AGAINST OR RECOVERY FROM TERRORISM OR NUCLEAR, BIOLOGICAL, CHEMICAL, OR RADIOLOGICAL ATTACK.

(a) TEMPORARY THRESHOLD AMOUNTS.—For a procurement referred to in section 502 that is carried out in support of a humanitarian or peacekeeping operation or a contingency operation, the simplified acquisition threshold definitions shall be applied as if the amount determined under the exception provision for such an operation in those definitions were—

“(1) in the case of a contract to be awarded and performed, or purchase to be made, outside the United States, $250,000; or

“(2) in the case of a contract to be awarded and performed, or purchase to be made, outside the United States, $250,000.

(b) SIMPLIFIED ACQUISITION THRESHOLD DEFINITIONS.—In this section, the term ‘simplified acquisition threshold definitions’ means the following:

“(1) Section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)).

“(2) Section 309(d) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 259(d)).

“(3) Section 2302(7) of title 10, United States Code.

“(c) SMALL BUSINESS RESERVE.—For a procurement carried out pursuant to subsection (a), the Small Business Administration shall, for the maximum anticipated value identified therein, be equal to the amounts referred to in subsection (a).

SEC. 503. INCREASED MICRO-PURCHASE THRESHOLD FOR CERTAIN PROCUREMENTS.

In the administration of title 32 of the Office of Federal Procurement Policy Act (41 U.S.C. 402) with respect to a procurement referred to in section 502, the amount specified in subsections (c), (d), and (f) of such section shall be deemed to be $10,000.

SEC. 504. APPLICATION OF CERTAIN COMMERCIAL ITEM LAWS TO CERTAIN PROCUREMENTS.

(a) AUTHORITY.—

“(1) IN GENERAL.—The head of an executive agency may apply the provisions of law listed under subsection (b) to a procurement referred to in section 502 without regard to whether the property or services are commercial items.

“(2) COMMERCIAL ITEM LAWS.—The provisions of law referred to in paragraph (1) are as follows:


“(B) Section 2302(g) of title 10, United States Code.

“(C) Section 303(g) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)).

“(b) INAPPLICABILITY OF LIMITATION ON USE OF SIMPLIFIED ACQUISITION PROCEDURES.

“(1) IN GENERAL.—The $5,000,000 limitation provided in section 31(a)(2) of the Office of Federal Procurement Policy Act (41 U.S.C. 427(a)(2)), section 2304(g)(1)(B) of title 10, United States Code, and section 303(g)(1)(B) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(1)(B)) shall not apply to a purchase or service to which any of the provisions of law referred to in subsection (a) are applied under the authority of section (b) of this title.

“(2) OMNI GUIDANCE.—The Director of the Office of Management and Budget shall issue guidance and procedures for the use of simplified acquisition procedures for a purchase of property or services in excess of $5,000,000 under the authority of this section.

“(c) CONTINUATION OF AUTHORITY FOR SIMPLIFIED PURCHASE PROCEDURES.—Authority under the provisions of law referred to in subsection (a) that expires under section 4202(e) of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104-166, 10 U.S.C. 2304 note) shall, notwithstanding such section, continue to apply for use by the head of an executive agency as provided in subsections (a) and (b).

SEC. 505. USE OF STREAMLINED PROCEDURES.

(a) REQUIRED USE.—The head of an executive agency shall, when appropriate, use streamlined acquisition authorities and procedures authorized by law for a procurement referred to in section 502, including authorities and procedures that are provided under the following provisions of law:

“(1) FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949.—In title III of the Federal Property and Administrative Services Act of 1949:
(A) Paragraphs (1), (2), (6), and (7) of subsection (c) of section 303 (41 U.S.C. 253), relating to use of procedures other than competitive procedures under certain circumstances, subject to subsection (e) of such section, and procedures other than competitive procedures under certain circumstances (subject to subsection (e) of such section).

(B) Section 3353 (41 U.S.C. 253), relating to orders under task and delivery order contracts.

(2) TITLE 10, UNITED STATES CODE.—In chapter 137 of title 10, United States Code:

(A) Paragraphs (1), (2), (6), and (7) of subsection (c) of section 2304, relating to use of procedures other than competitive procedures, subject to subsection (e) of such section, and procedures other than competitive procedures, subject to subsection (e) of such section.

(B) Section 2304c, relating to orders under task and delivery order contracts.

(3) OFFICE OF FEDERAL PROCUREMENT POLICY ACT.—Paragraphs (1)(B), (1)(D), and (2) of section 18(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 41(c)), relating to inapplicability of a requirement for procurement notice.

(b) WAIVER OF CERTAIN SMALL BUSINESS PROCUREMENT REQUIREMENTS.—Subclause (II) of section 8(a)(1)(D)(i) of the Small Business Act (15 U.S.C. 637(a)(1)(D)(i)) and clause (ii) of section 8(b)(2)(A) of such Act (15 U.S.C. 637(b)(2)(A)) shall apply in the use of streamlined acquisition authorities and procedures referred to in paragraphs (1)(A) and (2)(A) of subsection (a) for a procurement referred to in section 750.

SEC. 507. REVIEW AND REPORT BY COMPTROLLER GENERAL.

(a) REQUIRED.—Not later than March 31, 2004, the Comptroller General shall:

(1) complete a review of the extent to which procurements of property and services have been made in accordance with this title; and

(2) submit a report on the results of the review to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

(b) CONTENT OF REPORT.—The report under subsection (a)(2) shall include the following:

(1) ASSESSMENT.—The Comptroller General’s assessment of—

(A) the extent to which property and services procured in accordance with this title have contributed to the quantity of the requirements of Federal Government employees within the executive branch to carry out the mission of the executive agency; and

(B) the extent to which Federal Government employees have been trained on the use of technology.

(2) RECOMMENDATIONS.—Any recommendations of the Comptroller General resulting from the assessment described in paragraph (1)

(c) CONSULTATION.—In preparing for the review under subsection (a)(1), the Comptroller General shall consult with the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives on the specific issues and topics to be reviewed. The extent of coverage needed for market research on an ongoing basis to identify effectively the capabilities, including the capabilities of small businesses and new entrants into Federal contracting, that are available in the marketplace for meeting the requirements of the executive agency in furtherance of defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack. The head of the executive agency shall, to the maximum extent practicable, take advantage of such ongoing market research methods, including use of commercial databases, to carry out the research.

TITLE VI—EFFECTIVE DATE

SEC. 601. EFFECTIVE DATE.

This division shall take effect 30 days after the date of enactment of this Act or, if enacted within 30 days before January 1, 2003, on January 1, 2003.

DIVISION B—IMMIGRATION REFORM, ACCOUNTABILITY, AND SECURITY ENHANCEMENT ACT OF 2002

SEC. 1001. SHORT TITLE.

This division may be cited as the “Immigration Reform, Accountability, and Security Enhancement Act of 2002”.

SEC. 1002. DEFINITIONS.

In this division:

(1) ENFORCEMENT BUREAU.—The term "Enforcement Bureau" means the Bureau of Enforcement of the Department of Homeland Security established in section 114 of the Immigration and Nationality Act, as added by section 1105 of this Act.

(2) FUNCTION.—The term “function” includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

(3) IMMIGRATION ENFORCEMENT FUNCTIONS.—The term “immigration enforcement functions” has the meaning given the term in section 114(b)(2) of the Immigration and Nationality Act, as added by section 1105 of this Act.


(5) INS.—The term “INS” means the Immigration and Naturalization Service established in section 113 of the Immigration and Nationality Act, as added by section 111 of this Act.

(6) OFFICE.—The term “office” includes any office, administration, agency, bureau, institute, council, unit, organizational entity, or component thereof.

(7) SECRETARY.—The term “Secretary” means the Secretary of Homeland Security.

(8) SERVICE.—The term “Service” means the Immigration and Naturalization Service established in section 113 of the Immigration and Nationality Act, as added by section 1105 of this Act.

(9) UNDER SECRETARY.—The term “Under Secretary” means the Under Secretary of Homeland Security for Immigration Affairs appointed under section 112 of this Act.

(10) U.S.—The term “U.S.” means the United States.

(11) UNITED STATES.—The term "United States" means the United States as defined in section 114(b) of this Act.

SEC. 1102. EFFECTIVE DATE.

This division shall take effect 30 days after the date of enactment of this Act or, if enacted within 30 days before January 1, 2003, on January 1, 2003.
SEC. 1103. UNDER SECRETARY OF HOMELAND SECURITY FOR IMMIGRATION AFFAIRS.

(a) In General.—Chapter 2 of title 1 of the Immigration and Nationality Act, as added by section 1102 of this Act, is amended by adding at the end the following:

"(B) INFORMATION RESOURCES MANAGEMENT.—Under the direction of the Secretary, the Under Secretary shall manage the information resources of the Directorate, including—

(i) the administration and enforcement of the functions conferred upon the Directorate under section 111(c) of this Act; and

(ii) policy and priorities; and

(C) by redesignating clauses (b), (c), (d), and (e) as clauses (a), (b), (c), and (d), respectively.

(c) REFERENCES.—Any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to the Immigration and Naturalization Service shall be deemed to refer to the Directorate of Immigration Affairs of the Department of Homeland Security, and any reference in the immigration laws of the United States (as defined in section 111(e) of the Immigration and Nationality Act, as added by this section) to the Attorney General shall be deemed to refer to the Secretary of Homeland Security, acting through the Under Secretary of Homeland Security for Immigration Affairs.

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(ii) policy and priorities; and

(C) by redesignating clauses (b), (c), (d), and (e) as clauses (a), (b), (c), and (d), respectively.

(c) REFERENCES.—Any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to the Immigration and Naturalization Service shall be deemed to refer to the Directorate of Immigration Affairs of the Department of Homeland Security, and any reference in the immigration laws of the United States (as defined in section 111(e) of the Immigration and Nationality Act, as added by this section) to the Attorney General shall be deemed to refer to the Secretary of Homeland Security, acting through the Under Secretary of Homeland Security for Immigration Affairs.

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(i) the administration and enforcement of the functions conferred upon the Directorate under section 111(c) of this Act; and

(ii) policy and priorities; and

(C) by redesignating clauses (b), (c), (d), and (e) as clauses (a), (b), (c), and (d), respectively.

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"(B) INFORMATION RESOURCES MANAGEMENT.—Under the direction of the Secretary, the Under Secretary shall manage the information resources of the Directorate, including—

(i) the administration and enforcement of the functions conferred upon the Directorate under section 111(c) of this Act; and

(ii) policy and priorities; and

(C) by redesignating clauses (b), (c), (d), and (e) as clauses (a), (b), (c), and (d), respectively.

(c) REFERENCES.—Any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to the Immigration and Naturalization Service shall be deemed to refer to the Directorate of Immigration Affairs of the Department of Homeland Security, and any reference in the immigration laws of the United States (as defined in section 111(e) of the Immigration and Nationality Act, as added by this section) to the Attorney General shall be deemed to refer to the Secretary of Homeland Security, acting through the Under Secretary of Homeland Security for Immigration Affairs.

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"(B) INFORMATION RESOURCES MANAGEMENT.—Under the direction of the Secretary, the Under Secretary shall manage the information resources of the Directorate, including—

(i) the administration and enforcement of the functions conferred upon the Directorate under section 111(c) of this Act; and

(ii) policy and priorities; and

(C) by redesignating clauses (b), (c), (d), and (e) as clauses (a), (b), (c), and (d), respectively.

(c) REFERENCES.—Any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to the Immigration and Naturalization Service shall be deemed to refer to the Directorate of Immigration Affairs of the Department of Homeland Security, and any reference in the immigration laws of the United States (as defined in section 111(e) of the Immigration and Nationality Act, as added by this section) to the Attorney General shall be deemed to refer to the Secretary of Homeland Security, acting through the Under Secretary of Homeland Security for Immigration Affairs.
Passport Services office, a Visa Services office, an Overseas Citizen Services office,"
and
(b) in the second sentence, by striking "the bureau of the Immigration Services (in this chapter referred to as the 'Assistant Secretary for Immigration Services')" and inserting "the Passport Services office, the Visa Services office, and the Bureau of Immigration Services (in this chapter referred to as the 'Assistant Secretary for Immigration Services')".

Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"SEC. 1105. BUREAU OF ENFORCEMENT AND BORDER AFFAIRS.

(a) In general.—Chapter 2 of title I of the Immigration and Nationality Act, as added by section 1102 and amended by section 1103, is further amended by adding at the end the following:

"(a) Establishment of Bureau.—

"Sec. 113. BUREAU OF IMMIGRATION SERVICES.

(a) In general.—Chapter 2 of title I of the Immigration and Nationality Act, as added by section 1102 and amended by section 1103, is further amended by adding at the end the following:

"SEC. 1101. BUREAU OF IMMIGRATION SERVICES.

(a) In general.—Chapter 2 of title I of the Immigration and Nationality Act, as added by section 1102 and amended by section 1103, is further amended by adding at the end the following:

"(b) Responsibilities of the Assistant Secretary.—

"(1) In general.—Subject to the authority of the Secretary of the Treasury, the Assistant Secretary for Immigration Enforcement shall administer the immigration enforcement functions of the Director of the Bureau of Investigation.

(b) BUREAU OF ENFORCEMENT BUREAU.—There shall be within the Immigration Bureau of Domestic Enforcement an Office of Professional Responsibility.

"(2) Office of Professional Responsibility.—There shall be within the Service Bureau an Office of Professional Responsibility for ensuring the professionalism of the Service Bureau and for receiving and investigating charges of misconduct or ill treatment made by the public.

"(3) TRAINING OF PERSONNEL.—The Assistant Secretary for Immigration Services, in consultation with the Under Secretary, shall have responsibility for determining the training for all personnel of the Service Bureau

"(d) Qualification Assurance.—There shall be within the Service Bureau a Chief Budget Officer. Under the authority of the Chief Financial Officer of the Bureau, the Chief Budget Officer of the Service Bureau shall be responsible for monitoring and supervising all financial activities of the Service Bureau, including suboffices and satellite offices, in appropriate municipalities and locations in the United States. In the selection of sites for the Service Bureau offices, the Under Secretary shall consult the location's proximity and accessibility to the communities served, and the workload for which that office shall be responsible, whether the location would significantly reduce the backlog of cases in that given geographic area, whether the location will improve customer service, and whether the location is in a geographic area with an increase in the population to be served. The Under Secretary shall conduct periodic reviews to assess whether the location and size of the respective Service Bureau offices adequately serve customer service needs.

"(f) Training of Personnel.—The Assistant Secretary for Immigration Enforcement, in consultation with the Under Secretary, shall have responsibility for determining the training for all personnel of the Enforcement Bureau.

"(b) Compensation of Assistant Secretary.—

"(c) Service Bureau Offices.—

"(1) in general.—Under the direction of the Under Secretary, the Assistant Secretary for Immigration Enforcement, in consultation with the Under Secretary, shall have responsibility for determining the training for all personnel of the Service Bureau.

"(2) Transition provision.—In determining the location of Service Bureau offices, including suboffices and satellite offices, the Under Secretary shall first consider maintaining and upgrading offices in existing geographic locations that satisfy the provisions of paragraph (1). The Under Secretary shall also explore the feasibility and desirability of establishing new Service Bureau offices in geographic locations that satisfy the provisions of paragraph (1). The Under Secretary shall conduct periodic reviews to assess whether the location and size of the respective Service Bureau offices adequately serve customer needs.

"SEC. 1103. BUREAU OF IMMIGRATION AND BORDERS.

(a) Establishment of Bureau.—

"(1) In general.—There is established within the Department of Homeland Security, an Assistant Secretary for Immigration and National Security, to be known as the 'Assistant Secretary for Immigration and National Security'.

"(2) General functions.—The Assistant Secretary for Immigration and National Security shall have the following functions under the immigration laws of the United States:

(a) Adjudications of petitions for classification of nonimmigrant and immigrant status.

(b) Adjudications of applications for adjustment of status and change of status.

(c) Adjudications of naturalization applications.

(d) Adjudications of asylum and refugee applications.

(e) Adjudications performed at service centers.

(f) Determinations concerning custody and parole of asylum seekers who do not have prior nonpolitical criminal records and who have been found to have a credible fear of persecution, including determinations under section 236B.

"(g) All other adjudications under the immigration laws of the United States.

"(c) OFFICE OF PROFESSIONAL RESPONSIBILITY.—There shall be within the Service Bureau an Office of Professional Responsibility for enforcing the immigration laws of the United States. In the selection of sites for the Service Bureau offices, the Under Secretary shall consult the location's proximity and accessibility to the communities served, and the workload for which that office shall be responsible, whether the location would significantly reduce the backlog of cases in that given geographic area, whether the location will improve customer service, and whether the location is in a geographic area with an increase in the population to be served. The Under Secretary shall conduct periodic reviews to assess the location and size of the respective Service Bureau offices adequately serve customer service needs.

"(d) QUALITY ASSURANCE.—There shall be within the Service Bureau an Office of Quality Assurance that shall develop procedures and conduct audits to:

(1) ensure that the Directorate's policies with respect to the immigration service functions of the Directorate are properly implemented; and

(2) ensure that Service Bureau policies or practices result in sound records management and accurate record-keeping.

"(f) Training of Personnel.—The Assistant Secretary for Immigration Services, in consultation with the Under Secretary, shall have responsibility for determining the training for all personnel of the Service Bureau.

"(b) BUREAU OF ENFORCEMENT BUREAU.—There shall be within the Enforcement Bureau a Chief Budget Officer. Under the authority of the Chief Financial Officer of the Bureau, the Chief Budget Officer of the Enforcement Bureau shall be responsible for monitoring and supervising all financial activities of the Enforcement Bureau, including suboffices and satellite offices, in appropriate municipalities and locations in the United States. In the selection of sites for the Enforcement Bureau offices, the Under Secretary shall consult the location's proximity and accessibility to the communities served, and the workload for which that office shall be responsible, whether the location would significantly reduce the backlog of cases in that given geographic area, whether the location will improve customer service, and whether the location is in a geographic area with an increase in the population to be served. The Under Secretary shall conduct periodic reviews to assess the location and size of the respective Enforcement Bureau offices adequately serve customer needs.

"(b) Compensation of Assistant Secretary.—

(1) in general.—Subject to the authority of the Secretary of the Treasury, the Assistant Secretary for Immigration Enforcement shall establish Enforcement Bureau offices, including suboffices and satellite offices, in appropriate municipalities and locations in the United States. In the selection of sites for the Enforcement Bureau offices, the Under Secretary shall consult the location's proximity and accessibility to the communities served, and the workload for which that office shall be responsible, whether the location would significantly reduce the backlog of cases in that given geographic area, whether the location will improve customer service, and whether the location is in a geographic area with an increase in the population to be served. The Under Secretary shall conduct periodic reviews to assess the location and size of the respective Enforcement Bureau offices adequately serve customer needs.

"(c) Enforcement Bureau Offices.—

(1) in general.—Under the direction of the Secretary, the Under Secretary, acting through the Assistant Secretary for Immigration Enforcement, shall establish Enforcement Bureau offices, including suboffices and satellite offices, in appropriate municipalities and locations in the United States. In the selection of sites for the Enforcement Bureau offices, the Under Secretary shall consult the location's proximity and accessibility to the communities served, and the workload for which that office shall be responsible, whether the location would significantly reduce the backlog of cases in that given geographic area, whether the location will improve customer service, and whether the location is in a geographic area with an increase in the population to be served. The Under Secretary shall conduct periodic reviews to assess the location and size of the respective Enforcement Bureau offices adequately serve customer needs.

"(d) Transition provision.—In determining the location of Enforcement Bureau offices, including suboffices and satellite offices, the Under Secretary shall first consider maintaining and upgrading offices in existing geographic locations that satisfy the provisions of paragraph (1). The Under Secretary shall
also explore the feasibility and desirability of establishing new Enforcement Bureau offices, including subofices and satellite offices, in new geographic locations where there is a demonstrated need.

SEC. 1106. OFFICE OF THE OMBUDSMAN WITHIN THE DIRECTORATE.

(a) IN GENERAL.—Chapter 2 of title I of the Immigration and Nationality Act, as added by section 1102 and amended by sections 1103, 1104, and 1105, is further amended by adding at the end the following:

"SEC. 115. OFFICE OF THE OMBUDSMAN FOR IMMIGRATION AFFAIRS.

"(a) IN GENERAL.—There is established within the Directorate an Office of the Ombudsman for Immigration Affairs, which shall be headed by the Ombudsman.

"(b) OMBUDSMAN.

"(1) APPOINTMENT.—The Ombudsman shall be appointed by the Secretary of Homeland Security, in consultation with the Under Secretary. The Ombudsman shall report directly to the Under Secretary.

"(2) COMPENSATION.—The Ombudsman shall be entitled to compensation at the same rate as the rate fixed under section 8333 of such title.

"(c) FUNCTIONS OF OFFICE.—The functions of the Office of the Ombudsman for Immigration Affairs shall include—

"(1) to assist individuals in resolving problems with the Directorate or any component thereof;

"(2) to identify systemic problems encountered by the public in dealings with the Directorate or any component thereof;

"(3) to propose changes in the administrative practices or regulations of the Directorate, or any component thereof, to mitigate problems identified under paragraph (2);

"(4) to identify potential changes in statutory law that may be required to mitigate such problems; and

"(5) to monitor the coverage and geographic distribution of local offices of the Directorate.

"(d) PERSONNEL ACTIONS.—The Ombudsman shall have the authority to appoint or remove, and to suspend, and to reappoint or reinstate, such personnel as are necessary to address and rectify problems.

"(e) ANNUAL REPORT.—Not later than December 31 of each year, the Ombudsman shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate on the activities of the Ombudsman during the fiscal year ending in that calendar year. Each report shall contain a full and substantive analysis, in addition to statistical information, and shall contain—

"(1) a description of the initiatives that the Office of the Ombudsman has taken on improving the responsiveness of the Directorate;

"(2) a summary of serious or systemic problems encountered by the public, including a description of the nature of such problems;

"(3) an accounting of the items described in paragraphs (1) and (2) for which action has been taken, and the result of such action;

"(4) an accounting of the items described in paragraphs (1) and (2) for which action remains to be completed;

"(5) an accounting of the items described in paragraphs (1) and (2) for which no action has been taken, the reasons for the inaction, and identify any Agency official who is responsible for such inaction;

"(6) such other information as the Ombudsman may deem advisable.

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to the Office of the Ombudsman such sums as may be necessary to carry out its functions.

"(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

SEC. 1107. OFFICE OF IMMIGRATION STATISTICS WITHIN THE DIRECTORATE.

(a) IN GENERAL.—Chapter 2 of title I of the Immigration and Nationality Act, as added by section 1102 and amended by sections 1103, 1104, and 1105, is further amended by adding at the end the following:

"SEC. 116. OFFICE OF IMMIGRATION STATISTICS.

"(a) ESTABLISHMENT.—There is established within the Directorate an Office of Immigration Statistics (referred to in this section as the "Office"), which shall be headed by a Director who shall be appointed by the Secretary of Homeland Security, in consultation with the Under Secretary. The Office shall collect, maintain, compile, analyze, publish, and disseminate information and statistics about immigration in the United States, including information and statistics involving the functions of the Directorate and the Executive Office for Immigration Review (or its successor entity), and the statistical functions performed by the Executive Office for Immigration Review (or its successor entity), on the day before the effective date of this title.

"(b) T RANSFER OF FUNCTIONS.—There are transferred to the Office of Immigration Statistics—

"(1) ALL FUNCTIONS UNDER THE IMMIGRATION AND NATIONALITY ACT.—All functions under the Immigration and Nationality Act, as added by section 1102 and amended by sections 1103, 1104, and 1105, are transferred to the Office;

"(2) DATABASES.—The Director of the Office of Immigration Statistics shall provide statistical information to the Office from the operational data systems controlled by the Directorate and the Executive Office for Immigration Review (or its successor entity), respectively, as requested by the Office, for the purpose of meeting the responsibilities of the Director of the Office.

"(3) OTHER AUTHORITIES.—The Director of the Office of Immigration Statistics shall provide statistical information to the Office from the operational data systems controlled by the Directorate and the Executive Office for Immigration Review (or its successor entity), respectively, as requested by the Office, for the purpose of meeting the responsibilities of the Director of the Office.

"(4) D ATE OF TRANSFER.—The Director of the Office, under the direction of the Secretary, shall ensure the interoperability of the data bases of the Directorate, the Bureau of Immigration Services, the Bureau of Enforcement, and the Executive Office for Immigration Review (or its successor entity) to permit the Director of the Office to perform the duties of such office.

"SEC. 1111. TRANSFER OF PERSONNEL AND OTHER RESOURCES.

Subject to section 313, United States Code, upon the effective date of this title, there are transferred to the Director of the Office of Immigration Affairs for exercise by the Director of the Office of Immigration Affairs for exercise by the Under Secretary in accordance with section 131(b) of the Immigration and Nationality Act, as added by section 1102 of this Act.

"(b) EXERCISE OF AUTHORITIES.—Except as otherwise provided by law, the Under Secretary may, for purposes of performing any function transferred to the Office of Immigration Affairs for exercise by the Under Secretary and the Office of Immigration and Naturalization Service, and the statistical functions performed by the Executive Office for Immigration Review (or its successor entity), on the day before the effective date of this title.

"SEC. 1112. CLERICAL AMENDMENTS.

The table of contents of the Immigration and Nationality Act is amended—

"(1) by inserting after the item relating to the heading for title I the following:

"CHAPTER 1—DEFINITIONS AND GENERAL AUTHORITIES";

"(2) by striking the item relating to section 108 and inserting the following:

"Sec. 193. Powers and duties of the Secretary of Homeland Security for Immigration Affairs";

and

(3) by inserting after the item relating to section 106 the following:

"CHAPTER 2—DIRECTORATE OF IMMIGRATION AFFAIRS

"Sec. 111. Establishment of Directorate of Immigration Affairs.

"Sec. 112. Under Secretary of Homeland Security for Immigration Affairs.

"Sec. 113. Bureau of Immigration Services.


"Sec. 115. Office of the Ombudsman for Immigration Affairs.


Subtitle B—Transition Provisions

SEC. 1111. TRANSFER OF FUNCTIONS.

(a) IN GENERAL.—All functions under the immigration laws of the United States vested by statute in, or exercised by, the Commissioner of Immigration and Naturalization or the Immigration and Naturalization Service (or any officer, employee, or component thereof), immediately prior to the effective date of this title, are transferred to the Director of the Office for Immigration Review for exercise by the Under Secretary in accordance with section 112(b) of the Immigration and Nationality Act, as added by section 1102 of this Act.

"(2) FUNCTIONS OF THE COMMISSIONER OR THE INS.—All functions under the immigration laws of the United States vested by statute in, or exercised by, the Commissioner of Immigration and Naturalization or the Immigration and Naturalization Service (or any officer, employee, or component thereof), immediately prior to the effective date of this title, are transferred to the Director of the Office for Immigration Review for exercise by the Under Secretary in accordance with section 112(b) of the Immigration and Nationality Act, as added by section 1102 of this Act.

"(b) EXERCISE OF AUTHORITIES.—Except as otherwise provided by law, the Under Secretary may, for purposes of performing any function transferred to the Office of Immigration Affairs for exercise by the Under Secretary in accordance with section 112(b) of the Immigration and Naturality Act, as added by section 1102 of this Act.
and other funds employed, held, used, arising from available to, or to be made available to the Immigration and Naturalization Service in connection with the functions transferred pursuant to this title to the Under Secretary shall make allocations of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds transferred under section 1112, held or used, or to be made available to, or to be made available in connection with the performance of the respective functions, as determined under section 1113. In making such allocations and the reservation of functions made under section 1114.

LIMITATION.—Unexpended funds transferred pursuant to section 1112(a) shall be used only for the purposes for which the funds were originally authorized and appropriated.

(b) AUTHORITY TO TERMINATE AGENCIES.—The Secretary, with the concurrence of the Under Secretary, shall terminate any function transferred under section 1112, including any agency or component thereof, immediately prior to the effective date of this title.

(c) TREATMENT OF SHARED RESOURCES.—The Under Secretary is authorized to provide for an appropriate allocation, coordination, or both, of resources involved in the activities of a function transferred under section 1112.

(d) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Department of Justice, or any other party to a suit with respect to a function of the Immigration and Naturalization Service, or by or against any individual in the official capacity of such individual, under this title shall apply to the exercise of such function by the head of the office, or other officer of the office, to which such function is transferred under this title.

(e) CONTINUANCE OF SUIT WITH SUBSTITUTION OF PARTIES.—If any Government officer in the official capacity of such officer is party to a suit with respect to a function of the Immigration and Naturalization Service, or by or against any individual in the official capacity of such individual, under this title, had not been enacted.

Nothing in this title, or any amendment made by this title, may be construed to authorize or require the transfer or delegation of any function vested in, or exercised by, the Executive Office for Immigration Review of the Department of Justice (or its successor entity), or any officer, employee, or component thereof immediately prior to the effective date of this title.

(f) EXECUTIVE OFFICE FOR IMMIGRATION REVIEW AUTHORITIES NOT AFFECTED.—Nothing in this title, or any amendment made by this title, may be construed to authorize or require the transfer or delegation of any function vested in, or exercised by—

(1) the Secretary of State under the State Department Basic Authorities Act of 1956, or under the immigration laws of the United States, immediately prior to the effective date of this title, with respect to labor certifications or any other authority under the immigration laws of the United States; or

(2) the Secretary of Labor or any official of the Department of Labor immediately prior to the effective date of this title, with respect to labor certifications or any other authority under the immigration laws of the United States; or

(3) except as otherwise specifically provided in this division, any other official of the Federal Government under the immigration laws of the United States immediately prior to the effective date of this title.

(g) TRANSITION FUNDING.—

(a) AUTHORIZATION OF APPROPRIATIONS FOR TRANSITION.—
(1) IN GENERAL.—There are authorized to be appropriated to the Department of Homeland Security such sums as may be necessary—
   (A) to effect—
      (i) Feasibility of the Immigration and Naturalization Service;
      (ii) the establishment of the Directorate of Immigration Affairs and its components, the Bureau of Immigration Services, and the Bureau of Enforcement and Border Affairs; and
      (iii) the transfer of functions required to be made under this division; and
   (B) to carry out any other duty that is made necessary by this division, or any amendment made by this division.

(2) ACTIVITIES SUPPORTED.—Activities supported pursuant to paragraph (1) include—
   (A) planning for the transfer of functions from the Immigration and Naturalization Service to the Directorate of Immigration Affairs, including the preparation of any reports and implementation plans necessary for such transfer;
   (B) the division, acquisition, and disposition of—
      (i) buildings and facilities;
      (ii) support and infrastructure resources; and
      (iii) computer hardware, software, and related documentation;
   (C) other capital expenditures necessary to effect the transfer of functions described in this paragraph; and
   (D) revision of forms, stationery, logos, and signage;
   (E) expenses incurred in connection with the transfer and training of existing personnel and hiring of new personnel; and
   (F) such other expenses necessary to effect the transfers, as determined by the Secretary.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subsection (a) are authorized to remain available until expended.

(c) FUNDING ACCOUNT.—
   (1) ESTABLISHMENT.—There is established in the general fund of the Treasury of the United States a separate account, which shall be known as the “Directorate of Immigration Affairs Transition Account” (in this section referred to as the “Account”).
   (2) USE OF ACCOUNT.—There shall be deposited into the Account all amounts appropriated under subsection (a) and amounts reprogrammed for the purposes described in subsection (a).

(d) REPORT TO CONGRESS ON TRANSITION.—Beginning not later than 90 days after the effective date of division A of this Act, and at the end of each fiscal year in which appropriations are made pursuant to subsection (c), the Secretary of Homeland Security shall submit a report to Congress concerning the availability of funds to cover transition costs, including—
   (1) any unobligated balances available for such purposes; and
   (2) a detailed calculation of the amount of appropriations that would be necessary to fully fund the activities described in subsection (a).

(e) EFFECTIVE DATE.—This section shall take effect 1 year after the effective date of division A of this Act.

Title III—miscellaneous Provisions

SEC. 1121. FUNDING ADJUDICATION AND NATURALIZATION SERVICES.

(a) LEVEL OF FEES.—Section 236(m) of the Immigration and Nationality Act (8 U.S.C. 1353(m)) is amended by striking “services, including the costs of similar services provided without charge to asylum applicants or other immigrants” and inserting “services”.

(b) USE OF FEES.—Each fee collected for the provision of an adjudication or naturalization service shall be used only to fund adjudication or naturalization services or, subject to the availability of funds provided pursuant to subsection (c), costs of similar services provided without charge to asylum and refugee applicants.

(c) PROHIBITION.—No fee may be used to fund adjudication- or naturalization-related audits that are not regularly conducted in the normal course of the adjudications process.

(d) AUTHORIZATION OF APPROPRIATIONS.—In addition to such sums as may be otherwise available for such purposes, there are authorized to be appropriated such sums as may be necessary—
   (1) to carry out the provisions of sections 209 through 209 of the Immigration and Nationality Act;
   (2) to make payments authorized by section 209(a) of the Immigration and Nationality Act; and
   (3) to make payments authorized by section 209(a) of the Immigration and Nationality Act.

(e) AUTHORIZATION OF APPROPRIATIONS FOR BACKLOG RELIEF.—
   (1) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary—
      (i) to the Immigration and Nationality Act of 2000 (title II of Public Law 106–313); and
      (ii) to carry out the provisions of sections 207 through 209 of the Immigration and Nationality Act.
   (2) AVAILABILITY OF FUNDS.—Amounts appropriated under section (a) are authorized to remain available until expended.

(f) AUTHORIZATION OF APPROPRIATIONS FOR INFRASTRUCTURE IMPROVEMENTS.—Amounts appropriated under paragraph (1) shall be deposited into the Immigration Services and Infrastructure Improvement Account established by section 204(a)(2) of the Immigration and Nationality Act.

(g) IRON CLAD SECURITY.—The Secretary shall establish, through consultation with the Committees on the Judiciary of the Senate and the House of Representatives, an advisory committee (in this section referred to as the “Technology Advisory Committee”) to assist the Secretary in—
   (A) establishing the tracking system under subsection (a); and
   (B) conducting the study under subsection (a).

SEC. 1122. APPLICATION OF INTERNET-BASED TECHNOLOGIES.

(a) ESTABLISHMENT OF ON-LINE DATA BANK.—
   (1) IN GENERAL.—There are authorized to be established an on-line database to:
      (i) include a review of computerization and technology of the Immigration and Naturalization Service (or successor agency) related to immigration services and the processing of such documents;
      (ii) include an estimate of the time-frame and costs of implementing on-line filing of such documents; and
      (iii) consider other factors in implementing such a filing system, including the feasibility of the payment of fees on-line.
   (2) COMPOSITION.—The Technology Advisory Committee shall be composed of—
      (A) experts from the public and private sector capable of establishing and implementing the system in an expeditious manner; and
      (B) representatives of persons or entities who may use the tracking system described in subsection (a) and the on-line filing system described in subsection (a).

SEC. 1123. ALTERNATIVES TO DETENTION OF ASYLUM SEEKERS.

(a) ASSIGNMENTS OF ASYLUM OFFICERS.—The Secretary shall assign asylum officers to major ports of entry in the United States to assist in the inspection of asylum seekers. For other ports of entry, the Under Secretary shall take such action as is necessary to ensure that asylum officers participate in the inspection process.

(b) AMENDMENT OF THE IMMIGRATION AND NATIONALITY ACT.—Chapter 4 of title II of the Immigration and Nationality Act (8 U.S.C. 1221 et seq.) is amended by inserting after section 236A the following new section:

"SEC. 256B. ALTERNATIVES TO DETENTION OF ASYLUM SEEKERS.

"(a) DEVELOPMENT OF ALTERNATIVES TO DETENTION.—The Under Secretary shall—
      (1) authorize and promote the utilization of alternatives to the detention of asylum seekers who do not have nonpolitical criminal records; and
      (2) establish conditions for the detention of asylum seekers that ensure a safe and humane environment.

(b) SPECIFIC ALTERNATIVES FOR CONSIDERATION.—The Under Secretary shall consider the following specific alternatives to the detention of asylum seekers described in subsection (a):—

1. Ineligibility to be detained.
2. For individuals not otherwise qualified for parole under paragraph (1), parole with
appearance assistance provided by private nonprofit voluntary agencies with expertise in the legal and social needs of asylum seekers.

“(3) For individuals not otherwise qualified for parole under paragraph (1) or (2), non-secure shelter care or group homes operated by private nonprofit voluntary agencies with expertise in the legal and social needs of asylum seekers.

“(4) Noninstitutional settings for minors such as foster care or group homes operated by private nonprofit voluntary agencies with expertise in the legal and social needs of asylum seekers.

“(c) REGULATIONS.—The Under Secretary shall promulgate such regulations as may be necessary to carry out this section.

“(d) DEFINITION.—In this section, the term ‘asylum seeker’ means any applicant for asylum under section 280 or any alien who indicates an intention to apply for asylum under that section.”

SEC. 1131. EFFECTIVE DATE.

This title may be cited as the “Unaccompanied Alien Child Protection Act of 2002”.

TITLE XII—UNACCOMPANIED ALIEN CHILD PROTECTION

SEC. 1201. SHORT TITLE.

This title may be called the “Unaccompanied Alien Child Protection Act of 2002”.

SEC. 1202. DEFINITIONS.

(a) In this title:

(1) DIRECTOR.—The term “Director” means the Director of the Office.

(2) OFFICE.—The term “Office” means the Office of Refugee Resettlement as established by section 411 of the Immigration and Naturalization Act.

(3) SERVICE.—The term “Service” means the Immigration and Naturalization Service or, upon the effective date of title XI, the Directorate of Immigration Affairs.

(4) UNACCOMPANIED ALIEN CHILD.—The term “unaccompanied alien child” means a child who—

(A) has no lawful immigration status in the United States;

(B) has not attained the age of 18; and

(C) with respect to whom—

(i) there is no parent or legal guardian in the United States; or

(ii) the date on which the child came into Federal custody, including each instance in which such child entered the custody of—

(I) the Office; or

(II) the Service;

(iii) information relating to the custody, detention, release, and repatriation of unaccompanied alien children who have been in the custody of the Office;

(iv) in any case in which the child is placed in detention, an explanation relating to the determination made by the Office; and

(v) the disposition of any actions in which the child is the subject;

(5) Such other terms as may be necessary to carry out this title.

(5) Such other terms as may be necessary to carry out this title.

(2) DUTIES OF THE DIRECTOR WITH RESPECT TO UNACCOMPANIED ALIEN CHILDREN.—The Director shall be responsible for—

(A) ensuring that the best interests of the child are considered in decisions and actions relating to the care and placement of an unaccompanied alien child;

(B) making placement decisions, release, and detention determinations for all unaccompanied alien children in the custody of the Office;

(C) implementing the placement, release, and detention determinations made by the Office;

(D) convening, in the absence of the Assistant Attorney General for Children and Families of the Department of Health and Human Services, the Interagency Task Force on Unaccompanied Alien Children established in section 1212;

(E) identifying a sufficient number of qualified persons, entities, and facilities to house unaccompanied alien children in accordance with sections 1222 and 1223;

(F) overseeing the persons, entities, and facilities described in sections 1222 and 1223 to ensure their compliance with such provisions;

(G) compiling, updating, and publishing at least annually a State-by-State list of professionals or other entities qualified to contract with the Office to provide the services described in sections 1231 and 1232;

(H) maintaining statistical information and other data on unaccompanied alien children in the Office’s custody and care, which shall include—

(i) biographical information such as the child’s name, gender, date of birth, country of birth, and country of residence;

(ii) the date on which the child came into Federal custody, including each instance in which such child was placed in the custody of—

(I) the Service; or

(II) the Office;

(iii) information relating to the custody, detention, release, and repatriation of unaccompanied alien children who have been in the custody of the Office;

(iv) in any case in which the child is placed in detention, an explanation relating to the detention decision made by the Office; and

(v) the disposition of any actions in which the child is the subject;

(4) Other officials of the executive branch of Government as may be designated by the President.

(c) CHAIRMAN.—The Task Force shall consist of the following members:

(1) The Assistant Attorney General for Children and Families, Department of Health and Human Services.

(2) The Under Secretary of Homeland Security for Immigration and Customs Enforcement.

(3) The Assistant Secretary of State for Population, Refugees, and Migration.

(4) The Director.

(b) TRANSFER OF Functions.—All functions with respect to the care and custody of unaccompanied alien children under the immigration laws of the United States vested in the Commissioner of Immigration and Naturalization or any successor entity, or the Department of State, are transferred to the Office.

(c) LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits,
(2) that in effect on the effective date of such transfer (or become effective after such date pursuant to their terms) as in effect on the effective date of this Act, shall continue in effect according to their terms until modified, terminated, superseded, or revoked by a duly authorized officer, a court of competent jurisdiction, or by operation of law.

(2) ORDERS.—Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders by or on behalf of the Office, as if this Act had not been enacted, and orders issued in such proceeding shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized officer, a court of competent jurisdiction, or by operation of law.

(3) DISCONTINUANCE OR MODIFICATION.—Nothing in this section shall be considered to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(e) SUITS.—This section shall not affect suits or other proceedings commenced by or on behalf of the Office, as if this Act had not been enacted, and suits or other proceedings commenced by or on behalf of the Office shall be continued in effect according to their terms until modified, terminated, superseded, or revoked by a duly authorized officer, a court of competent jurisdiction, or by operation of law.

(f) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or on behalf of the Office, as if this Act had not been enacted, and suits or other proceedings commenced by or on behalf of the Office, as if this Act had not been enacted, shall be abated by reason of the enactment of this Act.

(g) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or on behalf of the Office, as if this Act had not been enacted, and suits or other proceedings commenced by or on behalf of the Office, as if this Act had not been enacted, shall be abated by reason of the enactment of this Act.

(h) ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.—Except as otherwise provided by this Act, any administrative proceeding under this Act shall be conducted in accordance with such procedures as are prescribed by law for proceedings under this Act.

(i) ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.—Except as otherwise provided by this Act, any administrative proceeding under this Act shall be conducted in accordance with such procedures as are prescribed by law for proceedings under this Act.
guardian seeks to establish custody, the Director shall assess the suitability of placing the child with the parent or legal guardian and shall make a written determination on the child's best interest.

(b) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to—

(1) supersede obligations under any treaty or other international agreement to which the United States is a party, including The Hague Convention on the Civil Aspects of International Child Abduction, the Vienna Convention on the Law of Treaties, the Vienna Convention on Diplomatic Relations, the Vienna Convention on Consular Relations, and the Declaration of the Rights of the Child; or

(2) limit any right or remedy under such international agreement.

(4) PROHIBITION OF SMUGGLERS AND TRAFFICKERS.—The Director shall take affirmative steps to ensure that unaccompanied alien children are protected from smugglers, traffickers, or others seeking to victimize or otherwise engage such children in criminal, harmful, or exploitative activity. Attorneys involved in such activities should be reported to their State bar associations for disciplinary action.

(5) GRANTS AND CONTRACTS.—Subject to the availability of appropriations, the Director is authorized to make grants to, and enter into contracts with, voluntary agencies to carry out the provisions of this section.

(6) REIMBURSEMENT OF STATE EXPENSES.—Subject to availability of appropriations, the Director is authorized to reimburse States for any expenses incurred in providing assistance to unaccompanied alien children who are served pursuant to this title.

(b) CONFIDENTIALITY.—All information obtained by the Office relating to the immigration status and conditions described in subsection (a) shall remain confidential and may be used only for the purposes of determining such person's qualifications under subsection (a)(1).

SEC. 1223. APPROPRIATE CONDITIONS FOR DETENTION OF UNACCOMPANIED ALIEN CHILDREN.

(a) STANDARDS FOR PLACEMENT.—

(1) PROHIBITION OF DETENTION IN CERTAIN FACILITIES.—Except as provided in paragraph (2), an unaccompanied alien child shall not be placed in a facility to detain delinquent children or a facility housing delinquent children.

(2) DETENTION IN APPROPRIATE FACILITIES.—An unaccompanied alien child who has exhibited or exhibited a criminal behavior that endangers others may be detained in conditions appropriate to the behavior in a facility appropriate for delinquent children.

(b) QUALIFICATIONS OF GUARDIAN AD LITEM.—In the case of a placement of a child with an entity described in section 1223(a)(1)(E), the entity must be licensed by an appropriate State agency to provide residential, group, child welfare, or foster care services for dependent children.

(c) CONDITIONS OF DETENTION.—

(A) IN GENERAL.—The Director shall promulgate policies and procedures prescribing standards for conditions of detention in such placements that provide for—

(i) educational services appropriate to the child;

(ii) medical care;

(iii) mental health care, including treatment of trauma;

(iv) contact with family or public service agencies;

(v) access to telephones;

(vi) access to legal services;

(vii) supervision by professionals trained in the care of children, taking into account the special cultural, linguistic, and experiential needs of children in immigration proceedings;

(viii) recreational programs and activities;

(ix) spiritual and religious needs; and

(x) dietary needs.

(B) NOTIFICATION OF CHILDREN.—Such regulations shall provide that all children are notified orally and in writing of such standards.

(c) PROHIBITION OF CERTAIN PRACTICES.—The Director and the Secretary of Homeland Security shall develop procedures prohibiting the unreasonable use of—

(1) shackling or applying other restraints on children;

(2) solitary confinement; or

(3) pat or strip searches.

(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to supersede procedures favoring release of children to appropriate placement in the least secure setting possible, as defined in the Stipulated Settlement Agreement under Flores v. Reno.

SEC. 1224. REPATRIATED UNACCOMPANIED ALIEN CHILDREN.

(a) COUNTRY CONDITIONS.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that, to the extent consistent with the treaties and other international agreements to which the United States is a party and to the extent practicable, the United States Government shall undertake efforts to ensure that it does not repatriate children in its custody into settings that would threaten the life and safety of such children.

(2) REASSESSMENT.—

(A) IN GENERAL.—In carrying out repatriations of unaccompanied alien children, the Office shall conduct assessments of country conditions to determine the extent to which the country to which a child is being repatriated has a child welfare system capable of ensuring the child's well being.

(B) FACTORS FOR ASSESSMENT.—In assessing country conditions, the Office shall, to the maximum extent practicable, examine the conditions specific to the country of the child's repatriation.

(b) REPORT ON REPATRIATION OF UNACCOMPANIED ALIEN CHILDREN.—Beginning not later than 18 months after the date of enactment of this Act, and annually thereafter, the Director shall submit a report to the Judiciary Committees of the House of Representatives and Senate on the Director's efforts to repatriate unaccompanied alien children. Such report shall include at a minimum the following information:

(1) The number of unaccompanied alien children ordered removed and the number of such children actually removed from the United States.

(2) A description of the type of immigration relief sought and denied to such children.

(3) A statement of the nationalities, ages, and gender of such children.

(4) A description of the procedures used to effect the removal of such children from the United States.

(b) QUALIFICATIONS OF GUARDIAN AD LITEM.—The Director shall develop procedures that permit the presentation and consideration of a variety of forms of evidence, including testimony of a child or other persons, to determine an unaccompanied alien child's age for purposes of placement, custody, parole, and detention. Such procedures shall allow the appeal to an immigration judge. Radiographs shall not be the sole means of determining age.

SEC. 1225. ESTABLISHING THE AGE OF AN UNACCOMPANIED ALIEN CHILD.

The Director shall develop procedures that permit the presentation and consideration of a variety of forms of evidence, including testimony of a child or other persons, to determine an unaccompanied alien child’s age for purposes of placement, custody, parole, and detention. Such procedures shall allow the appeal to an immigration judge. Radiographs shall not be the sole means of determining age.

SEC. 1226. EFFECTIVE DATE.

This subsection takes effect one year after the effective date of division A of this Act.
(b) TRAINING.—The Director shall provide professional training for all persons serving as guardians ad litem under this section in the circumstances and conditions that unaccompanied alien children, the Office of Immigration Review, or in the custody of the Officer for Immigration Review and the various immigration benefits for which such a child might be eligible.

SEC. 1232. RIGHT OF UNACCOMPANIED ALIEN CHILD TO COUNSEL.

(a) ACCESS TO COUNSEL.—

(1) IN GENERAL.—The Director shall ensure that all unaccompanied alien children in the custody of the Office of Immigration Review and the various immigration benefits for which such a child might be eligible.

(2) PRO BONO REPRESENTATION.—To the maximum extent practicable, the Director shall utilize the services of pro bono attorneys who agree to provide representation to such children without charge.

(b) GOVERNMENT-FUNDED REPRESENTATION.—

(1) APPOINTMENT OF COMPETENT COUNSEL.—Notwithstanding section 292 of the Immigration and Nationality Act (8 U.S.C. 1362) or any other provision of law, when no competent counsel is available to represent an unaccompanied alien child without charge, the Director shall appoint competent counsel for such child at the expense of the Government.

(2) LIMITATION ON ATTORNEY FEES.—Counsel appointed under subparagraph (A) may not be compensated at a rate in excess of the rate provided under section 3006A of title 18, United States Code.

(C) ASSUMPTION OF THE COST OF GOVERNMENT-PAID CUSTODY.—In the case of a child for whom counsel is appointed under subparagraph (A), the Director shall pay all reasonable expenses that the child has incurred in the physical custody of a parent or legal guardian, such parent or legal guardian may elect to retain the same counsel to continue representation of the child at no expense to the Government, beginning on the date that the parent or legal guardian assumes physical custody of the child.

(d) DEVELOPMENT OF NECESSARY INFRASTRUCTURES AND SYSTEMS.—In ensuring that legal representation is provided to such children, the Director shall develop the necessary infrastructure and systems to ensure that legal representation is provided to such children.

(e) CONTRACTING AND GRANT MAKING AUTHORITY.—

(A) IN GENERAL.—Subject to the availability of appropriations, the Director shall enter into contracts with or make grants to national and local organizations and agencies with relevant expertise in the delivery of immigration-related legal services to children in order to carry out this subsection.

(B) ELIGIBILITY FOR GRANTS AND CONTRACTS.—In making grants and entering into contracts with such agencies, the Director shall ensure that no such agency—

(i) has been convicted of a felony;

(ii) has had its grant terminated or contract revoked by the Director for violation of the terms of the grant or contract; or

(iii) is not in compliance with any applicable Federal law or regulation.

(C) DUTIES.—Counsel shall represent the unaccompanied alien child in all proceedings and actions relating to the child’s immigration status or other actions involving the child and shall appear in person for all individual merits hearings before the Executive Office for Immigration Review or (its successor entity) and interviews involving the child.

(d) ACCESS TO CHILD.—

(1) IN GENERAL.—Counsel shall have reasonable access to the unaccompanied alien child, including access while the child is being held in detention, in the care of a foster family, or in any other setting that has been determined by the Office.

(2) RESTRICTION ON TRANSFERS.—Absent compelling and unusual circumstances, no child who is the subject of the proceedings in paragraph (1) shall be transferred from the child’s placement to another placement unless advance notice of at least 24 hours is made to counsel of such transfer.

(e) TERMINATION OF APPOINTMENT.—Counsel shall carry out the duties described in subsection (c) until—

(1) those duties are completed;

(2) the child departs the United States;

(3) the child is granted withholding of removal under section 241(b)(3) of the Immigration and Nationality Act;

(4) the child is granted protection under the Convention Against Torture;

(5) the child is granted asylum in the United States under section 208 of the Immigration and Nationality Act;

(6) the child is granted permanent resident status in the United States, or

(7) the child is 18 years of age, whichever occurs first.

(f) NOTICE TO COUNSEL DURING IMMIGRATION PROCEEDINGS.—

(1) IN GENERAL.—Except when otherwise required in an emergency situation involving the physical safety of the child, counsel shall be given prompt and adequate notice of all immigration matters involving or affecting an unaccompanied alien child, including adjudications, proceedings, and processing, before such actions are taken.

(2) OPPORTUNITY TO CONSULT WITH COUNSEL.—An unaccompanied alien child in the custody of the Office of Immigration Review may elect to retain the same counsel to continue representation of the child at no expense to the Government, beginning on the date that the parent or legal guardian assumes physical custody of the child.

(g) ACCESS TO RECOMMENDATIONS OF GUARDIAN AD LITEM.—Counsel shall be afforded an opportunity to review the recommendation by the guardian ad litem affecting or involving a client who is an unaccompanied alien child.

SEC. 1233. EFFECTIVE DATE; APPLICABILITY.

(a) EFFECTIVE DATE.—This subtitle shall take effect on the date of enactment of this Act.

(b) APPLICABILITY.—The provisions of this subtitle shall apply to all unaccompanied alien children who are in the United States on or after the date of enactment of this Act.

Subtitle D—Strengthening Policies for Permanent Protection of Alien Children

SEC. 1241. SPECIAL IMMIGRANT JUVENILE VISA.

(a) J VISA.—Section 101(a)(27)(J) (8 U.S.C. 1101(a)(27)(J)) is amended to read as follows:

“(J) an immigrant under the age of 18 on the date of application who is present in the United States—

(i) who has been declared dependent on a juvenile court located in the United States or whom such a court has legally committed to, or placed under the custody of, a department or agency of a State, or an individual or entity appointed by a State, and who has been deemed eligible by that court for long-term foster care due to abuse, neglect, or abandonment, or a similar basis found under State law;

(ii) for whom it has been determined in administrative proceedings that, it would not be in the alien’s best interest to be returned to the alien’s or parent’s previous country of nationality or country of last habitual residence and;

(iii) for whom the Office of Refugee Resettlement, TESS, has been placed in the child’s best interest to be returned to the alien’s or parent’s previous country of nationality or country of last habitual residence and.

SEC. 1242. EFFECTIVE DATE.

The amendment made by section 1241 shall apply to all eligible children who were in the United States before, on, or after the date of enactment of this Act.

Subtitle E—Children Refugee and Asylum Seekers

SEC. 1251. GUIDELINES FOR CHILDREN’S ASYLUM CLAIMS.

(a) SENSE OF CONGRESS.—Congress commends the Service for its issuance of its ‘‘Guidelines for Children’s Asylum Claims’’. On November 19, 2002, it promulgated guidelines that support the Service’s implementation of such guidelines in an effort to facilitate the
handling of children’s asylum claims. Congress calls upon the Executive Office for Immigration Review of the Department of Justice (or successor entity) to adopt the “Guidelines for Asylum Clasification in its handling of children’s asylum claims before immigration judges and the Board of Immigration Appeals.

SEC. 1252. UNACCOMPANIED REFUGEE CHILDREN.

(a) IDENTIFYING UNACCOMPANIED REFUGEE CHILDREN.—Section 207(e) (8 U.S.C. 1157(e)) is amended—

(1) by redesignating paragraphs (3), (4), (5), (6), and (7) as paragraphs (4), (5), (6), (7), and (8), respectively; and

(2) by inserting after paragraph (2) the following paragraph:

"(3) an analysis of the worldwide situation faced by unaccompanied refugee children, by region. Such analysis shall include an assessment of—

"(A) the number of unaccompanied refugee children, by region;

"(B) the capacity of the Department of State to identify such refugees;

"(C) the capacity of the international community to care for and protect such refugees;

"(D) the capacity of the voluntary agency community to resettle such refugees in the United States;

"(E) the degree to which the United States plans to resettle such refugees in the United States for the fiscal year;

"(F) the fate that will befall such unaccompanied refugee children for whom resettlement in the United States is not possible.

(b) TRAINING ON THE NEEDS OF UNACCOMPANIED REFUGEE CHILDREN.—Section 207(h)(2) (8 U.S.C. 1157(h)(2)) is amended by—

(1) inserting in that section before the period at the end of such section the words "It is the purpose of this Act to provide for training on the needs of unaccompanied refugee children to officers of the Department of Homeland Security who have contact with children in immigration proceedings, immigration judges, members of the Board of Immigration Appeals, and other personnel as may be necessary.

"(2) inserting before the period at the end of such section the words "in such training.

Voluntary agencies shall be allowed to assist immigration officers to the needs of children asylum seekers.

(8 U.S.C. 1157(f)(2)) is amended by—

(a) inserting in such section before the period at the end of such section the words "in the coming fiscal year; and

(b) inserting after such section the following subsections:

"(C) the capacity of the voluntary agency community to resettle such refugees in the United States;

"(D) the capacity of the international community to care for and protect such refugees;

"(A) the number of unaccompanied refugee children for whom resettlement in the United States is not possible; and

"(B) the number of unaccompanied refugee children for whom resettlement in the United States is not possible.

SEC. 1302. DIRECTOR OF THE AGENCY.

(b) APPOINTMENT.—The Director shall be appointed by the President, by and with the advice and consent of the Senate.

(b) OFFICES.—The Director shall appoint a Deputy Director, General Counsel, Pro Bono Coordinator, and other offices as may be necessary to carry out this title.

SEC. 1305. CHIEF IMMIGRATION HEARING OFFICER.

(a) ESTABLISHMENT OF POSITION.—There shall be within the Agency the position of Chief Immigration Hearing Officer.

(b) DUTIES OF THE CHIEF IMMIGRATION HEARING OFFICER.—The Chief Immigration Hearing Officer shall hear cases brought under sections 244A, 244B, and 247C of the Immigration and Nationality Act, including a Chair, in consultation with the Chair of the Board, in the case of the removal of a Member of the Board, or in consultation with the Chief Immigration Judge, in the case of the removal of an immigration judge.

(b) A VAILABILITY OF FUNDS.—Amounts appropriated pursuant to subsection (a) are available until expended for the purposes for which the funds were originally authorized and appropriated.

(b) TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL.—The personnel employed in connection with appropriations, contracts, leases, grants, loans, contracts, recognition of labor organizations, agreements, including collective bargaining agreements, certificates, licenses, and privileges—

"(5) decisions of the Board, the decisions of the Board shall constitute final agency action, subject to review only as provided by the Immigration and Nationality Act and other applicable law.

"(8) INDIVIDUALS.—Each immigration judge, including the Chief Immigration Judge, shall be an attorney in good standing of a bar of a State or the District of Columbia and shall have at least 7 years of professional legal expertise in immigration and nationality law.

"(9) JURISDICTION AND AUTHORITY OF IMMIGRATION COURTS.—The immigration courts shall have such jurisdiction as was, prior to the date of enactment of this Act, vested by statute or regulation in, or exercised by, the Executive Office of Immigration Review of the Department of Justice (or any officer, employee, or component thereof), immediately prior to the effective date of this title, and are transferred pursuant to the Agency.

(b) TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL.—The personnel employed in connection with appropriations, contracts, leases, grants, loans, contracts, recognition of labor organizations, agreements, including collective bargaining agreements, certificates, licenses, and privileges—

"(10) INDIVIDUALS.—Each immigration judge, including the Chief Immigration Judge, shall be an attorney in good standing of a bar of a State or the District of Columbia and shall have at least 7 years of professional legal expertise in immigration and nationality law.

"(9) JURISDICTION AND AUTHORITY OF IMMIGRATION COURTS.—The immigration courts shall have such jurisdiction as was, prior to the date of enactment of this Act, vested by statute or regulation in, or exercised by, the Executive Office of Immigration Review of the Department of Justice, the Immigration and Naturalization Service, or the Board of Immigration Appeals, or by a court of competent jurisdiction, in the performance of any function that is transferred under this section; and

"(2) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms in as effect on such effective date); and

"(b) APPOINTMENT.—There shall be at the head of the Agency a Director who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) OFFICES.—The Director shall appoint a Deputy Director, General Counsel, Pro Bono Coordinator, and other offices as may be necessary to carry out this title.

THE TENTH CONGRESS
TWO HUNDRED AND THIRTY-SECOND CONGREGATIONAL RECORD — SENATE
S8133

90TH CONGRESS 2ND SESSION
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1306. REMOVAL OF JUDGES.

Immigration judges and Members of the Board may be removed from office only for cause, as determined by a court of law, by the Director, in consultation with the Chair of the Board, in the case of the removal of a Member of the Board, or in consultation with the Chief Immigration Judge, in the case of the removal of an immigration judge.

SEC. 1307. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Agency such sums as may be necessary to carry out this title.

Subtitle B—Transfer of Functions and Savings Provisions

SEC. 1311. TRANSITION PROVISIONS.

(a) TRANSFER OF FUNCTIONS.—All functions under the immigration laws of the United States (as defined in section 1101(a)(2) of the Immigration and Nationality Act, as added by section 1101(a)(2) of this Act) vested by statute or regulation in, or exercised by, the Executive Office of Immigration Review of the Department of Justice (or any officer, employee, or component thereof), immediately prior to the effective date of this title, and are transferred pursuant to the Agency.

(b) TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL.—The personnel employed in connection with appropriations, contracts, leases, grants, loans, contracts, recognition of labor organizations, agreements, including collective bargaining agreements, certificates, licenses, and privileges—

(c) LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, licenses, contracts, certificates, grants, loans, contracts, recognition of labor organizations, agreements, including collective bargaining agreements, certificates, licenses, and privileges—

(d) PROCEEDINGS.—

(1) PENDING.—The transfer of functions under subsection (a) shall not affect any proceeding or any application for any benefit, service, license, permit, certificate, or financial assistance pending on the effective date of this title before an immigration judge, or in which actions are transferred pursuant to this section, but such proceedings and applications shall be continued.

(2) IN GENERAL.—Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant
to such orders, as if this Act had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law.

(3) DISCONTINUANCE OR MODIFICATION.—Nothing in this section shall be considered to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(f) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Department of Justice or the Executive Office of Immigration Review, or by or against any individual in the official capacity of such an officer or employee in connection with a function transferred under this section, shall be abated by reason of the enactment of this Act.

(g) CONTINUANCE OF SUIT WITH SUBSTITUTION OF PARTY.—Any Government official in the official capacity of such official is party to a suit with respect to a function of the officer, pursuant to this section such function is transferred to any other officer or office, then such suit shall be continued with the other officer or the head of such other office, as applicable, substituted or added as a party.

(h) ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.—Except as otherwise provided by this title, any statutory requirements relating to formal hearings, actions upon the record, or administrative or judicial review that apply to any function transferred pursuant to any provision of this section shall apply to the exercise of such function by the head of the office, and other officers of the office, to which such function is transferred pursuant to such provision.

Subtitle C—Effective Date
SEC. 1201. EFFECTIVE DATE.
This title shall take effect one year after the effective date of division A of this Act.

DIVISION C—FEDERAL WORKFORCE IMPROVEMENT
TITLE XIX—CHIEF HUMAN CAPITAL OFFICERS
SEC. 2101. SHORT TITLE.
This title may be cited as the “Chief Human Capital Officers Act of 2002”.

SEC. 2102. AGENCY CHIEF HUMAN CAPITAL OFFICERS.
(a) IN GENERAL.—Part II of title 5, United States Code, is amended by inserting after chapter 13 the following:

“CHAPTER 14—AGENCY CHIEF HUMAN CAPITAL OFFICERS

“Sec.

“1401. Establishment of agency Chief Human Capital Officers.

“1402. Authority and functions of agency Chief Human Capital Officers.

“§ 1401. Establishment of agency Chief Human Capital Officers

“The head of each agency referred to under paragraph (2) of section 902(b) of title 31 shall appoint or designate a Chief Human Capital Officer, who shall—

“(1) advise and assist the head of the agency and other agency officials in carrying out the agency’s responsibilities for selecting, developing, training, and managing a high-quality, productive workforce in accordance with merit system principles;

“(2) implement the rules and regulations of the President and the Office of Personnel Management and laws governing the civil service within the agency; and

“(3) carry out such functions as the primary duty of the Chief Human Capital Officer—

“§ 1402. Authority and functions of agency Chief Human Capital Officers

“(a) The functions of each Chief Human Capital Officer shall include—

“(1) setting a workforce development strategy of the agency;

“(2) assessing workforce characteristics and future needs based on the agency’s mission and strategic goals;

“(3) aligning the agency’s human resources policies and programs with organization mission, strategic goals, and performance outcomes;

“(4) developing and advocating a culture of continuous learning to attract and retain employees with superior abilities;

“(5) identifying best practices and benchmarking studies; and

“(6) applying methods for measuring intellectual capital and identifying links of that capital to organizational performance and growth.

“(b) In addition to the authority otherwise provided by this section, each agency Chief Human Capital Officer—

“(1) shall have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material that—

“(A) are the property of the agency or are available to the agency; and

“(B) relate to programs and operations with respect to which that agency Chief Human Capital Officer has responsibilities under this chapter; and

“(2) may request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by this chapter from any Federal, State, or local governmental entity.”.

“(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part II of title 5, United States Code, is amended by inserting after the item relating to chapter 13 the following:

“14. Chief Human Capital Officers ...... 1401”.

SEC. 2103. CHIEF HUMAN CAPITAL OFFICERS COUNCIL.
(a) ESTABLISHMENT.—There is established a Chief Human Capital Officers Council, consisting of—

“(1) the Director of the Office of Personnel Management, who shall act as chairperson of the Council;

“(2) the Deputy Director for Management of the Office of Management and Budget, who shall act as vice chairperson of the Council; and

“(3) the Chief Human Capital Officers of Executive departments and any other members who are designated by the Director of the Office of Personnel Management.

(b) FUNCTIONS.—The Chief Human Capital Officers Council shall meet periodically to advise and coordinate the activities of the agencies of its members on such matters as modernization of human resources systems, improved quality of human resources information, and human resources operations and organizations.

(c) EMPLOYER LABOR ORGANIZATIONS AT MEETINGS.—The Chief Human Capital Officers Council shall meet periodically with representatives of Federal employee labor organizations that represent the Federal General Schedule workforce and representatives of Federal employee labor organizations that represent the Wage Grade workforce.

(d) ANNUAL REPORT.—Each year the Chief Human Capital Officers Council shall submit a report to Congress on the activities of the Council.

SEC. 2104. STRATEGIC HUMAN CAPITAL MANAGEMENT
SEC. 1203. Title 5, United States Code, is amended by adding at the end the following:

“(c)(1) The Office of Personnel Management shall, as part of its strategic plan, including the human capital strategic plan, develop and maintain a process for ensuring that the human capital strategic plan is consistent with the agency’s human capital strategy and is based on the agency’s mission requirements, organizational goals, and performance measures.

“(c)(2) The agency plans shall be consistent with the agency’s performance plan, including the performance goals and objectives for the agency.”.

SEC. 2105. EFFECTIVE DATE.
This title shall take effect 180 days after the date of enactment of this Act.

TITLE XXII—REFORMS RELATING TO FEDERAL HUMAN CAPITAL MANAGEMENT
SEC. 2201. INCLUSION OF AGENCY HUMAN CAPITAL STRATEGIC PLANNING IN PERFORMANCE PLANS AND PROGRAM PERFORMANCE REPORTS.
(a) PERFORMANCE PLANS.—Section 1115 of title 5, United States Code, is amended by—

“(1) in subsection (a), by striking paragraph (3) and inserting the following:

“(3) carry out such functions as the primary duty of the Chief Human Capital Officer—

“(A) aligning human capital strategies with the human, capital, information, and other resources; and

“(B) ensuring that the duties and responsibilities provided by this chapter to the Chief Human Capital Officer are consistent with the performance goals and objectives provided by this chapter to the Office of Personnel Management; and

“(2) by redesignating subsection (f) as subsection (g); and

“(3) by inserting after subsection (d) the following:

“(f) With respect to each agency with a Chief Human Capital Officer, the Chief Human Capital Officer shall ensure that the portion of the annual performance plan described under subsection (a)(3).”.

(b) PROGRAM PERFORMANCE REPORTS.—Section 1116(d) of title 5, United States Code, is amended by—

“(1) by striking paragraph (4), by striking “and” after the semicolon;

“(2) by redesigning paragraph (5) as paragraph (6); and

“(3) by inserting after paragraph (4) the following:

“(5) include a review of the performance goals and objectives of the agency, including the operational processes, training, skills and technology, and the human, capital, information, and other resources and strategies required to meet those performance goals and objectives.”.

SEC. 2202. REFORM OF THE COMPETITIVE SERVICE HIRING PROCESS.
(a) IN GENERAL.—Chapter 33 of title 5, United States Code, is amended by—

“(1) in section 3302, by—

“(A) in paragraph (1), by striking “and” after the semicolon;
In September 3, 2002 CONGRESSIONAL RECORD — SENATE S8135

SEC. 2203. PERMANENT EXTENSION, REVISION, AND AUTHORIZATION OF AUTHORITIES FOR USE OF VOLUNTARY SEPARATION INCENTIVE PAY AND VOLUNTARY EARLY RETIREMENT.

(a) VOLUNTARY SEPARATION INCENTIVE PAYMENTS—

(1) IN GENERAL.—

(A) AMENDMENT TO TITLE 5, UNITED STATES CODE.—Chapter 35 of title 5, United States Code, is amended by inserting after subchapter II the following:

"SUBCHAPTER II—VOLUNTARY SEPARATION INCENTIVE PAYMENTS"

§ 3521. Definitions

"(a) a reemployed annuitant under subchapter III of chapter 83 or 84 or another retirement system for employees of the Government;

(b) an employee who has previously received any voluntary separation incentive payment from the Federal Government under this subchapter or any other authority;

(c)(1) An appointing official may select any individual numerical ratings.

(2) an agency to which the Office has delegated exercising authority under section 1104(a)(2) may establish category rating systems for evaluating applicants for positions in the competitive service, under 2 or more quality categories, consistent with regulations prescribed by the Office of Personnel Management, rather than assigned individual numerical ratings.

(3) Notwithstanding paragraph (1), the appointing official may not pass over a preference-eligible in the same category from among equals, other than alienee service-connected disability of 10 percent or more who has been appointed in the highest quality category.

(c)(2) The impact that system has had on the Federal service, under 2 or more quality categories, consistent with regulations prescribed by the Office of Personnel Management, rather than assigned individual numerical ratings.

(d) Each agency that establishes a category rating system under subsection (a), preference-eligibles shall be listed ahead of individuals who are not preference eligibles. For other than scientific and professional positions at GS-9 of the General Schedule (equivalent or higher), qualified preference-eligibles who have a demonstrable service-connected disability of 10 percent or more shall be listed in the highest quality category.

(2) By inserting after section 3318 the following:

"§ 3319. Alternative ranking and selection procedures

(a)(1) the Office, in exercising its authority under section 3304; or

(b) an agency to which the Office has delegated exercising authority under section 1104(a)(2) may establish category rating systems for evaluating applicants for positions in the competitive service, under 2 or more quality categories, consistent with regulations prescribed by the Office of Personnel Management, rather than assigned individual numerical ratings.

(b) an agency to which the Office has delegated exercising authority under section 1104(a)(2) may establish category rating systems for evaluating applicants for positions in the competitive service, under 2 or more quality categories, consistent with regulations prescribed by the Office of Personnel Management, rather than assigned individual numerical ratings.

(c)(1) An appointing official may select any individual numerical ratings.

(2) an agency to which the Office has delegated exercising authority under section 1104(a)(2) may establish category rating systems for evaluating applicants for positions in the competitive service, under 2 or more quality categories, consistent with regulations prescribed by the Office of Personnel Management, rather than assigned individual numerical ratings.

(3) Notwithstanding paragraph (1), the appointing official may not pass over a preference-eligible in the same category from among equals, other than alienee service-connected disability of 10 percent or more who has been appointed in the highest quality category.

(c)(2) The impact that system has had on the Federal service, under 2 or more quality categories, consistent with regulations prescribed by the Office of Personnel Management, rather than assigned individual numerical ratings.

(d) Each agency that establishes a category rating system under subsection (a), preference-eligibles shall be listed ahead of individuals who are not preference eligibles. For other than scientific and professional positions at GS-9 of the General Schedule (equivalent or higher), qualified preference-eligibles who have a demonstrable service-connected disability of 10 percent or more shall be listed in the highest quality category.

(c)(2) The impact that system has had on the Federal service, under 2 or more quality categories, consistent with regulations prescribed by the Office of Personnel Management, rather than assigned individual numerical ratings.

(d) Each agency that establishes a category rating system under subsection (a), preference-eligibles shall be listed ahead of individuals who are not preference eligibles. For other than scientific and professional positions at GS-9 of the General Schedule (equivalent or higher), qualified preference-eligibles who have a demonstrable service-connected disability of 10 percent or more shall be listed in the highest quality category.
"(2) If the employment under this section is with an entity in the legislative branch, the head of the entity or the appointing official may waive the requirement if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

"(3) If the employment under this section is with an entity in the Executive branch, the Director of the Administrative Office of the United States Courts may waive the requirement if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

**§ 3525. Regulations**

"The Office of Personnel Management may prescribe regulations to carry out this subchapter.

- **(B) TECHNICAL AND CONFORMING AMENDMENTS.**—Chapter 35 of title 5, United States Code, is amended—
  - (i) by striking the chapter heading and inserting the following:

**CHAPTER 35—RETENTION PREFERENCE, VOLUNTARY SEPARATION INCENTIVE PAYMENTS, RESTORATION, AND REEMPLOYMENT**

- **(1) Definitions.**
- **(2) Agency plans; approval.**
- **(3) Authority to provide voluntary separation incentive payments.**
- **(4) Effect of subsequent employment with the Government.**

**§ 3526. Regulations.**

- **(A) ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.**—The Director of the Administrative Office of the United States Courts may, by regulation, establish a program substantially similar to the program established under paragraph (1) for individuals serving in the judicial branch.

**§ 3527. Continuation of Other Authority.**—Any agency exercising any voluntary separation incentive authority in effect on the effective date of this subsection may continue to offer voluntary separation incentive consents, with that authority until that authority expires.

**§ 3528. Effective Date.**—This subsection shall take effect 60 days after the date of enactment of this Act.

- **(B) FEDERAL EMPLOYEE VOLUNTARY EARLY RETIREMENT.**

**§ 3529. Definitions.**

- **(A) CIVIL SERVICE RETIREMENT SYSTEM.**—Section 3591(b)(2) of title 5, United States Code, is amended to read as follows:

**Subchapter II—Voluntary Separation Incentive Payments, Restoration, and Reemployment**

**§ 3521. Definitions.**

- **§ 3522. Agency plans; approval.**

**§ 3523. Authority to provide voluntary separation incentive payments.**

**§ 3524. Effect of subsequent employment with the Government.**

**§ 3525. Regulations.**

- **(A) ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.**—The Director of the Administrative Office of the United States Courts may, by regulation, establish a program substantially similar to the program established under paragraph (1) for individuals serving in the judicial branch.

**§ 3527. Continuation of Other Authority.**—Any agency exercising any voluntary separation incentive authority in effect on the effective date of this subsection may continue to offer voluntary separation incentive consents, with that authority until that authority expires.

**§ 3528. Effective Date.**—This subsection shall take effect 60 days after the date of enactment of this Act.

- **(B) FEDERAL EMPLOYEE VOLUNTARY EARLY RETIREMENT.**

**§ 3529. Definitions.**

- **(A) CIVIL SERVICE RETIREMENT SYSTEM.**—Section 3591(b)(2) of title 5, United States Code, is amended to read as follows:

"(2) A has been employed continuously, by the agency in which the employee is serving, for at least the 31-day period ending on the date on which such agency requests the determination referred to in clause (iv); (ii) is serving under an appointment that is not time limited;

- **(3) Continuation of Other Authority.**—Any agency exercising any voluntary separation incentive authority in effect on the effective date of this subsection may continue to offer voluntary separation incentive consents, with that authority until that authority expires.

**§ 3528. Effective Date.**—This subsection shall take effect 60 days after the date of enactment of this Act.

- **(B) FEDERAL EMPLOYEE VOLUNTARY EARLY RETIREMENT.**

**§ 3529. Definitions.**

- **(A) CIVIL SERVICE RETIREMENT SYSTEM.**—Section 3591(b)(2) of title 5, United States Code, is amended to read as follows:

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- **(3) Continuation of Other Authority.**—Any agency exercising any voluntary separation incentive authority in effect on the effective date of this subsection may continue to offer voluntary separation incentive consents, with that authority until that authority expires.

**§ 3528. Effective Date.**—This subsection shall take effect 60 days after the date of enactment of this Act.

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**§ 3528. Effective Date.**—This subsection shall take effect 60 days after the date of enactment of this Act.

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- **(3) Continuation of Other Authority.**—Any agency exercising any voluntary separation incentive authority in effect on the effective date of this subsection may continue to offer voluntary separation incentive consents, with that authority until that authority expires.

**§ 3528. Effective Date.**—This subsection shall take effect 60 days after the date of enactment of this Act.
Executive Service for failure to be recredentialed as a senior executive under section 3383a of title 5, United States Code.

SEC. 2302. ADJUSTMENT OF LIMITATION ON TITLE 28, UNITED STATES CODE

Section 5307(a) of title 5, United States Code, is amended by adding at the end the following:

"(b) T ECHNICAL AND CONFORMING AMENDMENTS.—The Secretary shall extend the application of title 3. Regulations prescribed under subsection (a) may extend the application of title 3 to the subject defined in section 104 of title 28, United States Code, is amended by adding at the end the following:

"(A) a noncareer appointment in the Senior Executive Service for failure to satisfactorily complete an academic degree training and may pay or reimburse the cost of such training to the Secretary, which period shall be determined in accordance with clause (1) of paragraph (7) of section 5307(b), of the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1902) is amended—

"(1) by the Secretary, which period shall be determined in accordance with clause (1) of paragraph (7) of section 5307(b), of the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1902) is amended—


"(1) by striking clause (i) and inserting the following:

"(ii) if the recipient demonstrates to the Secretary (in accordance with such regulations) that no national security position in an agency or office of the Federal Government having national security responsibilities is available, work in other offices or agencies of the Federal Government or in the field of higher education in a discipline relating to the foreign country, foreign language, area study, or international field of study for which the scholarship was awarded, for a period specified by the Secretary, which period shall be determined in accordance with clause (1) of paragraph (7) of section 5307(b), of the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1902), is amended—

"(2) in subparagraph (A), by striking clause (i) and inserting the following:

"(ii) the Secretary demonstrates to the Secretary (in accordance with such regulations) that no national security position in an agency or office of the Federal Government having national security responsibilities is available, work in other offices or agencies of the Federal Government or in the field of higher education in a discipline relating to the foreign country, foreign language, area study, or international field of study for which the scholarship was awarded, for a period specified by the Secretary, which period shall be determined in accordance with clause (1) of paragraph (7) of section 5307(b), of the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1902), is amended—

UNANIMOUS CONSENT AGREEMENT—H.R. 5005

Mr. REID. Madam President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, September 3, 2002, at 2:30 p.m. on the nomination of Marion Blakey to be the Administrator of the Federal Aviation Administration.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR AND PENSIONS

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions, Subcommittee on Public Health, be authorized to meet for a hearing on Staying Healthy: Health Issues Surrounding Proposed Changes in Clean Air Standards during the session of the Senate on Tuesday, September 3, 2002, at 2:30 p.m. in SD-430. The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions, Subcommittee on Public Health, be authorized to meet for a hearing on Staying Healthy: Health Issues Surrounding Proposed Changes in Clean Air Standards during the session of the Senate on Tuesday, September 3, 2002, at 2:30 p.m. in SD-430. The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Madam President, I ask unanimous consent that the Senate resumes consideration of H.R. 5005, Senator LIEBERMAN be recognized to call amendment No. 4471 before the Senate.

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

Mr. REID. This has been cleared with the minority.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions, Subcommittee on Public Health, be authorized to meet for a hearing on Staying Healthy: Health Issues Surrounding Proposed Changes in Clean Air Standards during the session of the Senate on Tuesday, September 3, 2002, at 2:30 p.m. in SD-430. The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Madam President, I ask unanimous consent that the Senate resumes consideration of H.R. 5005, Senator LIEBERMAN be recognized to call amendment No. 4471 before the Senate.

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

Mr. REID. This has been cleared with the minority.

NATIONAL BOOK FESTIVAL

Mr. REID. Madam President, I ask unanimous consent that the Rules Committee be discharged from further consideration of H. Con. Res. 348, and the Senate then proceed to its consideration.

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

The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 348) authorizing the use of the Capitol Grounds for the National Book Festival.

NOTICES OF HEARINGS/MEETINGS

SUBCOMMITTEE ON FORESTRY, CONSERVATION, AND RURAL REDEVELOPMENT

Mr. HARKIN. Mr. President, I would like to announce that the Subcommittee on Forestry, Conservation, and Rural Revitalization has been scheduled to meet on September 5, 2002, in SR–328A at 9:00 a.m. The purpose of this hearing will be to discuss the decline of oak tree populations in southern states caused by prolonged drought and red oak borer insect infestation.

AUTHORITY FOR COMMITTEES TO MEET

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, September 3, 2002, at 2:30 p.m. on the nomination of Marion Blakey to be the Administrator of the Federal Aviation Administration.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR AND PENSIONS

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions, Subcommittee on Public Health, be authorized to meet for a hearing on Staying Healthy: Health Issues Surrounding Proposed Changes in Clean Air Standards during the session of the Senate on Tuesday, September 3, 2002, at 2:30 p.m. in SD-430. The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions, Subcommittee on Public Health, be authorized to meet for a hearing on Staying Healthy: Health Issues Surrounding Proposed Changes in Clean Air Standards during the session of the Senate on Tuesday, September 3, 2002, at 2:30 p.m. in SD-430. The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Senate resumes consideration of H.R. 5005, Senator LIEBERMAN be recognized to call amendment No. 4471 before the Senate.

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

Mr. REID. Madam President, I ask unanimous consent that the Senate resumes consideration of H.R. 5005, Senator LIEBERMAN be recognized to call amendment No. 4471 before the Senate.

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

Mr. REID. Madam President, I ask unanimous consent that the Senate resumes consideration of H.R. 5005, Senator LIEBERMAN be recognized to call amendment No. 4471 before the Senate.

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

Mr. REID. This has been cleared with the minority.

NATIONAL BOOK FESTIVAL

Mr. REID. Madam President, I ask unanimous consent that the Rules Committee be discharged from further consideration of H. Con. Res. 348, and the Senate then proceed to its consideration.

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

The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 348) authorizing the use of the Capitol Grounds for the National Book Festival.
There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. Madam President, I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid on the table, without any intervening action or debate.

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

The concurrent resolution (H. Con. Res. 346) was agreed to.

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 107–15

Mr. REID. Madam President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following treaty transmitted to the Senate today by the President of the United States:


I further ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed, and that the President’s message be printed in the RECORD.

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

The message of the President is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty Between the Government of the United States of America and the Government of the Republic of Honduras for the Return of Stolen, Robbed, or Embezzled Vehicles and Aircraft, with Annexes and a related exchange of notes, signed at Tegucigalpa on November 23, 2001.

I transmit also, for the information of the Senate, the report of the Department of State with respect to the Treaty.

The Treaty is one of a series of stolen vehicle treaties being negotiated by the United States in order to eliminate the difficulties faced by owners of vehicles that have been stolen and transported across international borders.

Like several in this series, this Treaty also covers aircraft. When it enters into force, it will be an effective tool to facilitate the return of U.S. vehicles and aircraft that have been stolen, robbed, or embezzled and found in Honduras.

I recommend that the Senate give early and favorable consideration to the Treaty and give its advice and consent to ratification.

GEORGE W. BUSH.


PRINTING OF LIEBERMAN SUBSTITUTE TO H.R. 5005

Mr. REID. Madam President, I ask unanimous consent that the Lieberman substitute amendment to H.R. 5005 be printed in the RECORD.

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

ORDERS FOR WEDNESDAY, SEPTEMBER 4, 2002

Mr. REID. Madam President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m., Wednesday, September 4; that following the prayer and the pledge, the morning hour be deemed to have expired, the Journal of the proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate begin consideration of the Interior Appropriations Act; further, at 12 noon, there be a period of morning business until 1 p.m., with Senators permitted to speak therein for up to 10 minutes each, with the first half of the time under the control of Senator Kennedy or his designee, and the second half of the time under the control of the Republican leader or his designee, and at 1 p.m. the Senate resume consideration of the Homeland Security Act.

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

DUAL TRACKING OF LEGISLATION

Mr. REID. Madam President, we are trying something in the Senate that we have tried on a number of other occasions but not often. We are going to do two bills at one time. It is dual tracking. We are going to take up the Interior Appropriations bill in the morning and go until 12 noon on that legislation. At 12 o’clock, we will have an hour of morning business, and then we will go back to the Homeland Security bill. We will do the same thing on Thursday.

We hope that people will be ready on both pieces of legislation to offer any amendment or amendments they might have. I would feel that we were wasting a lot of time if, for example, tomorrow we did not have some amendments offered on the Interior Appropriations bill. The leader has indicated that he expects late votes after tomorrow, which will be Thursday.

We have to stop early tomorrow because former Vice President Mondale will be here to address Members of the Senate. It is a lot of work to do and a very limited amount of time in which to do everything we need to do before our adjournment. Members are put on notice we will be working on Fridays and Mondays, and we will have votes later than normal on Fridays and earlier than usual on Mondays, with the exception of a week from next Monday.

ADM. JAMES O. ELLIS.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

LT. GEN. CARROL H. CHANDLER.

LT. GEN. RONALD E. KEYS.

LT. GEN. NORTON A. SCHWARTZ.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

PHILIP N. HOGEN.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

KIM R. HOLMES.

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

ADM. JAMES O. ELLIS.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

ADM. JAMES O. ELLIS.

IN THE AIR FORCE

THE FOLLOWING NAMED AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTIONS 1280 AND 1212:

DONALD C. ALFANO.
The following named Air National Guard of the United States Officers for appointment to the grade indicated in the Reserve of the Air Force under Title 10, U.S.C., Sections 12203 and 12212:

To be colonel

Robert W. Bishop
Curtis L. Davis
Kenneth J. Emanuel
Gary A. Jeffries
Jeffrey S. Lawson
Cynthia A. Ryan
John W. Sheffield III
Steven K. Young

The following named Air National Guard of the United States Officers for appointment to the grade indicated in the Reserve of the Air Force under Title 10, U.S.C., Sections 12203 and 12212:

To be colonel

Matthew J. Braikora
Juan R. Carreras
Jack A. Schnurr
Sheldon R. Omi

The following named Air National Guard of the United States Officers for appointment to the grade indicated in the Reserve of the Air Force under Title 10, U.S.C., Sections 12203 and 12212:

To be colonel

Timothy P. Destefini
Wayne L. Beststeling
Sheldon R. Omi

The following named Air National Guard of the United States Officers for appointment to the grade indicated in the Reserve of the Air Force under Title 10, U.S.C., Sections 12203 and 12212:

To be colonel

Matthew J. Braikora
Juan R. Carreras
Jack A. Schnurr
Sheldon R. Omi

The following named Air National Guard of the United States Officers for appointment to the grade indicated in the Reserve of the Air Force under Title 10, U.S.C., Sections 12203 and 12212:

To be colonel

Timothy P. Destefini
Wayne L. Beststeling
Sheldon R. Omi

The following named Air National Guard of the United States Officers for appointment to the grade indicated in the Reserve of the Air Force under Title 10, U.S.C., Sections 12203 and 12212:

To be colonel

Timothy P. Destefini
Wayne L. Beststeling
Sheldon R. Omi

William B. Crabbonveau

The following named Air National Guard of the United States Officers for appointment to the grade indicated in the Reserve of the Air Force under Title 10, U.S.C., Sections 12203 and 12212:

To be colonel

Margaret H. Barrett
Paul R. Maguire

The following named Air National Guard of the United States Officers for appointment to the grade indicated in the Reserve of the Air Force under Title 10, U.S.C., Sections 12203 and 12212:

To be colonel

Margaret H. Barrett
Paul R. Maguire

The following named Air National Guard of the United States Officers for appointment to the grade indicated in the Reserve of the Air Force under Title 10, U.S.C., Sections 12203 and 12212:

To be colonel

Margaret H. Barrett
Paul R. Maguire

The following named Air National Guard of the United States Officers for appointment to the grade indicated in the Reserve of the Air Force under Title 10, U.S.C., Sections 12203 and 12212:

To be colonel

Margaret H. Barrett
Paul R. Maguire

In the Army

The following named Officers for appointment to the Medical Corps in the grade of colonel in the Reserve of the Army under Title 10, U.S.C., Sections 12203, 12204, and 12207:

To be colonel

William C. Devries
Peter F. McKown

In the Marine Corps

The following named Officer to the grade indicated in the United States Marine Corps under Title 10, U.S.C., Section 624:

To be lieutenant colonel

Samuel B. Grove

EXECUTIVE NOMINATIONS

Executive Nomination Confirmed by the Senate September 3, 2002:

The Judiciary

Terrence F. McVerry, of Pennsylvania, to be United States District Judge for the Western District of Pennsylvania.
Tuesday, September 3, 2002

Daily Digest

HIGHLIGHTS
See Résumé of Congressional Activity.

Senate

Chamber Action
Routine Proceedings, pages S8035–S8139

Measures Introduced: Six bills were introduced, as follows: S. 2896–2901.

Page S8092

Measures Reported:
  Reported on Friday, August 2, during the adjournment:
  S. 1971, to amend the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 to protect the retirement security of American workers by ensuring that pension assets are adequately diversified and by providing workers with adequate access to, and information about, their pension plans, with an amendment in the nature of a substitute. (S. Rept. No. 107–242)

  Reported on Wednesday, August 28, during the adjournment:
  S. 351, to amend the Solid Waste Disposal Act to reduce the quantity of mercury in the environment by limiting use of mercury fever thermometers and improving collection, recycling, and disposal of mercury, with an amendment in the nature of a substitute. (S. Rept. No. 107–243)

  S. 1079, to amend the Public Works and Economic Development Act of 1965 to provide assistance to communities for the redevelopment of brownfield sites, with an amendment in the nature of a substitute. (S. Rept. No. 107–244)

  S. 710, to require coverage for colorectal cancer screenings, with an amendment in the nature of a substitute. (S. Rept. No. 107–245)


  S. 2711, to reauthorize and improve programs relating to Native Americans, with an amendment in the nature of a substitute. (S. Rept. No. 107–247)

  S. 1344, to provide training and technical assistance to Native Americans who are interested in commercial vehicle driving careers, with an amendment in the nature of a substitute. (S. Rept. No. 107–248)


  Reported today:
  S. 210, to authorize the integration and consolidation of alcohol and substance abuse programs and services provided by Indian tribal governments, with an amendment in the nature of a substitute. (S. Rept. No. 107–250)

  S. 2753, to provide for a Small and Disadvantaged Business Ombudsman for Procurement in the Small Business Administration, with an amendment in the nature of a substitute. (S. Rept. No. 107–251)

  S. 1308, to provide for the use and distribution of the funds awarded to the Quinault Indian Nation under United States Claims Court Dockets 772–72, 773–71, and 775–71. (S. Rept. No. 107–252)

Page S8091

Measures Passed:

National Book Festival: Committee on Rules and Administration was discharged from further consideration of H. Con. Res. 348, authorizing the use of the Capitol Grounds for the National Book Festival, and the resolution was then agreed to. Pages S8137–38

Homeland Security Act: By a unanimous vote of 94 yeas (Vote No. 209), Senate agreed to the motion to proceed to consideration of H.R. 5005, to establish the Department of Homeland Security, and then began consideration of the bill.

Pages S3036–48, S8052–78

A unanimous-consent agreement was reached providing for further consideration of the bill at 1 p.m. on Wednesday, September 4, 2002, where Senator Lieberman will be recognized to offer Amendment No. 4471.

Page S8137
Department of the Interior Appropriations—Agreement: A unanimous-consent agreement was reached providing for consideration of H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003 at 9:30 a.m., on Wednesday, September 4, 2002.

Executive Reports of Committees: Senate received the following executive report of a committee:


Removal of Injunction of Secrecy: The injunction of secrecy was removed from the following treaty:


The treaty was transmitted to the Senate today, considered as having been read for the first time, and referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed.

Nominations Confirmed: Senate confirmed the following nominations:

By unanimous vote of 88 yeas (Vote No. EX. 208), Terrence F. McVerry, of Pennsylvania, to be United States District Judge for the Western District of Pennsylvania.

Nominations Received: Senate received the following nominations:

John F. Keane, of Virginia, to be Ambassador to the Republic of Paraguay.

Kim R. Holmes, of Maryland, to be an Assistant Secretary of State (International Organizations).

Irene B. Brooks, of Pennsylvania, to be Commissioner on the part of the United States on the International Joint Commission, United States and Canada.

Allen I. Olson, of Minnesota, to be Commissioner on the part of the United States on the International Joint Commission, United States and Canada.


Dale Cabaniss, of Virginia, to be a Member of the Federal Labor Relations Authority for a term of five years expiring July 29, 2007. (Reappointment)

Philip N. Hogen, of South Dakota, to be Chairman of the National Indian Gaming Commission for the term of three years.

Scott W. Muller, of Maryland, to be General Counsel of the Central Intelligence Agency.

Harold Damelin, of Virginia, to be Inspector General, Small Business Administration.

3 Air Force nominations in the rank of general.

1 Navy nomination in the rank of admiral.

Routine lists in the Air Force, Army, Marine Corps.

Messages From the House:

Measures Referred:

Measures Placed on Calendar:

Executive Communications:

Petitions and Memorials:

Executive Reports of Committees:

Additional Cosponsors:

Statements on Introduced Bills/Resolutions:

Additional Statements:

Amendments Submitted:

Notices of Hearings/Meetings:

Authority for Committees to Meet:

Record Votes: Two record votes were taken today. (Total—209)

Adjournment: Senate met at 9:30 a.m., and adjourned at 7:16 p.m., until 9:30 a.m., on Wednesday, September 4, 2002. (For Senate’s program, see the remarks of the Acting Majority Leader in today’s Record on page S8138).

Committee Meetings

(Committees not listed did not meet)

NOMINATION

Committee on Commerce, Science, and Transportation: Committee concluded hearings on the nomination of Marion C. Blakey, of Mississippi, to be Administrator of the Federal Aviation Administration, Department of Transportation, after the nominee testified and answered questions in her own behalf.
House of Representatives

Chamber Action
The House was not in session today. Pursuant to the provisions of S. Con. Res. 132, the House stands adjourned for the Summer District Work Period until 2 p.m. on Wednesday, September 4, 2002.

Committee Meetings
No committee meetings were held.

NEW PUBLIC LAWS
(For last listing of Public Laws, see DAILY DIGEST, p. D866)

H.R. 3487, to amend the Public Health Service Act with respect to health professions programs regarding the field of nursing. Signed on August 1, 2002. (Public Law 107–205)


H.R. 2175, to protect infants who are born alive. Signed on August 5, 2002. (Public Law 107–207)

H.R. 1209, to amend the Immigration and Nationality Act to determine whether an alien is a child, for purposes of classification as an immediate relative, based on the age of the alien on the date the classification petition with respect to the alien is filed. Signed on August 6, 2002. (Public Law 107–208)


H.R. 3009, to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act. Signed on August 6, 2002. (Public Law 107–210)

H.R. 223, to amend the Clear Creek County, Colorado, Public Lands Transfer Act of 1993 to provide additional time for Clear Creek County to dispose of certain lands transferred to the county under the Act. Signed on August 21, 2002. (Public Law 107–211)

H.R. 309, to provide for the determination of withholding tax rates under the Guam income tax. Signed on August 21, 2002. (Public Law 107–212)


H.R. 1384, to amend the National Trails System Act to designate the route in Arizona and New Mexico which the Navajo and Mescalero Apache Indian tribes were forced to walk in 1863 and 1864, for study for potential addition to the National Trails System. Signed on August 21, 2002. (Public Law 107–214)


H.R. 2441, to amend the Public Health Service Act to redesignate a facility as the National Hansen's Disease Programs Center. Signed on August 21, 2002. (Public Law 107–220)

H.R. 2643, to authorize the acquisition of additional lands for inclusion in the Fort Clatsop National Memorial in the State of Oregon. Signed on August 21, 2002. (Public Law 107–221)


H.R. 3380, to authorize the Secretary of the Interior to issue right-of-way permits for natural gas pipelines within the boundary of Great Smoky Mountains National Park. Signed on August 21, 2002. (Public Law 107–223)

CONGRESSIONAL PROGRAM AHEAD
Week of September 4 through September 7, 2002

Senate Chamber
On Wednesday, at 9:30 a.m., Senate will consider H.R. 5093, Department of the Interior Appropriations Act; and at 1 p.m., Senate will continue consideration of H.R. 5005, Homeland Security Act.
During the balance of the week, Senate will consider any other cleared legislative and executive business, including appropriations bills and conference reports, when available.

**Senate Committees**

(Committee meetings are open unless otherwise indicated)

**Special Committee on Aging:** September 4, to hold hearings to examine the image of aging in news, entertainment and marketing, 9:30 a.m., SD–628.

**Committee on Agriculture, Nutrition, and Forestry:** September 5, Subcommittee on Forestry, Conservation, and Rural Revitalization, to hold hearings to examine the decline of oak tree populations in southern states caused by prolonged drought and red oak borer insect infestation, 9 a.m., SR–328A.

**Committee on Banking, Housing, and Urban Affairs:** September 5, to hold hearings to examine the importance of financial literacy among college students, 10 a.m., SD–538.

**Committee on Commerce, Science, and Transportation:** September 5, to hold hearings to examine the nominations of Roger P. Nober, of Maryland, to be a Member of the Surface Transportation Board, Department of Transportation, and David McQueen Laney, of Texas, to be a Member of the Reform Board (Amtrak), 2:30 p.m., SR–253.

**Committee on Foreign Relations:** September 4, to hold hearings to examine the nominations of John R. Dawson, of the District of Columbia, to be Ambassador to the Republic of Peru, Antonio O. Garza, Jr., of Texas, to be Ambassador to Mexico, and Linda Ellen Watt, of Florida, to be Ambassador to the Republic of Panama, 4 p.m., SD–419.

**Committee on Health, Education, Labor, and Pensions:** September 4, business meeting to consider S. 2758, entitled “The Child Care and Development Block Grant Amendments Act”, 10 a.m., SD–430.

September 5, Full Committee, business meeting to consider S. 2328, to amend the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act to ensure a safe pregnancy for all women in the United States, to reduce the rate of maternal morbidity and mortality, to eliminate racial and ethnic disparities in maternal health outcomes, to reduce pre-term, labor, to examine the impact of pregnancy on the short and long term health of women, to expand knowledge about the safety and dosing of drugs to treat pregnant women with chronic conditions and women who become sick during pregnancy, to expand public health prevention, education and outreach, and to develop improved and more accurate data collection related to maternal morbidity and mortality; and S.2817, to authorize appropriations for fiscal years 2003, 2004, 2005, 2006, and 2007 for the National Science Foundation, 10 a.m., SD–430.

**Select Committee on Intelligence:** September 5, to hold closed hearings on intelligence matters, 2:30 p.m., SH–219.

**Committee on the Judiciary:** September 4, Subcommittee on Technology, Terrorism, and Government Information, to hold hearings to examine an AMBER Alert National System, 10 a.m., SD–226.

September 5, Full Committee, business meeting to consider pending business items, 10 a.m., SD–226.

**House Chamber**

Wednesday, consideration of suspensions pursuant to unanimous consent:

(1) H. Con. Res. 183, United States Congressional Philharmonic Society;

(2) H.R. 5011, John F. Kennedy Center Plaza Authorization;

(3) H.R. 1070, Great Lakes Legacy;

(4) H.R. 3287, Joseph Curseen, Jr. and Thomas Morris, Jr. Postal Facility, Washington, DC;

(5) H.R. 5308, Barney Apodaca Post Office, Fort Collins, Colorado;

(6) H.R. 5207, Thomas E. Burnett, Jr. Post Office, Bloomington, Minnesota;

(7) H. Res. 94, Contributions of Venus and Serena Williams;


(9) H.R. 1701, Consumer Cost, Timely Health Care (HEALTH) Act of 2002; and

**Committee on Appropriations:** September 5, to mark up the Energy and Water Development Appropriations for fiscal year 2003, 2 p.m., 2359 Rayburn.

September 5, Subcommittee on Foreign Operations, to mark up appropriations for fiscal year 2003, 10 a.m., H–140 Capitol.

**Committee on Armed Services:** September 5, Special Oversight Panel on Terrorism, hearing on a report entitled “Counter-Terrorism Intelligence Capabilities and Performance of the CIA, FBI, and NSA Prior to 9/11,” 9:30 a.m., 2212 Rayburn.


**Committee on the Judiciary:** September 5, to continue markup of H.R. 4600, Help Efficient, Accessible, Low Cost, Timely Health Care (HEALTH) Act of 2002; and to mark up the following bills: H.R. 1701, Consumer Rental Purchase Agreement; S. 2690, to reaffirm the reference to one Nation under God in the Pledge of Allegiance; H.R. 4125, Federal Courts Improvement Act of...
2002; H.R. 4689, Fairness in Sentencing Act of 2002; and H.R. 4561, Federal Agency Protection of Privacy Act, 10 a.m., 2141 Rayburn.

Committee on Resources, September 5, to discuss the Administration’s Healthy Forests: An Initiative for Wildlife Prevention and Stronger Communities; and to hold a hearing on the following measures: H.R. 5214, National Forest Fire Prevention Act; H.R. 5309, Wildlife Prevention and Forest Health Protection Act of 2002; and the Healthy Forests Reform Act of 2002, 9:30 a.m., 1324 Longworth.

September 5, Subcommittee on National Parks, Recreation and Public Lands, hearing on the following bills: H.R. 282, to authorize the Pyramid of Remembrance Foundation to establish a memorial in the District of Columbia or its environs to soldiers who have lost their lives during peacekeeping operations, humanitarian efforts, training, terrorist attacks, or covert operations; H.R. 3747, Bainbridge Island Japanese-American Memorial Study Act of 2002; H.R. 4692, to amend the Act entitled ‘An Act to authorize the Establishment of the Andersonville National Historic Site in the State of Georgia, and for other purposes’, to provide for the addition of certain donated lands to the Andersonville National Historic Site; and a measure to provide for an exchange of certain private property in Colorado and certain Federal property in Utah, 10 a.m., 1334 Longworth.

Committee on Rules, September 4, to consider H.R. 4727, Dam Safety and Security Act of 2002, 5 p.m., H–313 Capitol.

Committee on Transportation and Infrastructure, September 5, Subcommittee on Highways and Transit, hearing on Driver’s License Security Issues, 10 a.m., 2167 Rayburn.

Joint Meetings

Conference: September 5, meeting of conferees, in closed session, on H.R. 4546, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, 3 p.m., HC–8, Capitol.
Résumé of Congressional Activity

SECOND 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 23 through August 31, 2002

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<th></th>
<th>Senate</th>
<th>House</th>
<th>Total</th>
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<td>Days in session</td>
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<td>Private bills enacted into law</td>
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<td>Senate concurrent resolutions</td>
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<td>Vetoes overridden</td>
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### DISPOSITION OF EXECUTIVE NOMINATIONS

January 23 through August 31, 2002

<table>
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<tr>
<th></th>
<th>Civilian Nominations, totaling 532 (including 166 nominations carried over from the First Session), disposed of as follows:</th>
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<td>Confirmed</td>
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<td>Unconfirmed</td>
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<td>Withdraw</td>
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<td>Other Civilian Nominations, totaling 1,596 (including 535 nominations carried over from the First Session), disposed of as follows:</td>
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</tr>
<tr>
<td>Air Force Nominisations, totaling 5,640 (including 4 nominations carried over from the First Session), disposed of as follows:</td>
<td></td>
</tr>
<tr>
<td>Confirmed</td>
<td>5,231</td>
</tr>
<tr>
<td>Unconfirmed</td>
<td>409</td>
</tr>
<tr>
<td>Army Nominations, totaling 3,608 (including 53 nominations carried over from the First Session), disposed of as follows:</td>
<td></td>
</tr>
<tr>
<td>Confirmed</td>
<td>1,924</td>
</tr>
<tr>
<td>Unconfirmed</td>
<td>1,684</td>
</tr>
<tr>
<td>Navy Nominisations, totaling 4,424, disposed of as follows:</td>
<td></td>
</tr>
<tr>
<td>Confirmed</td>
<td>3,049</td>
</tr>
<tr>
<td>Unconfirmed</td>
<td>1,375</td>
</tr>
<tr>
<td>Marine Corps Nominations, totaling 3,004 (including 33 nominations carried over from the First Session), disposed of as follows:</td>
<td></td>
</tr>
<tr>
<td>Confirmed</td>
<td>2,976</td>
</tr>
<tr>
<td>Unconfirmed</td>
<td>28</td>
</tr>
</tbody>
</table>

Summary

- Total Nominations carried over from the First Session: 791
- Total Nominations Received this Session: 17,813
- Total Confirmed: 14,606
- Total Unconfirmed: 5,991
- Total Withdrawn: 7
- Total Returned to the White House: 0
Next Meeting of the SENATE
9:30 a.m., Wednesday, September 4

Senate Chamber

Program for Wednesday: Senate will consider H.R. 5093, Department of the Interior and Related Agencies Appropriations Act.

At 12 noon, Senate will begin a period of morning business.

At 1 p.m., Senate will continue consideration of H.R. 5005, Homeland Security Act.

Next Meeting of the HOUSE OF REPRESENTATIVES
2 p.m., Wednesday, September 4

House Chamber

Program for Wednesday:

(1) H. Con. Res. 183, United States Congressional Philharmonic Society;
(2) H.R. 5012, John F. Kennedy Center Plaza Authorization;
(3) H.R. 1070, Great Lakes Legacy;
(4) H.R. 3287, Joseph Curseen, Jr. and Thomas Morris, Jr. Postal Facility, Washington, DC;
(5) H.R. 5308, Barney Apodaca Post Office, Fort Collins, Colorado;
(6) H.R. 5207, Thomas E. Burnett, Jr. Post Office, Bloomington, Minnesota;
(7) H. Res. 94, Contributions of Venus and Serena Williams; and
(8) H.R., Education Affordability.

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